

1 Patrick Gunn (admitted *Pro Hac Vice*)
COOLEY LLP
2 101 California Street, 5th Floor
San Francisco, California 94111-5800
3 Telephone: (415) 693-2070
Facsimile: (415) 693-2222
4 Email: pgunn@cooley.com

5 Mary O’Grady (011434)
Colin Proksel (034133)
6 Payslie Bowman (035418)
OSBORN MALEDON, P.A.
7 2929 North Central Avenue, 21st Floor
Phoenix, Arizona 85012-2793
8 Telephone: (602) 640-9000
Facsimile: (602) 640-9050
9 Email: mogrady@omlaw.com
Email: cproksel@omlaw.com
10 Email: pbowman@omlaw.com

11 *Attorneys for Plaintiffs and Proposed Class*
Additional counsel listed on following page
12

13 **UNITED STATES DISTRICT COURT**
14 **FOR THE DISTRICT OF ARIZONA**

15 D.T., a minor, by and through his parent
and next friend Lizette Trujillo; Jane Doe, a
16 minor, by and through her parent and next
friend Susan Doe; Helen Roe, a minor, by
17 and through her parent and next friend
Megan Roe; James Poe, a minor by and
18 though his parent and next friend Laura
Poe; and Carl Voe, a minor by and though
19 his parent and next friend Rachel Voe,

20 Plaintiffs,

21 v.

22 Dr. Cara M. Christ, in her official capacity
as State Registrar of Vital Records and
23 Director of the Arizona Department of
Health Services; Thomas Salow, in his
24 official capacity as Branch Chief of the
Division of Public Health Licensing
25 Services at the Arizona Department of
Health Services; and Krystal Colburn, in
26 her official capacity as Bureau Chief and
Assistant State Registrar of the Bureau of
27 Vital Records at the Arizona Department of
Health Services,

28 Defendants.

Case No. 4:20-cv-484-JAS

**PLAINTIFFS’ RESPONSE TO
DEFENDANTS’ REQUEST FOR
DIRECTION AND MOTION TO
POSTPONE BRIEFING**

1 Barrett J. Anderson (admitted *Pro Hac Vice*)
COOLEY LLP
2 4401 Eastgate Mall
San Diego, California 92121-1909
3 Telephone: (858) 550-6000
Facsimile: (858) 550-6420
4 Email: banderson@cooley.com

5 Asaf Orr (admitted *Pro Hac Vice*)
NATIONAL CENTER FOR LESBIAN RIGHTS
6 870 Market Street, Suite 370
San Francisco, California 94102
7 Telephone: (415) 392-6257
Facsimile: (415) 392-8442
8 Email: aorr@nclrights.org

9 *Attorneys for Plaintiffs and Proposed Class*

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1 **I. INTRODUCTION**

2 Plaintiffs respectfully file this response to Defendants’ request/motion at Doc. 63, as
3 provided by the Court’s order on May 11, 2021. (Doc. 64.) Because Defendants declined
4 multiple offers to meet and confer about their anticipated new arguments, Plaintiffs are
5 unable to advise the Court about the “most practical and efficient way” to proceed with
6 respect to the proposed Second Amended Complaint, as requested by the Court. (*Id.* at 1.)
7 Plaintiffs thus propose a different, but still expeditious, way forward.

8 Plaintiffs and the putative class who they represent are transgender people in
9 Arizona, including many children. As their communities, schools, and activities return to
10 normal following the COVID-19 pandemic, they will require corrected birth certificates
11 that list an accurate sex marker or they will once again be denied the countless
12 opportunities and face the numerous harms described in the complaint. Therefore, to avoid
13 protracted litigation over a minor question that does not bear on whether Defendants are
14 violating Plaintiffs’ constitutional rights—specifically, whether nominal damages are
15 recoverable for those violations—Plaintiffs withdraw the proposed Second Amended
16 Complaint and further streamline the case by voluntarily dismissing D.T. and Jane Doe as
17 Plaintiffs and Thomas Salow and Krystal Colburn as Defendants. Because Defendants’
18 only basis for seeking to re-brief their pending motion to dismiss is thereby mooted, the
19 Court should lift the stay and direct them to file a reply brief no later than May 25, 2021.

20 **II. RELEVANT BACKGROUND**

21 Plaintiffs filed this case on November 4, 2020, alleging that Defendants are violating
22 the Fourteenth Amendment by enforcing an Arizona law requiring that Plaintiffs undergo
23 invasive surgery before being allowed to use the state’s private administrative process to
24 correct their birth certificates to accurately reflect their sex. (Doc. 1.) That same day,
25 Plaintiff Jane Doe filed a motion for a preliminary injunction seeking a corrected birth
26 certificate because she needed to enroll in a new school to escape the severe bullying she
27 experienced during in-person schooling. (Doc. 3.) The parties resolved Jane Doe’s motion
28 through a stipulated agreement. (Docs. 39 & 40.) The parties also agreed that Plaintiffs

1 would file an amended complaint by January 8, 2021, and Defendants would have 30 days
2 to file a responsive pleading. (Doc. 42.) The Court adopted that schedule. (Doc. 43.)

3 Plaintiffs filed their amended complaint on schedule, alleging the same constitutional
4 violations against the same named Defendants, and adding two plaintiffs and a putative
5 class. (Doc. 47.) Because Jane Doe had received a corrected birth certificate as part of
6 this litigation, the amended complaint alleged that she had suffered a completed
7 constitutional violation and sought nominal damages. (*Id.* at 31.) Similarly, while Plaintiff
8 D.T. had not yet received an amended birth certificate, in reliance on Defendants’
9 representation that he would, he also joined the nominal-damages claim. (*Id.*)

10 Defendants then sought an additional month-long extension—until March 10,
11 2021—to file their motion to dismiss, to which Plaintiffs consented. (Doc. 50.) With
12 respect to D.T.’s and Jane Doe’s nominal-damages claim, Defendants’ motion asserted that
13 “nominal damages are not recoverable against Defendants, who are sued only in their
14 official capacities.” (Doc. 56 at 6.) Plaintiffs filed their opposition brief on April 23, 2021,
15 and contended that this alleged defect could be cured by amending the operative complaint
16 to also sue the current Defendants in their personal capacities. (Doc. 61 at 7–8.) Consistent
17 with the Court’s Case Management Order, (Doc. 7 at 2), Plaintiffs submitted with their
18 brief a proposed Second Amended Complaint containing the modest changes that would
19 cure that alleged deficiency, (Doc. 61-1). Those proposed changes would have resulted
20 only in Plaintiffs suing Defendants in both their official and personal capacities; Plaintiffs
21 named no new parties and alleged no new causes of action.

22 On April 27, 2021, Defendants requested a one-week extension for their reply brief,
23 to which Plaintiffs consented. (Ex. A at 1.) Three days later, on April 30, a different
24 attorney for Defendants sent a different proposal, now stating that they would “rais[e] new
25 arguments in [their] reply” as a result of the proposed Second Amended Complaint
26 (although counsel did not identify what those “new” arguments would be), and requesting
27 that Plaintiffs file the proposed amended pleading so that Defendants could “re-move to
28 dismiss [it].” (Doc. 63-1 at 4–5.) Plaintiffs disagreed that an entirely new round of briefing

1 on every argument advanced by Defendants—even those unrelated to the proposed
 2 amended allegations—was equitable, efficient, or warranted, but nevertheless proposed
 3 various ways that the parties could address any “new” arguments without unnecessary
 4 delay and prejudice. (*Id.* at 1–4.) Defendants declined all those proposals. (*Id.* at 1.)

5 Instead, on May 10, 2021 (the day their reply brief was due), Defendants filed a
 6 motion requesting that the Court allow them to re-brief all their arguments anew while their
 7 motion to dismiss is still pending. The sole basis for this request is that Plaintiffs submitted
 8 the proposed Second Amended Complaint. (Doc. 63 at 1.)¹ The next day, the Court stayed
 9 the deadline for Defendants to file a reply brief, provided Plaintiffs an opportunity to
 10 respond, and suggested a stipulation between the parties for how to proceed. (Doc. 64.)

11 Following the Court’s order, Plaintiffs’ counsel reached out to Defendants’ lawyers
 12 and three times requested a phone call to discuss the Court’s suggested stipulation,
 13 Defendants’ anticipated “new” arguments, and how the parties could proceed most
 14 efficiently. (Ex. B.) Defendants’ counsel refused each time. (*Id.*) Additionally, Plaintiffs’
 15 counsel noted that Arizona schools are reopening and at least one of the named Plaintiffs
 16 will require an amended birth certificate before returning to in-person classes, and thus
 17 requested to discuss with Defendants an agreement “like the one that the parties reached
 18 for Jane Doe.” (*Id.* at 4.) Defendants also declined that request. (*Id.* at 2.) It is in this
 19 context that Plaintiffs file this response.

20 **III. ARGUMENT**

21 This case centers on the ongoing constitutional violations caused by Defendants’
 22 continued enforcement of the Arizona law barring transgender young people, and any other
 23 transgender person who has not or cannot undergo surgery as part of their transition, from
 24 using the state’s private administrative process to amend the sex listed on their birth
 25 certificates. (*See, e.g.*, Doc. 47, ¶¶ 1–8; Doc. 61 at 1.) This straightforward case, once past
 26

27 ¹ Defendants also assert that Plaintiffs “circumvented Local Rule 12.1(c).” (*Id.* at 4.)
 28 However, Local Rule 12.1(c) requires a conference, which occurred here. It does not state
 that, should a plaintiff later determine that an amendment could cure an alleged deficiency
 asserted in a motion to dismiss, the plaintiff is barred from proposing one.

1 the motion-to-dismiss stage, should not take long to resolve. For example, as the Court
2 previously observed, Defendants do not appear to dispute the key facts; including, for
3 example, that transgender young people are harmed by inaccurate identity documents and
4 that amending their birth certificates is “vital to their mental and physical well-being.”
5 (Doc. 28 at 2–3.) Consequently, the “most practical and efficient way” forward is for the
6 Court to address Defendants’ pending motion to dismiss and free the case to proceed.

7 Defendants’ demand to re-brief their entire motion to dismiss over the minor
8 question of whether they should be required to pay purely symbolic money damages for
9 their alleged constitutional violations is not practical, equitable, or efficient. Plaintiffs
10 propose a different way. While they believe that D.T.’s and Jane Doe’s nominal-damages
11 claim is meritorious, they are also aware that maintaining it as part of this litigation would
12 delay resolution of the injunctive and declaratory relief claims. Transgender people all
13 over Arizona need access to the state’s private administrative process to correct the sex
14 listed on their birth certificates, especially young people who are enrolling or participating
15 in in-person classes and activities that were previously suspended for the pandemic. For
16 that reason, Plaintiffs are willing to streamline their case to avoid any further delay, and
17 therefore withdraw their proposed Second Amended Complaint filed at Doc. 61-1.

18 To the same end, Plaintiffs also voluntarily dismiss four parties from the operative
19 complaint. Plaintiffs no longer seek nominal damages in this action, so D.T. and Jane Doe
20 may be dismissed. Additionally, in reliance on Defendants’ representation that a remedy
21 against Defendant Christ in her official capacity is sufficient to fully redress the alleged
22 constitutional violations, (Doc. 56 at 24), Plaintiffs also voluntarily dismiss Salow and
23 Colburn as Defendants. No new amended complaint is required because a plaintiff is
24 permitted to voluntarily dismiss parties from the case without prejudice under Federal Rule
25 of Civil Procedure 41(a)(1), so long as the opposing party has not “serve[d] either an
26 answer or a motion for summary judgment.” *See Pedrina v. Chun*, 987 F.2d 608, 610 (9th
27 Cir. 1993) (holding Rule 41(a)(1) was “designed to permit a disengagement of the parties
28

1 at the behest of the plaintiff . . . in the early stages of a suit” (quoting *Armstrong v. Frostie*
2 *Co.*, 453 F.2d 914, 916 (4th Cir. 1971)). Just so here.

3 With no proposed amendment at hand and no nominal-damages claim remaining,
4 there is no need to revisit any of the prior briefing on Defendants’ pending motion to
5 dismiss; it will be ripe for the Court’s consideration as soon as they file their reply brief.
6 The Court should thus lift its stay and direct Defendants to file a reply brief no later than
7 May 25, 2021, which is one week from today and more than a month after Plaintiffs filed
8 their opposition brief on April 23.

9 **IV. CONCLUSION**

10 For the reasons above, Plaintiffs respectfully request that the Court lift its stay and
11 direct Defendants to file their reply brief no later than May 25, 2021.

12 Respectfully submitted,

13 Dated: May 18, 2021

OSBORN MALEDON, P.A.

14 /s/ Colin M. Proksel

15

Mary O’Grady (011434)
16 Colin Proksel (034133)
17 Payslie Bowman (035418)
OSBORN MALEDON, P.A.
2929 North Central Avenue, 21st Floor
18 Phoenix, Arizona 85012-2793
Telephone: (602) 640-9000
19 Facsimile: (602) 640-9050
Email: mogrady@omlaw.com
20 Email: cproksel@omlaw.com
Email: pbowman@omlaw.com

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22 NATIONAL CENTER FOR LESBIAN RIGHTS
870 Market Street, Suite 370
23 San Francisco, California 94102
Telephone: (415) 392-6257
24 Facsimile: (415) 392-8442
Email: aorr@nclrights.org

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101 California Street, 5th Floor
27 San Francisco, California 94111-5800
Telephone: (415) 693-2070
28 Facsimile: (415) 693-2222
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Barrett J. Anderson (admitted *Pro Hac Vice*)
COOLEY LLP
4401 Eastgate Mall
San Diego, California 92121-1909
Telephone: (858) 550-6000
Facsimile: (858) 550-6420
Email: banderson@cooley.com

Attorneys for Plaintiffs and Proposed Class

Exhibit A

Anderson, Barrett

From: Corcoran, Aubrey Joy <AubreyJoy.Corcoran@azag.gov>
Sent: Tuesday, April 27, 2021 9:47 AM
To: Anderson, Barrett
Cc: Ray, Kevin; Dana Keene; Dan Struck; Nick Acedo; EducationHealth; Asaf Orr; Colin Proksel; Payslie Bowman; LaMagna, Patricia
Subject: RE: D.T. v. Christ, Case No. 4:20-cv-00484-JAS (D. Ariz.) - Extension

[External]

Certainly. I will draft the stipulation and send it to you for review. We appreciate your agreement to stipulate. Thank you.

From: Anderson, Barrett [mailto:banderson@cooley.com]
Sent: Tuesday, April 27, 2021 9:46 AM
To: Corcoran, Aubrey Joy
Cc: Ray, Kevin; Dana Keene; Dan Struck; Nick Acedo; EducationHealth; Asaf Orr; Colin Proksel; Payslie Bowman; LaMagna, Patricia
Subject: RE: D.T. v. Christ, Case No. 4:20-cv-00484-JAS (D. Ariz.) - Extension

Aubrey Joy:

We would agree to a stipulation to that end, although we'd like to review the document that you intend to file before we finally sign off.

Thanks,
Barrett

From: Corcoran, Aubrey Joy <AubreyJoy.Corcoran@azag.gov>
Sent: Tuesday, April 27, 2021 9:39 AM
To: Anderson, Barrett <banderson@cooley.com>
Cc: Ray, Kevin <Kevin.Ray@azag.gov>; Dana Keene <dkeene@strucklove.com>; Dan Struck <DStruck@strucklove.com>; Nick Acedo <NAcedo@strucklove.com>; EducationHealth <EducationHealth@azag.gov>; Asaf Orr <AOrr@nclrights.org>; Colin Proksel <cproksel@omlaw.com>; Payslie Bowman <pbowman@omlaw.com>; LaMagna, Patricia <Patricia.LaMagna@azag.gov>
Subject: RE: D.T. v. Christ, Case No. 4:20-cv-00484-JAS (D. Ariz.) - Extension

[External]

Hello, Barrett,

We would like to request a short, one-week extension to file our reply in support of the motion to dismiss. With the extension, our deadline to file the reply would be May 17th. Would you agree to a stipulation to extend our time to file?

Your cooperation is much appreciated.

Thank you.

--Aubrey Joy

From: Anderson, Barrett [<mailto:banderson@cooley.com>]
Sent: Monday, March 22, 2021 5:03 PM
To: Corcoran, Aubrey Joy; LaMagna, Patricia
Cc: Ray, Kevin; Dana Keene; Dan Struck; Nick Acedo; EducationHealth; Asaf Orr; Colin Proksel; Payslie Bowman
Subject: RE: D.T. v. Christ, Case No. 4:20-cv-00484-JAS (D. Ariz.) - Extension

Thank you, Aubrey Joy. We will do that.

Barrett

From: Corcoran, Aubrey Joy
Sent: Monday, March 22, 2021 5:03 PM
To: Anderson, Barrett ; LaMagna, Patricia
Cc: Ray, Kevin ; Dana Keene ; Dan Struck ; Nick Acedo ; EducationHealth ; Asaf Orr ; Colin Proksel ; Payslie Bowman
Subject: RE: D.T. v. Christ, Case No. 4:20-cv-00484-JAS (D. Ariz.) - Extension

[External]

Hello, Barrett,

We have no objection to the stipulation and proposed order and you may include my electronic signature. I believe the proposed order is supposed to be submitted without counsel's information in the top left corner, so you may want to delete that.

--Aubrey Joy

From: Anderson, Barrett [<mailto:banderson@cooley.com>]
Sent: Monday, March 22, 2021 3:14 PM
To: LaMagna, Patricia
Cc: Corcoran, Aubrey Joy; Ray, Kevin; Dana Keene; Dan Struck; Nick Acedo; EducationHealth; Asaf Orr; Colin Proksel; Payslie Bowman
Subject: RE: D.T. v. Christ, Case No. 4:20-cv-00484-JAS (D. Ariz.) - Extension

Patricia:

We would like to file the attached joint stipulation and proposed order today regarding the extension and page limits for Plaintiffs' opposition brief. Please let us know if we have your approval.

Barrett

From: LaMagna, Patricia <Patricia.LaMagna@azag.gov>
Sent: Thursday, March 18, 2021 4:02 PM
To: Anderson, Barrett <banderson@cooley.com>
Cc: Corcoran, Aubrey Joy <AubreyJoy.Corcoran@azag.gov>; Ray, Kevin <Kevin.Ray@azag.gov>; Dana Keene <dkeene@strucklove.com>; Dan Struck <DStruck@strucklove.com>; Nick Acedo <NAcedo@strucklove.com>; EducationHealth <EducationHealth@azag.gov>; Asaf Orr <AORr@nclrights.org>; Colin Proksel <cproksel@omlaw.com>; Payslie Bowman <pbowman@omlaw.com>
Subject: Re: D.T. v. Christ, Case No. 4:20-cv-00484-JAS (D. Ariz.) - Extension

[External]

We do not have any opposition to either of these requests.

Sent via iPad

Patricia Cracchiolo LaMagna
Assistant Attorney General
602.542.8854

On Mar 18, 2021, at 3:22 PM, Anderson, Barrett <banderson@cooley.com> wrote:

Counsel:

As we mentioned on the last call with you, we would appreciate a short extension for our opposition brief. Would you stipulate to a two-week extension, with the final deadline of April 23, 2021?

We also intend to request the same number of pages for our opposition brief that the Court granted you for your motion. Do you oppose that request?

Thank you,
Barrett

Barrett J. Anderson
Cooley LLP
4401 Eastgate Mall
San Diego, CA 92121-1909
+1 858 550 6161 office
+1 858 550 6420 fax
banderson@cooley.com
Pronouns: he, him, his

www.cooley.com/people/barrett-anderson

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Exhibit B

Anderson, Barrett

From: Nick Acedo <NAcedo@strucklove.com>
Sent: Friday, May 14, 2021 2:08 PM
To: Anderson, Barrett; Corcoran, Aubrey Joy; LaMagna, Patricia; Sherri Wolford; Ray, Kevin; Dana Keene; Dan Struck; EducationHealth
Cc: Asaf Orr; Colin Proksel; Payslie Bowman
Subject: RE: D.T. v. Christ, Case No. 4:20-cv-00484-JAS (D. Ariz.) - Court's Suggested Stipulation

[External]

Counsel,

We do not think the Court's order contemplated requiring Defendants to come up with and confer about all of the various arguments that we believe exist in the Second Amended Complaint (in just six days, no less). The number and detail of those arguments do not bear on the efficiency on how to move forward with the pending briefing and your lodged (un-filed) SAC. We have given you our proposal and the Court has suggested a similar proposal. We have not received any counter proposal from you, other than your supplemental briefing proposal, which the Court (and we) believe is impractical and very inefficient.

We continue to believe that you should file your SAC; we confer again; and we file a motion dismiss that includes all arguments on all claims in one round of briefing with a definitive operative complaint. If you are not willing to propose anything else for us to consider, file your Response and the Court will have to rule. Unfortunately, we are in this predicament because Plaintiffs lodged a new complaint adding claims after we met and conferred and after Defendants filed their Motion to Dismiss.

We again reiterate our request for the documents supporting your new allegations that the Plaintiffs' birth certificate applications were denied and/or the cases closed.

Thanks

Nick

From: Anderson, Barrett <banderson@cooley.com>
Sent: Thursday, May 13, 2021 8:57 PM
To: Nick Acedo <NAcedo@strucklove.com>; Corcoran, Aubrey Joy <AubreyJoy.Corcoran@azag.gov>; LaMagna, Patricia <Patricia.LaMagna@azag.gov>; Sherri Wolford <SWolford@strucklove.com>; Ray, Kevin <Kevin.Ray@azag.gov>; Dana Keene <dkeene@strucklove.com>; Dan Struck <DStruck@strucklove.com>; EducationHealth <EducationHealth@azag.gov>
Cc: Asaf Orr <AOrr@nclrights.org>; Colin Proksel <cproksel@omlaw.com>; Payslie Bowman <pbowman@omlaw.com>
Subject: RE: D.T. v. Christ, Case No. 4:20-cv-00484-JAS (D. Ariz.) - Court's Suggested Stipulation

Counsel:

It seems that we have a different understanding of the Court's order. We believe the Court invited the parties to discuss all of your issues with the proposed second amended complaint so that we can advise the Court of the most efficient path forward, one of which may be addressing all of the issues in one amendment. But we cannot assess the most efficient path forward until we know what new arguments you plan to advance.

We are happy to discuss by email, or by phone during the times tomorrow that we previously indicated. We need to know your position by the end of the day tomorrow so that we have time to prepare a stipulation or our response to the Court.

Sincerely,
Barrett

From: Nick Acedo <NAcedo@strucklove.com>
Sent: Thursday, May 13, 2021 4:20 PM
To: Anderson, Barrett <banderson@cooley.com>; Corcoran, Aubrey Joy <AubreyJoy.Corcoran@azag.gov>; LaMagna, Patricia <Patricia.LaMagna@azag.gov>; Sherri Wolford <SWolford@strucklove.com>; Ray, Kevin <Kevin.Ray@azag.gov>; Dana Keene <dkeene@strucklove.com>; Dan Struck <DStruck@strucklove.com>; EducationHealth <EducationHealth@azag.gov>
Cc: Asaf Orr <AORr@nclrights.org>; Colin Proksel <cproksel@omlaw.com>; Payslie Bowman <pbowman@omlaw.com>
Subject: RE: D.T. v. Christ, Case No. 4:20-cv-00484-JAS (D. Ariz.) - Court's Suggested Stipulation

[External]

Counsel,

The Court has provided us an opportunity to negotiate a stipulation on how to proceed. We believe that the Court's suggested stipulation is the most practical and efficient way forward (for all of the reasons stated in our Motion and in the Court's Order). That suggested stipulation builds in an opportunity and time to discuss the plausibility of your allegations (once the parties have agreed on a stipulation and the Court has accepted it). That time is not now. Once the stipulation is approved, we can meet and confer. But given that your SAC has significantly expanded the scope of this lawsuit, I can say that there will be additional arguments in response to it. And if you modify your complaint in any way after conferring, there may be more (or less). Whatever arguments are made, we continue to agree with the Court that there should be "one final amended complaint that forms the basis of the case going forward" and "only one motion to dismiss, one response, and one reply (and no supplemental briefing and potential looming amended complaint that supersedes everything in any event)." That preference contemplates, if not compels, mooting the pending briefing, filing your SAC, and including all arguments in one set of briefing thereafter. If you disagree with the Court's suggested Stipulation, please send us your proposal.

We also reiterate our request for the documents supporting your new allegations that the Plaintiffs' birth certificate applications were denied and/or the cases closed. That could further streamline briefing.

As to your request for another amended birth certificate, we will need more time to discuss that. Let's take care of this Stipulation first.

Thanks,

Nick

From: Anderson, Barrett <banderson@cooley.com>
Sent: Thursday, May 13, 2021 2:45 PM
To: Nick Acedo <NAcedo@strucklove.com>; Corcoran, Aubrey Joy <AubreyJoy.Corcoran@azag.gov>; LaMagna, Patricia <Patricia.LaMagna@azag.gov>; Sherri Wolford <SWolford@strucklove.com>; Ray, Kevin <Kevin.Ray@azag.gov>; Dana Keene <dkeene@strucklove.com>; Dan Struck <DStruck@strucklove.com>; EducationHealth <EducationHealth@azag.gov>
Cc: Asaf Orr <AORr@nclrights.org>; Colin Proksel <cproksel@omlaw.com>; Payslie Bowman <pbowman@omlaw.com>
Subject: RE: D.T. v. Christ, Case No. 4:20-cv-00484-JAS (D. Ariz.) - Court's Suggested Stipulation

Counsel:

Your original proposal and your motion did not contemplate a further discussion between the parties about the proposed second amended complaint. For that reason, we view the Court's suggested stipulation as different and likely less prejudicial to Plaintiffs than your original request. Given the Court's suggestion, it would be helpful to understand how exactly you think your second motion to dismiss will change so that we can understand what efficiencies may or may not exist. If you are able to explain that by email, then that is fine with us. Otherwise, please let us know when you are available for a call tomorrow (Friday, May 14) between 11 AM and 2 PM.

You also did not address our other question regarding our clients. Do you have a position?

Barrett

From: Nick Acedo <NAcedo@strucklove.com>
Sent: Thursday, May 13, 2021 2:13 PM
To: Anderson, Barrett <banderson@cooley.com>; Corcoran, Aubrey Joy <AubreyJoy.Corcoran@azag.gov>; LaMagna, Patricia <Patricia.LaMagna@azag.gov>; Sherri Wolford <SWolford@strucklove.com>; Ray, Kevin <Kevin.Ray@azag.gov>; Dana Keene <dkeene@strucklove.com>; Dan Struck <DStruck@strucklove.com>; EducationHealth <EducationHealth@azag.gov>
Cc: Asaf Orr <AORr@nclrights.org>; Colin Proksel <cproksel@omlaw.com>; Payslie Bowman <pbowman@omlaw.com>
Subject: RE: D.T. v. Christ, Case No. 4:20-cv-00484-JAS (D. Ariz.) - Court's Suggested Stipulation

[External]

Counsel,

We can confer over email. For all of the reasons articulated in our Motion, we think the most practical and efficient way to move forward is the suggested (and preferred) stipulation of the Court. If you propose something different, please send us a draft and we will consider it.

Thanks,

Nick



Nicholas D. Acedo
Partner

STRUCK LOVE BOJANOWSKI & ACEDO, PLC
3100 West Ray Road | Suite 300 | Chandler AZ 85226
480.420.1609 | nacedo@strucklove.com | STRUCKLOVE.COM

From: Anderson, Barrett <banderson@cooley.com>
Sent: Wednesday, May 12, 2021 2:38 PM
To: Nick Acedo <NAcedo@strucklove.com>; Corcoran, Aubrey Joy <AubreyJoy.Corcoran@azag.gov>; LaMagna, Patricia <Patricia.LaMagna@azag.gov>; Sherri Wolford <SWolford@strucklove.com>; Ray, Kevin <Kevin.Ray@azag.gov>; Dana Keene <dkeene@strucklove.com>; Dan Struck <DStruck@strucklove.com>; EducationHealth <EducationHealth@azag.gov>

Cc: Asaf Orr <AOrri@nclrights.org>; Colin Proksel <cproksel@omlaw.com>; Payslie Bowman <pbowman@omlaw.com>

Subject: D.T. v. Christ, Case No. 4:20-cv-00484-JAS (D. Ariz.) - Court's Suggested Stipulation

Counsel:

In light of the Court's order yesterday, we would like to discuss with you the stipulation on how to proceed that was suggested by the Court, which as you know envisions a further exchange and discussion of the proposed second amended complaint. To help determine whether the suggested stipulation is a more "practical and efficient way" to proceed than the current motion schedule, Plaintiffs would like to understand what new arguments Defendants propose to include in, as well as any arguments that they will remove from, a second round of briefing. We are available for a call tomorrow (Thursday, May 13) between 2-5 PM.

We also note that, because of the re-opening of schools from their pandemic shutdowns, at least one more of our clients will require an amended birth certificate in the next two months or so. With the delay in the resolution of the motion to dismiss, it appears unlikely that this case will be resolved in time to obtain those amended birth certificates before school begins in the fall. We thus would also like to discuss on the call an agreement for any affected clients like the one that the parties reached for Jane Doe.

Sincerely,
Barrett

Barrett J. Anderson

Cooley LLP
4401 Eastgate Mall
San Diego, CA 92121-1909
+1 858 550 6161 office
+1 858 550 6420 fax
banderson@cooley.com
Pronouns: he, him, his

www.cooley.com/people/barrett-anderson

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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

D.T., a minor, by and through his parent and
next friend Lizette Trujillo; et al.,

Plaintiffs,

v.

Dr. Cara M. Christ, in her official capacity
as State Registrar of Vital Records and
Director of the Arizona Department of
Health Services; et al.,

Defendants.

Case No. 4:20-cv-484-JAS

**[PROPOSED] ORDER REGARDING
DEFENDANTS' REQUEST FOR
DIRECTION AND MOTION TO
POSTPONE [DOC. 63]**

Having considered Defendants' request/motion appearing at Doc. 63 and Plaintiffs' response appearing at Doc. 66:

IT IS HEREBY ORDERED as follows:

1. The stay on the deadline for Defendants to file a reply as to their original motion to dismiss (Doc. 56) is **lifted**; and
2. The new deadline for Defendants to file a reply shall be **May 25, 2021**.

Dated this _____ day of _____, 2021