

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

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

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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, )  
LAINEY ARMISTEAD, )  
Defendant-Intervenor.) )  
\_\_\_\_\_

REMOTE VIDEOTAPED DEPOSITION OF  
LAINEY ARMISTEAD  
Friday, March 11, 2022  
Volume I

Reported by:  
ALEXIS KAGAY, CSR No. 13795  
Job No. 5082427  
PAGES 1 - 175

<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 )                  BOARD OF EDUCATION, WEST )                  9 VIRGINIA SECONDARY SCHOOL )                  10 ACTIVITIES COMMISSION, W. )                  CLAYTON BURCH in his official)                  11 capacity as State )                  12 Superintendent, DORA STUTLER, )                  in her official capacity as )                  13 Harrison County )                  14 Superintendent, and THE STATE)                  15 OF WEST VIRGINIA, )                  Defendants, )                  16 LAINEY ARMISTEAD, )                  17 Defendant-Intervenor.)</p> <hr/> <p>18                  19 Videotaped deposition of LAINEY ARMISTEAD,                  20 Volume I, taken on behalf of Plaintiff, with all                  21 participants appearing remotely, beginning at                  22 12:03 p.m. and ending at 5:03 p.m. on Friday,                  23 March 11, 2022, before ALEXIS KAGAY, Certified                  24 Shorthand Reporter No. 13795.                  25</p> <p style="text-align: right;">Page 2</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 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 the State of West Virginia:                  15 WEST VIRGINIA ATTORNEY GENERAL                  16 BY: DAVID TRYON                  17 Attorney at Law                  18 112 California Avenue                  19 Charleston West Virginia 25305-0220                  20 681.313.4570                  21 David.C.Tryon@wvago.gov                  22                  23                  24                  25</p> <p style="text-align: right;">Page 4</p>
<p>1 APPEARANCES (via Zoom Videoconference):                  2                  3 For the Intervenor:                  4 ALLIANCE DEFENDING FREEDOM                  5 BY: CATIE KELLEY                  6 BY: JONATHAN SCRUGGS                  7 BY: CHRISTIANA HOLCOMB                  8 BY: RACHEL CSUTOROS                  9 BY: HAL FRAMPTON                  10 BY: TIMOTHY DUCAR                  11 Attorneys at Law                  12 20116 Ashbrook Place                  13 Suite 250                  14 Ashburn, Virginia 20147                  15 CKelly@adflegal.org                  16 JScruggs@adflegal.org                  17 CHolcomb@adflegal.org                  18 RCsutoros@adflegal.org                  19 TDucar@adflegal.org                  20                  21                  22                  23                  24                  25</p> <p style="text-align: right;">Page 3</p>	<p>1 APPEARANCES (Continued):                  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 For West Virginia Board of Education and Superintendent                  14 Burch, Heather Hutchens as general counsel for the                  15 State Department of Education:                  16 BAILEY &amp; WYANT, PLLC                  17 BY: KELLY MORGAN                  18 Attorney 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 5</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                  17                  18                  19                  20                  21                  22                  23                  24                  25</p> <p style="text-align: right;">Page 6</p>	<p>1 APPEARANCES (Continued):                  2                  3 For the Plaintiff:                  4 AMERICAN CIVIL LIBERTIES UNION                  5 BY: JOSHUA A. BLOCK                  6 125 Broad Street                  7 18th Floor                  8 New York, New York 10004                  9 JBlock@aclu.org                  10 212.549.2500                  11                  12 Also Present:                  13 MITCH REISBORD - VERITEXT CONCIERGE                  14                  15 Videographer:                  16 DAVE HALVORSON                  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 The Plaintiff, B.P.J.:                  4 COOLEY                  5 BY: KATHLEEN HARTNETT                  6 BY: ELIZABETH REINHARDT                  7 BY: KATELYN KANG                  8 BY: ANDREW BARR                  9 BY: MATT MARTINEZ                  10 BY: JULIE VEROFF                  11 Attorneys at Law                  12 500 Boylston Street                  13 14th Floor                  14 Boston, Massachusetts 02116-3740                  15 617.937.2305                  16 Khartnett@cooley.com                  17 EReinhardt@cooley.com                  18 KKang@Cooley.com                  19 ABarr@Cooley.com                  20 MMartinez@Cooley.com                  21 JVeroff@cooley.com                  22                  23                  24                  25</p> <p style="text-align: right;">Page 7</p>	<p>1 INDEX                  2 WITNESS EXAMINATION                  3 LAINIEY ARMISTEAD                  4 Volume I                  5                  6 BY MR. BARR 14                  7                  8                  9 EXHIBITS                  10 NUMBER DESCRIPTION PAGE                  11 Exhibit 43 West Virginia State University 122                  12 Board of Governors Document, BOG                  13 #14 Policy, Title: Unlawful                  14 Discrimination and Harassment,                  15 Sexual Harassment, Grievance                  16 Procedures, Child Abuse and                  17 Neglect Reporting and                  18 Relationships                  19                  20                  21                  22                  23                  24                  25</p> <p style="text-align: right;">Page 9</p>

<p>1 PREVIOUSLY MARKED EXHIBITS                  2 NUMBER PAGE                  3 Exhibit 34 78                  4 Exhibit 39 144                  5 Exhibit 40 149                  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 MS. VEROFF: This is Julie --                  2 MS. KANG: This is --                  3 MS. VEROFF: Oh, sorry, Katelyn, go ahead.                  4 MS. KANG: Hi. This is Katelyn Kang from                  5 Cooley on behalf of the plaintiff.                  6 MS. VEROFF: This is Julie Veroff from Cooley,                  7 LLP, on behalf of the plaintiff.                  8 MS. REINHARDT: This is Elizabeth Reinhardt                  9 with Cooley, LLP, for the plaintiff.                  10 MS. SWAMINATHAN: This is Sruti --                  11 MR. BLOCK: Josh --                  12 MS. SWAMINATHAN: -- Swaminathan -- sorry,                  13 Josh, go ahead.                  14 MR. BLOCK: No, no, you go ahead.                  15 MS. SWAMINATHAN: This is Sruti Swaminathan                  16 from Lambda Legal on behalf of the plaintiff.                  17 MR. BLOCK: Josh Block from the ACLU on behalf                  18 of plaintiff.                  19 MS. HOLCOMB: If that's everyone from                  20 Plaintiff, this is Christiana Holcomb with Alliance 12:05:29                  21 Defending Freedom on behalf of the intervenor,                  22 Lainey Armistead.                  23 And with me, we also have my colleague                  24 Hal Frampton, Jonathan Scruggs, Catie Kelley,                  25 Rachel Csutoros and Timothy Ducar. 12:05:42</p> <p style="text-align: right;">Page 12</p>
<p>1 Friday, March 11, 2022                  2 12:03 p.m.                  3 THE VIDEOGRAPHER: Okay. Good afternoon.                  4 We are on the record at 12:04 p.m. on                  5 March 11th, 2022. This is media unit 1 in the 12:03:44                  6 video-recorded deposition of Lainey Armistead in the                  7 matter of B.P.J. by Heather Jackson versus                  8 West Virginia State Board of Education, et al.                  9 It's filed in the U.S. District Court for the                  10 Southern District of West Virginia in the Charleston 12:04:04                  11 Division. The case number is 2:21-cv-00316.                  12 This deposition is being held virtually. My                  13 name is Dave Halvorson. I'm the videographer here from                  14 Veritext. And I'm here with the court reporter,                  15 Alexis Kagay, also from Veritext. 12:04:25                  16 Counsel, can you please all identify                  17 yourselves so the witness can be sworn in.                  18 MR. BARR: Yes. Good afternoon.                  19 This is Andrew Barr from the law firm                  20 Cooley, LLP. I'll have the rest of my co-counsel 12:04:37                  21 introduce themselves before defense and intervenor                  22 counsel.                  23 THE VIDEOGRAPHER: Okay.                  24 MS. HARTNETT: Hi. This is Kathleen Hartnett                  25 from Cooley for the plaintiffs. 12:04:48</p> <p style="text-align: right;">Page 11</p>	<p>1 MS DENIKER: Good afternoon                  2 This is Susan Deniker, counsel for defendants                  3 Harrison County Board of Education and Superintendent                  4 Dora Stutler                  5 MS MORGAN: Kelly Morgan on behalf of the 12:05:56                  6 West Virginia Board of Education and                  7 Superintendent Burch                  8 MS ROGERS: This is Shannon Rogers on behalf                  9 of the West Virginia Secondary School Activities                  10 Commission And I believe Roberta Green is on Zoom on 12 06:07                  11 behalf of the SSAC as well                  12 MS GREEN: I am Thank you                  13 MR TRYON: This is David Tryon from the West                  14 Virginia Attorney General's Office on behalf of the                  15 State of West Virginia 12:06:21                  16 THE VIDEOGRAPHER: Is that everyone? Last                  17 chance                  18 All right Go ahead, let's swear in the                  19 witness, please                  20 (Witness sworn ) 12:06:34                  21 THE VIDEOGRAPHER: Please proceed                  22 MR BARR: Before we get started, I just                  23 wanted to memorialize for the record that the parties                  24 have agreed that objections to form will preserve all                  25 objections other than privilege and that there will be 12:06:58</p> <p style="text-align: right;">Page 13</p>

<p>1 no speaking objections on the record.                  2 And, Attorney Holcomb, if you could confirm                  3 that.                  4 MS. HOLCOMB: I concur. Thank you.                  5 MR. BARR: Would the rest of defense counsel 12:07:08                  6 please also concur.                  7 MS. DENIKER: This is Susan Deniker. I'm in                  8 agreement with that.                  9 MS. MORGAN: This is Kelly Morgan. I'm in                  10 agreement. 12:07:22                  11 MS. ROGERS: This is Shannon Rogers. I'm in                  12 agreement.                  13 MR. TRYON: That's fine.                  14 MR. BARR: Okay. I believe that's all defense                  15 counsel. 12:07:38                  16                  17 LAINEY ARMISTEAD,                  18 having been administered an oath, was examined and                  19 testified as follows:                  20                  21 EXAMINATION                  22 BY MR. BARR:                  23 Q Good afternoon. My name is Andrew Barr. I'm                  24 with the law firm of Cooley, LLP. I'm located in                  25 Denver. I use the pronouns of he and him, and I'm 12:07:40                  Page 14</p>	<p>1 shaking your head, can't be reflected in the                  2 transcript; and, therefore, I need you to answer                  3 verbally.                  4 Do you understand?                  5 A Yes. 12:08:54                  6 Q If you don't understand a question that I ask,                  7 I promise you it isn't a trick question; I probably                  8 just worded it poorly. So just ask me to ask again,                  9 okay?                  10 A Okay. 12:09:07                  11 Q And what that does mean is if you do not ask                  12 me to reword it, I'll assume you understood the                  13 question, okay?                  14 A Okay.                  15 Q At no point today am I asking about the 12:09:17                  16 substance of communications that you've had with your                  17 attorneys. So if I ask a question and you think that's                  18 what I'm asking you, please do not give me any                  19 information you have, based on conversation with your                  20 attorney, okay? 12:09:32                  21 A Got it.                  22 Q We're obviously on the -- the Zoom platform,                  23 which makes it very important we don't speak over each                  24 other. So let me finish my question, and I will let                  25 you finish your answer. Understood? 12:09:47                  Page 16</p>
<p>1 representing the plaintiff B.P.J. in this case.                  2 Would you please state your name and spell it                  3 for the record.                  4 A Lainey Armistead, L A-I-N-E-Y                  5 A-R-M-I-S-T-E-A-D. 12:08:01                  6 Q And which pronouns do you use?                  7 A She/her.                  8 Q Is it okay with you -- is it okay with you if                  9 I refer to you as "Ms. Armistead" today?                  10 A That's okay. 12:08:14                  11 Q Am I pronouncing your name correctly?                  12 A Yes.                  13 Q So before we get started, I want to discuss a                  14 few things about the process for today.                  15 The oath you've taken is the same oath you 12:08:28                  16 would take in a court of -- courtroom.                  17 Do you understand that?                  18 A Yes.                  19 Q That means you must testify truthfully and not                  20 leave out any important facts. 12:08:36                  21 Is there any reason you cannot testify                  22 truthfully today?                  23 A No.                  24 Q Okay. Please give verbal answers to my                  25 questions. Nonverbal answers, such as nodding or 12:08:45                  Page 15</p>	<p>1 A Got it.                  2 Q And then we're here today talking about                  3 House Bill 3293 that's been codified at West Virginia                  4 Code 18-2-25d. I'm going to refer to that just as                  5 "H.B. 3923" -- or "3293." Is that okay? 12:10:09                  6 A Yes.                  7 Q I'm also certainly going to mess those numbers                  8 up and perhaps call it 3923 or something else.                  9 Do you understand that if I talk about                  10 House Bill 3293 or a similar set of numbers, I'm 12:10:23                  11 actually talking about House Bill 3293?                  12 A Yes.                  13 Q Okay. There's a couple of words we're going                  14 to be using today that I just want to explain to you                  15 what I mean by those words so that we have -- we all 12:10:31                  16 have a similar understanding about what I'm asking.                  17 When I say the word "cisgender," I mean                  18 someone whose gender identity matches the sex they were                  19 assigned at birth.                  20 Do you understand what that means? 12:10:52                  21 MS. HOLCOMB: Objection to form.                  22 MR. TRYON: Objection.                  23 MR. BARR: And, defense counsel, I'm willing                  24 to give you a standing objection to terminology                  25 throughout this because I feel like we've established, 12:10:58                  Page 17</p>

<p>1 over the past couple of weeks, we're just going to have                  2 a fundamental disagreement on terminology, and I don't                  3 think there's a reason you should have to object every                  4 single time I say the word "transgender" or                  5 "cisgender." 12:11:11                  6 MR. TRYON: I'm objecting -- I'm objecting to                  7 your definitional actions -- instructions. Excuse me.                  8 MR. BARR: Understood.                  9 BY MR. BARR:                  10 Q Ms. Armistead, do you know what I mean when I 12:11:23                  11 say the word "cisgender"?                  12 A I understand what you are referring to.                  13 Q Okay. Just to be clear, what am I referring                  14 to?                  15 A You are talking about a biological male. 12:11:36                  16 Q Well, let's -- let's make sure we're all                  17 talking about the same thing here.                  18 When I say "cisgender," I'm saying someone                  19 whose gender identity matches the sex they were                  20 assigned at birth. 12:11:52                  21 Is that something that you are able to                  22 understand moving forward in this deposition?                  23 MR. TRYON: Objection.                  24 MS. HOLCOMB: Object to form.                  25 THE WITNESS: I understand what you are 12:12:04                  Page 18</p>	<p>1 Q Did you prepare for this deposition?                  2 A Yes.                  3 Q How?                  4 MS. HOLCOMB: And I'll just object to the                  5 extent that it calls for any privileged attorney-client 12:13:23                  6 communications, but, Lainey, you can answer.                  7 THE WITNESS: I prepared with my attorneys.                  8 BY MR. BARR:                  9 Q Other than speaking with your attorneys, did                  10 you do anything else to prepare for this deposition? 12:13:33                  11 A No.                  12 Q Did you review any documents?                  13 A When I was speaking to my attorneys.                  14 Q Okay. Which documents were those?                  15 A Documents that have already been turned over 12:13:56                  16 to the plaintiff, such as my declaration.                  17 Q Other than your declaration, what documents                  18 did you review?                  19 A I reviewed documents that we turned over to                  20 the plaintiff. 12:14:18                  21 Q I understand. I'm asking which ones.                  22 A I don't recall all the documents that we                  23 reviewed or turned over to the plaintiff.                  24 Q Well, let's just work on identifying some of                  25 those. 12:14:34                  Page 20</p>
<p>1 referring to.                  2 MR. BARR: Okay. Hold on. My lights just                  3 turned off for some reason.                  4 I apologize. In making an effort to be                  5 environmentally friendly, my lights turn off every 47 12:12:29                  6 minutes, so I'll try to avoid that.                  7 BY MR. BARR:                  8 Q Same thing, Ms. Armistead, when I say                  9 "transgender," what I'm referring to is someone whose                  10 gender identity does not match the sex they were 12:12:41                  11 assigned at birth.                  12 Do you understand that?                  13 MR. TRYON: Objection.                  14 MS. HOLCOMB: Same objection.                  15 THE WITNESS: I understand what you are 12:12:48                  16 referring to.                  17 BY MR. BARR:                  18 Q So when I say the word "cisgender" or                  19 "transgender" today, those are the definitions I am                  20 using. 12:12:54                  21 A Okay.                  22 Q When I say "B.P.J.," I'm referring to the                  23 plaintiff in this case.                  24 Do you understand that?                  25 A Yes. 12:13:06                  Page 19</p>	<p>1 So you said the declaration Beyond the                  2 declaration, what did you review to prepare for this                  3 deposition?                  4 A I reviewed scholarship information I                  5 reviewed text messages with my mom and my declaration 12:14:52                  6 Q Is that it?                  7 A I don't recall all of the documents that I                  8 reviewed                  9 Q When did you review these?                  10 A Within the last week 12:15:10                  11 Q But the only thing you remember looking at was                  12 your declaration, some text messages and scholarship                  13 information                  14 Did I understand that correctly?                  15 A Yes 12:15:26                  16 Q Have you ever had your deposition taken                  17 before?                  18 A No                  19 Q Have you ever testified at trial?                  20 A No 12:15:41                  21 Q Did you bring anything with you today?                  22 A My laptop                  23 Q Are you referring to your laptop during this                  24 deposition?                  25 A What do you mean? 12:15:58                  Page 21</p>

1 Q So explain to me why you brought your laptop  
 2 to the deposition.  
 3 A So I could be in the deposition via Zoom.  
 4 Q Is there anyone else in the room with you?  
 5 A Yes. 12:16:20  
 6 Q Who else is in the room?  
 7 A Christiana and Catie.  
 8 Q And by "Christiana" and "Catie," you're  
 9 referring to your attorneys?  
 10 A Yes. 12:16:39  
 11 Q Other than your laptop, did you bring anything  
 12 else with you today?  
 13 A I brought water, snacks, a book bag, a laptop  
 14 charger.  
 15 Q Any documents? 12:17:02  
 16 A No.  
 17 Q Have you ever been a party to a lawsuit?  
 18 A No.  
 19 Q Other than this case, have you ever intervened  
 20 in a lawsuit? 12:17:21  
 21 A No.  
 22 Q Did you know what an intervenor was prior to  
 23 this lawsuit?  
 24 A Kind of.  
 25 Q What is your understanding of an intervenor? 12:17:39  
 Page 22

1 A My understanding is that it's someone who can  
 2 intervene for a certain side that they support and  
 3 hopefully maintain the bill or law and keep it in  
 4 place.  
 5 Q And was that your understanding before or 12:18:02  
 6 after you intervened in this case?  
 7 A After.  
 8 Q What was your understanding of an intervenor  
 9 before this case?  
 10 A It was a vague understanding that I had heard 12:18:16  
 11 from a TV show or something. It wasn't a clear  
 12 understanding.  
 13 Q So what was that vague understanding?  
 14 A Someone who supports a bill or law.  
 15 Q Why did you decide to intervene in this case? 12:18:40  
 16 A Because I care about women's sports and the  
 17 sport that I play, and I think that it's a good law.  
 18 Q How did you decide to actually intervene?  
 19 I understand you support the bill, but it  
 20 sounds like you didn't really understand what an 12:19:10  
 21 intervenor was prior to this lawsuit, so I'm trying to  
 22 understand how you actually intervened in this case.  
 23 MS. HOLCOMB: And I'll just object to the  
 24 extent it calls for any communications between Lainey  
 25 and myself. 12:19:23  
 Page 23

1 THE WITNESS: I don't know how to answer that  
 2 question without divulging privileged information.  
 3 BY MR. BARR:  
 4 Q Let me ask it a different way.  
 5 Prior to discussing this case with the ADF, 12:19:32  
 6 were you interested in intervening?  
 7 And by "ADF," I mean your attorneys.  
 8 A No.  
 9 Q Was intervening an easy decision?  
 10 A No. 12:19:53  
 11 Q Why not?  
 12 A Because it's not always easy standing up for  
 13 what you believe when you know other people do not also  
 14 believe in that, and it's a public thing, and I was  
 15 nervous about it. 12:20:21  
 16 Q Did you talk with anyone about the decision  
 17 prior to making it?  
 18 MS. HOLCOMB: Same objection.  
 19 BY MR. BARR:  
 20 Q Other than your attorneys. 12:20:34  
 21 A Yes.  
 22 Q Who?  
 23 A My parents, my coach and my siblings.  
 24 Q Anyone else?  
 25 A I may have talked about it with my best friend 12:20:56  
 Page 24

1 before I chose to intervene.  
 2 Q Explain to me those discussions with your  
 3 parents.  
 4 A I asked them what they thought about the law  
 5 and how they -- if they thought that intervening would 12:21:28  
 6 be a good decision on my part, and they supported me.  
 7 Q Did you approach your parents about  
 8 intervening, or did your parents approach you about  
 9 intervening?  
 10 A I approached my parents. 12:21:48  
 11 Q And you said your parents supported your  
 12 decision; is that right?  
 13 A Yes.  
 14 Q Did they explain why they supported your  
 15 decision? 12:22:10  
 16 A Soccer is a huge deal in my family, and it's  
 17 something that I grew up with, and my dad grew up  
 18 coaching me and other female athletes and male  
 19 athletes, and he thinks that it was a good -- he thinks  
 20 that it's a good law because he's seeing the 12:22:34  
 21 differences, and he encouraged me.  
 22 Q What about your mom?  
 23 A My mom is supportive in all that I do.  
 24 Q There's nothing you have done your mom doesn't  
 25 support? 12:22:56  
 Page 25

<p>1 A She is supportive with everything that I do.</p> <p>2 Q When did you reach out to your attorneys, ADF?</p> <p>3 MS. HOLCOMB: Again, objection to the extent</p> <p>4 it calls for communications, Lainey, between your</p> <p>5 attorneys and you. 12:23:22</p> <p>6 MR. BARR: I'm just asking about the initial</p> <p>7 reach-out. There certainly wouldn't have been a</p> <p>8 relationship between client and attorney at that point.</p> <p>9 THE WITNESS: I don't recall the exact time</p> <p>10 when I first got in contact with ADF. 12:23:34</p> <p>11 BY MR. BARR:</p> <p>12 Q Was it before or after the bill had been</p> <p>13 passed?</p> <p>14 A After.</p> <p>15 Q So are -- are we thinking June timeframe of 12:23:48</p> <p>16 last year?</p> <p>17 A I don't recall an exact date.</p> <p>18 Q Just give me a -- a timeframe. I'm trying to</p> <p>19 understand the sequence of events.</p> <p>20 A I would say it was sometime in 2021. 12:24:21</p> <p>21 Q So you don't recall even time of year that you</p> <p>22 had reached out to them?</p> <p>23 A I don't remember the first conversation I had</p> <p>24 with her, no.</p> <p>25 Q And who is "her" in that sentence? 12:24:40</p> <p style="text-align: right;">Page 26</p>	<p>1 without giving privileged information -- information</p> <p>2 with my attorney and I.</p> <p>3 Q I certainly don't want privileged information.</p> <p>4 Would it be fair to say that the first time</p> <p>5 you thought about intervening in this case was in 12:26:20</p> <p>6 connection with the discussion with your attorneys?</p> <p>7 A Yes.</p> <p>8 Q And you don't recall when that was?</p> <p>9 A It was sometime last year.</p> <p>10 Q Was it your -- your mom's friend Jamie who 12:26:42</p> <p>11 encouraged you to join as an intervenor?</p> <p>12 A No.</p> <p>13 Q Who encouraged you to join as an intervenor?</p> <p>14 MR. TRYON: Objection.</p> <p>15 THE WITNESS: I made the decision after 12:27:12</p> <p>16 talking with my -- I made the decision after a lot of</p> <p>17 thought, prayer and then communications with my</p> <p>18 parents.</p> <p>19 BY MR. BARR:</p> <p>20 Q What's Jamie's last name? 12:27:33</p> <p>21 A Metzger.</p> <p>22 Q Do you know what Jamie Metzger does at ADF?</p> <p>23 A I do not.</p> <p>24 Q How does your mom know Jamie?</p> <p>25 MS. HOLCOMB: Object to form. 12:27:51</p> <p style="text-align: right;">Page 28</p>
<p>1 A My attorney, Christiana.</p> <p>2 Q How did you find ADF when you decided you</p> <p>3 wanted to intervene?</p> <p>4 A My mom has a friend who works for ADF.</p> <p>5 Q Who is that friend? 12:25:08</p> <p>6 A Jamie Metzger.</p> <p>7 Q Did your mom speak with Jamie about this case?</p> <p>8 MS. HOLCOMB: Object to form.</p> <p>9 THE WITNESS: I can't comment on the</p> <p>10 conversations that my mom has with other people. 12:25:25</p> <p>11 BY MR. BARR:</p> <p>12 Q I didn't ask for the substance. I'm just</p> <p>13 asking if your mom reached out to her friend regarding</p> <p>14 this case.</p> <p>15 MS. HOLCOMB: Again, object to form. 12:25:40</p> <p>16 THE WITNESS: I'm not sure if my mom reached</p> <p>17 out to her or not.</p> <p>18 BY MR. BARR:</p> <p>19 Q So you spoke to your parents about</p> <p>20 intervening, your mom happened to have a friend at ADF, 12:25:50</p> <p>21 and that's how you got connected with ADF. Am I</p> <p>22 understanding that correctly?</p> <p>23 A No.</p> <p>24 Q So what happened?</p> <p>25 A I don't know how to answer that question 12:26:11</p> <p style="text-align: right;">Page 27</p>	<p>1 THE WITNESS: My -- through my mom's adoption</p> <p>2 agency.</p> <p>3 BY MR. BARR:</p> <p>4 Q Could you explain that with a little more</p> <p>5 detail, please? 12:28:05</p> <p>6 A I'm not sure exactly how they know each other,</p> <p>7 but I do believe that it was from my mom's adoption</p> <p>8 agency, and Jamie writes articles about adoption.</p> <p>9 Q Help me understand. Your mom knows Jamie</p> <p>10 because of articles that Jamie has written that pertain 12:28:37</p> <p>11 to adoptions?</p> <p>12 A I believe so.</p> <p>13 Q What's the nature of these articles?</p> <p>14 MS. HOLCOMB: Object to form.</p> <p>15 THE WITNESS: It's about adoption. 12:28:55</p> <p>16 BY MR. BARR:</p> <p>17 Q But specifically, what is -- what -- is</p> <p>18 Jamie -- what is Jamie saying in these articles about</p> <p>19 adoption?</p> <p>20 MS. HOLCOMB: Object to form. 12:29:08</p> <p>21 THE WITNESS: I don't know. You'd have to</p> <p>22 read them.</p> <p>23 BY MR. BARR:</p> <p>24 Q Have you read them?</p> <p>25 A I might have read one of them. I don't really 12:29:17</p> <p style="text-align: right;">Page 29</p>

<p>1 recall. It was a long time ago.                  2 Q Would you consider your mom friends with Jamie                  3 or just happens to read Jamie's articles?                  4 A I'm not sure on their relationship. I can't                  5 speculate on that. 12:29:47                  6 Q What's your understanding?                  7 A I believe Jamie has interviewed my mom for                  8 adoption purposes.                  9 Q Did Jamie reach out to your mom regarding this                  10 case? 12:30:02                  11 MS. HOLCOMB: Object to form.                  12 MR. TRYON: Objection.                  13 THE WITNESS: No.                  14 BY MR. BARR:                  15 Q So your mom reached out to Jamie; is that 12:30:12                  16 right?                  17 A No.                  18 MS. HOLCOMB: Object to form.                  19 BY MR. BARR:                  20 Q So explain to me what happened. 12:30:21                  21 A What happened with what?                  22 Q Well, you -- you told me that you found ADF                  23 because your mom was friends with Jamie. Did I get                  24 that right?                  25 A Yes. 12:30:43                  Page 30</p>	<p>1 Q You know what the word "brave" means; right?                  2 MS. HOLCOMB: Object to form.                  3 THE WITNESS: I have an understanding of the                  4 word "brave."                  5 BY MR. BARR: 12:32:24                  6 Q So why would your siblings describe you as                  7 brave for intervening in a lawsuit?                  8 MS. HOLCOMB: Object to form.                  9 THE WITNESS: I don't know exactly what they                  10 were thinking whenever they described me as brave. 12:32:39                  11 BY MR. BARR:                  12 Q What did your coach think when you talked                  13 about intervening?                  14 MS. HOLCOMB: Object to form.                  15 THE WITNESS: I don't know what my coach was 12:32:49                  16 thinking.                  17 BY MR. BARR:                  18 Q What did your coach say to you in response to                  19 you telling your coach you might intervene in this                  20 case? 12:32:57                  21 A She told me that she would be supportive,                  22 although she wasn't sure if she would want, herself, to                  23 get involved with the case, but she was supportive of                  24 my decision to get involved in the case.                  25 Q Why didn't any of your teammates try to 12:33:20                  Page 32</p>
<p>1 Q You also told me that Jamie didn't reach out                  2 to your mom and your mom didn't reach out to Jamie;                  3 right?                  4 A Regarding this case.                  5 Q Well, that's -- that's what I'm trying to 12:30:59                  6 understand.                  7 How did you get connected with ADF for this                  8 case?                  9 A I don't know how to answer that question                  10 without giving privileged information. 12:31:09                  11 Q Okay. What did your siblings think about you                  12 intervening in the case?                  13 A They were supportive.                  14 Q Explain to me those discussions you had with                  15 them. 12:31:31                  16 A I asked them what their opinion was on the                  17 law, and they agreed with the substance of the law, and                  18 they said that I would be brave to participate in the                  19 case.                  20 Q What do you think they meant when they said 12:31:54                  21 you would be brave?                  22 MS. HOLCOMB: Object to form.                  23 THE WITNESS: I don't know -- I can't                  24 speculate on what they were thinking.                  25 BY MR. BARR: 12:32:07                  Page 31</p>	<p>1 intervene with you?                  2 MS. HOLCOMB: Object to form.                  3 THE WITNESS: I don't know why they did not                  4 decide to, but at least one of them was interested.                  5 BY MR. BARR: 12:33:40                  6 Q Who is that?                  7 MS. HOLCOMB: And I will just object to the                  8 extent that this calls for communication in                  9 anticipation of litigation, but, Lainey, you may                  10 answer. 12:33:50                  11 THE WITNESS: Sinead.                  12 BY MR. BARR:                  13 Q Could you say that name again, please?                  14 A Sinead.                  15 Q How do you spell that? 12:33:58                  16 A S-I-N-E-A-D.                  17 Q What's Sinead's last name?                  18 A Samarczuk.                  19 Q That's going to take a minute, so bear with us                  20 as we try to spell that one. 12:34:23                  21 Go ahead, please.                  22 A S-A-M-A-R-C-Z-U-K.                  23 Q Do you mind if I just refer to your teammate                  24 as "Sinead" because the last name I'm certainly going                  25 to mess up? 12:34:46                  Page 33</p>

1 A That is fine.  
 2 Q Why did Sinead ultimately decide not to  
 3 intervene?  
 4 MS. HOLCOMB: Object to form and to the extent  
 5 it calls for privileged communications with counsel. 12:34:57  
 6 THE WITNESS: I don't know how to answer that  
 7 without divulging confidential information --  
 8 privileged information.  
 9 BY MR. BARR:  
 10 Q You said Sinead's on your team; right? 12:35:09  
 11 A Yes.  
 12 Q You never discussed this with Sinead?  
 13 A Discussed it when with Sinead?  
 14 Q Well, let's start at the beginning.  
 15 Tell me about the first discussion you had 12:35:36  
 16 with Sinead about intervening in this lawsuit.  
 17 A I asked her if she would want to intervene  
 18 with me.  
 19 Q You approached Sinead about interviewing. Did  
 20 I get that right? 12:35:59  
 21 A Yes.  
 22 Q How did you get the idea to approach Sinead?  
 23 MS. HOLCOMB: Again, objection, to the extent  
 24 it calls for privileged communications.  
 25 BY MR. BARR: 12:36:07  
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1 Q I'll rephrase.  
 2 Other than a discussion with your attorney,  
 3 why did you approach Sinead to intervene in this case?  
 4 A She and I are very close friends.  
 5 Q Did you approach anyone else on your team? 12:36:27  
 6 A Yes.  
 7 Q Who?  
 8 A Brooklyn.  
 9 Q What's Brooklyn's last name?  
 10 A Pritt. 12:36:43  
 11 Q Anyone else?  
 12 A No, I did not approach anyone else on my team  
 13 to intervene for this case.  
 14 Q Why didn't you ask your entire team, if this  
 15 is an important lawsuit to protect women's sports? 12:37:07  
 16 A I'm not as close with all of my teammates for  
 17 something that was such a big deal. They -- I'm  
 18 very -- I love my teammates, we are close, but this is  
 19 something that I was nervous about, intervening, and it  
 20 was a big decision to make, so I just wanted to see 12:37:33  
 21 what Brooklyn and Sinead thought about it.  
 22 Q Did you discuss that with Sinead and Brooklyn?  
 23 A Discuss what?  
 24 Q Did you invite them to intervene in the case?  
 25 A I asked them if they would be interested in 12:37:56  
 Page 35

1 doing so.  
 2 Q And, presumably, they said no; right?  
 3 A By the time they had reached a decision, it  
 4 was too late for other people to intervene, is my  
 5 understanding. 12:38:17  
 6 Q Well, what decision did they reach?  
 7 A Both of them wanted to get involved in some  
 8 type of way, but it was too late for Sinead, and  
 9 Brooklyn is very, very busy with school and work and  
 10 other things, so she just didn't have the time. 12:38:49  
 11 Q I asked a -- a little bit of a different  
 12 question.  
 13 They ultimately both decided not to intervene;  
 14 right?  
 15 A That wasn't their decision. It was too late 12:38:57  
 16 for Sinead.  
 17 Q Had it not been too late, would Sinead have  
 18 joined?  
 19 A I believe so, but I can't answer that for  
 20 certain. 12:39:17  
 21 Q Is Sinead still a student at West Virginia  
 22 State University?  
 23 A She is currently in England.  
 24 Q Is she still a student at West Virginia State  
 25 University? 12:39:33  
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1 A I believe she's still enrolled, yes.  
 2 Q Is she still on your team?  
 3 A I believe she's still on the team. She's just  
 4 taking a semester off, but -- she might return; she  
 5 might not. 12:39:48  
 6 Q Is Brooklyn still a student at West Virginia  
 7 State?  
 8 A Yes.  
 9 Q Is Brooklyn still on your team?  
 10 A Yes. 12:40:02  
 11 Q Are there any other of your teammates who you  
 12 believe might be -- let me rephrase that.  
 13 Are there any other of your teammates that you  
 14 believe would have intervened but for a timing issue?  
 15 A It's possible. 12:40:19  
 16 Q A lot of things are possible. I'm asking if  
 17 there's any specific names you have of someone you  
 18 believe you would like to have intervened.  
 19 A I can't speculate on what other people want.  
 20 Q So you have no reason to think that there's 12:40:42  
 21 another one of your teammates who would have liked to  
 22 intervene?  
 23 MR. TRYON: Objection.  
 24 THE WITNESS: Again, I can't speculate on what  
 25 other people want. 12:40:59  
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1 Q Okay What do you currently do?  
 2 A I am a student athlete  
 3 MS HOLCOMB: Just -- may I jump in here for a  
 4 moment, Andrew?  
 5 MR BARR: Yes 12:47:26  
 6 MS HOLCOMB: Do you need a break?  
 7 I -- I understand you may be moving to a  
 8 different line of questioning  
 9 Do you need a break? Okay  
 10 Andrew, would you be amenable to -- 12:47:32  
 11 MR BARR: No worries We'll take a break  
 12 How about we come back at 1:00? Does that  
 13 work for you?  
 14 MS HOLCOMB: That works great Thank you  
 15 THE VIDEOGRAPHER: Okay We are going off the 12:47:43  
 16 record -- sorry We're going off the record The time  
 17 is 12:48 p m , and this is the end of Media Unit No 1  
 18 (Recess )  
 19 THE VIDEOGRAPHER: All right We are back on  
 20 the record at 1:00 p m , and this is the beginning of 01:00:18  
 21 Media Unit No 2  
 22 Go ahead, please  
 23 BY MR BARR:  
 24 Q Ms Armistead, you stated you were a student  
 25 at West Virginia State University; is that right? 01:00:26

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1 A Yes.  
 2 Q Are you employed anywhere?  
 3 A Yes.  
 4 Q Where do you work?  
 5 A I work as a work-study student, and I work at 01:00:37  
 6 Red Lobster.  
 7 Q What's a work-study student?  
 8 A I work in the Dean's office of my college.  
 9 Q And what do you do there?  
 10 A I answer the phone, run errands, talk to 01:00:56  
 11 professors.  
 12 Q Largely administrative tasks, am I  
 13 understanding that correctly?  
 14 A Yes.  
 15 Q And what do you do at Red Lobster? 01:01:17  
 16 A I'm a server.  
 17 Q Any other jobs at the moment?  
 18 A If you consider soccer a job, then sure.  
 19 Q Do you consider soccer a job?  
 20 A I love it, but I have to show up, and I'm 01:01:36  
 21 getting a scholarship for it, so...  
 22 Q Let's talk about soccer separately.  
 23 Other than Red Lobster and the Dean's office,  
 24 do you have any other jobs?  
 25 A No. 01:01:50

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1 Q Where is West Virginia State University?  
 2 A Like, the address?  
 3 Q The city.  
 4 A Dunbar.  
 5 Q If I call it "West Virginia State," will that 01:02:10  
 6 be okay with you?  
 7 A Yes.  
 8 Q Did you grow up rooting for West Virginia  
 9 State?  
 10 A No. 01:02:26  
 11 Q You mentioned UK earlier. Was that your team  
 12 growing up?  
 13 A Sure.  
 14 Q You tell me. I'm just asking.  
 15 A I like it. I wouldn't say I necessarily had a 01:02:39  
 16 team growing up.  
 17 Q What conference is West Virginia State in?  
 18 A The Mountain East Conference.  
 19 Q How many teams are in that conference?  
 20 A I'm not sure. 01:02:57  
 21 Q Is it closer to ten or closer to 20?  
 22 A Closer to ten.  
 23 Q Are those schools all located within  
 24 West Virginia?  
 25 A I don't think so, but I'm not sure where 01:03:20

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1 they're all located.  
 2 Q Are you aware that the NCAA has divisions?  
 3 A Yes.  
 4 Q What division is West Virginia State in for  
 5 girls' soccer? 01:03:36  
 6 A Division II.  
 7 Q How many NCAA divisions are there?  
 8 A Three.  
 9 Q What is your understanding of the difference  
 10 between Division I, II and III? 01:03:54  
 11 A I believe it's based off of school size and  
 12 the ability for D-I and D-II to give athletic aid and  
 13 scholarship.  
 14 Q Is one division generally thought to be more  
 15 competitive than another? 01:04:16  
 16 A Division I is usually thought to be more  
 17 competitive, but I think all three are very  
 18 competitive. We're college athletes.  
 19 Q Do you think Division I is more competitive?  
 20 A I think -- 01:04:34  
 21 MR. TRYON: Objection.  
 22 THE WITNESS: I think that we're all very  
 23 competitive.  
 24 BY MR. BARR:  
 25 Q I don't take issue with that. I'm -- I'm sure 01:04:56

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<p>1 you're right there. I'm just asking if you believe                  2 Division I is more competitive than Division II.                  3 MS. HOLCOMB: Object to form.                  4 MR. TRYON: Objection.                  5 THE WITNESS: What do you mean by 01:05:13                  6 "competitive"?                  7 BY MR. BARR:                  8 Q As a general matter, if a Division I women's                  9 soccer team played a Division II women's soccer team,                  10 who would you expect to win? 01:05:16                  11 MS. HOLCOMB: Objection.                  12 THE WITNESS: Generally, we would expect the                  13 Division I team to win.                  14 BY MR. BARR:                  15 Q How big is West Virginia State, in terms of 01:05:33                  16 student size?                  17 A Couldn't tell you.                  18 Q How did you pick West Virginia State?                  19 A There were a myriad of reasons.                  20 Q What -- what was the primary reason? 01:05:51                  21 A Because of the opportunity that West Virginia                  22 State gave me.                  23 Q What opportunity is that?                  24 A To play soccer -- to play soccer and have a                  25 very good scholarship. 01:06:15                  Page 46</p>	<p>1 A West Virginia State, Austin Peay,                  2 Transylvania, Kentucky Wesleyan. And that's all of the                  3 ones that I seriously considered.                  4 Q Other than West Virginia State, did you have                  5 an opportunity to play soccer at those schools? 01:08:17                  6 A Yes.                  7 Q Which ones?                  8 A Kentucky Wesleyan and Transylvania.                  9 Q Did Kentucky Wesleyan offer you a scholarship?                  10 A For what? 01:08:47                  11 Q For soccer.                  12 A I had communications with their coach, but                  13 there was nothing official for an athletic scholarship.                  14 Q To make sure I'm clear, there was no official                  15 offer of an athletic scholarship at Kentucky Wesleyan? 01:09:11                  16 A I don't believe so.                  17 Q Same question for Transylvania, were you                  18 offered an athletic scholarship for Transylvania?                  19 A Transylvania is a D-III school, so they can't                  20 give athletic scholarship. 01:09:32                  21 Q Were you offered an athletic scholarship for                  22 any school other than West Virginia State?                  23 A Yes.                  24 Q What school is that?                  25 A Brescia University. 01:09:46                  Page 48</p>
<p>1 Q Did you consider going to any other colleges?                  2 A Yes.                  3 Q How many?                  4 A How many did I visit or consider? What do you                  5 mean? 01:06:43                  6 Q Let's start with, how many other colleges did                  7 you consider attending?                  8 A I'm not sure.                  9 Q Less than 20?                  10 A Less than 20. 01:06:57                  11 Q Less than ten?                  12 A Seriously considered, yes, less than ten.                  13 Q Less than five?                  14 A Probably about five.                  15 Q What -- what were the five colleges you 01:07:14                  16 seriously considered attending?                  17 MS. HOLCOMB: Object to form.                  18 MR. TRYON: I also object.                  19 THE WITNESS: I didn't say that it was                  20 definitely five. 01:07:34                  21 BY MR. BARR:                  22 Q I'll rephrase. I'm not trying to put words in                  23 your mouth.                  24 Tell me the colleges you seriously considered                  25 attending. 01:07:41                  Page 47</p>	<p>1 Q I'm sorry, you cut out. Could you repeat                  2 that?                  3 A Brescia.                  4 Q Is that the same school that your brother goes                  5 to? 01:09:59                  6 A Indeed.                  7 Q But you weren't seriously considering                  8 attending that school, were you?                  9 A No.                  10 Q Any other schools offer you an athletic 01:10:14                  11 scholarship?                  12 A Many schools e-mailed me saying that they                  13 would give me scholarships, but I never really                  14 conversed with any others ones, no.                  15 Q So no formal offers for athletic scholarships 01:10:33                  16 other than the two we just discussed?                  17 A No formal offers, correct.                  18 Q Is Kentucky Wesleyan a Division I or                  19 Division II school?                  20 A Division II. 01:10:52                  21 Q What do you study at West Virginia State?                  22 A Political science.                  23 Q Anything else?                  24 A What do you mean?                  25 Q Let me ask it a different way. What's your 01:11:20                  Page 49</p>

<p>1 major, currently?                  2 A Political science.                  3 Q Do you have a minor?                  4 A I am on track to get a minor in psychology.                  5 Q What year are you, in terms of freshman, 01:11:48                  6 sophomore, etcetera?                  7 A I -- this will be my third year of college.                  8 Q And when you say "this," as we sit here today,                  9 in March, you're a junior, or you are saying the                  10 upcoming school year that starts in August, you'll be a 01:12:06                  11 junior?                  12 A What do you mean?                  13 Q I'm trying to understand if you've been                  14 attending West Virginia State for four semesters or                  15 6 semesters. 01:12:22                  16 A I have attended it for six semesters, I think.                  17 Since fall of 2019, and I have continuously studied at                  18 West Virginia State.                  19 Q Thank you. That's helpful. And that answers                  20 the question. 01:12:44                  21 Are you on track to graduate at the end of                  22 next school year?                  23 A I am not sure of my exact graduation plans                  24 yet.                  25 Q What do you mean by that? 01:12:57                  Page 50</p>	<p>1 BY MR. BARR:                  2 Q So help me understand how that impacts your                  3 decision on graduation.                  4 A Because I have to decide if I want to take                  5 medicine that would impair me to play, but as it 01:15:01                  6 currently is, I can play.                  7 Q So I'm not a doctor, I don't understand how                  8 any of that works, but what I hear you saying is if you                  9 do whatever the doctors are saying is an option, you'd                  10 have to stop playing soccer; is that right? 01:15:22                  11 MR. TRYON: Objection.                  12 MS. HOLCOMB: Object to form.                  13 THE WITNESS: I'm not my doctor either. I                  14 just know the options, and I'm weighing them carefully                  15 to decide what my next step will be, and I'm not sure 01:15:35                  16 yet, but I would love to stay in West Virginia and play                  17 soccer. And I am still currently on the team, so...                  18 BY MR. BARR:                  19 Q Were you in with the roster for -- the season                  20 is over right now; right? 01:15:54                  21 A We are in a spring semester, but yes, it is a                  22 fall sport.                  23 Q So, currently, there's no practices or games;                  24 right?                  25 A We are in the spring semester, so there is 01:16:07                  Page 52</p>
<p>1 A I mean that I could graduate this May,                  2 tentatively, but I definitely want to utilize my NCAA                  3 eligibility and possibly continue playing and studying                  4 at West Virginia State.                  5 Q I think I read you have two years of 01:13:25                  6 eligibility left; is that right?                  7 A If I graduate in May, I'll actually have three                  8 years of eligibility left.                  9 Q If you graduate in May, do you plan on using                  10 that eligibility either at West Virginia State or some 01:13:43                  11 other institution?                  12 A I would love to.                  13 Q Do you have any current plans to do that?                  14 A My plans aren't set in stone yet. I had                  15 health concerns this past semester. So as long as I 01:14:01                  16 can figure that out and my body allows it, I would                  17 definitely want to continue playing soccer.                  18 Q I certainly don't want to get into your health                  19 concerns at all. I am curious if they impact your                  20 ability to play soccer. 01:14:20                  21 A They --                  22 MR. TRYON: Objection.                  23 THE WITNESS: They don't actually affect my                  24 abilities to play.                  25 ///                  Page 51</p>	<p>1 practices, it's just not for our season.                  2 Q I don't -- I don't understand. What do you                  3 mean?                  4 A So, typically, in collegiate sports, you have                  5 a season, and right now, we're in our offseason, but we 01:16:28                  6 are still allowed to practice and play scrimmage games,                  7 according to NCAA rules.                  8 Q And those are official practices and official                  9 scrimmages?                  10 A With our coach in West Virginia, yes, 01:16:43                  11 West Virginia State.                  12 Q Are you still participating in those practices                  13 and scrimmages?                  14 A Yes.                  15 Q As we sit here today, do you expect to be on 01:16:52                  16 the team next fall?                  17 A I would love to be.                  18 Q Slightly different question.                  19 Do you expect to be?                  20 A I am not sure what the future holds yet 01:17:12                  21 because of the health concerns, and I have to carefully                  22 see and weigh the options.                  23 Q I understand that.                  24 When do you think you'll have to make that                  25 decision? I assume your coach is interested. 01:17:37                  Page 53</p>

1 A She hasn't given me a specific time to make  
 2 the decision yet.  
 3 Q Do you have an expectation of when that  
 4 timeframe will be?  
 5 A I don't make the rules. 01:17:54  
 6 Q Just asking if you have an expectation of when  
 7 that timeframe will be, if you need to decide if you're  
 8 going to play or not.  
 9 MS. HOLCOMB: Objection.  
 10 THE WITNESS: I don't have an expectation. 01:18:10  
 11 BY MR. BARR:  
 12 Q When is scholarship awarded for next school  
 13 year?  
 14 A For whom?  
 15 Q For you. 01:18:27  
 16 A Typically, we re-sign the paper in the spring,  
 17 stating our scholarship, but my coach can decide when  
 18 to allow us to sign the papers. Some people sign in  
 19 June, July, August. It's up to our coach.  
 20 Q When did you sign last year? 01:19:04  
 21 A Sometime in the spring.  
 22 Q February?  
 23 A I think that's winter.  
 24 Q Okay. When -- what month did you sign your  
 25 scholarship award last year? 01:19:33

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1 A I'm not sure.  
 2 Q Where would we have to go to find that date  
 3 out?  
 4 A I don't know. I don't have any papers on it.  
 5 Q It sounds like you signed a paper, and I'm 01:19:44  
 6 just trying to figure out when.  
 7 MS. HOLCOMB: Object to form.  
 8 THE WITNESS: I'm not sure of the exact date.  
 9 It was sometime in 2021.  
 10 BY MR. BARR: 01:19:59  
 11 Q So what is the spring to you, if it doesn't  
 12 include February?  
 13 MS. HOLCOMB: Object to form.  
 14 THE WITNESS: Maybe March through June.  
 15 BY MR. BARR: 01:20:17  
 16 Q So as you sit here today, you believe that you  
 17 would have signed your scholarship award package  
 18 sometime between March and June of last year; is that  
 19 right?  
 20 A Yes. 01:20:28  
 21 Q Do you expect that that same timeframe would  
 22 apply to this year?  
 23 A I don't know.  
 24 Q Do you have any reason to think it won't?  
 25 MR. TRYON: Objection. 01:20:55

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1 THE WITNESS: My coach is very patient. And  
 2 seeing as I'm a captain and a starter, I'm sure that  
 3 she would give me as much time as she could to keep me  
 4 on the team.  
 5 BY MR. BARR: 01:21:08  
 6 Q What is your coach's name?  
 7 A Lisa Mann.  
 8 Q How do you spell your coach's last name?  
 9 A M-A-N-N.  
 10 Q Have you had discussions with Coach Mann about 01:21:22  
 11 the possibility of you not playing next year?  
 12 A Yes.  
 13 Q Explain -- when was the first conversation you  
 14 had with Coach Mann regarding the possibility you don't  
 15 play next year? 01:21:38  
 16 A Sometime in February.  
 17 Q How many discussions have you had with  
 18 Coach Mann regarding the possibility you don't play  
 19 next year?  
 20 A I'm not sure. 01:21:56  
 21 Q More than five?  
 22 A I'm not sure.  
 23 Q More than ten?  
 24 MS. HOLCOMB: Object to form.  
 25 THE WITNESS: I don't know. 01:22:17

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1 BY MR. BARR:  
 2 Q More than 20?  
 3 MS. HOLCOMB: Object to form.  
 4 THE WITNESS: I don't recall saying it was  
 5 more than ten either. 01:22:24  
 6 BY MR. BARR:  
 7 Q It sounds like you're not sure. I'm just  
 8 trying to get a range here.  
 9 A More than one, less than 20, probably.  
 10 Q And that's the closest estimate you can give 01:22:37  
 11 on the number of discussions you've had with Coach Mann  
 12 about this?  
 13 A Yes.  
 14 MR. TRYON: Objection.  
 15 BY MR. BARR: 01:22:50  
 16 Q What -- what was Coach Mann's response?  
 17 A She wants me to do what's best for me.  
 18 Q Did she say anything else?  
 19 A She would love for me to stay on the team.  
 20 Q Did she also say that she would like to use 01:23:07  
 21 that scholarship award for a different player if you're  
 22 not going to come back?  
 23 A She did not tell me that.  
 24 Q What else did she say?  
 25 A To keep her updated. 01:23:25

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<p>1 Q Have you kept her updated?                  2 A As much as I possibly can, because I'm not                  3 sure what my future holds yet.                  4 Q So what did you tell her in your first update?                  5 A I don't recall what I told her on the first 01:23:47                  6 update.                  7 Q So you've updated your coach at least once,                  8 but you have no recollection of what you told                  9 Coach Mann?                  10 A I didn't say that. You asked what I said on 01:24:07                  11 my first update. I'm not sure. There's been a couple                  12 conversations, more than one, like I said.                  13 Q Okay. If we take all the update meetings                  14 together, what have -- what have you conveyed to                  15 Coach Mann? 01:24:23                  16 A I've conveyed that I am still wanting to                  17 practice and be a part of the team, and I'm not sure                  18 what my plans are for the fall.                  19 Q At no point Coach Mann said, hey, it would be                  20 really nice to know by X date? 01:24:46                  21 A She would like to know, but she's never given                  22 me an exact date, no.                  23 Q Did she give you a timeframe?                  24 A No.                  25 Q If you graduate in May, can you still play on 01:24:57                  Page 58</p>	<p>1 Q Did I read somewhere you want to be a lawyer?                  2 A Yes.                  3 Q Does West Virginia State have a law school?                  4 A No.                  5 Q Have you considered, upon graduation, going to 01:27:07                  6 law school?                  7 A Yes.                  8 Q Did you take the LSAT?                  9 A Yes.                  10 Q Have you applied to law school? 01:27:17                  11 A Yes.                  12 Q Where did you apply?                  13 A I applied to University of Florida, FSU and                  14 ASU.                  15 Q Warm states. Totally understand. 01:27:41                  16 Any other schools?                  17 A I don't think I've sent in my official                  18 applications to any other schools, no.                  19 Q What other schools are you planning to send an                  20 official application to? 01:27:59                  21 A Possibly the University of Houston.                  22 Q Any others?                  23 A I haven't really considered it because I'm not                  24 sure if I'm even going to be going to law school in the                  25 fall. 01:28:15                  Page 60</p>
<p>1 the team?                  2 A Yes.                  3 Q How?                  4 A Because I am interested in possibly getting a                  5 Master's degree at West Virginia State, and I still 01:25:20                  6 have three years of NCAA eligibility, which would mean                  7 I can continue playing in the fall.                  8 Q So you would play as a graduate student; is                  9 that right?                  10 A That is what I'm saying. 01:25:36                  11 Q What Master's are you interested in pursuing?                  12 A Master's of Public Administration.                  13 Q When's the application due for that?                  14 A I'm not sure. I'd have to ask the professor.                  15 Q Have you looked into it? 01:25:56                  16 A I see the chair of the department or of the                  17 Master's of Public Administration a couple times a                  18 week, and yes, we have discussed it.                  19 Q How long of a program is that?                  20 A It depends on the -- how many hours you take, 01:26:15                  21 but I would expect a year and a half.                  22 Q Why are you interested in getting a Master's                  23 of Public Administration?                  24 A It would mean continuing my academic career                  25 and athletic career, which are both things that I love. 01:26:48                  Page 59</p>	<p>1 Q You've applied to three programs; is that                  2 right? FSU, UF and ASU?                  3 A Yes.                  4 Q Have you been admitted?                  5 A I haven't gotten any decisions. 01:28:28                  6 Q When do you expect to hear back?                  7 A Hopefully soon.                  8 Q If you get in, will you go?                  9 A I don't know, because I would still love to                  10 continue playing soccer. I'm not ready to give it up 01:28:56                  11 yet.                  12 Q Is there any reason you can't play soccer at                  13 FSU or UF or ASU?                  14 A I'm not sure if I would be able to play soccer                  15 and do law school. 01:29:13                  16 Q So it's not an eligibility concern; it's just                  17 a timing concern?                  18 A Yes.                  19 Q Do you think you'd make the team at FSU?                  20 MS. HOLCOMB: Object to form. 01:29:29                  21 MR. TRYON: Objection.                  22 THE WITNESS: I would hope so. That would be                  23 cool.                  24 BY MR. BARR:                  25 Q Am I mistaken? Didn't Florida State win the 01:29:42                  Page 61</p>

1 national championship a couple of years ago for women's  
 2 soccer?  
 3 A They could have. I don't keep up with FSU  
 4 sports.  
 5 Q Do you expect you'd make the team at 01:29:54  
 6 University of Florida?  
 7 MS. HOLCOMB: Object to form.  
 8 MR. TRYON: Objection.  
 9 THE WITNESS: I don't know.  
 10 BY MR. BARR: 01:30:09  
 11 Q I presume you don't know if you would make the  
 12 team at Arizona State either?  
 13 MS. HOLCOMB: Same objection.  
 14 THE WITNESS: I don't make the decisions for  
 15 those coaches. 01:30:20  
 16 BY MR. BARR:  
 17 Q If you get into law school, are you going to  
 18 try out for the team, or that's the end of soccer?  
 19 MR. TRYON: Objection.  
 20 MS. HOLCOMB: Object to form. 01:30:28  
 21 THE WITNESS: I don't know. I definitely  
 22 don't think that I said if I get into law school, I'm  
 23 definitely -- it's definitely the end of law school --  
 24 or soccer, I mean.  
 25 ///

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1 BY MR. BARR:  
 2 Q Have you reached out to the coaches at any of  
 3 those programs?  
 4 A No. That would be illegal to do because I'm  
 5 not in the transfer portal. 01:30:54  
 6 Q You're not transferring; you're graduating;  
 7 right?  
 8 A I still --  
 9 MS. HOLCOMB: Object to the form.  
 10 MR. BARR: I'm sorry, could you repeat that? 01:31:04  
 11 That got --  
 12 MS. HOLCOMB: I would like to put my objection  
 13 back on the record, please.  
 14 You can go.  
 15 THE WITNESS: I still can't reach out to those 01:31:12  
 16 schools.  
 17 BY MR. BARR:  
 18 Q When are you able to reach out to those  
 19 schools?  
 20 A I haven't looked into that because I really 01:31:17  
 21 love playing at West Virginia State University.  
 22 Q But if I understand you correctly, there's a  
 23 possibility you end up in law school, come the fall;  
 24 right?  
 25 MS. HOLCOMB: Object to form. 01:31:41

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1 MR. TRYON: Objection.  
 2 THE WITNESS: As you said earlier, a lot of  
 3 things are possible.  
 4 BY MR. BARR:  
 5 Q Well, you've applied to three of them, and 01:31:52  
 6 you're waiting to hear back; right?  
 7 MR. TRYON: Objection.  
 8 MS. HOLCOMB: Object to form.  
 9 THE WITNESS: I want to play soccer at  
 10 West Virginia State. 01:32:05  
 11 BY MR. BARR:  
 12 Q But you couldn't do that if you were in law  
 13 school; right?  
 14 MS. HOLCOMB: Object to form.  
 15 THE WITNESS: I could not do that if I was in 01:32:13  
 16 law school, correct.  
 17 BY MR. BARR:  
 18 Q Is the only interest you have in the Master's  
 19 of Public Administration to play soccer?  
 20 A That's not the only reason. 01:32:32  
 21 Q What other reasons are there?  
 22 A I would be learning and getting a better  
 23 education while I was playing soccer and cultivating  
 24 relationships and learning important school skills.  
 25 Q Why do you think you could play soccer in the 01:33:07

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1 Master's program, but not during a law school program?  
 2 A I don't know if a Master's program is as  
 3 vigorous as law school will be.  
 4 Q When do you intend to apply for the Master's  
 5 program? 01:33:30  
 6 MS. HOLCOMB: Object to form.  
 7 THE WITNESS: As I said earlier, I still don't  
 8 know what I'm going to be doing yet.  
 9 BY MR. BARR:  
 10 Q Would you say it's more likely than not that 01:33:42  
 11 you graduate this May?  
 12 MR. TRYON: Objection.  
 13 THE WITNESS: I'm not sure.  
 14 BY MR. BARR:  
 15 Q What's your expectation, sitting here today? 01:33:54  
 16 MS. HOLCOMB: Object to form.  
 17 THE WITNESS: It's really not set in stone  
 18 yet.  
 19 BY MR. BARR:  
 20 Q I'm not asking if it's set in stone. I'm just 01:34:09  
 21 saying today, March 11th, are you expecting to graduate  
 22 in May?  
 23 MS. HOLCOMB: Object to form.  
 24 MR. TRYON: Objection.  
 25 THE WITNESS: It's possible. 01:34:24

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<p>1 BY MR. BARR:                  2 Q Ms. Armistead, do you plan on graduating in                  3 May? It's two months away. It's a fairly                  4 straightforward question.                  5 MS. HOLCOMB: Andrew, I don't mean to provide 01:34:38                  6 a speaking objection, but I do think this is getting a                  7 little bit excessive and harassing. That has been                  8 asked and answered. I suggest that you move on.                  9 MR. BARR: Attorney Holcomb, I'm asking a very                  10 simple question that hasn't been answered. I'm just 01:34:50                  11 asking what her expectation is for two months from                  12 today, that's it.                  13 MS. HOLCOMB: And she has told you multiple                  14 times that she does not yet know. That is asked and                  15 answered. Please proceed. 01:35:01                  16 MR. BARR: Well, the question stands.                  17 THE WITNESS: I am not sure, but if I do, I                  18 would still like to continue my education at                  19 West Virginia State.                  20 BY MR. BARR: 01:35:21                  21 Q When do you expect that you'll know if you're                  22 going to graduate in May?                  23 MS. HOLCOMB: Object to form.                  24 THE WITNESS: I don't know. Hopefully before                  25 May. 01:35:43</p> <p style="text-align: right;">Page 66</p>	<p>1 MR. BARR: Attorney Holcomb, can you produce                  2 that because that's certainly relevant to your                  3 discovery request?                  4 MS. HOLCOMB: We can certainly see if we can                  5 obtain that. 01:37:52                  6 MR. BARR: Thank you.                  7 While we're at it, if you could obtain the                  8 scholarship agreements that happened in the last two                  9 years and their date of signature, that would also                  10 clearly fall within our discovery request. 01:38:02                  11 MS. HOLCOMB: Yeah, we don't have access to                  12 those, Lainey does not have them in her possession, but                  13 we can see if we can obtain them.                  14 MR. BARR: Thank you.                  15 BY MR. BARR: 01:38:11                  16 Q Do you have any plans to withdraw the form                  17 you've already filed to graduate in two months?                  18 A Filing the form doesn't automatically mean                  19 that I graduate.                  20 Q I'm just asking if you have any plans to 01:38:27                  21 withdraw the form.                  22 A I don't know what my plans are yet.                  23 Q But sitting here today, you have no plans to                  24 do that?                  25 MS. HOLCOMB: Object to form. 01:38:35</p> <p style="text-align: right;">Page 68</p>
<p>1 BY MR. BARR:                  2 Q Has Coach Mann talked to you about graduation?                  3 MS. HOLCOMB: Object to form.                  4 THE WITNESS: What do you mean?                  5 BY MR. BARR: 01:36:03                  6 Q When -- in one or more of those updates you've                  7 had with Coach Mann, have you talked about graduation                  8 with her?                  9 A I think, yes.                  10 Q What did Coach Mann say? 01:36:31                  11 A She wants me to get my Master's degree at                  12 State, if I chose to graduate this May, or she would                  13 want me to not graduate and just get two Bachelor's                  14 degrees so I could continue on in the fall without                  15 graduating. 01:36:58                  16 Q What other Bachelor degree are you                  17 considering?                  18 MS. HOLCOMB: Object to form.                  19 THE WITNESS: It's not -- I'm not certain. I                  20 would be interested in psychology. 01:37:13                  21 BY MR. BARR:                  22 Q Did you file a form to graduate in May?                  23 A Yes.                  24 Q When did you file that form?                  25 A Sometime before the due date. 01:37:28</p> <p style="text-align: right;">Page 67</p>	<p>1 THE WITNESS: Sitting here today, I am not                  2 sure what my future holds yet.                  3 BY MR. BARR:                  4 Q I understand that. But your future for the                  5 two -- next two months, do you plan on withdrawing that 01:38:48                  6 form?                  7 MS. HOLCOMB: Objection to form.                  8 MR. TRYON: Objection.                  9 THE WITNESS: I'm not sure.                  10 BY MR. BARR: 01:39:07                  11 Q Have you talked to your parents about                  12 graduating?                  13 A Yes.                  14 Q Explain to me those discussions.                  15 A We have talked about all of the different 01:39:19                  16 options that I have, one being which I could graduate,                  17 another where I continue without graduating and get                  18 another Bachelor's degree, another where I get a                  19 Master's degree at State or go to law school.                  20 But as I said earlier, there are a lot of 01:39:48                  21 options that I have to weigh carefully, but I would                  22 definitely love to be at West Virginia State.                  23 Q What would your dad like you to do?                  24 A What?                  25 MS. HOLCOMB: I'm sorry, could you please 01:40:03</p> <p style="text-align: right;">Page 69</p>

<p>1 restate the question?                  2 MR. BARR: Yes, absolutely.                  3 BY MR. BARR:                  4 Q In having those discussions you just                  5 described, what is your understanding of what your dad 01:40:09                  6 would like you to do?                  7 A He wants me to decide for myself, and he said                  8 that he would support my decision.                  9 Q He has no preference?                  10 MS. HOLCOMB: Object to form. 01:40:28                  11 THE WITNESS: I don't know what my dad's                  12 preference is.                  13 BY MR. BARR:                  14 Q So you've had these discussions with your                  15 parents and your dad just stated whatever you decide is 01:40:39                  16 fine with him?                  17 MR. TRYON: Objection.                  18 MS. HOLCOMB: Object to form.                  19 THE WITNESS: He wants me to do what I deem                  20 best for myself. I'm the one who is going to be 01:40:54                  21 graduating or staying or playing soccer. So,                  22 ultimately, both of my parents want me to decide to do                  23 what's best for me.                  24 Would he love to continue seeing me play                  25 because I've been playing since I was little? I'm -- I 01:41:13                  Page 70</p>	<p>1 BY MR. BARR:                  2 Q Do your parents want you to go to law school?                  3 MS. HOLCOMB: Object to form.                  4 THE WITNESS: I'm not sure exactly what they                  5 want me to do with my life. 01:42:35                  6 BY MR. BARR:                  7 Q Have you talked to them about the Master's of                  8 Public Administration?                  9 A Yes.                  10 Q What did they say about that? 01:42:47                  11 A They told me that they would be supportive of                  12 whatever I did. I believe my mom would like me to get                  13 my MPA.                  14 Q Do you believe your dad wants you to get your                  15 MPA? 01:43:17                  16 MS. HOLCOMB: Object to form.                  17 MR. TRYON: Objection.                  18 THE WITNESS: I don't know. My parents would                  19 want me to do whatever I see fit.                  20 BY MR. BARR: 01:43:30                  21 Q But sitting here today, you're just not sure                  22 what that is?                  23 MS. HOLCOMB: Object to form.                  24 MR. TRYON: Objection again.                  25 THE WITNESS: I don't think that's what I 01:43:48                  Page 72</p>
<p>1 would assume he would.                  2 BY MR. BARR:                  3 Q Does your mom have a preference for what you                  4 do?                  5 MS. HOLCOMB: Object to form. 01:41:23                  6 THE WITNESS: She said that she would be                  7 supportive.                  8 BY MR. BARR:                  9 Q I understand that. And I'm sure your parents                  10 would be supportive. I'm just curious if your mom has 01:41:36                  11 a preference for what decision you make for yourself.                  12 MS. HOLCOMB: Object to form.                  13 MR. TRYON: Objection.                  14 THE WITNESS: I know she likes watching me                  15 play soccer, but I can't answer on what she wants me to 01:41:52                  16 do.                  17 BY MR. BARR:                  18 Q So you've had the discussions about graduating                  19 with your parents, and as far as you can tell, they're                  20 okay with whatever you choose? 01:42:02                  21 MR. TRYON: Objection. Come on.                  22 MS. HOLCOMB: Objection.                  23 THE WITNESS: They'll be supportive, I                  24 believe.                  25 ///                  Page 71</p>	<p>1 said.                  2 BY MR. BARR:                  3 Q What did you say?                  4 A They want me to do what I think is best for my                  5 future. 01:43:56                  6 Q Maybe my question wasn't clear, I'm sorry.                  7 My question was, sitting here today, you don't                  8 know what you think is best for your future?                  9 MS. HOLCOMB: Object to form.                  10 THE WITNESS: I know what I would love to do, 01:44:12                  11 and that's to continue playing the sport that I love.                  12 BY MR. BARR:                  13 Q But it's uncertain whether that will happen or                  14 not?                  15 MS. HOLCOMB: Object to form. 01:44:23                  16 MR. TRYON: I'm sorry, Mr. Barr, could you                  17 repeat that? I couldn't hear it.                  18 MR. BARR: Yes, I said, and it's uncertain                  19 whether that will happen?                  20 MS. HOLCOMB: Object to form. 01:44:34                  21 THE WITNESS: I don't know yet.                  22 BY MR. BARR:                  23 Q Do you know who B.P.J. is?                  24 A I know that that's the plaintiff.                  25 Q What do you know about B.P.J.? 01:44:53                  Page 73</p>

<p>1 A There's nothing that I know for certain about                  2 B.P.J. other than she's the plaintiff.                  3 Q What do you mean there's nothing you know for                  4 certain?                  5 A You asked me what I knew about her. I don't 01:45:16                  6 know who that is. I don't know who -- I know that                  7 P.B. -- B.P.J. is the plaintiff.                  8 Q You've never met or spoke with B.P.J. before?                  9 A No.                  10 Q Are you aware that B.P.J. is 11 years old? 01:45:32                  11 A I don't know.                  12 Q Are you aware that B.P.J. ran cross-country on                  13 her middle school's girls' cross-country team last                  14 year?                  15 A I don't know. 01:45:51                  16 Q You don't know that?                  17 A (No response.)                  18 Q I'm sorry, that was a question.                  19 You -- you're not -- you're not aware that                  20 B.P.J. ran on her middle school's girls' cross-country 01:46:02                  21 team last fall?                  22 A I don't know.                  23 Q You don't know, or you're not aware of that?                  24 MS. HOLCOMB: Object to form.                  25 THE WITNESS: I don't know. 01:46:28                  Page 74</p>	<p>1 So other than your understanding that                  2 B.P.J. doesn't like H.B. 3293, do you know anything                  3 else about B.P.J.?                  4 A No.                  5 Q Would you be surprised to learn that B.P.J.'s 01:48:48                  6 school didn't have to cut any girls when they allowed                  7 B.P.J. to play on the girls' team last year?                  8 MS. HOLCOMB: Object to form.                  9 THE WITNESS: I don't know.                  10 BY MR. BARR: 01:49:10                  11 Q What is your understanding of how                  12 B.P.J. placed in the cross-country events that she                  13 participated in last year?                  14 A I don't know.                  15 Q Do you have any understanding at all? First? 01:49:26                  16 Last? Middle of the pack?                  17 A I don't know.                  18 Q Do you know how many events B.P.J.                  19 participated in last year for cross-country?                  20 A No. 01:49:51                  21 Q Did you run cross-country growing up?                  22 A No. I would run races, but it wasn't                  23 organized cross-country.                  24 Q What kind of races?                  25 A Just in elementary school, we would have races 01:50:13                  Page 76</p>
<p>1 BY MR. BARR:                  2 Q Are you aware that B.P.J.'s middle school                  3 supports her inclusion on the girls' team?                  4 A I don't know.                  5 Q Are you aware that B.P.J.'s school has a 01:46:54                  6 transgender support plan for B.P.J.?                  7 A I don't know.                  8 Q Do you know anything about B.P.J.'s athletic                  9 interests?                  10 MS. HOLCOMB: Object to form. 01:47:31                  11 THE WITNESS: I don't know.                  12 BY MR. BARR:                  13 Q Sitting here today, do you know anything about                  14 B.P.J. at all other than the fact --                  15 MS. HOLCOMB: Object to form. 01:47:47                  16 BY MR. BARR:                  17 Q -- that B.P.J. is the plaintiff?                  18 MS. HOLCOMB: Object to form.                  19 THE WITNESS: I believe that B.P.J. doesn't                  20 like the law from West Virginia. 01:47:59                  21 BY MR. BARR:                  22 Q What law is that?                  23 A H.B. -- sorry, the numbers, I forget -- 3293.                  24 Q You -- I get distracted with the numbers all                  25 the time, so don't worry about that. 01:48:24                  Page 75</p>	<p>1 once a year                  2 Q Explain -- explain that to me Some sort                  3 of -- everybody in the school goes down to the field                  4 and runs a distance, something like that?                  5 A Something like that, divided by grade and 01:50:35                  6 gender                  7 Q Did you win?                  8 A Yes                  9 Q Every time?                  10 A Yes 01:50:55                  11 Q Were you first for everyone in your grade?                  12 A For all the girls, yes                  13 Q What years is this?                  14 A Kindergarten through fifth grade                  15 Q Have you been a part of any other organized or 01:51:13                  16 semiorganized running events, other than that?                  17 A No                  18 MR BARR: Let's go off the record                  19 THE VIDEOGRAPHER: All right I was on mute                  20 Okay We're going off the record The time 01:51:37                  21 is 1:52 p m , and this is the end of Media Unit                  22 Number 2                  23 One moment                  24 (Recess )                  25 THE VIDEOGRAPHER: Okay We are back on the 02:06:12                  Page 77</p>

<p>1 record at 2:06 p.m., and this is the beginning of Media                  2 Unit No. 3.                  3 Go ahead, please.                  4 MR. BARR: Ms. Armistead, I just introduced to                  5 you and your counsel what has been previously marked as 02:06:24                  6 West Virginia Exhibit 34. Let me know you've got that                  7 in front of you.                  8 THE WITNESS: I have it in front of me.                  9 BY MR. BARR:                  10 Q Do you recognize this document? 02:06:34                  11 A It looks like H.B. 3293.                  12 Q Have you read this before?                  13 A Sorry?                  14 Q Have you read what is now Exhibit WV-34 prior                  15 to seeing it now? 02:07:02                  16 A I have read a little bit of it before, but not                  17 the whole thing.                  18 Q What part of it did you read before?                  19 A The -- article 2, paragraph 1 and 2.                  20 Q Did you read anything else? 02:07:29                  21 A Not a full read, no.                  22 Q So prior to today, article 2, section 1 and 2,                  23 you've -- you've read, but everything else -- this will                  24 be -- I'm just trying to gauge timing -- it will be new                  25 for you? 02:07:56</p> <p style="text-align: right;">Page 78</p>	<p>1 BY MR. BARR:                  2 Q Let me ask it a different way.                  3 Is your entire understanding of the impact of                  4 H.B. 3293 based on discussions with your attorney?                  5 A Yes. 02:09:43                  6 Q Under this law, can B.P.J. play on a girls'                  7 school sports team?                  8 MS. HOLCOMB: Object to form.                  9 MR. TRYON: Objection.                  10 THE WITNESS: I can't make a legal 02:10:15                  11 determination.                  12 BY MR. BARR:                  13 Q Is it your understanding that this law would                  14 prohibit B.P.J. from playing on her school's girls'                  15 team? 02:10:28                  16 A I'm not sure.                  17 Q So sitting here today, you don't know one way                  18 or the other whether B.P.J. could play on the girls'                  19 team based --                  20 MS. HOLCOMB: Ob- -- 02:10:44                  21 BY MR. BARR:                  22 Q -- on this law?                  23 MS. HOLCOMB: Sorry. Object to form.                  24 THE WITNESS: I'm not sure because I'm not an                  25 attorney. 02:10:54</p> <p style="text-align: right;">Page 80</p>
<p>1 A Yeah.                  2 Q What is your understanding of the impact of                  3 H.B. 3293?                  4 A My understanding is that it will keep                  5 biological women competing with biological women in 02:08:10                  6 sports.                  7 Q Where did you get that understanding?                  8 MS. HOLCOMB: I'll just object to the extent                  9 it calls for any communications with counsel, but                  10 Lainey, you may answer. 02:08:28                  11 THE WITNESS: Through conversations with my                  12 attorney.                  13 BY MR. BARR:                  14 Q Other than in discussions with your attorney,                  15 do you have any other reason to think that's what 02:08:42                  16 H.B. 3293 does?                  17 A I had heard that that's what they did too.                  18 Q Who did you hear that from?                  19 A I don't remember exactly.                  20 Q Do you remember when you had that 02:09:25                  21 conversation?                  22 MS. HOLCOMB: Object to form.                  23 THE WITNESS: I don't know how to answer that                  24 question without giving privileged information.                  25 ///</p> <p style="text-align: right;">Page 79</p>	<p>1 BY MR. BARR:                  2 Q What is your understanding of what happens if                  3 you win in this lawsuit?                  4 A I'm not sure.                  5 Q Why did you think it would be important to 02:11:11                  6 intervene if you don't understand the impact of                  7 intervening?                  8 A I believe that keeping this law in place will                  9 result in fair and equitable playing for women in -- in                  10 sports. 02:11:37                  11 MR. BARR: That wasn't my question.                  12 Court Reporter, can you read back the                  13 question, please.                  14 (Record read.)                  15 MS. HOLCOMB: I'll just object to form. 02:12:03                  16 THE WITNESS: I understand that intervening                  17 means that I think that the bill is a good step of                  18 legislation, and I believe that it will help keep the                  19 playing fields even and equal, and that's why I thought                  20 it was so important to intervene. 02:12:38                  21 BY MR. BARR:                  22 Q That brings me back to -- maybe I just didn't                  23 understand your answer before.                  24 What happens if you win?                  25 A I guess the law stays as it is. 02:12:57</p> <p style="text-align: right;">Page 81</p>

<p>1 Q And what happens if you lose?</p> <p>2 A I can't speculate on what will happen if I</p> <p>3 lose. I'm not sure.</p> <p>4 Q Do you have any understanding at all?</p> <p>5 MS. HOLCOMB: Object to form. 02:13:21</p> <p>6 MR. TRYON: Objection.</p> <p>7 THE WITNESS: I don't know.</p> <p>8 BY MR. BARR:</p> <p>9 Q Why did you intervene in the lawsuit if you</p> <p>10 don't know what happens if you win or lose? 02:13:39</p> <p>11 MS. HOLCOMB: Object to form.</p> <p>12 MR. TRYON: Objection.</p> <p>13 THE WITNESS: Again, that's not what I said.</p> <p>14 I understand that if -- if this law stays in</p> <p>15 place, that women will be protected and it will keep 02:13:53</p> <p>16 the playing field even and equitable for women in</p> <p>17 sports.</p> <p>18 BY MR. BARR:</p> <p>19 Q Which women?</p> <p>20 A Women -- 02:14:05</p> <p>21 MR. TRYON: Objection.</p> <p>22 THE WITNESS: I'm confused on your question.</p> <p>23 BY MR. BARR:</p> <p>24 Q Well, you said that the law will protect</p> <p>25 women's sports, something along those lines, and I'm 02:14:25</p> <p style="text-align: right;">Page 82</p>	<p>1 Q Was Jamie Metzger part of that conversation?</p> <p>2 A No.</p> <p>3 Q I don't want to know anything that was said,</p> <p>4 but who was at that -- who was present for that</p> <p>5 conversation? 02:15:55</p> <p>6 A Christiana.</p> <p>7 Q Anyone else?</p> <p>8 A No.</p> <p>9 Q But you don't recall when that conversation</p> <p>10 happened? 02:16:13</p> <p>11 MS. HOLCOMB: Objection to form again.</p> <p>12 THE WITNESS: Sometime in 2021.</p> <p>13 BY MR. BARR:</p> <p>14 Q Was it on the phone?</p> <p>15 A I don't recall. 02:16:30</p> <p>16 Q Was it in person?</p> <p>17 A No.</p> <p>18 Q So it was in some type of virtual format,</p> <p>19 phone, computer, something like that?</p> <p>20 A Yes. 02:17:01</p> <p>21 Q Did Ms. Holcomb reach out to you, or did you</p> <p>22 reach out to Ms. Holcomb?</p> <p>23 MS. HOLCOMB: Again, objection to the extent</p> <p>24 it calls for privileged information.</p> <p>25 And I'm not sure why we're retreading ground 02:17:13</p> <p style="text-align: right;">Page 84</p>
<p>1 asking, which women is it protecting?</p> <p>2 A Women.</p> <p>3 Q All women?</p> <p>4 A Biological women in sports.</p> <p>5 Q When did you first become aware of this law? 02:14:43</p> <p>6 MS. HOLCOMB: Object to form and also to the</p> <p>7 extent that it calls for privileged information again.</p> <p>8 MR. BARR: You know, Christiana, I would be</p> <p>9 willing to just -- I'm not trying to get any privileged</p> <p>10 information at all. And if the answer is that 02:15:03</p> <p>11 Ms. Armistead didn't know about this law until she</p> <p>12 spoke with your office, I'll -- I'll move on. I'm just</p> <p>13 trying to understand.</p> <p>14 MS. HOLCOMB: Sure. We've -- this is also</p> <p>15 asked and answered a couple of times, which is in part 02:15:14</p> <p>16 while I raised the objection again. But yes, I will</p> <p>17 continue to maintain attorney-client privileged</p> <p>18 objections.</p> <p>19 BY MR. BARR:</p> <p>20 Q Okay. So I'll ask again, when did you first 02:15:26</p> <p>21 become aware of this law?</p> <p>22 MS. HOLCOMB: Same objection.</p> <p>23 THE WITNESS: I can't answer that without</p> <p>24 divulging privileged information with my attorney.</p> <p>25 BY MR. BARR: 02:15:37</p> <p style="text-align: right;">Page 83</p>	<p>1 that's already been covered, Counsel.</p> <p>2 MR. BARR: I went back and looked at the</p> <p>3 transcript, and I still don't fully understand, so I'm</p> <p>4 just trying to make sure we have clarify on the record.</p> <p>5 MS. HOLCOMB: I also want to just state my 02:17:24</p> <p>6 objection to revisiting ground already trod.</p> <p>7 MR. BARR: Noted.</p> <p>8 THE WITNESS: I don't know how to give you an</p> <p>9 answer without divulging attorney-client privileges.</p> <p>10 BY MR. BARR: 02:17:38</p> <p>11 Q Ms. Holcomb can certainly correct me, but the</p> <p>12 manner in -- who -- who reached out to who wouldn't be</p> <p>13 a privileged communication, I'm aware of, and I didn't</p> <p>14 hear Ms. Holcomb direct you not to answer based on</p> <p>15 privilege. So I'll ask the question again. 02:17:55</p> <p>16 Did Ms. Holcomb reach out to you?</p> <p>17 A Yes.</p> <p>18 Q Does this law apply to club sports?</p> <p>19 MR. TRYON: Objection.</p> <p>20 MS. HOLCOMB: Object to form. 02:18:20</p> <p>21 THE WITNESS: I don't know.</p> <p>22 BY MR. BARR:</p> <p>23 Q Does it apply to grade school sports?</p> <p>24 MS. HOLCOMB: Objection to form.</p> <p>25 MR. TRYON: Objection. 02:18:28</p> <p style="text-align: right;">Page 85</p>

<p>1 THE WITNESS: I don't know.                  2 BY MR. BARR:                  3 Q Does it apply to intramural sports at                  4 West Virginia State?                  5 MR. TRYON: Objection. 02:18:38                  6 MS. HOLCOMB: Objection to form.                  7 THE WITNESS: I don't know.                  8 BY MR. BARR:                  9 Q Does it apply to all the schools in your                  10 conference? 02:18:48                  11 MS. HOLCOMB: Objection.                  12 MR. TRYON: Objection.                  13 THE WITNESS: I don't know.                  14 BY MR. BARR:                  15 Q Does it apply to all school-sponsored sports 02:18:58                  16 in West Virginia?                  17 MS. HOLCOMB: Object to form.                  18 MS. MORGAN: Object to form.                  19 MR. TRYON: Objection.                  20 THE WITNESS: I don't know. 02:19:08                  21 BY MR. BARR:                  22 Q Tell me what you do know about this law.                  23 A I don't know anything because I'm not an                  24 attorney.                  25 Q So to the extent you've said things about this 02:19:22                  Page 86</p>	<p>1 Q And discussing the impact of this law would                  2 fall in legal commentary, as far as you understand it?                  3 A What do you mean, the impact?                  4 Q Well, I asked if you knew if this law applied                  5 to club sports. Is that something that you would 02:20:56                  6 consider legal commentary?                  7 A I don't know if it applies.                  8 Q And then I asked if this law applied to every                  9 school in your conference. Is that something you would                  10 consider legal commentary? 02:21:20                  11 A I said I don't know.                  12 Q And then I said, tell me what you do know                  13 about this law.                  14 MS. HOLCOMB: Object to form.                  15 THE WITNESS: What my understanding is, is 02:21:26                  16 that this will protect women in sports.                  17 BY MR. BARR:                  18 Q What do you mean by "protect"?                  19 A Women are built different than biological men.                  20 Biological men are stronger, fitter, faster, have a 02:22:09                  21 bigger stature, in general, than women. So this law,                  22 it was put into place to protect women, women's safety                  23 and their interests.                  24 Q Is this law accomplishing what you just said                  25 by excluding transgender women? 02:22:28                  Page 88</p>
<p>1 law in other contexts, you didn't have a basis to say                  2 that?                  3 MS. HOLCOMB: Object to form.                  4 THE WITNESS: Can you repeat the question?                  5 BY MR. BARR: 02:19:42                  6 Q Sure. I understood your last answer to be                  7 that you don't understand the scope or impact of this                  8 law because you're not a lawyer. Did I say that                  9 correctly?                  10 MS. HOLCOMB: Object to form. 02:19:56                  11 THE WITNESS: That's not what I said.                  12 BY MR. BARR:                  13 Q What did you say?                  14 A I said I'm not going to make legal                  15 commentation on something that I can't make legal 02:20:03                  16 commentation on because I'm not an attorney.                  17 Q And by "legal commentation," you mean whether                  18 or not the law applies to a particular school or a                  19 particular person; is that right?                  20 MS. HOLCOMB: Object to form. 02:20:23                  21 BY MR. BARR:                  22 Q You tell me what you meant by "legal                  23 commentation."                  24 A Any legal commentary, I'm going to say I don't                  25 know. 02:20:36                  Page 87</p>	<p>1 MS. HOLCOMB: Object to form.                  2 MR. TRYON: Objection.                  3 THE WITNESS: Can you restate the question,                  4 please?                  5 MR. BARR: Is -- 02:22:45                  6 Court Reporter, could you read the question                  7 back, please.                  8 (Record read.)                  9 MS. HOLCOMB: Same objection.                  10 THE WITNESS: Can you restate it in a 02:23:05                  11 different way?                  12 BY MR. BARR:                  13 Q Is it that you don't understand the question?                  14 MS. HOLCOMB: Object to form.                  15 THE WITNESS: I just would like you to restate 02:23:11                  16 it in a different way.                  17 BY MR. BARR:                  18 Q You just told me a series of things that you                  19 believe the law is accomplishing; is that right?                  20 A Yes. 02:23:27                  21 Q And you said fairness, and I believe you said                  22 safety; is that right?                  23 A Correct.                  24 Q And my question to you is, how is this law                  25 accomplishing those goals? 02:23:41                  Page 89</p>

<p>1 MS. HOLCOMB: Object to form.                  2 THE WITNESS: By -- by protecting fairness and                  3 safety for biological women in sports.                  4 BY MR. BARR:                  5 Q I understand that that's what you believe the 02:24:01                  6 goal of the law to be. I'm asking how it does that.                  7 MS. HOLCOMB: Object to form.                  8 MR. TRYON: Objection.                  9 THE WITNESS: That's not for me to interpret.                  10 BY MR. BARR: 02:24:13                  11 Q Well, you're intervening in this lawsuit to                  12 protect the law. I'm trying to understand why.                  13 What do you think this law is doing? How does                  14 it accomplish those goals?                  15 MS. HOLCOMB: Object to form. 02:24:22                  16 MR. TRYON: Objection.                  17 THE WITNESS: I don't know. I think I already                  18 answered your question.                  19 BY MR. BARR:                  20 Q So you don't know how the law accomplishes 02:24:36                  21 those goals; you're just aware that those are the goals                  22 of the law?                  23 MR. TRYON: Objection.                  24 MS. HOLCOMB: Object to form.                  25 THE WITNESS: I'm aware that that's what, I 02:24:52                  Page 90</p>	<p>1 BY MR. BARR:                  2 Q Do you know if this law applies to esports,                  3 when people sit around and play video games on behalf                  4 of their school?                  5 MS. HOLCOMB: Object to form. 02:26:28                  6 THE WITNESS: I don't know.                  7 BY MR. BARR:                  8 Q Do you know if this law is different than the                  9 NCAA's policy regarding transgender women playing                  10 school sports? 02:26:45                  11 MS. HOLCOMB: Object to form.                  12 THE WITNESS: I don't know.                  13 BY MR. BARR:                  14 Q You said it's your understanding this law will                  15 protect women for safety and fairness reasons. Did I 02:27:02                  16 understand that correctly?                  17 A Yes.                  18 Q Are there any other things that this law does?                  19 MS. HOLCOMB: Object to form.                  20 THE WITNESS: I told you what my understanding 02:27:15                  21 was.                  22 BY MR. BARR:                  23 Q I'm just trying to make sure I'm comprehensive                  24 in understanding what you told me. I heard "fairness                  25 and safety." Is there anything else? 02:27:31                  Page 92</p>
<p>1 believe, the law would be doing if it's in effect, yes.                  2 BY MR. BARR:                  3 Q If the law is in effect, can B.P.J. play on a                  4 girls' team?                  5 MS. HOLCOMB: Object to form. 02:25:00                  6 THE WITNESS: I don't know.                  7 BY MR. BARR:                  8 Q If the law is in effect, can a transgender                  9 woman play on a girls' team?                  10 MS. HOLCOMB: Object to form. 02:25:13                  11 MR. TRYON: Objection.                  12 THE WITNESS: I don't know.                  13 BY MR. BARR:                  14 Q Does this law apply to contact sports?                  15 MS. HOLCOMB: Object to form. 02:25:40                  16 THE WITNESS: I don't know.                  17 BY MR. BARR:                  18 Q Does this law apply to noncontact sports?                  19 MS. HOLCOMB: Object to form.                  20 THE WITNESS: I don't know. 02:25:57                  21 BY MR. BARR:                  22 Q Do you have any understanding what sports this                  23 law applies to?                  24 MS. HOLCOMB: Object to form.                  25 THE WITNESS: I don't know. 02:26:09                  Page 91</p>	<p>1 MS. HOLCOMB: Object to form.                  2 THE WITNESS: I don't know.                  3 BY MR. BARR:                  4 Q Would you be surprised to learn that this law                  5 does not apply to every school in your conference? 02:28:01                  6 MS. HOLCOMB: Objection.                  7 MR. TRYON: Objection.                  8 THE WITNESS: I don't know.                  9 BY MR. BARR:                  10 Q You don't know if you would be surprised, or 02:28:11                  11 you didn't know that that was the case?                  12 MS. HOLCOMB: Object to form.                  13 MR. TRYON: Objection.                  14 THE WITNESS: I just don't know.                  15 BY MR. BARR: 02:28:24                  16 Q I heard you. I'm trying to figure out what                  17 you don't know.                  18 Do you not know that the law doesn't apply to                  19 every school in your conference?                  20 MS. HOLCOMB: Object to form. 02:28:34                  21 MR. TRYON: Objection.                  22 THE WITNESS: I don't know. No, I don't know.                  23 BY MR. BARR:                  24 Q Is this law changing things from the way they                  25 were before? 02:29:00                  Page 93</p>

<p>1 MS. HOLCOMB: Object to form.                  2 MR. TRYON: Objection.                  3 THE WITNESS: I don't know.                  4 BY MR. BARR:                  5 Q Would you expect that if a law is passed, it's 02:29:15                  6 meant to change things?                  7 MS. HOLCOMB: Object to form.                  8 MR. TRYON: Objection.                  9 THE WITNESS: I don't know.                  10 BY MR. BARR: 02:29:25                  11 Q Do you know any transgender people?                  12 MR. TRYON: Objection.                  13 MS. HOLCOMB: Object to form.                  14 THE WITNESS: I have an -- had an acquaintance                  15 a few years ago, that there are rumors that they have 02:29:55                  16 transitioned or started a transition or something, but                  17 I'm really not certain.                  18 BY MR. BARR:                  19 Q Who is that person?                  20 A I don't know the name they currently go by. 02:30:09                  21 Q Well, I appreciate you not using their former                  22 name.                  23 Other than that person, do you know any                  24 transgender people?                  25 MS. HOLCOMB: Object to form. 02:30:29                  Page 94</p>	<p>1 Q What do you know about puberty blockers?                  2 MR. TRYON: Objection.                  3 MS. HOLCOMB: Object to form.                  4 THE WITNESS: I don't know.                  5 BY MR. BARR: 02:32:11                  6 Q Have you ever heard of puberty blockers?                  7 A I've heard of that.                  8 Q What is your understanding of what puberty                  9 blockers are?                  10 MR. TRYON: Objection. 02:32:27                  11 MS. HOLCOMB: Same objection.                  12 THE WITNESS: I don't know.                  13 BY MR. BARR:                  14 Q So you've heard of it, but you don't have an                  15 understanding of what it means? 02:32:33                  16 A Correct.                  17 Q Have you ever heard of hormone replacement                  18 therapy?                  19 A Yes.                  20 Q Do you have an understanding of what that is? 02:32:46                  21 MS. HOLCOMB: Object to form.                  22 THE WITNESS: I don't know.                  23 BY MR. BARR:                  24 Q I'm sorry, I didn't hear you.                  25 A I don't know. 02:32:56                  Page 96</p>
<p>1 THE WITNESS: Not to my knowledge, but I don't                  2 know.                  3 BY MR. BARR:                  4 Q Have you ever competed in a soccer game with                  5 or against someone who's transgender? 02:30:44                  6 A I'm not sure. I don't know.                  7 Q Are there any transgender women playing on a                  8 team in the Mountain East Conference.                  9 MR. TRYON: Objection.                  10 THE WITNESS: I don't know. 02:31:05                  11 BY MR. BARR:                  12 Q Have you ever heard of the phrase "inner sense                  13 of self"?                  14 A No.                  15 Q If I asked you to tell me what that phrase 02:31:20                  16 means, would you be able to do that?                  17 MR. TRYON: Objection.                  18 MS. HOLCOMB: Object to form.                  19 THE WITNESS: No.                  20 BY MR. BARR: 02:31:27                  21 Q Have you ever seen that phrase written on a                  22 piece of paper?                  23 A It's possible. I do a lot of reading.                  24 Q But nothing specific comes to mind?                  25 A Correct. 02:31:42                  Page 95</p>	<p>1 Q Do you have any thoughts about what happens to                  2 someone who starts puberty blockers before going                  3 through puberty?                  4 A I don't know.                  5 Q Have you ever read anything that describes 02:33:22                  6 what might happen to someone who takes puberty blockers                  7 before going through puberty?                  8 A I'm not sure.                  9 Q Do you think transgender girls are faster than                  10 you? 02:33:50                  11 MR. TRYON: Objection.                  12 A I think in general, biological males are                  13 stronger, fitter, faster and have a bigger stature than                  14 women do.                  15 BY MR. BARR: 02:34:11                  16 Q My question was, do you think transgender                  17 girls are faster than you?                  18 MR. TRYON: Objection.                  19 MS. HOLCOMB: Objection; form.                  20 THE WITNESS: I think in general, biological 02:34:18                  21 males are faster than me, yes.                  22 BY MR. BARR:                  23 Q So if I'm hearing you correctly, and I'm not                  24 trying to put words in your mouth, your response was                  25 that all biological males are faster than you? 02:34:44                  Page 97</p>

<p>1 MR. TRYON: Objection.                  2 MS. HOLCOMB: Objection.                  3 BY MR. BARR:                  4 Q Is that what you said?                  5 A I believe I said in general. 02:34:57                  6 Q Do you believe that all transgender girls --                  7 let me rephrase it.                  8 Do you believe, in general, transgender girls                  9 are faster than you?                  10 MS. HOLCOMB: Objection -- 02:35:12                  11 MR. TRYON: Objection; asked and answered.                  12 THE WITNESS: I already answered that.                  13 BY MR. BARR:                  14 Q You answered about biological males. I'm                  15 asking about transgender girls. 02:35:24                  16 MS. HOLCOMB: Object to form.                  17 MR. TRYON: Objection.                  18 THE WITNESS: I believe biological males are                  19 in gen- -- are generally faster than females.                  20 BY MR. BARR: 02:35:36                  21 Q Every time that I ask about a transgender girl                  22 and you respond with "biological males," are we, from                  23 your perspective, talking about the same thing, the                  24 same group of people?                  25 A Yes. 02:35:47</p> <p style="text-align: right;">Page 98</p>	<p>1 MS. HOLCOMB: I'm sorry, Andrew, we didn't                  2 fully hear your question.                  3 MR. BARR: I asked if it was her belief that                  4 transgender girls are bigger than her.                  5 THE WITNESS: In general, biological men are 02:37:20                  6 bigger than women, yes.                  7 BY MR. BARR:                  8 Q Where did you form that opinion?                  9 A Observation.                  10 Q Is that it? 02:37:40                  11 A Yes. Looking around, in everyday life, I can                  12 see that biological men are typically bigger than me.                  13 Q Do you recognize there's a difference between                  14 transgender women and biological men?                  15 MS. HOLCOMB: Object to form. 02:38:11                  16 THE WITNESS: I don't know.                  17 BY MR. BARR:                  18 Q Why do you keep using the phrase "biological                  19 male"?                  20 MS. HOLCOMB: Object to form. 02:38:24                  21 THE WITNESS: Because that's my vocabulary.                  22 BY MR. BARR:                  23 Q Why don't you also say "biological female,"                  24 then?                  25 MS. HOLCOMB: Object to form. 02:38:51</p> <p style="text-align: right;">Page 100</p>
<p>1 Q So if I ask a question and you respond saying                  2 "biological males," I can understand you to be, from my                  3 perspective, my definition, meaning a transgender girl;                  4 is that right?                  5 MS. HOLCOMB: Object to form. 02:36:02                  6 MR. TRYON: Objection.                  7 THE WITNESS: I'm just going to answer the                  8 questions how I know to answer the questions.                  9 BY MR. BARR:                  10 Q I understand, but I'm just trying to speed 02:36:14                  11 this up for both of us. If I can understand that when                  12 I say "transgender girl" and you respond with                  13 "biological male," if we're -- if you're answering the                  14 question I'm asking, and we're all talking about the                  15 same group of people with our understood difference of 02:36:27                  16 opinion there, it's going to allow us to run through                  17 the next set of questions faster, but I'm happy to not                  18 do that if you don't want to.                  19 MS. HOLCOMB: Object to form.                  20 MR. TRYON: Objection. 02:36:40                  21 THE WITNESS: I'm still going to answer how                  22 I've been answering.                  23 BY MR. BARR:                  24 Q Okay. Do you believe that transgender girls                  25 are bigger than you? 02:37:04</p> <p style="text-align: right;">Page 99</p>	<p>1 MR. TRYON: Objection.                  2 THE WITNESS: I don't know.                  3 BY MR. BARR:                  4 Q So a typical conversation, you'll say "women"                  5 and "biological males"? 02:39:01                  6 MS. HOLCOMB: Object to form.                  7 THE WITNESS: I don't know. Probably not.                  8 BY MR. BARR:                  9 Q So why do you keep saying that today?                  10 MS. HOLCOMB: Object to form. 02:39:14                  11 MR. TRYON: Objection.                  12 THE WITNESS: Because I'm choosing to.                  13 BY MR. BARR:                  14 Q Why are you making that decision?                  15 MS. HOLCOMB: Object to form. 02:39:26                  16 THE WITNESS: That's how I'm choosing to                  17 answer your questions.                  18 BY MR. BARR:                  19 Q Okay. Well, let me -- help me. What is a                  20 biological male? 02:39:41                  21 MS. HOLCOMB: Object to form.                  22 THE WITNESS: Someone who -- I believe someone                  23 whose gender is male, assigned male at birth and is a                  24 male.                  25 BY MR. BARR: 02:40:09</p> <p style="text-align: right;">Page 101</p>

1 Q That's a biological male?  
 2 A Yes.  
 3 Q What word do you describe someone who was  
 4 assigned male at birth, but their gender identity is  
 5 female? 02:40:25  
 6 MS. HOLCOMB: Object to form.  
 7 THE WITNESS: I would say "biological male."  
 8 BY MR. BARR:  
 9 Q So explain to me the difference between what I  
 10 ask and what you're saying for biological male. 02:40:43  
 11 MR. TRYON: Objection.  
 12 MS. HOLCOMB: Object to form.  
 13 THE WITNESS: I'm sorry?  
 14 BY MR. BARR:  
 15 Q If I heard you correctly, you said a 02:40:58  
 16 biological male is someone who is assigned the sex of  
 17 male at birth, has a gener -- gender identity of male.  
 18 Did I get that correct?  
 19 MS. HOLCOMB: Object to form.  
 20 THE WITNESS: I'm not sure. I'm not a doctor. 02:41:13  
 21 BY MR. BARR:  
 22 Q Okay. Let's -- let's start over. I must have  
 23 misheard you.  
 24 What is your understanding of what a  
 25 biological male is? 02:41:22

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1 A I'm not a doctor.  
 2 Q I -- I understand that you're not a doctor.  
 3 What is your understanding of what a  
 4 biological male is?  
 5 A I don't know. 02:41:32  
 6 Q The court reporter could tell us, but I bet  
 7 you used the word -- the phrase "biological male" more  
 8 than 30 times. What does it mean?  
 9 MS. HOLCOMB: Object to form.  
 10 MR. TRYON: I'm just going to object. Asked 02:42:17  
 11 and answered.  
 12 THE WITNESS: Someone who was -- I think  
 13 someone who was assigned male at birth and identifies  
 14 as a male.  
 15 BY MR. BARR: 02:42:41  
 16 Q Okay. That's what I heard you say the first  
 17 time, so I appreciate you clarifying that.  
 18 What do you call someone who was assigned male  
 19 at birth but identifies as a female?  
 20 MS. HOLCOMB: Object to form. 02:42:52  
 21 THE WITNESS: Biological male.  
 22 BY MR. BARR:  
 23 Q So regardless how the person identifies, you  
 24 would call them a biological male?  
 25 MR. TRYON: Objection. 02:43:09

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1 THE WITNESS: I didn't say what I would call  
 2 them. That's just how I'm referring to what you're  
 3 asking today, biological males.  
 4 BY MR. BARR:  
 5 Q So if it wasn't today, what would you refer to 02:43:22  
 6 them as?  
 7 MS. HOLCOMB: Object to form.  
 8 MR. TRYON: Objection.  
 9 THE WITNESS: I would think it's someone who's  
 10 a biological male. 02:43:42  
 11 MR. BARR: Court Reporter, could you read the  
 12 answer prior to the last answer, please.  
 13 (Record read.)  
 14 BY MR. BARR:  
 15 Q So what would you call them? 02:44:05  
 16 MS. HOLCOMB: Object to form.  
 17 THE WITNESS: If someone asks me to call them  
 18 by a certain name, then I would, but that doesn't mean  
 19 that it changes what I am considering a biological  
 20 male. 02:44:22  
 21 BY MR. BARR:  
 22 Q Could you explain that? Because that doesn't  
 23 make any sense to me.  
 24 A I would respect what someone would want their  
 25 name to be called. 02:44:36

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1 Q So if somebody walked up and said, I'm a  
 2 transgender female, you would refer to them as a  
 3 transgender female?  
 4 A I --  
 5 MS. HOLCOMB: Object to form. 02:44:52  
 6 MR. TRYON: Objection.  
 7 THE WITNESS: If someone asked me to call them  
 8 by "Joe," then I would call them by their name -- by  
 9 what name that they told me that they wanted to be  
 10 called, which would be "Joe," "Michael," whatever it 02:45:04  
 11 would be, but that doesn't change my answer of  
 12 biological male.  
 13 BY MR. BARR:  
 14 Q I think I understand what you're -- you are  
 15 saying that you would respect the name that they would 02:45:18  
 16 like to be called, but regardless, you would still  
 17 consider someone who was assigned male at birth a  
 18 biological male?  
 19 A Yes.  
 20 Q Where did you learn that phrase? 02:45:37  
 21 That's not how most people talk in day-to-day  
 22 conversation, so I'm trying to understand why you're  
 23 choosing to use it today.  
 24 A I thought it would clarify the conversation so  
 25 you would know what I was talking about. 02:46:01

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<p>1 Q And why did you think that?</p> <p>2 A Because of your terms that you've been using.</p> <p>3 Q I don't -- I don't understand. The terms that</p> <p>4 I'm using have led -- let you to use the term</p> <p>5 "biological male"? 02:46:30</p> <p>6 MR. TRYON: Objection.</p> <p>7 MS. HOLCOMB: Object to form.</p> <p>8 THE WITNESS: I think it's -- it's clarifying</p> <p>9 the conversation, but I will just refer to all</p> <p>10 biological males as "males" from now on, if you would 02:46:42</p> <p>11 prefer.</p> <p>12 BY MR. BARR:</p> <p>13 Q No, you should answer however you feel most</p> <p>14 comfortable. I'm just trying to make sure I</p> <p>15 understand. 02:46:52</p> <p>16 When did you first use the phrase "biological</p> <p>17 male"?</p> <p>18 A I couldn't tell you.</p> <p>19 Q You've been using it your whole life?</p> <p>20 A I might have said it a long time ago at some 02:47:04</p> <p>21 point. I'm not sure.</p> <p>22 Q If you were to introduce me to your brother,</p> <p>23 would you say, This is Declan, a biological male?</p> <p>24 MR. TRYON: Objection; harassment.</p> <p>25 MS. HOLCOMB: Object to form. 02:47:22</p> <p style="text-align: right;">Page 106</p>	<p>1 BY MR. BARR:</p> <p>2 Q Do you play any sports at West Virginia State</p> <p>3 other than soccer?</p> <p>4 A No.</p> <p>5 Q Do you have plans to play any other sports at 02:49:31</p> <p>6 West Virginia State other than soccer?</p> <p>7 A No.</p> <p>8 Q Do you believe that H.B. 3293 applies to the</p> <p>9 West Virginia women's soccer team?</p> <p>10 MS. HOLCOMB: Object to form. 02:49:48</p> <p>11 THE WITNESS: I'm not sure.</p> <p>12 BY MR. BARR:</p> <p>13 Q What position do you play?</p> <p>14 A Left center back.</p> <p>15 Q Have you always played that position? 02:50:03</p> <p>16 A No.</p> <p>17 Q What position did you play before that?</p> <p>18 A I've played in many different positions on the</p> <p>19 soccer field.</p> <p>20 Q And when did you become a left center back as 02:50:24</p> <p>21 a regular position?</p> <p>22 A My sophomore year of college.</p> <p>23 Q What position were you your freshman year of</p> <p>24 college?</p> <p>25 A Left wingback or left center back. 02:50:41</p> <p style="text-align: right;">Page 108</p>
<p>1 THE WITNESS: No.</p> <p>2 BY MR. BARR:</p> <p>3 Q How would you introduce me to Declan?</p> <p>4 A "This is Declan."</p> <p>5 Q So what changed that you want to use the 02:47:38</p> <p>6 phrase "biological male" today if you don't use it in</p> <p>7 common speak?</p> <p>8 MR. TRYON: Objection; asked and answered</p> <p>9 about three times now.</p> <p>10 MS. HOLCOMB: Object to form. 02:47:53</p> <p>11 THE WITNESS: I think I answered that.</p> <p>12 BY MR. BARR:</p> <p>13 Q Just give me a moment.</p> <p>14 Did I hear you say earlier that you're not</p> <p>15 aware of having been on a team with a transgender girl? 02:48:35</p> <p>16 A I'm not aware of that, no.</p> <p>17 Q Have you ever been injured by a transgender</p> <p>18 girl?</p> <p>19 A Not to my knowledge.</p> <p>20 Q Have you ever been harmed by a transgender 02:48:55</p> <p>21 girl?</p> <p>22 MR. TRYON: Objection.</p> <p>23 MS. HOLCOMB: Object to form.</p> <p>24 THE WITNESS: Not to my knowledge.</p> <p>25 ///</p> <p style="text-align: right;">Page 107</p>	<p>1 Q Why did you change?</p> <p>2 A I was needed for the left center back</p> <p>3 position.</p> <p>4 Q Your choice or the coach's choice?</p> <p>5 MS. HOLCOMB: Object to form. 02:51:11</p> <p>6 THE WITNESS: My coach's choice.</p> <p>7 BY MR. BARR:</p> <p>8 Q You don't seem happy with that choice; is that</p> <p>9 right?</p> <p>10 MS. HOLCOMB: Object to form. 02:51:22</p> <p>11 THE WITNESS: I love both positions probably</p> <p>12 equally.</p> <p>13 BY MR. BARR:</p> <p>14 Q Well, I was a wingback, and I loved running,</p> <p>15 you know, the edges of the field, so I would understand 02:51:39</p> <p>16 if you were a little upset about it, but in any event.</p> <p>17 Is your team good?</p> <p>18 A Yes.</p> <p>19 Q How long has West Virginia State had a team, a</p> <p>20 women's soccer team? 02:52:00</p> <p>21 A Since fall of 2019.</p> <p>22 Q You were on the inaugural team; right?</p> <p>23 A Yes.</p> <p>24 Q Did you play your freshman year?</p> <p>25 A Yes. 02:52:21</p> <p style="text-align: right;">Page 109</p>

1 Q Did you start?  
 2 A Yes.  
 3 Q Every game?  
 4 A I was injured, but other than that, yes.  
 5 Q How were you injured? 02:52:41  
 6 A I had to sit out one game for a fractured  
 7 foot, and I think that's it for my freshman year.  
 8 Q What was your record freshman year?  
 9 A I don't recall. Good. It was good, though.  
 10 Q More wins than losses? 02:53:15  
 11 A Yes.  
 12 Q Did you go to the conference tournament that  
 13 year?  
 14 A Since it was an inaugural season, no.  
 15 Q The conference didn't allow you to play? 02:53:41  
 16 Explain that.  
 17 A For first-year teams, although we were playing  
 18 games and competing, it was not for the title. That is  
 19 how I still have an extra year of NCAA eligibility and  
 20 one of the reasons that I decided to come to 02:54:03  
 21 West Virginia State.  
 22 Q I understood the part about eligibility.  
 23 Why did that encourage you to attend  
 24 West Virginia State?  
 25 A Because it would let me play soccer for 02:54:15  
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1 longer.  
 2 Q What was your team's record last year, 2020?  
 3 A I'm not sure of the record, but we qualified  
 4 for the tournament.  
 5 Q Did you win the tournament? 02:54:36  
 6 A No.  
 7 Q Did you make it to the finals?  
 8 A No.  
 9 Q How did you guys do?  
 10 A We lost in the first round. 02:54:51  
 11 Q What about this year, 2021?  
 12 A Oh, I was answering for this last season,  
 13 sorry.  
 14 Q No, that's okay.  
 15 So in 2021, this year, you qualified for the 02:55:14  
 16 tournament, but didn't make it past the first round; is  
 17 that right?  
 18 A Yes.  
 19 Q What happened in 2020, last year?  
 20 I imagine COVID impacted your season or 02:55:23  
 21 something, but I'm still curious how you-all did.  
 22 A Yes, COVID impacted it. So instead of the  
 23 fall, we played a shorter spring season. And I don't  
 24 remember how we did, but we didn't get into the  
 25 tournament. 02:55:41  
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1 Q I imagine it was a big step to -- to qualify  
 2 this year.  
 3 A Yes. It was impressive for our first official  
 4 season in the NCAA.  
 5 Q Over the last three years, have you played a 02:55:59  
 6 college called "Notre Dame"? And I'm not talking about  
 7 the Fighting Irish. I'm talking about the Notre Dame  
 8 in your conference.  
 9 A Yes.  
 10 Q Did you play the Fighting Irish? 02:56:13  
 11 A No, we didn't.  
 12 Q So if I -- if I talk about Notre Dame, you'll  
 13 understand I'm talking about the Notre Dame in your  
 14 conference?  
 15 A Yes. 02:56:23  
 16 Q Do you know where Notre Dame is located?  
 17 A I'm not sure.  
 18 Q Would it surprise you to find out it is not in  
 19 West Virginia?  
 20 MS. HOLCOMB: Object to -- object to form. 02:56:36  
 21 THE WITNESS: That wouldn't surprise me.  
 22 BY MR. BARR:  
 23 Q How about a school called "Frostburg"?  
 24 A What about it?  
 25 Q Have you played a game against Frostburg? 02:56:53  
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1 A Yes.  
 2 Q Do you know where Frostburg is located?  
 3 A Not in West Virginia.  
 4 Q I'm asking you.  
 5 A I don't know. It was a guess. 02:57:06  
 6 Q Would you be surprised to find out it's not in  
 7 West Virginia?  
 8 MS. HOLCOMB: Object to form.  
 9 THE WITNESS: No.  
 10 BY MR. BARR: 02:57:15  
 11 Q Do you have any understanding of whether  
 12 H.B. 3293 applies to Notre Dame?  
 13 MS. HOLCOMB: Object to form.  
 14 THE WITNESS: I don't know.  
 15 BY MR. BARR: 02:57:28  
 16 Q The same question for Frostburg.  
 17 MS. HOLCOMB: Same objection.  
 18 MR. TRYON: Objection.  
 19 THE WITNESS: I don't know.  
 20 BY MR. BARR: 02:57:40  
 21 Q If you end up playing on the team next year,  
 22 do you anticipate you'll play against Notre Dame?  
 23 MS. HOLCOMB: Object to form.  
 24 THE WITNESS: Most likely.  
 25 ///

<p>1 BY MR. BARR:                  2 Q And you say most likely because they're one of                  3 the schools in your conference; right?                  4 A Right.                  5 Q Do you also expect that if you were to play on 02:58:02                  6 the team next year, you would play against Frostburg,                  7 given that Frostburg is in your conference?                  8 MS. HOLCOMB: Object to form.                  9 THE WITNESS: It's likely.                  10 BY MR. BARR: 02:58:17                  11 Q Do you have any understanding whether a                  12 transgender woman can play on Frostburg or Notre Dame's                  13 team?                  14 MR. TRYON: Objection.                  15 MS. HOLCOMB: Object to form. 02:58:37                  16 THE WITNESS: I don't know.                  17 BY MR. BARR:                  18 Q If you found out that a transgender woman was                  19 on Notre Dame or Frostburg's team, what would you do?                  20 MR. TRYON: Objection. 02:58:46                  21 MS. HOLCOMB: Object to form.                  22 THE WITNESS: I would play a soccer game.                  23 BY MR. BARR:                  24 Q I understand you have a medical concern that                  25 may impact soccer, but assuming that everything goes 02:59:19                  Page 114</p>	<p>1 comes to women's soccer?                  2 MS. HOLCOMB: Object to form.                  3 THE WITNESS: I think that they are amazing                  4 athletes.                  5 BY MR. BARR: 03:01:30                  6 Q What was your reaction when you saw that they                  7 recently got equal pay for women on the national team?                  8 MS. HOLCOMB: Object to form.                  9 THE WITNESS: I was happy for them.                  10 BY MR. BARR: 03:01:53                  11 Q Did you happen to see their game last month in                  12 Texas?                  13 A I did not.                  14 Q Did you see the team came out publicly                  15 supporting transgender youth? 03:02:06                  16 MR. TRYON: Objection.                  17 MS. HOLCOMB: Object to form.                  18 THE WITNESS: I did not see that.                  19 MR. BARR: We can go off the record.                  20 THE VIDEOGRAPHER: All right. We are going 03:02:28                  21 off the record. The time is 3:03 p.m., and this is the                  22 end of Media Unit No. 3.                  23 (Recess.)                  24 THE VIDEOGRAPHER: We where back on the record                  25 at 3:13 p.m., and this is the beginning of Media Unit 03:13:03                  Page 116</p>
<p>1 well for you and that doesn't impact your game, do you                  2 plan on playing competitive soccer after college?                  3 MS. HOLCOMB: Object to form.                  4 THE WITNESS: What kind of competitive soccer?                  5 BY MR. BARR: 02:59:35                  6 Q Do you have -- fair. I'll ask a different                  7 question.                  8 Do you have any plans to play soccer                  9 postgraduation, of any kind?                  10 A If the opportunity arises, I would love to 02:59:50                  11 continue playing soccer.                  12 Q What type of opportunities are you aware of                  13 for playing soccer postgraduation?                  14 A I'm sure in many cities there are women's                  15 teams that I could join for things like that. 03:00:26                  16 Q So some type of recreational, fun league is                  17 what you're referencing?                  18 A Yes.                  19 Q Any plans of trying out or trying to join the                  20 U.S. women's national team? 03:00:47                  21 A No.                  22 Q Do you know anybody on that team?                  23 A No.                  24 Q Would you agree with me they're probably the                  25 best players in the country, if not the world, when it 03:01:10                  Page 115</p>	<p>1 No. 4.                  2 Go ahead, please.                  3 BY MR. BARR:                  4 Q Ms. Armistead, do you know what Title IX is?                  5 A I -- I've heard of it before. 03:13:19                  6 Q What is your understanding of Title IX?                  7 A I believe it's to give equal opportunities to                  8 women.                  9 Q Do you have any other understandings about                  10 Title IX? 03:13:46                  11 A I don't know for certain.                  12 Q So if I heard you correctly, Title IX is about                  13 protecting women's rights; is that right?                  14 MR. TRYON: Objection.                  15 MS. HOLCOMB: Object to form. 03:14:14                  16 THE WITNESS: In my opinion, yes.                  17 BY MR. BARR:                  18 Q How did you form that opinion?                  19 A I believe we have to have Title IX trainings                  20 to participate in collegiate athletics. 03:14:31                  21 Q And those are annual, aren't they?                  22 A Yes.                  23 Q So at this point, you've attended three                  24 Title IX trainings; is that right?                  25 A I'm not sure about the third one yet. 03:14:45                  Page 117</p>

1 Q So you know you've attended two and possibly a  
 2 third; is that fair?  
 3 A I believe so, yes.  
 4 Q Who conducts that training?  
 5 A I think it might be online. I'm not for sure. 03:15:05  
 6 Q That wasn't a fair question, I'm sorry.  
 7 Is that put on by your school?  
 8 A Yes.  
 9 Q So as a student athlete, you're required to  
 10 sit through a Title IX training on some type of basis. 03:15:27  
 11 Is that accurate?  
 12 A Yes.  
 13 Q What did you learn at those trainings?  
 14 A I don't recall specifics.  
 15 Q Do you believe that your school complies with 03:15:50  
 16 Title IX?  
 17 MS. HOLCOMB: Object to form.  
 18 MR. TRYON: Objection.  
 19 THE WITNESS: I don't know.  
 20 BY MR. BARR: 03:16:09  
 21 Q Do you have any reason to think your school  
 22 doesn't comply with Title IX?  
 23 A I have no reason to think that, no.  
 24 Q Do women's rights include transgender women's  
 25 rights? 03:16:30

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1 MS. HOLCOMB: Object to form.  
 2 MR. TRYON: Objection.  
 3 THE WITNESS: I believe that women's --  
 4 whenever I am referring to women's rights, I'm  
 5 referring to biological women's rights. 03:16:48  
 6 BY MR. BARR:  
 7 Q Does that mean transgender women don't have  
 8 rights?  
 9 MR. TRYON: Objection.  
 10 MS. HOLCOMB: Object to form. 03:16:57  
 11 THE WITNESS: That's definitely not what I  
 12 said.  
 13 BY MR. BARR:  
 14 Q If Title IX protects women's rights, but not  
 15 transgender women's rights, what rights do transgender 03:17:14  
 16 women have?  
 17 MR. TRYON: Objection; asked and answered.  
 18 MS. HOLCOMB: Object to form.  
 19 THE WITNESS: I don't know.  
 20 BY MR. BARR: 03:17:34  
 21 Q Do you think transgender women should be  
 22 protected by the law?  
 23 MR. TRYON: Objection.  
 24 MS. HOLCOMB: Object to form.  
 25 By what law? 03:17:50

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1 BY MR. BARR:  
 2 Q Just any law.  
 3 MS. HOLCOMB: Object to form.  
 4 THE WITNESS: I believe that living in the  
 5 United States allows all people in the United States to 03:18:01  
 6 have rights and protections under the Constitution.  
 7 BY MR. BARR:  
 8 Q And that would include transgender women?  
 9 MR. TRYON: Objection.  
 10 THE WITNESS: That would include everyone. 03:18:19  
 11 BY MR. BARR:  
 12 Q Does West Virginia State do a good job of  
 13 protecting women's rights?  
 14 MS. HOLCOMB: Object to form.  
 15 THE WITNESS: I don't have any reason to think 03:18:39  
 16 that it doesn't.  
 17 BY MR. BARR:  
 18 Q Have any of your school's policies regarding  
 19 Title IX harmed you?  
 20 MS. HOLCOMB: Object to form. 03:18:53  
 21 THE WITNESS: I don't know what you're asking.  
 22 BY MR. BARR:  
 23 Q Has your school ever done something, on the  
 24 premise that Title IX requires them to do so, that you  
 25 disagree with? 03:19:16

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1 MS. HOLCOMB: Object to form.  
 2 THE WITNESS: Not to my knowledge.  
 3 BY MR. BARR:  
 4 [REDACTED]  
 5 [REDACTED]  
 6 [REDACTED]  
 7 [REDACTED]  
 8 [REDACTED]  
 9 [REDACTED]  
 10 [REDACTED]  
 11 [REDACTED]  
 12 MR. BARR: Let's go off the record.  
 13 MS. HOLCOMB: Yeah, that sounds great.  
 14 THE VIDEOGRAPHER: Hang on. Hang on. Hang  
 15 on. 03:20:30  
 16 We're going off the record. The time is  
 17 3:21 p.m.  
 18 (Recess.)  
 19 THE VIDEOGRAPHER: All right. We are back on  
 20 the record at 3:29 p.m. 03:28:54  
 21 Go ahead, please.  
 22 (Lainey Armistead left the room.)  
 23 [REDACTED]  
 24 [REDACTED]  
 25 [REDACTED] 03:29:02

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<p>1 BY MR. BARR:                  2 Q Okay. Scroll down and you'll go to                  3 section 5.1. Are you there?                  4 A Yes.                  5 Q All right. The very first clause, and that's 03:34:28                  6 where we'll stop, it says (as read):                  7 "The University prohibits Protected                  8 Class Discrimination and Harassment."                  9 Did I read that correctly?                  10 A Yes. 03:34:40                  11 Q Do you know what discrimination is?                  12 MS. HOLCOMB: Object to form.                  13 THE WITNESS: I have heard that word before.                  14 BY MR. BARR:                  15 Q What is your understanding of the meaning of 03:34:57                  16 the word "discrimination"?                  17 MR. TRYON: Objection.                  18 MS. HOLCOMB: Object to form.                  19 THE WITNESS: I think it's a broad word, and                  20 it would be hard for your -- me to give you a 03:35:16                  21 definition without looking it up.                  22 BY MR. BARR:                  23 Q Okay. How about harassment, do you know what                  24 the word "harassment" means?                  25 MS. HOLCOMB: Object to form. 03:35:26                  Page 126</p>	<p>1 MR. BARR: This is the Title IX policy in a                  2 case about Title IX, and I'm just curious what the                  3 witness's understanding of Title IX is.                  4 MR. TRYON: But it doesn't matter what this                  5 witness's understanding of Title IX is. That is in 03:36:45                  6 fact the legal dispute across the country about what                  7 Title IX means.                  8 So how is this witness in any way relevant to                  9 what Title IX --                  10 MR. BARR: Mr. Tryon -- 03:36:56                  11 MR. TRYON: -- actually means?                  12 MR. BARR: Mr. Tryon, do you want to have this                  13 discussion off the record, or no?                  14 MR. TRYON: No, I wanted it on the record so I                  15 can understand what you're doing -- 03:37:04                  16 MR. BARR: Okay. And --                  17 MR. TRYON: -- and why we're going to spend an                  18 hour talking about a form that she just can't possibly                  19 give a legal interpretation on.                  20 MR. BARR: I'm not asking for a legal 03:37:13                  21 interpretation. I have every right to ask about this,                  22 as you acknowledged. So if we're going to stay on the                  23 record, let's just keep going.                  24 MR. TRYON: I didn't really acknowledge that,                  25 but go ahead. So you're not -- you can't justify to me 03:37:18                  Page 128</p>
<p>1 MR TRYON: Objection                  2 THE WITNESS: I have a good idea of what the                  3 word "harassment" means                  4 MR BARR: Okay Let's --                  5 MR TRYON: Excuse me, Andrew, can we excuse 03:35:41                  6 the witness for a minute? I'd like to talk about                  7 something on the record without -- without the witness                  8 MS HOLCOMB: You can step out                  9 (Lainey Armistead left the room )                  10 MR TRYON: Christiana, is she out of the 03:35:57                  11 room?                  12 MS HOLCOMB: Yes, she is now                  13 MR TRYON: So, you know, forgive me, but I                  14 don't understand how this witness could possibly                  15 provide any useful information about a school policy 03:36:06                  16 that is full of legalisms, and if you want to depose                  17 somebody on it, it ought -- ought to be the school,                  18 about what the school -- school's view is on this form                  19 What her form -- her views on this form are                  20 seem to me to be completely irrelevant, and I'm not 03:36:19                  21 sure why we're going through this I -- I suppose you                  22 can -- can do this, but it seems like a waste of time                  23 And could you just kind of enlighten me how                  24 you think this is in some way relevant, especially with                  25 this witness? 03:36:33                  Page 127</p>	<p>1 why we're doing this?                  2 MR. BARR: I just told you why we're doing                  3 this.                  4 MR. TRYON: Yeah, but she can't -- she's not                  5 competent -- she's not a competent witness to talk 03:37:27                  6 about this policy. And anything you get from her is                  7 going to be completely irrelevant at trial.                  8 Can't we just cut this part out and move on?                  9 MR. BARR: No, Mr. Tryon, we cannot.                  10 MR. TRYON: All right. Well, I'm -- 03:37:43                  11 MR. BARR: I recall there is --                  12 MR. TRYON: -- making my objection on the                  13 record for any further questions on this, for this                  14 witness.                  15 MS. HOLCOMB: I'll likewise object. 03:37:51                  16 If we're ready, I'll have her brought back in.                  17 MR. BARR: Thank you.                  18 (Lainey Armistead entered the room.)                  19 BY MR. BARR:                  20 Q Sorry for all the up-and-down, Ms. Armistead. 03:38:44                  21 If you could scroll down to section 23,                  22 please. And inside 23, go to the definition of                  23 Title IX. It's maybe four pages after the section                  24 starts.                  25 A Okay. 03:39:22                  Page 129</p>

<p>1 MR. TRYON: I'm sorry, where are we?                  2 MR. BARR: Mr. Tryon, we are looking at the                  3 definition of Title IX in section 23 of Exhibit 43.                  4 BY MR. BARR:                  5 Q Ms. Armistead -- 03:39:38                  6 MR. TRYON: Thank you.                  7 BY MR. BARR:                  8 Q Ms. Armistead, do you see that it says (as                  9 read):                  10 "'Title IX' means Title IX of the 03:39:40                  11 Education Amendments of 1972.                  12 Title IX prohibits discrimination on                  13 the basis of sex in education programs                  14 or activities receiving federal                  15 financial assistance"? 03:39:49                  16 Did I read that correctly?                  17 A Yes.                  18 Q Okay. So let's stay in section 23. Scroll up                  19 just a little bit, and you'll see a definition for on                  20 the basis of sex. Tell me when you're there. 03:40:04                  21 A Got it.                  22 Q (As read):                  23 "'On the Basis of Sex' or 'Based on                  24 Sex' means gender, gender identity,                  25 including transgender status, sexual 03:40:17                  Page 130</p>	<p>1 Do you see that?                  2 A Yes.                  3 Q So according to this policy, Title IX                  4 prohibits discrimination on the basis of sex.                  5 We just looked at what the definition of basis 03:41:44                  6 of sex is, and it includes transgender status, doesn't                  7 it?                  8 MS. HOLCOMB: Object to form.                  9 MR. TRYON: Objection.                  10 THE WITNESS: That was -- 03:41:52                  11 BY MR. BARR:                  12 Q We can scroll up -- I'm sorry, I didn't mean                  13 to cut you off. What did you say?                  14 A That was written on -- what I read, yes.                  15 Q Okay. So according to this policy, on the 03:42:06                  16 basis of sex includes transgender status; is that                  17 correct?                  18 A That is what I read.                  19 Q And according to this policy, on the basis of                  20 sex includes gender identity; right? 03:42:22                  21 MR. TRYON: I'm objecting to any further                  22 questions on this document for this witness. Will you                  23 give me a standing objection for that, please?                  24 MR. BARR: Noted.                  25 THE WITNESS: I don't know. 03:42:46                  Page 132</p>
<p>1 orientation and/or stereotypical                  2 notions of what is female/feminine                  3 versus male/masculine or a failure to                  4 conform to those gender stereotypes."                  5 Did I read that correctly? 03:40:30                  6 A Yes.                  7 Q Scroll up just a little bit further and you'll                  8 see a definition for education program or activity.                  9 Tell me when you see that.                  10 A Got it. 03:40:53                  11 Q (As read):                  12 "'Education Program or Activity'                  13 includes locations, events, or                  14 circumstances over which the                  15 University exercises substantial 03:41:00                  16 control" --                  17 I'm going to skip through the next part and                  18 then go to "athletic programs."                  19 Do you see that?                  20 A Yes. 03:41:10                  21 Q Did I read that correctly, knowing that I                  22 excerpted part of that definition?                  23 A Yes.                  24 Q So let's scroll back down to the definition of                  25 Title IX, the first definition you looked at. 03:41:27                  Page 131</p>	<p>1 BY MR. BARR:                  2 Q Do you want to go back up and look at the                  3 definition on the basis of sex again?                  4 A That's not necessary.                  5 Q Do you agree with me that on the basis of sex, 03:42:54                  6 as it relates to this policy, includes transgender                  7 status and gender identity?                  8 MS. HOLCOMB: Object to form.                  9 THE WITNESS: That's what I read.                  10 BY MR. BARR: 03:43:07                  11 Q And that education programs or activities                  12 includes school-sponsored athletics; right?                  13 MS. HOLCOMB: Object to form.                  14 THE WITNESS: It could mean that.                  15 BY MR. BARR: 03:43:22                  16 Q We just looked at the definition of education                  17 programs and activities, and it included                  18 school-sponsored athletics; right?                  19 MS. HOLCOMB: Object to form.                  20 THE WITNESS: That was the definition that was 03:43:37                  21 presented.                  22 BY MR. BARR:                  23 Q So using the definitions that were presented                  24 in this policy, Title IX prohibits discrimination on                  25 the basis of transgender status or gender identity and 03:43:55                  Page 133</p>

1 school-sponsored athletics receiving federal financial  
 2 assistance; right?  
 3 MS. HOLCOMB: Object to form.  
 4 THE WITNESS: I'm not really sure exactly what  
 5 the policy is talking about. 03:44:17  
 6 BY MR. BARR:  
 7 Q Would you agree with me that I read that  
 8 correctly, using the definitions provided in the  
 9 policy?  
 10 A I heard what you said based on the document 03:44:23  
 11 that you presented.  
 12 Q Did I say it correctly based on the document  
 13 that I presented?  
 14 A Yes.  
 15 Q Isn't that exactly what you are seeking to do 03:44:43  
 16 in this lawsuit?  
 17 MS. HOLCOMB: Object to form.  
 18 MR. TRYON: Objection.  
 19 THE WITNESS: No.  
 20 BY MR. BARR: 03:45:10  
 21 Q How isn't it?  
 22 MS. HOLCOMB: Object to form.  
 23 MR. TRYON: Objection.  
 24 THE WITNESS: I don't know.  
 25 ///

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1 BY MR. BARR:  
 2 Q If you win in this lawsuit, wouldn't that mean  
 3 that B.P.J. would be excluded on the basis of her  
 4 transgender status and gender identity from  
 5 participating on the school-sponsored girls' team? 03:45:48  
 6 MS. HOLCOMB: Object to form.  
 7 MR. TRYON: Objection.  
 8 THE WITNESS: I'm not a lawyer, so I can't  
 9 answer that.  
 10 BY MR. BARR: 03:46:05  
 11 Q In any of the discovery responses that you've  
 12 prepared for this case, did you acknowledge that  
 13 B.P.J. would be excluded from the girls' team at her  
 14 school because of H.B. 3293?  
 15 MS. HOLCOMB: Object to form. 03:46:24  
 16 THE WITNESS: I don't know.  
 17 BY MR. BARR:  
 18 Q Did you review the discovery responses before  
 19 they were sent over to us?  
 20 A Yes. 03:46:35  
 21 Q Do you recall any discovery responses  
 22 regarding whether B.P.J. would be excluded from her --  
 23 her school's girls' cross-country team?  
 24 A I don't recall.  
 25 Q Let's keep talking about B.P.J. We earlier 03:46:53

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1 discussed that B.P.J. participated in several  
 2 cross-country events in the fall of 2021.  
 3 Do you remember that?  
 4 A I remember what you said about that.  
 5 Q And if I remember what you said, you didn't 03:47:19  
 6 have a -- an understanding of whether B.P.J.  
 7 participated, how many times she participated or how  
 8 she did. Is that accurate?  
 9 A Correct.  
 10 Q And, in fact, you didn't have an understanding 03:47:35  
 11 of what B.P.J. had done at all as it relates to  
 12 athletics, if I understood you correctly?  
 13 A I don't know anything -- I don't really know  
 14 B.P.J., the plaintiff, so I can't comment on her  
 15 personal -- their personal successes or how they do in 03:47:58  
 16 events.  
 17 Q Okay. I'm not asking you to accept my  
 18 terminology here, okay?  
 19 Will you accept that B.P.J. is a transgender  
 20 girl who played on a girls' team, just for the purposes 03:48:17  
 21 of this question? I'm not asking you to understand or  
 22 agree with my terminology.  
 23 MS. HOLCOMB: Object to form.  
 24 MR. TRYON: Objection.  
 25 ///

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1 BY MR. BARR:  
 2 Q I'll just ask the question. I'm not trying to  
 3 be tricky. I just want to make sure that you  
 4 understand what I'm asking.  
 5 Given that B.P.J. is a transgender girl, do 03:48:38  
 6 you expect that she won the events that she  
 7 participated in?  
 8 MS. HOLCOMB: Object to form.  
 9 THE WITNESS: I --  
 10 MR. TRYON: Objection. 03:48:52  
 11 THE WITNESS: -- don't know.  
 12 BY MR. BARR:  
 13 Q What's your expectation based on what you told  
 14 me earlier about advantages?  
 15 MS. HOLCOMB: Same objection. 03:49:01  
 16 MR. TRYON: Objection.  
 17 THE WITNESS: I don't know how B.P.J.  
 18 performed, and I wouldn't be expected to know how  
 19 she -- they performed.  
 20 BY MR. BARR: 03:49:20  
 21 Q Would you be surprised if B.P.J. got last  
 22 place?  
 23 MR. TRYON: Objection.  
 24 MS. HOLCOMB: Object to form.  
 25 THE WITNESS: I don't know. 03:49:32

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1 BY MR. BARR:  
 2 Q I realize you don't know how B.P.J. placed,  
 3 and I'm not asking that question.  
 4 My question is, would you be surprised if  
 5 B.P.J. got last? 03:49:48  
 6 A I understood your question, and again, I don't  
 7 know.  
 8 Q So you have no -- nothing would surprise you,  
 9 whether B.P.J. got first or last or something in  
 10 between? 03:50:00  
 11 MS. HOLCOMB: Object to form.  
 12 MR. TRYON: Objection.  
 13 THE WITNESS: That's not what I said.  
 14 BY MR. BARR:  
 15 Q Okay. What did you say? 03:50:38  
 16 A I just said I don't know, from your question.  
 17 In general, I would think that -- I believe that  
 18 biological males have advantages, but does that mean in  
 19 all cases that happens? Maybe; maybe not.  
 20 But I don't really know the specifics or what 03:51:00  
 21 to be expected from B.P.J. because I don't know that  
 22 person.  
 23 Q Okay. You raised a good question.  
 24 Do you expect that there might be exceptions  
 25 to these advantages that you've talked about? 03:51:13  
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1 A I think that it's -- I'm bigger than some  
 2 biological males, but in general, biological males are  
 3 bigger, stronger, faster than me, and it should -- and  
 4 only biological women should be competing against me.  
 5 Q And that was for two reasons, fairness and 03:51:41  
 6 safety; right?  
 7 A Yes.  
 8 Q What safety concern do you have with middle  
 9 school cross-country and B.P.J. participating on the  
 10 girls' team? 03:51:58  
 11 MS. HOLCOMB: Object to form.  
 12 THE WITNESS: I'm intervening for all women  
 13 athletes and sports, and that includes contact sports  
 14 that I'm a part of.  
 15 BY MR. BARR: 03:52:18  
 16 Q B.P.J. is the plaintiff here, and B.P.J.  
 17 doesn't play a contact sport. So I'm asking where the  
 18 safety issue comes up -- comes in on middle school  
 19 cross-country.  
 20 MS. HOLCOMB: Same objection. 03:52:35  
 21 MR. TRYON: Objection.  
 22 THE WITNESS: My concerns are fairness and  
 23 safety for all women athletes in all sports.  
 24 BY MR. BARR:  
 25 Q Understood. What is the safety concern for 03:52:47  
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1 middle school cross-country and B.P.J. participating on  
 2 the girls' team?  
 3 MS. HOLCOMB: Object to form.  
 4 THE WITNESS: I don't know.  
 5 BY MR. BARR: 03:53:00  
 6 Q When it comes to fairness, what fairness are  
 7 you concerned about?  
 8 A In general, biological males are faster than  
 9 biological women.  
 10 Q So I'm not putting words in your mouth. 03:53:32  
 11 Is the concern that the transgender girl would  
 12 win the race to the detriment of the cisgender girl?  
 13 Is that the fairness concern?  
 14 MR. TRYON: Objection.  
 15 MS. HOLCOMB: Object to form. 03:53:44  
 16 THE WITNESS: That is not the only concern.  
 17 BY MR. BARR:  
 18 Q What are the other concerns?  
 19 A It's just not fair for biological males to  
 20 compete with biological women in any sports. 03:54:31  
 21 Q I heard you say that. I'm trying to  
 22 understand why you believe that.  
 23 MS. HOLCOMB: I'm sorry, was there a question?  
 24 MR. BARR: Yes.  
 25 ///  
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1 BY MR. BARR:  
 2 Q Why do you believe that?  
 3 A I believe I already answered that question.  
 4 Q Could you tell me it again because I certainly  
 5 didn't hear it. I'm trying to understand why you 03:55:03  
 6 believe that B.P.J. creates a fairness issue running  
 7 middle school cross-country on the girls' team?  
 8 MS. HOLCOMB: Objection to form.  
 9 MR. TRYON: Objection.  
 10 THE WITNESS: Because, in general, biological 03:55:23  
 11 males are stronger, fitter, faster than biological  
 12 women.  
 13 BY MR. BARR:  
 14 Q And if I understand you, the concern would be  
 15 that transgender girls would win and cisgender girls 03:55:38  
 16 would not because of these advantages you're talking  
 17 about; is that right?  
 18 MS. HOLCOMB: Objection to form.  
 19 THE WITNESS: I'm aware of my blessings and  
 20 opportunities that I was able to have because of the 03:55:57  
 21 fair playing that I have seen throughout my life, and I  
 22 want to make sure that I fight for that for other  
 23 women, to make sure that they are not having to compete  
 24 with biological males, in whatever sport that they do.  
 25 ///  
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<p>1 BY MR. BARR:                  2 Q I understand. And you've told me that you                  3 want to do that for two reasons, safety and fairness;                  4 is that right?                  5 A Yes. 03:56:27                  6 Q And we talked about safety with middle school                  7 cross-country, and you stated you don't know what the                  8 safety issue is with B.P.J. running cross-country on                  9 the girls' team; right?                  10 MS. HOLCOMB: Object to form. 03:56:49                  11 THE WITNESS: I don't know.                  12 BY MR. BARR:                  13 Q Right. So the two things that you're                  14 concerned about, safety and fairness, we've talked                  15 about safety, and now I'm trying to understand what 03:57:04                  16 would be unfair about B.P.J. running cross-country on                  17 the girls' team at her middle school.                  18 MR. TRYON: Objection.                  19 MS. HOLCOMB: Objection to form.                  20 THE WITNESS: H.B. 3293 is to promote equality 03:57:31                  21 for all women in all sports, so I think that that                  22 answers my -- your question.                  23 BY MR. BARR:                  24 Q Perhaps I'm just not following. I don't know                  25 how that answers the question about what fairness issue 03:57:53                  Page 142</p>	<p>1 you, you -- do not have a specific fairness issue to                  2 point to based on my last question. Did I understand                  3 that correctly?                  4 MS. HOLCOMB: Object to form.                  5 MR. TRYON: Objection. 03:59:37                  6 THE WITNESS: That's not what I said. I just                  7 said overall it's -- it wouldn't be fair for all women.                  8 BY MR. BARR:                  9 Q But specifics, there's no specific thing you                  10 can point to for B.P.J.; right? 03:59:50                  11 A I don't know.                  12 MR. BARR: I -- I've introduced an exhibit.                  13 It's actually previously marked as Exhibit 39. Let me                  14 know when you have it.                  15 THE WITNESS: Got it. 04:00:35                  16 BY MR. BARR:                  17 Q Have you ever heard of the Doddridge                  18 Invitational cross-country meet?                  19 A No.                  20 Q If you would like to read the e-mail and look 04:00:45                  21 at the exhibit, please let me know; otherwise, I'll                  22 just ask my question. It's whatever is best for you.                  23 A I read it.                  24 Q Okay. If you could scroll down to page 2,                  25 please, you'll see two tables. The table on the left 04:01:13                  Page 144</p>
<p>1 arises with B.P.J. running on the girls' cross-country                  2 team at her middle school.                  3 MS. HOLCOMB: I'm going to object as asked and                  4 answered multiple times.                  5 MR. BARR: Attorney Holcomb, if you can tell 03:58:07                  6 me what the answer is, I'll be happy to move on. I                  7 haven't heard an answer yet.                  8 MS. HOLCOMB: I think she's answered your                  9 question at least three times to the best of her                  10 ability. So it's asked and answered. 03:58:17                  11 MR. BARR: I'll -- I'll try it a different                  12 way.                  13 BY MR. BARR:                  14 Q Ms. Armistead, can you point to any specific                  15 fairness issue you're concerned about as it relates to 03:58:25                  16 B.P.J. running on the girls' cross-country team at her                  17 middle school?                  18 MS. HOLCOMB: Objection to form.                  19 THE WITNESS: I am not certain for specifics                  20 on her -- on B.P.J., but I do know that this law 03:59:04                  21 promotes fairness and equality for all women, including                  22 those who run cross-country at age 11 and college                  23 athletes in a contact sport, such as myself.                  24 BY MR. BARR:                  25 Q Okay. Just to make sure that I've understood 03:59:26                  Page 143</p>	<p>1 says "BMS XC-Boys," and the table on the right says                  2 "BMS XC-Girls."                  3 Do you see that?                  4 A Yes.                  5 Q Do you know what BMS references? 04:01:32                  6 A I do not.                  7 Q I'll represent to you that it's Bridgeport                  8 Middle School.                  9 Have you ever heard of Bridgeport Middle                  10 School? 04:01:46                  11 A No.                  12 Q Okay. And then on the table on the right, it                  13 also says "BMS," which, again, is Bridgeport Middle                  14 School.                  15 Do you know what XC-Girls means? 04:01:56                  16 A Yes.                  17 Q What does that mean?                  18 A Cross-country girls.                  19 Q Okay. So let's focus on the table on the                  20 right. 04:02:12                  21 Do you see that there are approximately 20                  22 names -- or 20 times listed? The names have been                  23 redacted for privacy reasons. Do you see that?                  24 A Yes.                  25 Q And you see that one name has not been 04:02:29                  Page 145</p>

<p>1 redacted, and that's B [REDACTED] F [REDACTED] - [REDACTED].</p> <p>2 Do you see that?</p> <p>3 A Yes.</p> <p>4 Q I'm going to represent to you that</p> <p>5 B [REDACTED] F [REDACTED] - [REDACTED] is B.P.J., the plaintiff in this 04:02:39</p> <p>6 case, okay?</p> <p>7 A Okay.</p> <p>8 Q What do you think this table that is entitled</p> <p>9 "BMS XC-Girls" is telling us?</p> <p>10 MS. HOLCOMB: Object to form. 04:02:57</p> <p>11 THE WITNESS: I don't know.</p> <p>12 BY MR. BARR:</p> <p>13 Q Does it look like it may be a listing of</p> <p>14 individual students' times at the</p> <p>15 Doddridge Invitational on Thursday, September 16th? 04:03:15</p> <p>16 A Yes.</p> <p>17 Q And if we look at that table on the right, it</p> <p>18 has three columns, one for distance, one for actual</p> <p>19 time and one for pace per mile.</p> <p>20 Do you see that? 04:03:30</p> <p>21 A Yes.</p> <p>22 Q And this table on the right, we're just</p> <p>23 talking about girls; right?</p> <p>24 MS. HOLCOMB: Object to form.</p> <p>25 THE WITNESS: That is what the document says. 04:03:49 Page 146</p>	<p>1 A No.</p> <p>2 Q Would you have any basis to state that</p> <p>3 B.P.J. impacted the team time --</p> <p>4 MS. HOLCOMB: Object to form.</p> <p>5 Sorry, I didn't mean to cut you off. 04:06:05</p> <p>6 THE WITNESS: I don't know.</p> <p>7 BY MR. BARR:</p> <p>8 Q You don't know how the team time is</p> <p>9 determined?</p> <p>10 A Correct. 04:06:18</p> <p>11 Q And, therefore, you would have no basis to</p> <p>12 state whether B.P.J.'s times impacted the</p> <p>13 Bridgeport Middle School team time; correct?</p> <p>14 A I don't know.</p> <p>15 Q I just want to make sure we're clear on the 04:06:37</p> <p>16 record.</p> <p>17 You don't know what?</p> <p>18 A What was your question again?</p> <p>19 Q I'm asking if you have any basis to state</p> <p>20 whether B.P.J. impacted the Bridgeport Middle School 04:06:54</p> <p>21 team time at the Doddridge Invitational.</p> <p>22 MS. HOLCOMB: Object to form.</p> <p>23 THE WITNESS: I don't know.</p> <p>24 BY MR. BARR:</p> <p>25 Q You don't know whether B.P.J. did or didn't 04:07:15 Page 148</p>
<p>1 BY MR. BARR:</p> <p>2 Q Okay. How did B.P.J. do at the</p> <p>3 Doddridge Invitational, according to this table?</p> <p>4 A B.P.J. ran 1.9 miles in 21 minutes and</p> <p>5 50 seconds. 04:04:18</p> <p>6 Q B.P.J. finished towards the back of the</p> <p>7 Bridgeport Middle School girls; right?</p> <p>8 MS. HOLCOMB: Object to form.</p> <p>9 THE WITNESS: B.P.J. wasn't in the lead, no.</p> <p>10 BY MR. BARR: 04:04:46</p> <p>11 Q In fact, B.P.J. finished in 13th of 16</p> <p>12 finishes; right?</p> <p>13 MS. HOLCOMB: Object to form.</p> <p>14 THE WITNESS: That might be what the table</p> <p>15 shows. 04:05:13</p> <p>16 BY MR. BARR:</p> <p>17 Q Do you see on the table how a few of the times</p> <p>18 are highlighted yellow and the rest are white?</p> <p>19 A Yes.</p> <p>20 Q What does that yellow highlighting mean? 04:05:29</p> <p>21 MS. HOLCOMB: Object to form.</p> <p>22 THE WITNESS: I don't know.</p> <p>23 BY MR. BARR:</p> <p>24 Q Do you know how middle school cross-country</p> <p>25 team times are determined? 04:05:45 Page 147</p>	<p>1 impact it?</p> <p>2 MS. HOLCOMB: Object to form.</p> <p>3 THE WITNESS: I don't know.</p> <p>4 BY MR. BARR:</p> <p>5 Q So you wouldn't be in a position to state that 04:07:31</p> <p>6 B.P.J. led to some other student's time not being</p> <p>7 included in the team time; right?</p> <p>8 A Can you say that again, please?</p> <p>9 Q Sure. You're not in a position to state one</p> <p>10 way or the other whether B.P.J.'s time impacted another 04:07:56</p> <p>11 student's time included on the team time at the</p> <p>12 Doddridge Invitational?</p> <p>13 MS. HOLCOMB: Object to form.</p> <p>14 THE WITNESS: Correct. I don't run</p> <p>15 cross-country. I do know about soccer, though. 04:08:17</p> <p>16 MR. BARR: I've introduced another exhibit.</p> <p>17 It's previously been marked as Exhibit 40. Please let</p> <p>18 me know when it appears.</p> <p>19 THE WITNESS: Got it.</p> <p>20 MS. HOLCOMB: I'm sorry, give me one moment. 04:09:02</p> <p>21 Mine is still attempting to refresh.</p> <p>22 MR. BARR: No problem. Tell me when you're</p> <p>23 ready.</p> <p>24 MS. HOLCOMB: All right. I'm ready. Thank</p> <p>25 you. 04:09:22 Page 149</p>

<p>1 MR. BARR: Sure.</p> <p>2 BY MR. BARR:</p> <p>3 Q Ms. Armistead, Exhibit 40, do you see tables</p> <p>4 similar to the tables we just saw on Exhibit 39?</p> <p>5 A They look similar. 04:09:31</p> <p>6 Q But in this case, the right-hand table says</p> <p>7 "BMS," which we've discussed is Bridgeport Middle</p> <p>8 School, "XC-Girls," cross-country girls, for the</p> <p>9 Ritchie County event on Saturday, October 1st.</p> <p>10 Do you see that? 04:09:53</p> <p>11 A Yes.</p> <p>12 Q Do you have any understanding of what the</p> <p>13 highlighted parts of this table mean?</p> <p>14 A No.</p> <p>15 Q How did B.P.J. do in this event? 04:10:07</p> <p>16 MS. HOLCOMB: Object to form.</p> <p>17 THE WITNESS: According to the table, she</p> <p>18 didn't place -- B.P.J. didn't place in the top half.</p> <p>19 BY MR. BARR:</p> <p>20 Q And I'm happy for you to look at the rest of 04:10:45</p> <p>21 Exhibit 40, and you can take as much time as you would</p> <p>22 like, but I'll represent to you that B.P.J. never has</p> <p>23 times that are highlighted in this exhibit.</p> <p>24 But my understanding is you don't have an</p> <p>25 understanding whether the highlighting has some 04:11:03</p> <p style="text-align: right;">Page 150</p>	<p>1 MR. TRYON: Objection.</p> <p>2 MS. HOLCOMB: I'm going to object to form.</p> <p>3 THE WITNESS: I have no idea.</p> <p>4 BY MR. BARR:</p> <p>5 Q If I told you it meant time trial place, would 04:12:43</p> <p>6 you be willing to accept that for purposes of this</p> <p>7 exhibit?</p> <p>8 MS. HOLCOMB: Object to form.</p> <p>9 MR. TRYON: Objection.</p> <p>10 THE WITNESS: Yes. 04:12:54</p> <p>11 BY MR. BARR:</p> <p>12 Q On October 7th, 2021, what place did</p> <p>13 B.P.J. earn?</p> <p>14 MS. HOLCOMB: Object to form.</p> <p>15 THE WITNESS: According to this document, 04:13:21</p> <p>16 24th.</p> <p>17 BY MR. BARR:</p> <p>18 Q How many participants are indicated to have</p> <p>19 participated, on this document?</p> <p>20 A 28. 04:13:29</p> <p>21 Q So on October 7, 2021, according to</p> <p>22 Exhibit 40, B.P.J. got 24th of 28 participants; is that</p> <p>23 right?</p> <p>24 A That's what the document indicates.</p> <p>25 Q And let's move over to August 24th. 04:13:52</p> <p style="text-align: right;">Page 152</p>
<p>1 indication one way or the other; is that right?</p> <p>2 MS. HOLCOMB: Object to form.</p> <p>3 THE WITNESS: As stated, I am not a</p> <p>4 cross-country runner, so no, I don't know.</p> <p>5 BY MR. BARR: 04:11:27</p> <p>6 Q If you could scroll to the last page of</p> <p>7 Exhibit 40.</p> <p>8 Are you there?</p> <p>9 A Yes.</p> <p>10 Q You'll see at the top it says "Time Trial 04:11:42</p> <p>11 Comparison."</p> <p>12 Did I read that correctly?</p> <p>13 A You did.</p> <p>14 Q And then in the two columns to the right of</p> <p>15 that, there's the cross-country time trial at 04:11:56</p> <p>16 Bridgeport City Park on October 7th, 2021, and the</p> <p>17 column to the right of that is the cross-country time</p> <p>18 trial, Bridgeport City Park, on August 24th, 2021.</p> <p>19 Do you see that?</p> <p>20 A Yes. 04:12:12</p> <p>21 Q Inside those columns, on the far left side,</p> <p>22 there's a subcolumn that says "TT Place."</p> <p>23 Do you see that?</p> <p>24 A Yes.</p> <p>25 Q What do you think TT Place means? 04:12:27</p> <p style="text-align: right;">Page 151</p>	<p>1 What place did B.P.J. get on August 24th?</p> <p>2 MS. HOLCOMB: Object to form.</p> <p>3 THE WITNESS: 30th.</p> <p>4 BY MR. BARR:</p> <p>5 Q And I'm not going to ask you the total 04:14:15</p> <p>6 participants, because that column is very hard to</p> <p>7 interpret and I don't want to be unfair, but you would</p> <p>8 agree with me that B.P.J. was at the very low end of</p> <p>9 that table as well?</p> <p>10 A Lower than others. 04:14:34</p> <p>11 Q Lower than almost everybody else; right?</p> <p>12 MS. HOLCOMB: Object to form.</p> <p>13 THE WITNESS: That is what the document</p> <p>14 indicates.</p> <p>15 BY MR. BARR: 04:14:54</p> <p>16 Q Do you still think it's unfair for B.P.J. to</p> <p>17 participate?</p> <p>18 MS. HOLCOMB: Object to form.</p> <p>19 MR. TRYON: Objection.</p> <p>20 THE WITNESS: It also looks like B.P.J. was 04:15:06</p> <p>21 competing against people in sixth, seventh and eighth</p> <p>22 grade. So I don't know if sixth-graders are typically</p> <p>23 in the top of their class.</p> <p>24 BY MR. BARR:</p> <p>25 Q Based on this document, do you still think 04:15:33</p> <p style="text-align: right;">Page 153</p>

1 it's unfair for B.P.J. to have participated?  
 2 MS. HOLCOMB: Object to form.  
 3 MR. TRYON: Objection.  
 4 THE WITNESS: Based on this document, I don't  
 5 know. 04:15:49  
 6 BY MR. BARR:  
 7 Q Do you still believe B.P.J. has superior speed  
 8 compared to her classmates, having seen these  
 9 documents?  
 10 MR. TRYON: Objection. 04:16:05  
 11 MS. HOLCOMB: Objection to form.  
 12 THE WITNESS: This document doesn't really  
 13 give a fair comparison.  
 14 BY MR. BARR:  
 15 Q Why not? 04:16:15  
 16 A As I said, B.P.J. is competing with people in  
 17 sixth, seventh and eighth grade. And in my experience,  
 18 whenever I was in sixth grade, playing soccer, I was  
 19 having difficulties against the seventh- and  
 20 eighth-graders. 04:16:40  
 21 MR. BARR: Attorney Holcomb, we've been going  
 22 for about an hour. Do you want a break, or do you want  
 23 to keep going?  
 24 MS. HOLCOMB: Would you like a break, Lainey?  
 25 THE WITNESS: Let's go. 04:17:01  
 Page 154

1 soccer team? Do you have one?  
 2 A Chelsea.  
 3 Q Kind of going through some tough times with  
 4 ownership of Chelsea at the moment, but -- okay. So  
 5 you do follow professional soccer? 04:37:48  
 6 A A little bit, yes.  
 7 Q Do you -- do you follow any women's  
 8 professional teams?  
 9 A I keep up with the U.S. women's national team  
 10 a little bit. 04:38:01  
 11 Q But other than the national team?  
 12 A No.  
 13 Q I'm a Liverpool fan, so I had to ask.  
 14 Okay. So, clearly, you love soccer. I  
 15 understand all that. I want to understand why you love 04:38:19  
 16 soccer. And, specifically, what do you get out of it?  
 17 A I get an opportunity to compete and -- I get  
 18 so much out of soccer. It keeps me in shape. I have  
 19 the ability to make great friends and lasting  
 20 connections with my teammates. And I'm still friends 04:38:46  
 21 with teammates from high school and club teams. And  
 22 I've learned a lot about perseverance and teamwork,  
 23 cooperation. There's so much that soccer has taught me  
 24 throughout my life, and I wouldn't be the person I am  
 25 today without it. 04:39:06  
 Page 156

1 MS HOLCOMB: Andrew, any estimate of how much  
 2 longer you plan to go?  
 3 MR BARR: No, sorry Some of these questions  
 4 that I expected to go quick have taken a little longer  
 5 than anticipated So I would hate to give any false 04:17:18  
 6 expectations there  
 7 MS MORGAN: Andrew, this is Kelly Morgan  
 8 I'm just asking because of family obligations again  
 9 here Are we looking at an hour or two --  
 10 THE VIDEOGRAPHER: Are we going to go off -- 04:17:29  
 11 MR BARR: Let's go off the record  
 12 THE VIDEOGRAPHER: Are we going to --  
 13 MR BARR: Yeah, let's go off the record  
 14 THE VIDEOGRAPHER: Okay One moment  
 15 We're going off the record The time is 04:17:34  
 16 4:18 p m , and this is the end of Media Unit No 4  
 17 (Recess )  
 18 THE VIDEOGRAPHER: All right We are back on  
 19 the record at 4:37 p m , and this is the beginning of  
 20 Media Unit No 5 04:37:25  
 21 Please go ahead  
 22 BY MR BARR:  
 23 Q Ms Armistead, I was going through my notes  
 24 and realized I didn't ask you the question I thought  
 25 was most important, which is, what's your favorite 04:37:34  
 Page 155

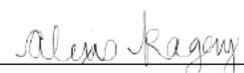
1 Q I know you focused on soccer, but do you think  
 2 that would be true of most athletes' experience, having  
 3 played sports in a -- you know, as a child or adult?  
 4 MS. HOLCOMB: Object to form.  
 5 THE WITNESS: I believe that a lot of people 04:39:29  
 6 probably have the same experiences as I do, but I can't  
 7 speak for sure on other people's experiences.  
 8 BY MR. BARR:  
 9 Q Understood. You said you played club -- club  
 10 soccer. Did I hear that right? 04:39:41  
 11 A Yes.  
 12 Q Do you still play club stocker?  
 13 A No. I'm unable to do so due to being a  
 14 college athlete.  
 15 Q When did you start playing club soccer? 04:39:57  
 16 A Probably around seven or eight years old.  
 17 Q Did your school offer a soccer team when you  
 18 were seven or eight years old?  
 19 A I don't believe so. I just played club until  
 20 I was able to play in middle school. 04:40:21  
 21 Q When did your stop playing club soccer?  
 22 A My senior year of high school.  
 23 Q Were you ever invited to an ODP program,  
 24 Olympic developmental program?  
 25 A Yes. 04:40:43  
 Page 157

<p>1 Q Did you attend?                  2 A I attended for a little bit before moving                  3 school -- or before moving across the state, so...                  4 Q Where were you living before Owensboro?                  5 A I am from Owensboro, and then I moved to 04:41:03                  6 Louisville, Kentucky, and then I moved back to                  7 Owensboro.                  8 Q And those two cities are far enough apart you                  9 had to change club teams as part of that move?                  10 A Yes. 04:41:27                  11 Q And did I understand that one of those teams                  12 offered the ODP and the other one did not; is that                  13 right?                  14 A ODP is more of a state -- a state development                  15 program. So I could have continued to do so, but where 04:41:40                  16 I moved, it would have been three hours to drive                  17 instead of just right beside my hometown.                  18 Q How long did you participate in the ODP?                  19 A I don't recall. Not long.                  20 Q Not long? 04:42:08                  21 Did you have the opportunity to do any                  22 traveling for ODP?                  23 A Not ODP, but I had the opportunity to travel                  24 for my club team.                  25 Q What -- what was the name of your club team? 04:42:21                  Page 158</p>	<p>1 MS. HOLCOMB: Object to form.                  2 THE WITNESS: I would probably say my club                  3 team was better.                  4 BY MR. BARR:                  5 Q That's generally true, right, the club team is 04:44:06                  6 a more select group of athletes than any particular                  7 school, as a general matter?                  8 A In general, yes.                  9 Q Any of your club teammates play college                  10 soccer? 04:44:28                  11 MS. HOLCOMB: Object to form.                  12 THE WITNESS: Yes.                  13 BY MR. BARR:                  14 Q Any of them playing with or against you in                  15 Mountain East Conference? 04:44:41                  16 A No.                  17 Q Do you think those athletes benefitted from                  18 soccer similarly to the way you did?                  19 MS. HOLCOMB: Object to form.                  20 THE WITNESS: I can't speak on their 04:44:59                  21 experiences.                  22 MR. TRYON: Excuse me, sorry to interrupt, but                  23 Kelly just texted me, and she said she's in the waiting                  24 room trying to get in, if the court reporter could let                  25 her in. 04:45:17                  Page 160</p>
<p>1 A Kentucky Fire.                  2 Q Was that the -- did you have a different club                  3 team when you moved and what was the name of that?                  4 A Owensboro.                  5 Q And it was when you were on Kentucky Fire that 04:42:39                  6 you had the ODP opportunities; is that right?                  7 A Yes.                  8 Q How old were you when that happened?                  9 A I don't remember.                  10 Q I'm -- was it seven or eight when you started? 04:42:58                  11 Was it when you were 18 as --                  12 A Probably middle school.                  13 Q Did you benefit from the ODP?                  14 A I did not benefit from ODP, but I definitely                  15 benefitted from club. 04:43:18                  16 Q Did any of your schools offer a women's soccer                  17 team before West Virginia State?                  18 A High schools?                  19 Q Sure. Did your high school have a women's                  20 soccer team? 04:43:37                  21 A Yes.                  22 Q Did you play on it?                  23 A I did.                  24 Q Was your club team or your high school team                  25 better? 04:43:54                  Page 159</p>	<p>1 THE REPORTER: Ms. Morgan, are you in?                  2 MS. MORGAN: Yes, I am. Thank you.                  3 THE REPORTER: Okay. Sorry about that.                  4 BY MR. BARR:                  5 Q Do you have any social media accounts? 04:45:47                  6 A Yes.                  7 Q I admittedly don't, so please bear with me in                  8 clunky language, but what platforms do you have an                  9 account with?                  10 A I have an account with Twitter, Instagram, 04:46:02                  11 Facebook, Snapchat. And those are the only ones that I                  12 use.                  13 BY MR. BARR:                  14 Q Do you use them daily?                  15 A Most days. 04:46:24                  16 Q Have people ever reached out to you on those                  17 platforms to talk about this law or your participation                  18 in the lawsuit?                  19 A Yes.                  20 Q Does it happen regularly? 04:46:52                  21 A No.                  22 Q Has it happened one time? five times? ten                  23 times?                  24 A I'm not sure. Not very many times.                  25 Q More than once, less than 20; is that fair? 04:47:12                  Page 161</p>

<p>1 A Yes.</p> <p>2 Q More than five times, less than 20?</p> <p>3 A I would probably just say less than ten, and</p> <p>4 that's as close as I would feel comfortable getting.</p> <p>5 Q Do you remember if that was via Facebook or 04:47:30</p> <p>6 one of the other platforms you described?</p> <p>7 A I think it was on Facebook and Twitter.</p> <p>8 Q Have you ever sent a message or reached out to</p> <p>9 people about this lawsuit or the law using one of those</p> <p>10 social media accounts? 04:48:02</p> <p>11 A No.</p> <p>12 Q Has anyone ever e-mailed you about this law,</p> <p>13 other than your attorneys?</p> <p>14 A I don't think so.</p> <p>15 Q Have you ever e-mailed anyone about this law? 04:48:22</p> <p>16 A I shared information with a friend who was</p> <p>17 interested in intervening.</p> <p>18 Q Is that one of the friends you told me about</p> <p>19 earlier, Sinead or Brooklyn?</p> <p>20 A Yes. Sinead. 04:48:55</p> <p>21 Q Are you familiar with the NCAA's image and</p> <p>22 likeness policy?</p> <p>23 A I am.</p> <p>24 Q What's your understanding of how the -- is it</p> <p>25 okay if I call it the NIL policy? 04:49:13</p> <p style="text-align: right;">Page 162</p>	<p>1 plans to enter into an endorsement deal?</p> <p>2 A Yes.</p> <p>3 Q Have you ever been interviewed related to this</p> <p>4 lawsuit by someone other than your attorney?</p> <p>5 A No. 04:51:16</p> <p>6 Q No reporters, TV appearances, anything like</p> <p>7 that?</p> <p>8 A No.</p> <p>9 Q Do you know who Selina Soule is?</p> <p>10 A No. 04:51:39</p> <p>11 Q Do you know who Chelsea Mitchell is?</p> <p>12 A No.</p> <p>13 Q Do you know who Christina Mitchell is?</p> <p>14 A No.</p> <p>15 Q Do you know who Alanna Smith is? 04:52:00</p> <p>16 A No.</p> <p>17 Q Do you know who Lanay Sultz is?</p> <p>18 A No.</p> <p>19 Q Do you know who Margaret O'Neil is?</p> <p>20 A No. 04:52:13</p> <p>21 Q Do you know who Cynthia Monteleone is?</p> <p>22 A No.</p> <p>23 Q Do you know who Madison Kenyon is?</p> <p>24 A No.</p> <p>25 Q Do you know who Mary Kate Marshall is? 04:52:26</p> <p style="text-align: right;">Page 164</p>
<p>1 A Yes.</p> <p>2 Q What's your understanding of the NIL policy?</p> <p>3 A My understanding is that athletes can benefit</p> <p>4 from their name; and, two, they are -- sign contracts</p> <p>5 with companies and be a name for a -- for a brand and 04:49:37</p> <p>6 get paid for doing so.</p> <p>7 Q Is it okay with you if I reference what you</p> <p>8 just described as an endorsement?</p> <p>9 A If that's how you want to reference it, sure.</p> <p>10 Q We can call it whatever you'd like. I just am 04:49:59</p> <p>11 trying to use a faster word than that whole</p> <p>12 description.</p> <p>13 A That's fine.</p> <p>14 Q Are you currently under an endorsement deal</p> <p>15 with anyone? 04:50:13</p> <p>16 A No.</p> <p>17 Q Do you have any plans to be under an</p> <p>18 endorsement deal?</p> <p>19 A I'm not sure. I would like to try. That</p> <p>20 would be something I would be interested in. Of 04:50:31</p> <p>21 course, it was just a very recent law that was created,</p> <p>22 a new -- a new policy, so I haven't really looked into</p> <p>23 it too much yet.</p> <p>24 Q Is it accurate to say you'd be interested in</p> <p>25 it, but sitting here today, you don't have any specific 04:50:54</p> <p style="text-align: right;">Page 163</p>	<p>1 A No.</p> <p>2 Q Do you know who Darcy Ashoff is?</p> <p>3 A No.</p> <p>4 Q Do you know anyone on the University of</p> <p>5 Pennsylvania's women's swimming or diving team? 04:52:41</p> <p>6 A I do not.</p> <p>7 Q Do you know who Haley Tan is?</p> <p>8 A No.</p> <p>9 Q And just to make sure I'm being fair with you,</p> <p>10 there's a chance the last name is Tani. 04:53:00</p> <p>11 So do you know anyone named Haley Tani?</p> <p>12 A No.</p> <p>13 Q Do you know anyone who claims to have been</p> <p>14 harmed by a transgender girl or woman playing on a</p> <p>15 girls' team, specifically? 04:53:17</p> <p>16 MS. HOLCOMB: Object to form.</p> <p>17 THE WITNESS: No, I don't know personally.</p> <p>18 BY MR. BARR:</p> <p>19 Q Have you spoken with any of the people I just</p> <p>20 named? 04:53:30</p> <p>21 A No, I don't think so. No.</p> <p>22 Q I have a list of about 25 more people. I can</p> <p>23 cut that short if I just understand that you haven't</p> <p>24 spoken to anyone who's claimed to have been harmed by a</p> <p>25 transgender woman's participation on a girls' team. Is 04:53:51</p> <p style="text-align: right;">Page 165</p>

<p>1 that accurate?                  2 MS. HOLCOMB: Object to form.                  3 THE WITNESS: I don't -- I don't know the                  4 names -- I don't know how to give you that information                  5 without -- 04:54:10                  6 BY MR. BARR:                  7 Q I'll just go through them. That's fine. I                  8 was just trying to make this --                  9 A I -- I wouldn't know the names. I've talked                  10 to two girls that were clients of Christiana's, but I 04:54:18                  11 don't know -- or recall their names.                  12 Q Are those two girls a party to this lawsuit?                  13 A No.                  14 Q When did you speak to them?                  15 A After I decided to intervene, probably. Maybe 04:54:40                  16 before.                  17 Q How did you locate these two girls?                  18 MS. HOLCOMB: And I'll just object generally                  19 to the extent it calls for attorney-client privileged                  20 communications. 04:55:01                  21 You may answer.                  22 THE WITNESS: Just by Christiana.                  23 BY MR. BARR:                  24 Q What did you discuss with these two girls?                  25 A They just told me about their experiences that 04:55:24                  Page 166</p>	<p>1 but it was encouraging, what they told me. That's what                  2 I remember from it.                  3 Q What do you mean it was encouraging, what they                  4 told you? Encouraging what?                  5 A It wasn't encouraging anything specifically. 04:57:36                  6 It was just encouraging to me what they were saying.                  7 Q I understood. I misunderstood.                  8 So you found the conversation encouraging.                  9 I -- I feel like I might have misunderstood                  10 that. 04:57:52                  11 So is that what you're saying, you found the                  12 conversation encouraging?                  13 A Yes.                  14 Q And you don't remember if this happened before                  15 or after you decided to intervene? 04:58:02                  16 MS. HOLCOMB: Objection to form.                  17 THE WITNESS: I do not recall.                  18 BY MR. BARR:                  19 Q Was it before or after you were put in touch                  20 with your attorney? 04:58:17                  21 MS. HOLCOMB: Objection to form.                  22 THE WITNESS: Well, I said -- I already                  23 answered that.                  24 BY MR. BARR:                  25 Q Maybe I misunderstood. 04:58:32                  Page 168</p>
<p>1 they've had in their lawsuits, and that was the extent                  2 of it.                  3 Q Did you ask to speak with them, or did they                  4 ask to speak with you?                  5 MS. HOLCOMB: Object to form. 04:55:45                  6 THE WITNESS: I don't know how to answer that                  7 without divulging client-attorney privilege.                  8 BY MR. BARR:                  9 Q I'll -- I'll ask a different way because I                  10 certainly don't want any privileged communications. 04:55:59                  11 Did you ask to be put in touch with these two                  12 girls?                  13 A I could have. I don't recall.                  14 Q You don't know their names?                  15 A I do not recall their names. 04:56:23                  16 Q And if I'm understanding correctly, you found                  17 these two girls through your counsel?                  18 A Yes.                  19 Q Did these two girls encourage you to intervene                  20 in this case? 04:56:51                  21 A They just told me about their experiences.                  22 Q What experiences are you talking about?                  23 A Their experience with their lawsuits.                  24 Q What did they tell you?                  25 A I don't recall specifics of the conversation, 04:57:20                  Page 167</p>	<p>1 Your -- so your -- your attorney put you in                  2 touch with these people; you just don't remember who                  3 asked for the contact; is that correct?                  4 A Yes.                  5 Q Have you spoken with those two girls more than 04:58:49                  6 once?                  7 A No.                  8 Q Other than those two girls, have you spoken                  9 with anyone else about this lawsuit beyond your family,                  10 those two friends you told me about and your attorneys? 04:59:03                  11 A Yes.                  12 Q Who else?                  13 A My best friend.                  14 Q And who is that?                  15 A Allison. 04:59:16                  16 Q You might have told me that earlier, and I may                  17 have forgotten, so I apologize if that's what happened.                  18 What is Allison's last name?                  19 A Raymond.                  20 Q Is Allison a classmate of yours? 04:59:27                  21 A No. She is a hometown friend. We went to                  22 high school together.                  23 Q Anyone else?                  24 A Yes. Two other hometown friends.                  25 Q Who -- who are those friends? 04:59:45                  Page 169</p>

<p>1 A Savanna and Haley.</p> <p>2 Q Anyone else?</p> <p>3 A My extended family, when they visited for the 4 holidays.</p> <p>5 Q What was the nature of those discussions? 05:00:03</p> <p>6 A I wanted to keep them updated on my life, and 7 I told them about H.B. -- the law -- 3293, and all of 8 my family was encouraging and supportive.</p> <p>9 Q And just so you know, if you say "the law," I 10 understand you're talking about H.B. 3293. It's very 05:00:30 11 hard for me to remember the number, so I'm very 12 sympathetic to that.</p> <p>13 Did you write an op-ed?</p> <p>14 A I'm sorry?</p> <p>15 Q Did you write an opinion piece for a 05:00:55 16 newspaper?</p> <p>17 A I -- I don't know what you're talking about.</p> <p>18 Q Okay. So sitting here today, everything we've 19 talked about, do you object to B.P.J. playing on the 20 Bridgeport Middle School girls' cross-country team? 05:01:15</p> <p>21 MS. HOLCOMB: Objection to form.</p> <p>22 THE WITNESS: I don't know.</p> <p>23 MR. BARR: Okay. That's it for me. I'm happy 24 to turn it over to everyone else. I do want a couple 25 of minutes just to make sure that my notes are clean. 05:01:32</p> <p style="text-align: right;">Page 170</p>	<p>1 may not have questions I just want to make sure that 2 it's clear</p> <p>3 MS HOLCOMB: I do not have any questions</p> <p>4 Thank you Just wanted to confirm there were no 5 further defendants 05:03:09</p> <p>6 MR BARR: And with -- we -- we can go off the 7 record And there's too many people on the same thing 8 to understand who is going to speak next, so I -- I 9 understand that</p> <p>10 THE VIDEOGRAPHER: So we -- are we done for 05:03:15 11 the day, then, or are we going to come back on?</p> <p>12 MR BARR: I -- I believe we're finished 13 unless I hear otherwise --</p> <p>14 THE VIDEOGRAPHER: Okay</p> <p>15 MR BARR: -- from counsel 05:03:22</p> <p>16 THE VIDEOGRAPHER: So I'm -- I'm going go 17 close the record then All right?</p> <p>18 Okay We are off the record at 5:04 p m , and 19 this ends today's testimony given by Lainey Armistead 20 The total number of media used was five and 05:03:35 21 will be retained by Veritext Legal Solutions</p> <p>22 (TIME NOTED: 5:03 p m )</p> <p>23</p> <p>24</p> <p>25</p> <p style="text-align: right;">Page 172</p>
<p>1 So I do reserve that right, but I'm happy to pass it to 2 Mr. Tryon or whoever else is in line.</p> <p>3 And -- and, Ms. Armistead, thank you for your 4 time today. I apologize for a long day on a Friday, 5 but hopefully you're able to make whatever -- whatever 05:01:47 6 plans you had tonight still.</p> <p>7 THE WITNESS: Thank you.</p> <p>8 MR. TRYON: Hello, Ms. Armistead. How are 9 you?</p> <p>10 THE WITNESS: I'm good. How are you? 05:02:03</p> <p>11 MR. TRYON: I'm good. So thank you so much 12 for your time. We always appreciate when deponents 13 come in and take their time to participate in these -- 14 these situations.</p> <p>15 And I have no questions, so thank you for your 05:02:14 16 time.</p> <p>17 MS. DENIKER: This is Susan Deniker. I have 18 no questions. Thank you.</p> <p>19 MS. MORGAN: This is Kelly Morgan. I don't 20 have any questions. Thank you, Lainey. 05:02:34</p> <p>21 MS. ROGERS: This is Shannon Rogers. I don't 22 have any questions. Thank you.</p> <p>23 MR. TRYON: So can we go off the record now? 24 Are we done?</p> <p>25 MR. BARR: I believe Attorney Holcomb may or 05:02:59 Page 171</p>	<p>1 I, LAINNEY ARMISTEAD, do hereby declare under 2 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.</p> <p>7 EXECUTED this ____ day of _____, 8 20____, at _____, _____.</p> <p>9 (City) (State)</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14 _____</p> <p>15 LAINNEY ARMISTEAD</p> <p>16 VOLUME I</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p style="text-align: right;">Page 173</p>

<p>1 RE: BPJ vs. WEST VIRGINIA STATE BOARD OF EDUCATION                  2 LAINIEY ARMISTEAD (JOB NO. 5082427)                  3                  4 ERRATA SHEET                  5 PAGE _____ LINE _____ CHANGE _____                  6 _____                  7 REASON _____                  8 PAGE _____ LINE _____ CHANGE _____                  9 _____                  10 REASON _____                  11 PAGE _____ LINE _____ CHANGE _____                  12 _____                  13 REASON _____                  14 PAGE _____ LINE _____ CHANGE _____                  15 _____                  16 REASON _____                  17 PAGE _____ LINE _____ CHANGE _____                  18 _____                  19 REASON _____                  20 PAGE _____ LINE _____ CHANGE _____                  21 _____                  22 REASON _____                  23 _____                  24 _____                  25 LAINIEY ARMISTEAD                      Date</p> <p style="text-align: right;">Page 174</p>	
<p>1                  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 Dated: March 25, 2022                  19                  20                  21                   22 _____                  23 ALEXIS KAGAY                  24 CSR NO. 13795                  25</p> <p style="text-align: right;">Page 175</p>	

## [&amp; - acknowledge]

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[lisa - metzger]

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**[witness - zoom]**

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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 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

**DEFENDANT-INTERVENOR'S  
RESPONSES TO PLAINTIFF'S  
FIRST SET OF  
INTERROGATORIES**

Pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure and the applicable Local Rules of the District of West Virginia and this Court, Defendant-Intervenor Lainey Armistead provides the following answers to Plaintiff's First Set of Interrogatories to Defendant-Intervenor.

///

### **GENERAL OBJECTIONS**

1. Ms. Armistead objects to the following Definitions presented in Plaintiff's First Set of Interrogatories to Defendant-Intervenor:

**4. CONCERNING is defined as information, things, COMMUNICATIONS, or DOCUMENTS that reflect, relate to, identify, constitute, embody, describe, discuss, summarize, evidence, reference, comment on, or concern in any way the subject matter of the request.**

Objection: Ms. Armistead objects to the definition of the term "concern" to the extent it seeks to impose an obligation beyond that contemplated by the local rules and will interpret "concerning" in accordance with the meaning specified in Southern District of West Virginia Local Rule 26.2(c)(7).

**5. DOCUMENT means any written, printed, typed, recorded, magnetic, punched, copied, graphic or tangible thing in, upon, or from which information may be embodied, translated, conveyed, or stored (including, but not limited to, correspondence, memoranda, notes, records, books, papers, telegrams, telexes, dictation or other audio tapes, video tapes, computer tapes, computer discs, computer printouts, microfilm, microfiche, worksheets, diaries, calendars, photographs, charts, drawings, sketches, and all other writings or drafts thereof) as defined in Federal Rule of Civil Procedure 34(a), Federal Rule of Civil Procedure 45, and Federal Rule of Evidence 1001, whether or not labeled "confidential." DOCUMENT includes material posted on YOUR social media accounts, including, but not limited to, <https://twitter.com/LaineyArmistead>. A draft or non-identical copy is a separate DOCUMENT within the meaning of this term.**

Objection: Ms. Armistead objects to the definition of the term “document” and will interpret “document” in accordance with the meaning specified in Southern District of West Virginia Local Rule 26.2(c)(7).

**8. YOU, YOUR, or YOURS means Lainey Armistead as includes your agents, representatives, affiliates, attorneys, and consultants.**

Objection: Ms. Armistead objects to the definition of “you, your, or yours” to the extent it purports to require Ms. Armistead to answer on behalf of any other person or based on knowledge not in her possession. Ms. Armistead has no duty to and will not produce or identify documents or information that are not in her possession, custody, or control (as Plaintiff’s counsel similarly noted in Plaintiff’s Supplemental and Amended Responses and Objections to Defendant the State of West Virginia’s First Set of Interrogatories and Requests for Production, pg. 2). The responses to these Interrogatories are made by Lainey Armistead only.

Moreover, Ms. Armistead objects to the extent this definition presumes to seek the identification of documents or communications protected by the attorney-client or the work product privilege—including those communications which include the mental impressions, conclusions, or opinions of counsel—which are not discoverable under the Federal Rules of Civil Procedure. All of Ms. Armistead’s communications with her counsel of record and their agents have been in the course and scope of representing her in this litigation, and Ms. Armistead objects to any request to identify documents or communications between or among Ms. Armistead, her agents, her counsel of record, and/or their agents from June 30, 2021, to present. Ms. Armistead notes that that Plaintiff’s counsel clarified in a letter to counsel for the State that Plaintiff “is not seeking the Attorney General’s litigation files, but rather is seeking non-privileged responsive documents.” *See, e.g.*, Letter from Kathleen Hartnett to Curtis Capehart et

al., 1 (Dec. 30, 2021). Ms. Armistead assumes the same is true for her counsel of record.

2. Ms. Armistead objects to the following Instruction presented in Plaintiff's First Set of Interrogatories to Defendant-Intervenor:

**3. If YOU or YOUR counsel assert that any information responsive to any Interrogatory is privileged or otherwise protected from discovery, YOU must comply with the requirements of Federal Rule of Civil Procedure 26(b)(5) as to each DOCUMENT, COMMUNICATION, thing, or piece of information for which a claim of privilege or protection from discovery is made. For any DOCUMENT or information withheld on the grounds that it is privileged or otherwise claimed to be excludable from discovery, identify the information or DOCUMENT, describe its subject matter and date, identify all authors and all recipients (including copied and blind copied recipients), and specify the basis for the claimed privilege or other grounds of exclusion.**

Objection: Ms. Armistead objects to Instruction #3 to the extent it presumes to impose an obligation beyond what is required by FRCP 26(b)(5). All of Ms. Armistead's communications with her counsel of record have been in the course and scope of representing her in this litigation, and Ms. Armistead objects to any request to identify documents or communications between or among Ms. Armistead, her agents, her counsel of record, and/or their agents from June 30, 2021, to present. Ms. Armistead further objects to producing a communication-by-communication privilege log of these attorney-client privileged and work product-protected documents and communications because producing such a log would be disproportionate to the needs of this case, unnecessary for the purpose of assessing the privilege claims, and is not required by the Federal Rules of Civil Procedure. Ms. Armistead notes that that Plaintiff's counsel clarified in a

letter to counsel for the State that Plaintiff “is not seeking the Attorney General’s litigation files, but rather is seeking non-privileged responsive documents” and requested a privilege log for “responsive-pre-litigation materials” deemed privileged by the State. See, e.g., Letter from Kathleen Hartnett to Curtis Capehart et al., 1 (Dec. 30, 2021). Ms. Armistead assumes the same is true for her counsel of record.

3. Finally, Ms. Armistead objects to any other instruction or definition that imposes a burden beyond the scope of the Federal Rules of Civil Procedure, local rules, or other law.

### **INTERROGATORY RESPONSES**

**INTERROGATORY NO. 1:** Identify all PERSONS who provided information in preparation of YOUR Answer to the First Amended Complaint and/or YOUR Declaration accompanying YOUR Motion to Intervene (ECF Nos. 95, 95-1) and for each such PERSON, state the following:

- (a) Their name, address, and telephone number;
- (b) Their relationship to YOU; and
- (c) A description of the information they provided.

**RESPONSE: Objection:** Ms. Armistead objects to this interrogatory to the extent it presumes to seek information protected by the attorney-client and/or attorney work-product privilege, which are not discoverable.

Without waiving this objection, Ms. Armistead identifies the following individuals:

Lucy Armistead  
Relationship: Mother  
2301 Crescent Hill Drive, Owensboro, KY 42303  
270-993-4109  
Accuracy of family background information

Dale Armistead  
Relationship: Father  
2301 Crescent Hill Drive, Owensboro, KY 42303  
270-929-2502  
Accuracy of family background information

**INTERROGATORY NO. 2:** Identify all of YOUR COMMUNICATIONS regarding the participation of students who are transgender playing on school sports teams, and the date, contents, and participants of the COMMUNICATION.

**RESPONSE:** Objection: Ms. Armistead objects to identifying “all communications” because this request is overly broad, unduly burdensome, and disproportionate to the needs of this case in that it requests all communications about a topic Ms. Armistead has ever had with anyone from January 1, 2019, to present. Plaintiffs further object to identifying “all communications” because it is overly broad and unduly burdensome in that it conceivably seeks every conversation, phone call, email, text message, social media message, letter, and every other form of written communication Ms. Armistead has ever had with anyone from January 1, 2019, to present. Taken together, this request requires Ms. Armistead to recall every communication she has had over years as well as its date, time, and participants, determine whether those communications discussed the identified topic, and identify those communications.

Ms. Armistead further objects to identifying “all communications” to the extent this interrogatory presumes to seek the identification of documents or communications protected by the attorney-client or the work product privilege—including those communications which include the mental impressions, conclusions, or opinions of counsel—which are not discoverable under the Federal Rules of Civil Procedure. All of Ms. Armistead’s communications with her counsel of record and their agents have been in the course and scope of representing her in this litigation, and Ms. Armistead objects to any request to identify documents or communications

between or among Ms. Armistead, her agents, her counsel of record, and/or their agents from June 30, 2021, to present. Ms. Armistead further objects to producing a communication-by-communication privilege log of these attorney-client privileged and work product-protected documents and communications because producing such a log would be disproportionate to the needs of this case, unnecessary for the purpose of assessing the privilege claims, and is not required by the Federal Rules of Civil Procedure. Ms. Armistead notes that that Plaintiff's counsel clarified in a letter to counsel for the State that Plaintiff "is not seeking the Attorney General's litigation files, but rather is seeking non-privileged responsive documents" and requested a privilege log for "responsive-pre-litigation materials" deemed privileged by the State. See, e.g., Letter from Kathleen Hartnett to Curtis Capehart et al., 1 (Dec. 30, 2021). Ms. Armistead assumes the same is true for her counsel of record.

Without waiving these objections, Ms. Armistead identifies the following individuals with whom she has had verbal conversations:

- Lucy Armistead
  - Ms. Armistead occasionally talks with her mom about H.B. 3293, this litigation, and males competing in women's sports. These conversations have taken place after HB 3293 was passed by the West Virginia legislature in 2021, generally by phone and over the 2021 holidays, but Ms. Armistead does not recall specific dates.
- Dale Armistead
  - Ms. Armistead occasionally talks with her dad about H.B. 3293, this litigation, and males competing in women's sports. These conversations have taken place over the 2021 holidays, but Ms. Armistead does not recall specific dates.
- WVSU soccer teammates
  - Ms. Armistead occasionally talks with her various teammates about H.B. 3293, this litigation, and males competing in women's sports. These conversations took place after Ms. Armistead filed for intervention in this lawsuit, but she does not recall specific dates or conversations.
- Alison Raymond
  - Ms. Armistead occasionally talks with her friend, Alison Raymond, about H.B.

3293, this litigation, and males competing in women's sports. These conversations have taken place throughout school year and to the best of her recollection after Ms. Armistead filed for intervention in this lawsuit, but Ms. Armistead does not recall specific dates.

- Savannah Sowders
  - Ms. Armistead occasionally talks with her friend, Savannah Sowders, about H.B. 3293, this litigation, and males competing in women's sports. These conversations have taken place throughout school year and to the best of her recollection after Ms. Armistead filed for intervention in this lawsuit, but Ms. Armistead does not recall specific dates.
- Hailey Lancaster
  - Ms. Armistead occasionally talks with her friend, Hailey Lancaster, about H.B. 3293, this litigation, and males competing in women's sports. These conversations have taken place throughout school year and to the best of her recollection after Ms. Armistead filed for intervention in this lawsuit, but Ms. Armistead does not recall specific dates.
- Eeclan Armistead
  - At the time she filed the lawsuit, and again over Christmas break, Ms. Armistead spoke with her brother about H.B. 3293, this litigation, and males competing in women's sports. Ms. Armistead does not recall specific dates.
- Kyler Armistead
  - At the time she filed the lawsuit, and again over Christmas break, Ms. Armistead spoke with her brother about H.B. 3293, this litigation, and males competing in women's sports. Ms. Armistead does not recall specific dates.
- Scott Armistead
  - Over the holidays, Ms. Armistead spoke with her extended family about H.B. 3293, this litigation, and males competing in women's sports. Ms. Armistead does not recall specific dates.
- Kevin Armistead
  - Over the holidays, Ms. Armistead spoke with her extended family about H.B. 3293, this litigation, and males competing in women's sports. Ms. Armistead does not recall specific dates.
- Jesse Armistead
  - Over the holidays, Ms. Armistead spoke with her extended family about H.B. 3293, this litigation, and males competing in women's sports. Ms. Armistead does not recall specific dates.
- Mary Lou Madigan

- Over the holidays, Ms. Armistead spoke with her extended family about H.B. 3293, this litigation, and males competing in women's sports. Ms. Armistead does not recall specific dates.

Ms. Armistead further identifies the communications produced in response to Plaintiff's Request for Production #6, available at L.Armistead 000002-7, 177-81, 183, 185-86, 189-92.

**INTERROGATORY NO. 3:** Identify all PERSONS who are transgender who play sports at West Virginia State University or against whom you expect to play sports while you attend West Virginia State University, and for each PERSON, state the following:

- (a) Their name, address, and telephone number.

**RESPONSE:** Ms. Armistead states that she is not currently aware of any males competing on a women's team at West Virginia State University, nor on a team that she expects to compete against while she attends West Virginia State University. But Ms. Armistead does not ask athletes at West Virginia State University, or any of her competitors, about their internal sense of self. Moreover, she would not expect to be aware of information about sports other than women's soccer. But with the preliminary injunction in place against West Virginia's Save Women's Sports Act, she could at any point in the season encounter a male athlete competing on an opposing women's soccer team. Ms. Armistead is at greater risk of encountering a male in women's collegiate soccer than if the law were in effect.

**INTERROGATORY NO. 4:** Identify all PERSONS who are transgender that YOU have played with or against in athletics since you started playing soccer at age seven to the present, and for each PERSON, state the following:

- (a) Their name, address, and telephone number.

**RESPONSE: Objection:** Ms. Armistead objects to this question on the grounds of relevance and

overbreadth, as it encompasses individuals and sports teams outside of those covered by West Virginia's Save Women's Sports Act—including club and high school soccer teams in Kentucky. It is also overbroad and unduly burdensome inasmuch as it asks her to recall everyone she has played with or against over the course of more than 10 years, dating back to when she was very young.

Without waiving the objection, and with the caveat that Ms. Armistead has not specifically inquired of every athlete she has ever competed against from age seven to present and she would have no reason to know about her competitor's internal sense of self, she is not aware of having personally competed against a male athlete in the female sports category. Ms. Armistead is, however, aware that other female athletes across the country have had this experience.

**INTERROGATORY NO. 5:** Identify all PERSONS who are transgender that YOU know or have known personally, and for each PERSON, state the following:

- (a) Their name, address, and telephone number;
- (b) Their relationship to YOU.

**RESPONSE:** Objection: Ms. Armistead objects to this question on the grounds of relevance. Who Ms. Armistead does or does not know has no bearing on any claim or defense in this case. She further objects on the grounds of overbreadth, as it is not limited in any way to athletes or individuals who are subject to West Virginia's Save Women's Sports Act. It is also overbroad and unduly burdensome to the extent that it asks her to recall every individual she has ever known and determine their internal sense of self.

Without waiving the objection—and while again noting that Ms. Armistead does not ask her family, friends, coaches, teammates, and other acquaintances questions about their internal

sense of self—Ms. Armistead states that she is not aware of any.

**INTERROGATORY NO. 6:** Identify all PERSONS who are transgender that YOU are aware of, other than Plaintiff, who are participating in sports at any level in West Virginia, and for each PERSON, state the following:

- (a) Their name, address, and telephone number;
- (b) Their relationship to YOU.

**RESPONSE: Objection:** Ms. Armistead objects to this interrogatory on the grounds that it is not relevant and overbroad because it encompasses athletes competing in sports that are not covered by the terms of the Save Women’s Sports Act.

Without waiving these objections—and while again noting that Ms. Armistead does not ask people questions about their internal sense of self—Ms. Armistead states that she is not aware of any.

**INTERROGATORY NO. 7:** Identify all of YOUR COMMUNICATIONS regarding H.B. 3293, or any other potential legislation in 2020 or 2021 regarding the participation of transgender athletes, and the date, content, and participants of the COMMUNICATION.

**RESPONSE: Objection:** Ms. Armistead objects to this interrogatory on the grounds that "potential legislation" is vague and overbroad because it could encompass passing remarks made by lawmakers in legislative debate and therefore could include countless pieces of “potential legislation.” Ms. Armistead will entertain a narrower and clearer question. In the meanwhile, she will answer Interrogatory #7 narrowed to the following:

“Identify all of YOUR COMMUNICATIONS regarding H.B. 3293 regarding the participation of transgender athletes, and the date, content, and participants of the COMMUNICATION.”

Ms. Armistead also objects to this interrogatory to the extent it presumes to seek the identification of documents or communications protected by the attorney-client or the work product privilege—including those communications which include the mental impressions, conclusions, or opinions of counsel—which are not discoverable under the Federal Rules of Civil Procedure. All of Ms. Armistead’s communications with her counsel of record have been in the course and scope of representing her in this litigation, and Ms. Armistead objects to any request to identify documents or communications between or among Ms. Armistead, her agents, her counsel of record, and/or their agents from June 30, 2021, to present. Ms. Armistead further objects to producing a communication-by-communication privilege log of these attorney-client privileged and work product-protected documents and communications because producing such a log would be disproportionate to the needs of this case, unnecessary for the purpose of assessing the privilege claims, and is not required by the Federal Rules of Civil Procedure. Ms. Armistead notes that that Plaintiff’s counsel clarified in a letter to counsel for the State that Plaintiff “is not seeking the Attorney General’s litigation files, but rather is seeking non-privileged responsive documents” and requested a privilege log for “responsive-pre-litigation materials” deemed privileged by the State. See, e.g., Letter of Kathleen Hartnett to Curtis Capehart et al., dated December 30, 2021, pg. 1. Ms. Armistead assumes the same is true for her counsel of record. Ms. Armistead is not otherwise withholding any documents or communications on the grounds of privilege.

Without waiving these objections, Ms. Armistead states that she has had verbal conversations regarding H.B. 3293 with the individuals identified in response to Interrogatory #2. Ms. Armistead further identifies the written communications produced in response to Plaintiff’s Request for Production #1, available at L.Armistead 000003–7, 177–78, 182–83, 191–

92.

**INTERROGATORY NO. 8:** Identify all PERSONS who are transgender in West Virginia that YOU are aware of who have taken away “a spot on the team, a starting position on the field, an athletic scholarship, the opportunity to benefit from her likeness, or recognition and awards,” as stated in YOUR Declaration accompanying YOUR Motion to Intervene (ECF Nos. 95, 95-1), from a cisgender woman or girl.

**RESPONSE: Objection:** Ms. Armistead objects to the mischaracterization of her Declaration as speaking of taking opportunities away from “a cisgender woman or girl.”

Without waiving the objection, Ms. Armistead is glad to say she is not personally aware of any males in West Virginia who have taken opportunities from women or girls. Protecting women’s athletic opportunities—including spots on the team and athletic scholarships—is a purpose of West Virginia’s Save Women’s Sports Act. Moreover, Ms. Armistead again notes that she does not ask competitors about their internal sense of self, and nor would she have any reason to be aware of what is taking place outside of West Virginia.

**INTERROGATORY NO. 9:** Describe how if at all you were harmed by athletics policies in West Virginia prior to H.B. 3293.

**RESPONSE: Objection:** Ms. Armistead objects to the interrogatory on grounds on vagueness, ambiguity, and overbreadth. It does not define what it means by “athletic policies in West Virginia,” nor does it explain which such policies the Plaintiff is referring to. Ms. Armistead will entertain a narrower and clearer question.

In a good faith effort to offer a response, Ms. Armistead notes that prior to HB 3293, it was unclear whether male athletes who identify as female could compete on public West

Virginia female sports teams. This exposed Ms. Armistead in the 2019–20 and 2020–21 soccer season to the possibility that she could be forced to face a male athlete on the field of play as has happened to other female athletes in many other places across the country.

**INTERROGATORY NO. 10:** Describe all injuries you have received from playing sports since you started playing soccer at age seven to the present, and, if caused by another PERSON, the PERSON causing the injuries; for each such PERSON, state the following:

- (a) Their name, address, and telephone number;
- (b) Their relationship to YOU and/or Plaintiff.

**RESPONSE:** Objection: Ms. Armistead objects to the interrogatory because “caused by” is vague. It is unclear whether this term means the final cause, proximate cause, but-for cause, or some other link in the causal chain.

Without waiving the objection, Ms. Armistead states that she received:

- a concussion in the fall of 2021;
- four or five broken toes (two in college; two or three in middle school and high school);
- bruised ribs in high school;
- fractured feet her freshman year of college.

Ms. Armistead received these injuries while playing middle school, high school, and/or collegiate soccer. Ms. Armistead does not recall whether these injuries were caused by direct physical contact with another person, but each of these injuries were received in the course of competition against other female athletes and would not have been received but for the soccer competition.

**INTERROGATORY NO. 11:** Identify all PERSONS with whom you communicated about participating in this lawsuit and for each such PERSON, state the following:

- (a) Their name, address, and telephone number;
- (b) Their relationship to YOU; and
- (c) A description of the COMMUNICATION.

**RESPONSE: Objection:** Ms. Armistead objects to this interrogatory to the extent it presumes to seek the identification of documents or communications protected by the attorney-client or the work product privilege—including those communications which include the mental impressions, conclusions, or opinions of counsel—which are not discoverable under the Federal Rules of Civil Procedure. All of Ms. Armistead’s communications with her counsel of record have been in the course and scope of representing her in this litigation, and Ms. Armistead objects to any request to identify documents or communications between or among Ms. Armistead, her agents, her counsel of record, and/or their agents from June 30, 2021, to present. Ms. Armistead further objects to producing a communication-by-communication privilege log of these attorney-client privileged and work product-protected documents and communications because producing such a log would be disproportionate to the needs of this case, unnecessary for the purpose of assessing the privilege claims, and is not required by the Federal Rules of Civil Procedure. Ms. Armistead notes that that Plaintiff’s counsel clarified in a letter to counsel for the State that Plaintiff “is not seeking the Attorney General’s litigation files, but rather is seeking non-privileged responsive documents” and requested a privilege log for “responsive-pre-litigation materials” deemed privileged by the State. See, e.g., Letter from Kathleen Hartnett to Curtis Capehart et al., 1 (Dec. 30, 2021). Ms. Armistead assumes the same is true for her counsel of record. Ms. Armistead is not otherwise withholding any privileged documents.

Without waiving this objection, Ms. Armistead states that she communicated with counsel of record, as well as the persons listed in response to Interrogatory #2. Those

communications are described in the answer to Interrogatory #2.

**INTERROGATORY NO. 12:** Identify YOUR new financial opportunities, such as benefitting from YOUR image and likeness as referenced in YOUR Declaration accompanying YOUR Motion to Intervene (ECF Nos. 95, 95-1), that you received due to playing soccer, and the dollar amount of those opportunities.

**RESPONSE:** Ms. Armistead states that she has benefitted financially from her WVSU soccer scholarship for the past three years. In the 2019-20 academic year, her scholarship amounted to \$28,000. Because Ms. Armistead is no longer living in the dorms (and therefore has fewer expenses), her scholarship amount for the 2020–21 and 2021–22 academic years were slightly less, but she does not recall the exact dollar amount.

Moreover, Ms. Armistead notes that in her Declaration accompanying her Motion to Intervene at ¶ 27 she stated:

[Soccer] opened new financial opportunities, such as benefitting from my image and likeness.

And later at ¶ 42 of her Declaration she stated:

Allowing males into women’s athletics allows a person with a male body to take opportunities away from female athletes—whether that is a spot on the team, a starting position on the field, an athletic scholarship, the *opportunity to benefit from her likeness*, or recognition and awards—and is contrary to the entire purpose of women’s sports. (emphasis added)

Ms. Armistead states that the financial opportunities she referenced in her declaration include those now available to all collegiate female athletes after the NCAA changed its name, image, and likeness policy in July 2021 (just two months before she filed her declaration). Given the recent nature of this policy change, and her busy school, work, and practice schedule, Ms. Armistead has not yet sought to financially benefit from her name, image, and likeness, though

she would consider doing so in the future.

**INTERROGATORY NO. 13:** Identify all governmental interests that YOU believe are advanced by H.B. 3293.

**RESPONSE: Objection:** Ms. Armistead objects to this interrogatory to the extent it seeks a legal determination.

Without waiving the objection, Ms. Armistead states that she believes that that H.B. 3293, West Virginia’s Save Women’s Sport Act, serves to 1) ensure fairness and equal opportunity for female athletes, 2) promote safety for female athletes, and 3) comply with Title IX. Ms. Armistead also notes that discovery is ongoing, and she reserves the right to supplement this list as discovery progresses.

**INTERROGATORY NO. 14:** State all facts that support YOUR argument that the governmental interests identified in Interrogatory No. 13 are advanced by H.B. 3293.

**RESPONSE: Objection:** Ms. Armistead objects to this interrogatory as overbroad because it requests “all facts”—rather than material facts—and it is not possible or reasonable to identify every conceivable fact that supports her argument. Ms. Armistead further objects on the basis that many of the material facts supporting the government interests advanced by H.B. 3293 are well-known and available to Plaintiff.

Without waiving the objection, Ms. Armistead states: first, males and females are biologically different. Males as a class have inherent physical advantages over females as a class that give males advantages in athletic competition involving competitive skill or contact. Those advantages—which include strength, speed, and size—will be detailed in Defendants’ forthcoming expert reports which will be provided in accordance with this Court’s scheduling

order. Similarly, those biological differences render females more vulnerable to greater physical harm when competing in a contact or team sport with a male. This, too, will be detailed in Defendants' forthcoming expert reports which will be provided in accordance with this Court's scheduling order. In the interim, Ms. Armistead points to the State of West Virginia's Response in opposition to Plaintiff's Motion for Preliminary Injunction (DN 49) and the attached exhibits—particularly those of Dr. Levine, Dr. Brown, Chelsea Mitchell, Dr. Cantor, and Dr. Carlson—the H.B. 3293 legislative findings and history, the legislative history of Title IX and its implementing regulations, and the discovery already produced by the State. Ms. Armistead further refers Plaintiffs to the facts identified in Intervenors' Memorandum in Opposition to Plaintiff's Motion for Preliminary Injunction and Exhibits, *Hecox v. Little*, Case No. 1:20-cv-00184 (D. Idaho June 9, 2020), ECF Nos. 46, 46-1, 46-2, and Intervenor-Appellants' Opening Brief at the 9th Circuit and Intervenor-Appellants Reply Brief from *Hecox v. Little*, Case No. 20-35813 (9th Cir. Nov. 12, 2020, Jan. 8, 2021), ECF Nos. 33, 111, as well as Plaintiffs' Motion for Preliminary Injunction with Exhibits in *Soule v. Connecticut Association of Schools*, Case No. 3:20-cv-00201 (D. Conn. Feb. 12, 2020), ECF No. 12, and Opening Brief of Appellants and Reply Brief of Appellants in *Soule v. Connecticut Association of Schools*, Case No. 21-1365 (2d. Cir. July 12, 2021, Oct. 28, 2021), ECF Nos. 40, 197, all of which are available to Plaintiff's counsel via PACER.

Second, there are examples across the country—and around the world—of males competing in the female category in all levels of sport and taking away athletic opportunities from female athletes, including but not limited to:

- **Women's Basketball** – A [50-year-old, 6-foot-6-inch man](#), who played on a college men's team 30 years prior, played on a women's junior college basketball team. A [male athlete](#) made headlines as the first openly male athlete on an NCAA Division I women's basketball team.

- **Women’s Beach Handball** – A [male athlete](#), who formerly played on an NCAA Division III women’s soccer team, now plays for Team USA Women’s Beach Handball.
- **Women’s Bodybuilding** – A [male who had competed in men’s bodybuilding](#) in the past started competing as a woman.
- **Women’s Cross Country** – A male runner competes on an NCAA Division I women’s cross country team and was [named the conference’s “Women’s Athlete of the Week.”](#)
- **Women’s Cycling** – Several male athletes have participated in women’s cycling events (examples [here](#) and [here](#)).
- **Women’s Dodgeball** – A male athlete who once competed on the Canadian men’s dodgeball team [later competed on Canada’s women’s team](#).
- **Women’s Football** – Several male athletes who had previously competed on men’s football teams now compete in women’s football (examples [here](#) and [here](#)).
- **Women’s Golf** – A male athlete was [approved to compete in the Ladies European Tour in 2004](#). And another male athlete was recently [permitted to compete in the 2020 Women’s World Long Drive Competition](#).
- **Women’s Hockey** – A male hockey player participates in [the Canadian Women’s Hockey League](#).
- **Women’s MMA (Mixed Martial Arts)** – A male MMA fighter who competes as a woman [broke a female opponent’s eye socket](#) and gave her a concussion.
- **Women’s Powerlifting** – A male powerlifter competed as a female and [broke several records before being disqualified](#).
- **Women’s Roller Derby** – A [male athlete](#) is part of a women’s roller derby team that has [won the world championships three times](#). And [another male athlete](#) is poised to be the next women’s roller derby star.
- **Women’s Rowing** – [Two male athletes](#) were part of a rowing team that competed in a women’s boat race in Canada.
- **Women’s Rugby** – Several male athletes [compete on women’s rugby teams](#). One is [celebrated for injuring the female athletes](#) they play against.
- **Women’s Running** – [Three male runners](#) were permitted to qualify and race as women at the 2018 Boston Marathon.
- **Women’s Soccer** – A [male athlete](#) earned a spot on an NCAA Division III women’s soccer team. Another [male athlete](#) began playing on a college women’s soccer team after previously playing on the men’s team.
- **Women’s Softball** – A [male high school student](#) earned one of 15 spots on the girls’ varsity softball team.
- **Women’s Swimming** – A [male swimmer](#) who competed for three years on the men’s team shatters women’s records. Another [male swimmer](#) competed on the men’s team for three years before competing on the women’s team.

- **Women's Track & Field** – [Two male athletes](#) swept girls' high school competitions in Connecticut. A [male athlete in Alaska](#) competed and placed at the girl's state championships. A [male runner](#) prevented a teen girl from winning her first-ever high school track meet. A [male college runner](#) swept first place at the 2020 NIAA Division I Big Sky Indoor Track & Field Championships in the women's mile. And another [male college athlete](#) won the 400-meter hurdles at the NCAA Division II women's national championships.
- **Women's Volleyball** – A [male athlete](#) competes on a NCAA Division III women's volleyball team. Male athletes have also competed on women's professional teams in the [U.S.](#) and [Brazil](#).
- **Women's Weightlifting** – This [Australian weightlifter](#) set master's world records in the women's category despite being a male.
- **Women's Wrestling** – A male [competes in women's professional wrestling](#).

Third, males who identify as males have also tried to compete on female sports teams.

*See, e.g., Clark, By and Through Clark v. Arizona Interscholastic Ass'n*, 695 F.2d 1126, 1128 (9th Cir. 1982). Finally, Ms. Armistead notes that discovery is ongoing, and she reserves the right to supplement this response as discovery progresses.

**INTERROGATORY NO. 15:** Identify all ways that YOU believe the governmental interests identified in Interrogatory No. 13 are advanced by H.B. 3293 as applied to B.P.J.

**RESPONSE: Objection:** Ms. Armistead objects to this interrogatory as it calls for a legal determination. Moreover, Ms. Armistead objects because the law need not be a perfect fit in advancing the government's interest: all that is required is that the law substantially advance the government's interest so Ms. Armistead objects to the extent the question assumes otherwise and misstates the law.

Without waiving the objection, Ms. Armistead states that for the same reasons H.B. 3293 advances the State's interests broadly when applied to other biological males regardless of their individual athletic ability or medical treatments received, it also advances the same interest when applied to Plaintiff. Specifically, by ensuring that females do not compete against any males,

including B.P.J., 1) the law ensures fairness and equal opportunity for female athletes, 2) safety for female athletes, and 3) compliance with Title IX. Ms. Armistead further refers Plaintiff to the facts identified in Armistead’s Memorandum in Support of Moton to Intervene [DN 95] and its attachments in this case; Intervenor’s Memorandum in Opposition to Plaintiff’s Motion for Preliminary Injunction and Exhibits, *Hecox v. Little*, Case No. 1:20-cv-00184 (D. Idaho June 9, 2020), ECF Nos. 46, 46-1, 46-2, and Intervenor-Appellants’ Opening Brief at the 9th Circuit and Intervenor-Appellants Reply Brief from *Hecox v. Little*, Case No. 20-35813 (9th Cir. Nov. 12, 2020, Jan. 8, 2021), ECF Nos. 33, 111, as well as Plaintiffs’ Motion for Preliminary Injunction with Exhibits in *Soule v. Connecticut Association of Schools*, Case No. 3:20-cv-00201 (D. Conn. Feb. 12, 2020), ECF No. 12, and Opening Brief of Appellants and Reply Brief of Appellants in *Soule v. Connecticut Association of Schools*, Case No. 21-1365 (2d. Cir. July 12, 2021, Oct. 28, 2021), ECF Nos. 40, 197,, all of which are available to Plaintiff’s counsel via PACER.

Finally, please see the answers and objections to Interrogatory #14 and #15, including the facts and materials referenced therein. Ms. Armistead also notes that discovery is ongoing and she reserves the right to supplement as discovery progresses.

**INTERROGATORY NO. 16:** State all facts that support YOUR argument that the governmental interests identified in Interrogatory No. 13 are advanced by H.B. 3293 as applied to B.P.J.

**RESPONSE: Objection:** Ms. Armistead objects to this interrogatory as overbroad because it requests “all facts”—rather than material facts—and it is not possible or reasonable to identify every conceivable fact that supports her argument. Ms. Armistead further objects on the basis that many of the material facts supporting the government interests advanced by H.B. 3293 are well-known and available to Plaintiff. Ms. Armistead further notes that the law need not be a

perfect fit in advancing the government's interest: all that is required is that the law substantially advance the government's interest so Ms. Armistead objects to the extent the question assumes otherwise and misstates the law.

Without waiting the objection, Ms. Armistead states that the same facts that support H.B. 3293's advancement of the State's interests with respect to biological males generally also apply to B.P.J. specifically, and Ms. Armistead refers Plaintiff to the objections and answers to Interrogatories #13 and #14.

Finally, Ms. Armistead also notes that discovery is ongoing and she reserves the right to supplement as discovery progresses.

CONFIDENTIAL

**VERIFICATION**

I, Lainey Armistead, pursuant to 28 U.S.C. § 1746 declare under penalty of perjury under the laws of the United States of American that the foregoing is true and correct to the best of my knowledge.



Executed on February 2, 2022

As to objections:



Christiana Holcomb  
*Counsel for Defendant-Intervenor*

**From:** [Christiana Kiefer](#)  
**To:** [Kang, Katelyn L](#)  
**Cc:** [Jonathan Scruggs](#); [Hal Frampton](#); [Rachel Csutoros](#); [Timothy Ducar](#); [Brandon Steele](#); [Joshua Brown](#); [Loree Stark](#); [Barr, Andrew D](#); [Avatara Smith-Carrington](#); [Carl Charles](#); [Tara Borelli](#); [Reinhardt, Elizabeth F](#); [Joshua Block](#); [Veroff, Julie M.](#); [Hartnett, Kathleen](#); [Sruti Swaminathan](#); ["kmorgan@baileywyant.com"](#); ["khammond@baileywyant.com"](#); ["rgreen@Shumanlaw.com"](#); ["kbandy@shumanlaw.com"](#); [Pelet del Toro, Valeria M.](#); ["susan.deniker@steptoe-johnson.com"](#); ["Jeffrey.Cropp@steptoe-johnson.com"](#); ["Curtis.R.A.Capehart@wvago.gov"](#); ["david.c.tryon@wvago.gov"](#); ["Doug.P.Buffington@wvago.gov"](#); ["mtaylor@baileywyant.com"](#); [NWARD](#)  
**Subject:** RE: BPJ v WV | Plaintiff's Responses & Objections to Intervenor's First & Second Discovery Requests [IWOV-IWOV\_FileDocs.FID1333803]  
**Attachments:** [image001.png](#)

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Hi Katelyn,

Thank you for your email and for the productive conversation on February 17.

At the outset, Intervenor-Defendant reiterates that her discovery requests are proper because they seek information “relevant to a[] party's claim or defense and [they are] proportional to the needs of the case.” Fed R. Civ. P. 26(b)(1). Plaintiff's transgender status is squarely at issue in this case, and Plaintiff has made a variety of allegations concerning that status, including that it is deeply rooted, durable, and persistent over a long period of time. Defendant-Intervenor is entitled to take discovery on those points and, particularly as narrowed below, is asking for very limited information that is imminently proportionate to the needs of the case.

Ms. Armistead also notes that her discovery requests specifically did not seek information already disclosed to another party (see, *e.g.*, Intervenor-Defendant's First Set of Interrogatories to Plaintiff, No. 3).

#### **Intervenor's Interrogatory #2**

Thank you for clarifying that—to the best of Plaintiff's recollection—Dr. Montano was the first health care provider who was notified that B.P.J. identified as a girl.

#### **Intervenor's Interrogatory #4**

In light of Plaintiff's request for a “more specific definition of ‘gender identity,’” Intervenor is willing to narrow the topics covered by this request to communications concerning B.P.J.'s participation in girls' athletics, Plaintiff's request that school or athletic entities recognize B.P.J. as a girl, and any request for pharmaceutical or surgical intervention for B.P.J. to “transition.”

As noted, Intervenor is willing to exclude “family members and/or friends” from this Interrogatory. Please supplement your answer with the identification of communications with medical personnel, school administrators, sports coaches, extracurricular activity administrators or facilitators.

Finally, because Plaintiff is unable to identify the first time a health care provider was notified that B.P.J. identified as a girl, please identify relevant communications from January 2019 to present.

#### **Intervenor's Interrogatory #5**

Thank you for agreeing to supplement your response with communications that B.P.J. and/or Heather Jackson may have had with other individuals regarding B.P.J.'s desire to play sports.

**Intervenor's Interrogatory # 9**

Thank you for agreeing to supplement your response with communications that B.P.J. and/or Heather Jackson may have had with other individuals regarding H.B. 3293.

**Intervenor's Request for Production #1**

Thank you for confirming that Plaintiff is not withholding medical records on relevance or privilege grounds.

**Intervenor's Request for Production #2**

Thank you for agreeing to supplement your responses to this Request by searching for and producing Heather Jackson's and B.P.J.'s social media content related to H.B. 3293, to proposed legislation regarding transgender athletes, to the participation of transgender athletes in school sports, and to B.P.J.'s participation in school athletics.

Please also include searches for the ACLU and material that discusses B.P.J.'s gender identity, transgender status, or social transition. We will narrow the timeframe of our request from July 2017 to present.

-

**Intervenor's Request for Production #3**

Thank you for confirming that Plaintiff is willing to supplement responses to this Request by searching for and producing written or electronic communications related to H.B. 3293, to proposed legislation regarding transgender athletes, to the participation of transgender athletes in school sports, and to B.P.J.'s participation in school athletics.

Please also search for social media content that material that discusses B.P.J.'s gender identity, transgender status, or social transition.

**Intervenor's Request for Production #4**

Thank you for confirming that Plaintiff is not aware of additional responsive information.

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To briefly memorialize our conversation about Ms. Armistead's production:

**Plaintiff's Interrogatory #7**

Intervenor is not aware of additional communications concerning potential legislation from 2020 or 2021 regarding transgender athlete participation in sports responsive to this request, but reserves the right to supplement her answer as discovery progresses.

-

**Plaintiff's Interrogatory #12**

In addition to her scholarship and having not financially benefitted to date from her name, image, and likeness, Ms. Armistead is not aware of any other information responsive to this request.

-

**Plaintiff's Interrogatory #14 & #16**

As discussed, Intervenor's responses were supplemented with the defense expert reports, which

were produced on February 23, 2022.

-  
**Plaintiff's Request for Production #1**

Intervenor noted that, to the best of her knowledge, the text messages she produced include both the time and date stamp and represent the entirety of the responsive conversation.

-  
**Plaintiff's Request for Production #6**

As agreed, Intervenor produced the Harold Dispatch op-ed on February 23, 2022.

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Regarding Ms. Armistead's supplemental disclosures served on February 11, 2022, she reiterates that those disclosures were supplemented to align with the Intervenor's responses to Plaintiff's first set of interrogatories served on February 2, 2022.

Plaintiff's Interrogatory 14 asked for "all facts that support YOUR argument that the governmental interests identified in Interrogatory No. 13 are advanced by H.B. 3293." Intervenor answered this question with well-known and publicly available information, and then went beyond her obligation under the federal rules to supplement her initial disclosures. Intervenor attempted to be reasonably comprehensive in identifying individuals who may possess relevant information, including female athletes across the country who have faced competition from male athletes in the female category. Many of these incidents are already well-known to Plaintiff's counsel, and have even been cited in Plaintiff's briefing. *See, e.g.,* Plaintiff's Opposition to Motion to Intervene (citing *Hecox v. Little*, 479 F. Supp. 3d 930 (D. Idaho 2020) and *Soule by Stanescu v. Conn. Ass'n of Sch., Inc.*, No. 3:20-cv-00201, 2021 WL 1617206 (D. Conn. Apr. 25, 2021)).

Ms. Armistead may rely on the declaration or testimony of some of these individuals at summary judgment or trial, but has not yet made this decision—nor is Plaintiff entitled to the identification of such persons.

Ms. Armistead also disagrees that her supplemental disclosures were served "after the deadline for written discovery." The February 8, 2022 written discovery deadline was for the issuance of new discovery requests. Ms. Armistead here has supplemented her initial disclosures in a timely manner as required by Fed R. Civ. P. 26(e) based on further review of the universe of available information. Plaintiff is welcome to depose any potential witnesses identified by Ms. Armistead within the discovery deadline and the bounds of Rule 26 and 30.

Kind regards,  
Christiana

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**From:** Kang, Katelyn L <kkang@cooley.com>

**Sent:** Monday, February 21, 2022 9:55 AM

**To:** Christiana Holcomb <cholcomb@adflegal.org>

**Cc:** Jonathan Scruggs <jscruggs@adflegal.org>; Hal Frampton <hframpton@adflegal.org>; Rachel Csutoros <rcsutoros@adflegal.org>; Timothy Ducar <tducar@azlawyers.com>; Brandon Steele <bstelelawoffice@gmail.com>; Joshua Brown <joshua\_brown05@hotmail.com>; Loree Stark

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**Subject:** RE: BPJ v WV | Plaintiff's Responses & Objections to Intervenor's First & Second Discovery Requests [IWOV-IWOV\_FileDocs.FID1333803]

**\*EXTERNAL\***

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Hi Christiana,

Thank you for the call on Thursday. We write to respond to your February 8, 2022 email concerning Plaintiff's responses to certain discovery requests, and to memorialize our conversation on February 17.

At the outset, Plaintiff reiterates her view that many of Defendant-Intervenor's requests seek information that does not appear to be relevant to a claim or defense in this case. The currently operative standard allows for discovery of information only if it "is relevant to any party's claim or defense and proportional to the needs of the case," Fed R. Civ. P. 26(b)(1), which replaced the prior "reasonably calculated to lead to the discovery of admissible evidence" language, *see id.* 2015 Advisory Committee Notes. Relatedly, and additionally, many of Defendant-Intervenor's requests appear to seek to challenge whether B.P.J. is a transgender girl and/or question her medical treatment. But that B.P.J. has been diagnosed with gender dysphoria and is transgender is a matter of record, and the propriety of her medical treatment or her gender identity as a general matter (unrelated to her participation in sports) is not the subject of this case.

In addition to seeking irrelevant material, many of Defendant-Intervenor's requests are notably broad and unwarranted, including because B.P.J. has already turned over medical records from all of her providers over a 7-year period, including information that reflects her gender dysphoria diagnosis. Furthermore, B.P.J., her mother, and her father have all provided detailed deposition testimony regarding B.P.J.'s transgender status and participation in athletics, and Defendants are currently in the process of taking the depositions of B.P.J.'s medical providers. Those sources of discovery largely provide the additional details sought by Defendant-Intervenor.

Plaintiff addresses each of the points in Defendant-Intervenor's February 8 email below.

**Interrogatory No. 2**

As noted in B.P.J.'s Responses and Objections to Defendant-Intervenor's First Set of Discovery Requests ("Responses and Objections"), B.P.J. objects to the phrases "your agent," "expressed gender dysphoria," and "any behavior, statements, actions, or other expression" as vague, ambiguous, and overbroad. It is unclear what Defendant-Intervenor seeks when she asks for "expressions" of "gender dysphoria"—"gender dysphoria" involves a medical diagnosis, and B.P.J. is neither a medical provider nor a medical expert. As Plaintiff noted in her Responses and Objections to Interrogatory No. 2, Plaintiff was formally diagnosed with gender dysphoria by Dr. Montano on July 15, 2019.

-

As stated during our call, to the extent that Defendant-Intervenor is seeking the first time that B.P.J. or her mother informed one of B.P.J.'s health care providers that B.P.J. is a girl, B.P.J. believes that her mother informed Dr. Montano around the time when B.P.J. first began seeking care from him, but cannot recall the exact date. It is also possible that B.P.J. or her mother earlier apprised a health care provider of some characteristic arguably associated with B.P.J. being a girl, but B.P.J. does not currently recall any such occurrence.

#### **Interrogatory No. 4**

In response to Interrogatory No. 4, B.P.J. directs Defendant-Intervenor to B.P.J.'s Responses and Objections, and in particular to B.P.J.'s objections on relevance grounds. This is a case about B.P.J.'s participation in school athletics, and not about B.P.J.'s gender identity writ large. To the extent this request seeks information other than about sports participation, it is unclear what these requests seek other than to challenge whether B.P.J. is a transgender girl.

Subject to, and without waiving these objections, B.P.J. supplements her response in the first instance by directing Defendant-Intervenor to B.P.J.'s responses to the State of West Virginia's First Set of Discovery Requests, and to the documents produced in response to Requests No. 1 and Requests No. 4.

B.P.J. is appreciative of Defendant-Intervenor's agreement on our call to exclude "family members, and/or friends" from this Interrogatory. In addition to the above, and as noted on the call, B.P.J. is willing to consider additional supplementation if Defendant-Intervenor is able to provide a more specific definition of "gender identity."

#### **Interrogatory No. 5**

Subject to, and without waiving the objections in her Responses and Objections, B.P.J. supplements her response in the first instance by directing Defendant-Intervenor to B.P.J.'s responses to the State of West Virginia's First Set of Discovery Requests, and to the documents produced in response to Requests No. 1 and Requests No. 4. B.P.J. will also supplement her response to Interrogatory No. 5 with communications that B.P.J. and/or Heather Jackson may have had with other individuals regarding B.P.J.'s desire to play sports.

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#### **Interrogatory No. 9**

-  
Subject to, and without waiving the objections in her Responses and Objections, B.P.J. supplements her response in the first instance by directing Defendant-Intervenor to B.P.J.'s responses to the State of West Virginia's First Set of Discovery Requests, and to the documents produced in response to Requests No. 1 and Requests No. 4. B.P.J. will also supplement her response to Interrogatory No. 9 with communications that B.P.J. and/or Heather Jackson may have had with other individuals regarding H.B. 3293.

-  
**Request for Production No. 1**

As Plaintiff has stated in previous correspondence and during our call, Plaintiff is not withholding any medical records on privilege or relevance grounds.

**Request for Production No. 2**

In response to Request for Production No. 2, B.P.J. directs Defendant-Intervenor to B.P.J.'s Responses and Objections, and in particular to B.P.J.'s objections on relevance and overbreadth grounds. This is a case about B.P.J.'s participation in school athletics. It is unclear how B.P.J. and Heather Jackson's social media posts, and especially those going back as far as 7 years (*i.e.*, when B.P.J. was less than four years old), could possibly be relevant to a claim or defense in this case. In addition to being overly broad, to the extent this request seeks information other than about transgender participation in sports and H.B. 3293 (or similar legislative proposals), it is unclear what these requests seek other than to challenge whether B.P.J. is a transgender girl.

Subject to, and without waiving these objections, B.P.J. is willing to supplement her response to Request for Production No. 2 by searching for and producing social media content related to H.B. 3293, to proposed legislation regarding transgender athletes, to the participation of transgender athletes in school sports, and to B.P.J.'s participation in school athletics.

**Request for Production No. 3**

In response to Request for Production No. 3, B.P.J. directs Defendant-Intervenor to B.P.J.'s Responses and Objections, and in particular to B.P.J.'s objections on relevance and overbreadth grounds. This is a case about B.P.J.'s participation in school athletics. Again, it is unclear how B.P.J. and Heather Jackson's email and text messages over a 7-year period about a range of topics unrelated to transgender participation in sports or H.B. 3293 (or similar proposed legislation) are relevant to a claim or defense in this case. Your request for supplementation is particularly and unnecessarily burdensome given that Defendant-Intervenor has deposed B.P.J., her mother, and her father on all of these topics.

Subject to, and without waiving these objections, B.P.J. is willing to supplement her response to Request for Production No. 3 by searching for and producing emails or text messages related to H.B. 3293, to proposed legislation regarding transgender athletes, to the participation of transgender athletes in school sports, and to B.P.J.'s participation in school athletics. We have confirmed with our client that Heather Jackson uses only one email address, and that B.P.J. also has access to one

email address.

**Request for Production No. 4**

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Plaintiff does not believe she has additional relevant information to provide at this time. Plaintiff reserves the right to supplement her response to this Request until the close of discovery.

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Finally, Plaintiff appreciates the clarification that you provided during our February 17 meet and confer regarding Defendant-Intervenor's supplemental initial disclosures. You explained that you supplemented those disclosures to add individuals otherwise identified in Defendant-Intervenor's interrogatory responses. When reviewing Defendant-Intervenor's interrogatory responses and initial disclosures, however, Plaintiff noted that there are a number of individuals newly identified in Defendant-Intervenor's initial disclosures that were not identified in Defendant-Intervenor's interrogatory responses. Can you please explain this discrepancy?

On the call, we also noted that we will need to understand whether you intend to rely on declaration or other testimony from any of the newly added individuals in order to depose them or otherwise seek relief based on their addition after the deadline for written discovery. You were going to take that request back. Can you let us know if Defendants intend to rely on testimony from any of the newly added individuals at summary judgment or trial?

Best,  
Katelyn

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**From:** Christiana Holcomb <[cholcomb@adflegal.org](mailto:cholcomb@adflegal.org)>  
**Sent:** Friday, February 11, 2022 6:00 PM  
**To:** Kang, Katelyn L <[kkang@cooley.com](mailto:kkang@cooley.com)>  
**Cc:** Jonathan Scruggs <[jscruggs@adflegal.org](mailto:jscruggs@adflegal.org)>; Hal Frampton <[hframpton@adflegal.org](mailto:hframpton@adflegal.org)>; Rachel Csutoros <[rscutoros@adflegal.org](mailto:rscutoros@adflegal.org)>; Timothy Ducar <[tducar@azlawyers.com](mailto:tducar@azlawyers.com)>; Brandon Steele <[bsteelelawoffice@gmail.com](mailto:bsteelelawoffice@gmail.com)>; Joshua Brown <[joshua\\_brown05@hotmail.com](mailto:joshua_brown05@hotmail.com)>; Loree Stark <[LStark@acluwv.org](mailto:LStark@acluwv.org)>; Barr, Andrew D <[abarr@cooley.com](mailto:abarr@cooley.com)>; Avatara Smith-Carrington <[asmithcarrington@lambdalegal.org](mailto:asmithcarrington@lambdalegal.org)>; Carl Charles <[CCharles@lambdalegal.org](mailto:CCharles@lambdalegal.org)>; Tara Borelli <[Tborelli@lambdalegal.org](mailto:Tborelli@lambdalegal.org)>; Reinhardt, Elizabeth F <[ereinhardt@cooley.com](mailto:ereinhardt@cooley.com)>; Joshua Block <[jblock@aclu.org](mailto:jblock@aclu.org)>; Taylor Brown <[TBrown@aclu.org](mailto:TBrown@aclu.org)>; Veroff, Julie M. <[jveroff@cooley.com](mailto:jveroff@cooley.com)>; Hartnett, Kathleen <[khartnett@cooley.com](mailto:khartnett@cooley.com)>; Sruti Swaminathan <[sswaminathan@lambdalegal.org](mailto:sswaminathan@lambdalegal.org)>; 'kmorgan@baileywyant.com' <[kmorgan@baileywyant.com](mailto:kmorgan@baileywyant.com)>; 'khammond@baileywyant.com' <[khammond@baileywyant.com](mailto:khammond@baileywyant.com)>; 'rgreen@Shumanlaw.com' <[rgreen@Shumanlaw.com](mailto:rgreen@Shumanlaw.com)>; 'kbandy@shumanlaw.com' <[kbandy@shumanlaw.com](mailto:kbandy@shumanlaw.com)>; Pelet del Toro, Valeria M. <[vpeletdeltoro@cooley.com](mailto:vpeletdeltoro@cooley.com)>; 'susan.deniker@steptoe-johnson.com' <[susan.deniker@steptoe-johnson.com](mailto:susan.deniker@steptoe-johnson.com)>; 'Jeffrey.Cropp@steptoe-johnson.com' <[Jeffrey.Cropp@steptoe-johnson.com](mailto:Jeffrey.Cropp@steptoe-johnson.com)>; 'Curtis.R.A.Capehart@wvago.gov' <[Curtis.R.A.Capehart@wvago.gov](mailto:Curtis.R.A.Capehart@wvago.gov)>; 'david.c.tryon@wvago.gov' <[david.c.tryon@wvago.gov](mailto:david.c.tryon@wvago.gov)>;

'Doug.P.Buffington@wvago.gov' <[Doug.P.Buffington@wvago.gov](mailto:Doug.P.Buffington@wvago.gov)>; 'mtaylor@baileywyant.com' <[mtaylor@baileywyant.com](mailto:mtaylor@baileywyant.com)>; NWard <[nward@acluwv.org](mailto:nward@acluwv.org)>; 82303\_B\_P\_J\_v\_ West Virginia State Board of Education Correspondence <[\[F1333803\].IWOV\\_FileDocs@efs.adflegal.org](mailto:[F1333803].IWOV_FileDocs@efs.adflegal.org)>

**Subject:** RE: BPJ v WV | Plaintiff's Responses & Objections to Intervenor's First & Second Discovery Requests [IWOV-IWOV\_FileDocs.FID1333803]

**[External]**

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Hi Katelyn,

Thanks for your email. Let's plan for 2:30pm ET on Thursday, February 17. I'll circulate a meeting invitation.

Have a great weekend,  
Christiana

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**From:** Kang, Katelyn L <[kkang@cooley.com](mailto:kkang@cooley.com)>

**Sent:** Thursday, February 10, 2022 4:54 PM

**To:** Christiana Holcomb <[cholcomb@adflegal.org](mailto:cholcomb@adflegal.org)>

**Cc:** Jonathan Scruggs <[jscruggs@adflegal.org](mailto:jscruggs@adflegal.org)>; Hal Frampton <[hframpton@adflegal.org](mailto:hframpton@adflegal.org)>; Rachel Csutoros <[racsutoros@adflegal.org](mailto:racsutoros@adflegal.org)>; Timothy Ducar <[tducar@azlawyers.com](mailto:tducar@azlawyers.com)>; Brandon Steele <[bstelelawoffice@gmail.com](mailto:bstelelawoffice@gmail.com)>; Joshua Brown <[joshua\\_brown05@hotmail.com](mailto:joshua_brown05@hotmail.com)>; Loree Stark <[LStark@acluwv.org](mailto:LStark@acluwv.org)>; Barr, Andrew D <[abarr@cooley.com](mailto:abarr@cooley.com)>; Avatara Smith-Carrington <[asmithcarrington@lambdalegal.org](mailto:asmithcarrington@lambdalegal.org)>; Carl Charles <[CCharles@lambdalegal.org](mailto:CCharles@lambdalegal.org)>; Tara Borelli <[Tborelli@lambdalegal.org](mailto:Tborelli@lambdalegal.org)>; Reinhardt, Elizabeth F <[ereinhardt@cooley.com](mailto:ereinhardt@cooley.com)>; Joshua Block <[jblock@aclu.org](mailto:jblock@aclu.org)>; Taylor Brown <[TBrown@aclu.org](mailto:TBrown@aclu.org)>; Veroff, Julie M. <[jveroff@cooley.com](mailto:jveroff@cooley.com)>; Hartnett, Kathleen <[khartnett@cooley.com](mailto:khartnett@cooley.com)>; Sruti Swaminathan <[sswaminathan@lambdalegal.org](mailto:sswaminathan@lambdalegal.org)>; 'kmorgan@baileywyant.com' <[kmorgan@baileywyant.com](mailto:kmorgan@baileywyant.com)>; 'khammond@baileywyant.com' <[khammond@baileywyant.com](mailto:khammond@baileywyant.com)>; 'rgreen@shumanlaw.com' <[rgreen@shumanlaw.com](mailto:rgreen@shumanlaw.com)>; 'kbandy@shumanlaw.com' <[kbandy@shumanlaw.com](mailto:kbandy@shumanlaw.com)>; Pelet del Toro, Valeria M. <[vpeletdeltoro@cooley.com](mailto:vpeletdeltoro@cooley.com)>; 'susan.deniker@steptoe-johnson.com' <[susan.deniker@steptoe-johnson.com](mailto:susan.deniker@steptoe-johnson.com)>; 'Jeffrey.Cropp@steptoe-johnson.com' <[Jeffrey.Cropp@steptoe-johnson.com](mailto:Jeffrey.Cropp@steptoe-johnson.com)>; 'Curtis.R.A.Capehart@wvago.gov' <[Curtis.R.A.Capehart@wvago.gov](mailto:Curtis.R.A.Capehart@wvago.gov)>; 'david.c.tryon@wvago.gov' <[david.c.tryon@wvago.gov](mailto:david.c.tryon@wvago.gov)>; 'Doug.P.Buffington@wvago.gov' <[Doug.P.Buffington@wvago.gov](mailto:Doug.P.Buffington@wvago.gov)>; 'mtaylor@baileywyant.com' <[mtaylor@baileywyant.com](mailto:mtaylor@baileywyant.com)>; NWard <[nward@acluwv.org](mailto:nward@acluwv.org)>

**Subject:** RE: BPJ v WV | Plaintiff's Responses & Objections to Intervenor's First & Second Discovery Requests [IWOV-IWOV\_FileDocs.FID1333803]

**\*EXTERNAL\***

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Christiana,

Plaintiff is reviewing your email and will respond substantively, reserving all rights. Regarding your request for a meet and confer, Plaintiff is available from 2-5 eastern on Thursday, February 17. Plaintiff would like to discuss deficiencies in Ms. Armistead's responses, too, including the absence of

any social media information that was requested. We will send additional information regarding those deficiencies next week.

Best,  
Katelyn

---

**From:** Christiana Holcomb <[cholcomb@adflegal.org](mailto:cholcomb@adflegal.org)>  
**Sent:** Tuesday, February 8, 2022 5:16 PM  
**To:** Kang, Katelyn L <[kkang@cooley.com](mailto:kkang@cooley.com)>  
**Cc:** Jonathan Scruggs <[jscruggs@adflegal.org](mailto:jscruggs@adflegal.org)>; Hal Frampton <[hframpton@adflegal.org](mailto:hframpton@adflegal.org)>; Rachel Csutoros <[rcsutoros@adflegal.org](mailto:rcsutoros@adflegal.org)>; Timothy Ducar <[tducar@azlawyers.com](mailto:tducar@azlawyers.com)>; Brandon Steele <[bsteelelawoffice@gmail.com](mailto:bsteelelawoffice@gmail.com)>; Joshua Brown <[joshua\\_brown05@hotmail.com](mailto:joshua_brown05@hotmail.com)>; Loree Stark <[LStark@acluwv.org](mailto:LStark@acluwv.org)>; Barr, Andrew D <[abarr@cooley.com](mailto:abarr@cooley.com)>; Avatara Smith-Carrington <[asmithcarrington@lambdalegal.org](mailto:asmithcarrington@lambdalegal.org)>; Carl Charles <[CCharles@lambdalegal.org](mailto:CCharles@lambdalegal.org)>; Tara Borelli <[Tborelli@lambdalegal.org](mailto:Tborelli@lambdalegal.org)>; Reinhardt, Elizabeth F <[ereinhardt@cooley.com](mailto:ereinhardt@cooley.com)>; Joshua Block <[jblock@aclu.org](mailto:jblock@aclu.org)>; Taylor Brown <[TBrown@aclu.org](mailto:TBrown@aclu.org)>; Veroff, Julie M. <[jveroff@cooley.com](mailto:jveroff@cooley.com)>; Hartnett, Kathleen <[khartnett@cooley.com](mailto:khartnett@cooley.com)>; Sruti Swaminathan <[SSwaminathan@lambdalegal.org](mailto:SSwaminathan@lambdalegal.org)>; 'kmorgan@baileywyant.com' <[kmorgan@baileywyant.com](mailto:kmorgan@baileywyant.com)>; 'khammond@baileywyant.com' <[khammond@baileywyant.com](mailto:khammond@baileywyant.com)>; 'rgreen@shumanlaw.com' <[rgreen@shumanlaw.com](mailto:rgreen@shumanlaw.com)>; 'kbandy@shumanlaw.com' <[kbandy@shumanlaw.com](mailto:kbandy@shumanlaw.com)>; 'susan.deniker@steptoe-johnson.com' <[susan.deniker@steptoe-johnson.com](mailto:susan.deniker@steptoe-johnson.com)>; 'Jeffrey.Cropp@steptoe-johnson.com' <[Jeffrey.Cropp@steptoe-johnson.com](mailto:Jeffrey.Cropp@steptoe-johnson.com)>; 'Curtis.R.A.Capehart@wvago.gov' <[Curtis.R.A.Capehart@wvago.gov](mailto:Curtis.R.A.Capehart@wvago.gov)>; 'david.c.tryon@wvago.gov' <[david.c.tryon@wvago.gov](mailto:david.c.tryon@wvago.gov)>; 'Doug.P.Buffington@wvago.gov' <[Doug.P.Buffington@wvago.gov](mailto:Doug.P.Buffington@wvago.gov)>; 'mtaylor@baileywyant.com' <[mtaylor@baileywyant.com](mailto:mtaylor@baileywyant.com)>; Kang, Katelyn L <[kkang@cooley.com](mailto:kkang@cooley.com)>; 82303\_B\_P\_J\_v\_West Virginia State Board of Education Correspondence <[{F1333803}.IWOV\\_FileDocs@efs.adflegal.org](mailto:{F1333803}.IWOV_FileDocs@efs.adflegal.org)>  
**Subject:** BPJ v WV | Plaintiff's Responses & Objections to Intervenor's First & Second Discovery Requests [IWOV-IWOV\_FileDocs.FID1333803]

**[External]**

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Hello Katelyn:

Intervenor's counsel are in receipt of Plaintiff's Responses and Objections to Intervenor's First Set of Discovery Requests (served on January 18, 2022) and Plaintiff's Responses and Objections to Intervenor's Second Set of Interrogatories and Requests for Production (served January 24, 2022). We write to note the deficiencies of Plaintiff's responses and production, and request that those deficiencies be cured as quickly as possible.

**Interrogatory #2**

Interrogatory #2 stated: "Identify the first time you or your agent apprised a Health Care Provider of any behavior, statements, actions, or other expression by B.P.J. that expressed gender dysphoria."

Plaintiff's answer was non-responsive. Plaintiff stated *when* B.P.J. was diagnosed with gender

dysphoria, but did not answer the question posed, which was to identify the first time B.P.J. or Heather Jackson apprised a Health Care Provider of a statement, action, or other expression by B.P.J. that expressed gender dysphoria. If Plaintiff intended to communicate that July 15, 2019 was the first time a Health Care Provider was apprised of any symptoms by B.P.J. that expressed gender dysphoria, please state so.

Please supplement your answer.

-

**Interrogatory #4**

Interrogatory #4 stated: "Identify all of your communications with medical personnel, school employees, administrators, sports coaches, extracurricular activity administrators or facilitators, family members, and/or friends concerning B.P.J.'s gender identity since the date identified in Interrogatory No. 2."

Plaintiff's answer was non-responsive. Plaintiff noted that in response to Defendant State of West Virginia's interrogatories B.P.J. had identified medical providers and Defendant representatives with whom B.P.J. and/or Heather Jackson had communicated regarding B.P.J.'s gender identity or athletics.

But B.P.J. failed to identify communications with these individuals. As noted in the Instructions, "identify" when used in connection with a communication "means to describe fully the details of the communication, including the people involved, the date with as much specificity as can be recalled, and the substance of the communication." Plaintiff made no attempt at describing the communications, the people involved, the timeframe, or its substance.

Moreover, Plaintiff did not identify communications B.P.J. and/or Heather Jackson had with any extracurricular activity administrators or facilitators, family members, or friends regarding B.P.J.'s gender identity. During depositions, deponent Wesley Pepper indicated that that such conversations had occurred with family members.

Please supplement your answer.

**Interrogatory #5**

Interrogatory #5 stated: "Identify all of your communications concerning B.P.J.'s desire to play sports with anyone involved with or employed by Bridgeport Middle School or Norwood Elementary School."

Plaintiff's answer was incomplete. Plaintiff identified persons with whom B.P.J. or Heather Jackson purportedly communicated about B.P.J.'s desire to play sports, but failed to identify those communications. As noted in the Instructions, "identify" when used in connection with a communication "means to describe fully the details of the communication, including the people involved, the date with as much specificity as can be recalled, and the substance of the communication." Plaintiff made no attempt at describing the communications, the people involved, the timeframe, or its substance.

Please supplement your answer.

-

**Interrogatory #9**

Interrogatory #9 stated: “Identify all of your communications about this litigation or H.B. 3293, excluding communications with your attorneys.”

Plaintiff’s answer referred to other discovery responses in which Plaintiff’s listed individuals with whom B.P.J. or Heather Jackson communicated. But Plaintiff failed to identify the *communications* that occurred. As noted in the Instructions, “identify” when used in connection with a communication “means to describe fully the details of the communication, including the people involved, the date with as much specificity as can be recalled, and the substance of the communication.” Plaintiff made no attempt at describing the communications, the people involved, the timeframe, or its substance.

Moreover, the individuals listed in response to Defendant State of West Virginia’s Interrogatory #4 and #5 are medical providers and Defendant representatives. Those listed in response to Intervenor’s Interrogatory #12 are public statements to the media. Plaintiff fails to identify any communications—whether written or oral—with friends, family, acquaintances, colleagues of Heather Jackson, etc.

Please supplement your answer.

**Request for Production #1**

Request for Production #1 states: “Please produce all medical records, mental health records, counseling records, or other health records of B.P.J., and any correspondence or reports relating to any such records, from the date identified in Interrogatory No. 2 until the present that have not already been produced in Response to Defendant State of West Virginia.”

Plaintiff stated that “all responsive non-privileged documents have been produced.” Are documents being withheld on the basis of privilege *other* than those that comprise the litigation file of counsel? (As noted in the Instructions, “[T]hese requests are not seeking documents made by Plaintiff’s attorneys and agents which are protected by attorney-client or work-product privileges.”)

If Plaintiff is withholding documents on any basis other than what is specifically excluded in the Instructions, please produce a privilege log.

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**Request for Production #2**

Request for Production #2 states: “Please produce all of B.P.J.’s and Heather Jackson’s social media accounts, posts, and content for the past 7 years that include the terms, or relate to, transgender, gender identity, gender dysphoria, the ACLU, sports, and any pictures of B.P.J.”

Plaintiff produced nothing, and instead requested a meet and confer. I am available to meet and confer on Thursday, February 17, 2022 between 10:00am ET - 5:00pm ET or Friday, February 18, 2022 between 10:00am ET and noon ET.

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**Request for Production #3**

Request for Production #3: “Please produce all of your written or electronic communications over the past 7 years that concern or relate to B.P.J.’s gender identity, gender dysphoria, transgender, identification as female, gender transition, social transition, medical treatment related to B.P.J.’s gender identity, or psychological or other mental health or counseling treatment related to B.P.J.’s gender identity. Please include with this response and explanation of your search methodology, including a list of any search terms utilized, to ensure that you conducted a diligent search for the requested materials.”

-  
Plaintiff stated that B.P.J. has already produced “all responsive medical records and public statements regarding this litigation and H.B. 3293.” But the Interrogatory was not limited solely to B.P.J.’s medical providers and public statements. The Interrogatory requested “all of your written or electronic communications” about the identified topics in the identified timeframe.

To date, Plaintiff has produced only one email from Heather Jackson, not a single email from B.P.J., and not a single text message from either Heather Jackson or B.P.J. This is hardly credible.

Please confirm that the following locations have been diligently searched:

- any and all email addresses belonging to Heather Jackson;
- all text messages on any cell phone belonging to Heather Jackson;
- any and all email address belonging to B.P.J.; and
- any text messages on any cell phone belonging to B.P.J.

Please also identify the search terms utilized and methodology, and supplement your answers.

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**Request for Production #4**

Request for Production #4 states: “Please produce all of your written or electronic communications over the past 7 years that concern or relate to any alleged mistreatment of B.P.J. that you believe is related to B.P.J.’s gender identity, B.P.J.’s participation in cheerleading, B.P.J.’s participation in sports, and/or B.P.J.’s desire to run competitively. Please include with this response and explanation of your search methodology, including a list of any search terms utilized, to ensure that you conducted a diligent search for the requested materials.”

Plaintiff only pointed to B.P.J.’s Complaint and Motion for Preliminary Injunction. If Plaintiff possesses or intends to rely on any documents or other electronic communications from the past 7 years to support any alleged “mistreatment” of B.P.J. that you believe is related to B.P.J.’s gender identity, B.P.J.’s participation in cheerleading, B.P.J.’s participation in sports, and/or B.P.J.’s desire to run competitively, please produce those documents.

~ ~ ~

As noted above, I am available to meet and confer on Thursday, February 17, 2022 between 10:00am ET - 5:00pm ET or Friday, February 18, 2022 between 10:00am ET and noon ET. Please let me know if there’s a good time for you.

Kind regards,  
Christiana



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Legal Counsel  
+1 202 393 8690 (Office)  
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## TRANSGENDER POLICY

### WVSSAC BOARD OF DIRECTORS

In the event a member school, or its governing authority, determines to permit transgender students to participate in interscholastic athletics, the WVSSAC has adopted the following policy to govern such participation:

#### I.

##### Definitions

*Transgender Student* – a student whose gender identity differs from the student's assigned sex at birth.

*Gender Identity* – a person's deeply-felt internal sense of being male or female.

#### II.

##### WVSSAC Transgender Student Policy

A Transgender Student shall be eligible to participate in interscholastic athletics in a manner consistent with a member school policy that meets the minimum standards designated by the WVSSAC Board of Directors policy.

The WVSSAC Board of Directors has designated the following as the minimum standards a member school must consider when determining whether a transgender student may participate in interscholastic athletics in a particular sport. A separate determination shall be made by the member school for each sport in which the student seeks to participate.

1. The transgender student's school shall make the initial determination as to whether a student may participate in interscholastic athletics in a gender that does not match the gender assigned to him or her at birth. When determining whether a transgender student is eligible to participate in interscholastic athletics in a manner consistent with the student's gender identity a member school must consider the following:
  - a. Whether the student is a "transgender student" as determined based upon applicable regulations and policies of the member school or its governing authority.
  - b. Whether the student meets all applicable academic and enrollment eligibility requirements.
  - c. Whether fair competition among high school teams would be impacted by the student's participation.
2. The determination of a student's gender assignment for interscholastic athletics shall remain in effect for the duration of the student's high school eligibility.
3. Any member school may appeal the eligibility of a transgender student on the grounds that the student's participation in interscholastic athletics would adversely affect competitive equity or safety of teammates or opposing players.
  - a. Any such appeal will be heard by the WVSSAC Board of Directors.
  - b. The identity of the student shall remain confidential. All discussion and documentation will be kept confidential and the proceedings will also be confidential unless the student and family make a specific request otherwise.
  - c. The WVSSAC Board of Directors will not consider whether the school has properly determined the student's sex assignment. The board's deliberations will be limited to the question of whether the transgender student represents a threat to competitive equity or the safety of teammates or opposing players. Factors to be considered will include, but not be limited to, the age of the student; the athletic experience of the student; the degree to which the student presents a risk of harm to other competitors due to his or her strength, size, or speed; the nature of the sport; and the degree to which fair competition among high school teams would be impacted by the student's participation.