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

D.T., et al., Plaintiffs, v. Cara M. Christ, et al., Defendants.	No. CV-20-00484-TUC-JAS ORDER
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On 7/14/21, the Court issued an Order that stated in part:

Plaintiffs’ unopposed request for a status conference is granted. *See* Docs. 73, 75, 76. The Court shall hold a telephonic status conference with the parties on 7/21/21 at 8:45 a.m. . . . To assist the parties in planning and conferring, and to have a more fruitful discussion with the parties at the status conference, the Court provides this update to the parties as to the pending motion to dismiss (Doc. 56). The Court is in the process of drafting a formal opinion as to the motion to dismiss, and the parties will likely receive the formal opinion within the next 30 to 60 days. The Court has already reviewed the parties’ briefs and the pertinent record and authority, and Defendant’s motion to dismiss (Doc. 56) is denied with the formal opinion to follow . . . If the parties are unable to reach a stipulation as to Carl Voe (i.e., a transgender boy who is 9 years old), it appears that Plaintiffs will be filing a motion for a preliminary injunction. If that is the case, the Court will be setting an evidentiary hearing in the near future where the parties shall be prepared to present live testimony supporting or refuting the factors necessary for a preliminary injunction.

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2 *See Doc. 77.*

3 The telephonic conference with the parties was not particularly fruitful. As to the
4 motion to dismiss, Defendants expressed confusion as to whether the Court's ruling was
5 tentative and if the motion to dismiss was granted in part. The Court informed the parties
6 of its ultimate decision on the motion to dismiss (in advance of the formal opinion which
7 is in the early drafting stages) as the parties indicated that it would be helpful in their
8 discussions (*see Docs. 73, 75, 76*) leading up to a telephonic status conference as to the
9 best way to proceed as to a potential stipulated resolution for a 9-year-old transgender boy,
10 and if no agreement was forthcoming, how to proceed as to a potential motion for a
11 preliminary injunction or motion for class certification. The parties appear to be very far
12 apart on all issues and no agreement was reached.
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16 To clear up any potential confusion, the motion to dismiss was denied in its entirety;
17 if the motion to dismiss was denied in part, the Court would have stated that in the previous
18 Order.
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20 To the extent Defendants expressed confusion as to whether their motion to dismiss
21 was granted in part to the extent that Plaintiffs voluntarily dismissed various parties and
22 claims, no further action or discussion from the Court appeared necessary as those issues
23 appeared moot. *See Doc. 66* (Plaintiffs' stated in part: "Transgender people all over
24 Arizona need access to the state's private administrative process to correct the sex listed
25 on their birth certificates, especially young people who are enrolling or participating in in-
26 person classes and activities that were previously suspended for the pandemic. For that
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1 reason, Plaintiffs are willing to streamline their case to avoid any further delay, and
2 therefore withdraw their proposed Second Amended Complaint filed at Doc. 61-1 . . . To
3 the same end, Plaintiffs also voluntarily dismiss four parties from the operative complaint.
4 Plaintiffs no longer seek nominal damages in this action, so D.T. and Jane Doe may be
5 dismissed. Additionally, in reliance on Defendants' representation that a remedy against
6 Defendant Christ in her official capacity is sufficient to fully redress the alleged
7 constitutional violations, (Doc. 56 at 24), Plaintiffs also voluntarily dismiss Salow and
8 Colburn as Defendants. No new amended complaint is required because a plaintiff is
9 permitted to voluntarily dismiss parties from the case without prejudice under Federal Rule
10 of Civil Procedure 41(a)(1), so long as the opposing party has not 'serve[d] either an answer
11 or a motion for summary judgment.' *See Pedrina v. Chun*, 987 F.2d 608, 610 (9th Cir.
12 1993).").

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17 To avoid further confusion, pursuant to Doc. 66, IT IS HEREBY ORDERED that
18 the parties and claims that Plaintiffs voluntarily dismissed as stated in Doc. 66 are
19 dismissed by this Court.

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21 Moving on to a potential preliminary injunction evidentiary hearing and class
22 certification issues, Plaintiffs seemed to indicate that they were not going to file a motion
23 for a preliminary injunction, and that a motion for class certification (without any discovery
24 and without any evidentiary hearings) could replace the preliminary injunction process
25 discussed by the Court in this case; Defendants disagreed with Plaintiffs' position. Based
26 on the limited informal discussions with the parties during the brief telephonic conference,
27 the Court does not have enough information to offer the parties any specific directives at
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1 this time.

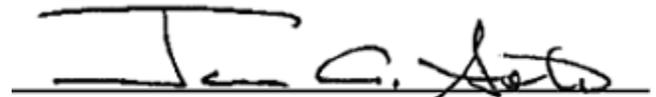
2 As in any case, unless prohibited by the rules of procedure or Court Order, parties
3 are typically free to file whatever motions they wish with any Court, and responses and
4 replies are due within the timelines dictated by the rules of procedure. In the vast majority
5 of cases, this Court does not set oral arguments as to dispositive motions as the briefs
6 adequately cover the issues, and oral argument would not be helpful; rather, the parties
7 typically receive a formal opinion addressing the dispositive motion with a footnote
8 denying the parties' request for oral argument.¹ As previously noted, the timeframes for
9 receiving the formal opinion are varying and unpredictable as the Court has numerous
10 criminal and civil cases pending before the Court; at any given time, the Court may be
11 presiding over a trial, evidentiary hearing, or other fully briefed time-sensitive motions
12 such as a motion to stay an execution, motion for a temporary restraining order, or motion
13 for a preliminary injunction.
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15 As to class certification in general, in previous cases, this Court has not set an
16 emergency briefing schedule and issued an emergency formal opinion akin to (and in lieu
17 of) a preliminary injunction and the associated preliminary injunction evidentiary hearing;
18 typically, after a motion to dismiss has been denied, the Court directs the parties to confer
19 and file a joint case management report addressing their positions as to how the entire
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26 ¹ The footnote typically states: Because the briefing is adequate and oral argument will not
27 help in resolving this matter, oral argument is denied. *See Mahon v. Credit Bureau of*
28 *Placer County, Inc.*, 171 F.3d 1197, 1200-1201 (9th Cir. 1999). The Court addresses this
issue as Defendants seemed to express confusion as to whether this Court's ruling on the
motion to dismiss was tentative because oral argument was not held on the motion to
dismiss; oral argument was never going to be held on their motion to dismiss.

1 action should proceed — including class certification discovery issues and briefing as to a
2 class certification motion. In accordance with past practice, the Court will issue a separate
3 Order today regarding a case management report and conference.
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6 Dated this 21st day of July, 2021.
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11 Honorable James A. Soto
12 United States District Judge
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