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

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

28 Plaintiffs,

v.

Dr. Cara Christ, M.D., et al.,

Defendants.

No. 4:20-cv-00484-JAS

**DEFENDANT’S ANSWER TO
 AMENDED COMPLAINT**

For her Answer to the Amended Complaint of Plaintiffs, Dr. Cara Christ, in her official capacity as Director of the Arizona Department of Health Services (“ADHS”), hereby admits, denies, and aver as follows.

INTRODUCTION

1. Answering Paragraph 1, Defendant states that the allegations are not directed at Defendant such that no response is required, and none is given. To the

1 extent a response is required, Defendant lacks sufficient information or knowledge to
2 form a belief as to the truth of the allegations contained therein and on that basis denies
3 them.

4 2. Answering Paragraph 2, Defendant admits that Jane Doe's birth certificate
5 was amended pursuant to terms agreed upon by the parties following Plaintiffs' motion
6 for preliminary injunction (Docs. 3, 41). Defendant lacks sufficient information or
7 knowledge to form a belief as to the truth of the remaining allegations and on that basis
8 denies them.

9 3. Answering Paragraph 3, Defendant states that the allegations are not
10 directed at Defendant such that no response is required, and none is given. To the
11 extent a response is required, Defendant lacks sufficient information or knowledge to
12 form a belief as to the truth of the allegations and, therefore, denies them.

13 4. Answering Paragraph 4, Defendant states that the allegations are not
14 directed at Defendant such that no response is required, and none is given. To the
15 extent a response is required, Defendant lacks sufficient information or knowledge to
16 form a belief as to the truth of the allegations contained therein and on that basis denies
17 them.

18 5. Answering Paragraph 5 of the Complaint, Defendant states that the
19 allegations are not directed at Defendant, call for legal conclusions such that no
20 response is required, and none is given. To the extent a response is required, Defendant
21 asserts that the statute and rule speak for themselves. Further answering Paragraph 5,
22 Defendant lacks sufficient information or knowledge to form a belief as to the truth of
23 the allegations and on that basis denies them.

24 6. Answering Paragraph 6, Defendant states that the allegations are not
25 directed at Defendant and call for legal conclusions such that no response is required,
26 and none is given. To the extent a response is required, Defendant affirmatively asserts
27 that A.R.S. § 36-337(A)(4) authorizes Arizona superior courts to order Defendant to
28 amend the sex/gender field on an Arizona birth certificate for a person born in Arizona.

1 Defendant denies that “Arizonans who move out of state and are no longer under the
2 jurisdiction of Arizona courts” for the purpose of amending their Arizona birth
3 certificates. Further answering Paragraph 6, Defendant lacks sufficient information or
4 knowledge to form a belief as to the truth of the remaining allegations and on that basis
5 denies them.

6 7. Answering Paragraph 7, Defendant states that the allegations are not
7 directed at Defendant and call for legal conclusions such that no response is required,
8 and none is given. To the extent a response is required, Defendant lacks sufficient
9 information or knowledge to form a belief as to the truth of the allegation that
10 “transgender young people must too often navigate the world with a birth certificate that
11 does not match their sex” and on that basis denies it. Further answering Paragraph 7,
12 Defendant denies the remaining allegations.

13 8. Answering Paragraph 8, Defendant states that the allegations are not
14 directed at Defendant and calls for a legal conclusion such that no response is required,
15 and none is given. To the extent a response is required, Defendant denies the
16 allegations in Paragraph 8.

17 **JURISDICTION AND VENUE**

18 9. Answering Paragraph 9, Defendant states that the allegations are not
19 directed at Defendant such that no response is required, and none is given. To the
20 extent a response is required, Defendant admits that Plaintiffs have alleged their cause
21 of action arises under 42 U.S.C. § 1983 and § 1988.

22 10. Answering Paragraph 10, Defendant states that the allegations are not
23 directed at Defendant and calls for a legal conclusion such that no response is required,
24 and none is given. To the extent a response is required, Defendant denies the
25 allegations in Paragraph 10.

26 11. Answering Paragraph 11, Defendant states that the allegations are not
27 directed at Defendant and calls for a legal conclusion such that no response is required,
28 and none is given. To the extent a response is required, Defendant denies that venue is

1 proper in the Tucson Division. Defendant affirmatively asserts that venue is proper in
2 the Phoenix Division.

3 12. Answering Paragraph 12, Defendant states that the allegations are not
4 directed at Defendant and calls for a legal conclusion such that no response is required,
5 and none is given. To the extent a response is required, Defendant asserts that the
6 referenced statutes and rules speak for themselves. Defendant further asserts that this
7 Court lacks the authority to grant the requested relief under those statutes and rules.

8 13. Answering Paragraph 13, Defendant states that the allegations are not
9 directed at Defendant and calls for a legal conclusion such that no response is required,
10 and none is given. To the extent a response is required, Defendant admits the allegation
11 as to Dr. Cara Christ in her official capacity as Director of ADHS.

12 **PARTIES**

13 14. Answering Paragraph 14, Defendant states that the allegations are not
14 directed at Defendant such that no response is required, and none is given. To the
15 extent a response is required, Defendant asserts that Plaintiff D.T. has been voluntarily
16 dismissed as a Plaintiff in this matter (Docs. 56 and 78). Defendant lacks sufficient
17 information or knowledge to form a belief as to the truth of the remaining allegations
18 and on that basis denies them.

19 15. Answering Paragraph 15, Defendant states that the allegations are not
20 directed at Defendant such that no response is required, and none is given. To the
21 extent a response is required, Defendant asserts that Plaintiff Jane Doe has been
22 voluntarily dismissed as a Plaintiff in this matter (Docs. 56 and 78). To the extent a
23 response is required, Defendant lacks sufficient information or knowledge to form a
24 belief as to the truth of the allegations and on that basis denies them.

25 16. Answering Paragraph 16, Defendant states that the allegations are not
26 directed at Defendant such that no response is required, and none is given. To the
27 extent a response is required, Defendant admits that Helen Roe, by way of next friend
28 Megan Roe, is a named Plaintiff in the Complaint. Defendant lacks sufficient

1 information and knowledge to form a belief as to the truth of the remaining allegations
2 and on that basis denies them.

3 17. Answering Paragraph 17, Defendant states that the allegations are not
4 directed at Defendant such that no response is required, and none is given. To the
5 extent a response is required, Defendant admits that James Poe, by way of next friend
6 Laura Poe, is a named Plaintiff in the Complaint. Defendant lacks sufficient
7 information and knowledge to form a belief as to the truth of the remaining allegations
8 and therefore denies them.

9 18. Answering Paragraph 18, Defendant states that the allegations are not
10 directed at Defendant such that no response is required, and none is given. To the
11 extent a response is required, Defendant admits that Carl Voe, by way of next friend
12 Rachel Voe, is a named Plaintiff in the Complaint. Defendant lacks sufficient
13 information and knowledge to form a belief as to the truth of the remaining allegations
14 and therefore denies them.

15 19. Answering Paragraph 19, Defendant admits that Dr. Cara Christ in her
16 capacity as the State Registrar has “general supervision of vital statistics in the state and
17 is charged with the execution of the vital statistics laws of Arizona, including the
18 provision of the necessary instructions and forms for obtaining and preserving records
19 of births.” Defendant also admits that Dr. Christ “has supervisory authority over the
20 assistant state registrars and deputy local registrars throughout Arizona” pursuant to
21 Arizona statute. Defendant denies the remaining allegations in Paragraph 19.

22 20. Answering Paragraph 20 , Defendant states that the allegations are not
23 directed at Defendant and that Thomas Salow has been dismissed as a Defendant in this
24 matter (Docs. 56 and 78) such that no response is required, and none is given. To the
25 extent a response is required, Defendant admits that Thomas Salow is the Branch Chief
26 of the Division of Public Health Licensing Services for ADHS. Defendant denies the
27 remaining allegations in Paragraph 20.
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1 26. Answering Paragraph 26, Defendant states that the allegations are not
2 directed at Defendant such that no response is required, and none is given. To the
3 extent a response is required, Defendant lacks sufficient information or knowledge to
4 form a belief as to the truth of the allegations contained therein and on that basis denies
5 them.

6 27. Answering Paragraph 27, Defendant states that the allegations are not
7 directed at Defendant such that no response is required, and none is given. To the
8 extent a response is required, Defendant lacks sufficient information or knowledge to
9 form a belief as to the truth of the allegations contained therein and on that basis denies
10 them.

11 28. Answering Paragraph 28, Defendant states that the allegations are not
12 directed at Defendant such that no response is required, and none is given. To the
13 extent a response is required, Defendant lacks sufficient information or knowledge to
14 form a belief as to the truth of the allegations contained therein and on that basis denies
15 them.

16 29. Answering Paragraph 29, Defendant states that the allegations are not
17 directed at Defendant such that no response is required, and none is given. To the
18 extent a response is required, Defendant lacks sufficient information or knowledge to
19 form a belief as to the truth of the allegations contained therein and on that basis denies
20 them.

21 30. Answering Paragraph 30, Defendant states that the allegations are not
22 directed at Defendant such that no response is required, and none is given. To the
23 extent a response is required, Defendant lacks sufficient information or knowledge to
24 form a belief as to the truth of the allegations contained therein and on that basis denies
25 them.

26 31. Answering Paragraph 31, Defendant states that the allegations are not
27 directed at Defendant such that no response is required, and none is given. To the
28 extent a response is required, Defendant lacks sufficient information or knowledge to

1 form a belief as to the truth of the allegations contained therein and on that basis denies
2 them.

3 32. Answering Paragraph 32, Defendant states that the allegations are not
4 directed at Defendant such that no response is required, and none is given. To the
5 extent a response is required, Defendant lacks sufficient information or knowledge to
6 form a belief as to the truth of the allegations contained therein and on that basis denies
7 them.

8 33. Answering Paragraph 33, Defendant states that the allegations are not
9 directed at Defendant such that no response is required, and none is given. To the
10 extent a response is required, Defendant lacks sufficient information or knowledge to
11 form a belief as to the truth of the allegations contained therein and on that basis denies
12 them.

13 34. Answering Paragraph 34, Defendant states that the allegations are not
14 directed at Defendant such that no response is required, and none is given. To the
15 extent a response is required, Defendant lacks sufficient information or knowledge to
16 form a belief as to the truth of the allegations contained therein and on that basis denies
17 them.

18 35. Answering Paragraph 35, Defendant states that the allegations are not
19 directed at Defendant such that no response is required, and none is given. To the
20 extent a response is required, Defendant lacks sufficient information or knowledge to
21 form a belief as to the truth of the allegations contained therein and on that basis denies
22 them.

23 36. Answering Paragraph 36, Defendant states that the allegations are not
24 directed at Defendant such that no response is required, and none is given. To the
25 extent a response is required, Defendant lacks sufficient information or knowledge to
26 form a belief as to the truth of the allegations contained therein and on that basis denies
27 them.

28

1 37. Answering Paragraph 37, Defendant states that the allegations are not
2 directed at Defendant such that no response is required, and none is given. To the
3 extent a response is required, Defendant lacks sufficient information or knowledge to
4 form a belief as to the truth of the allegations contained therein and on that basis denies
5 them.

6 38. Answering Paragraph 38, Defendant states that the allegations are not
7 directed at Defendant such that no response is required, and none is given. To the
8 extent a response is required, Defendant lacks sufficient information or knowledge to
9 form a belief as to the truth of the allegations contained therein and on that basis denies
10 them.

11 39. Answering Paragraph 39, Defendant states that the allegations are not
12 directed at Defendant such that no response is required, and none is given. To the
13 extent a response is required, Defendant lacks sufficient information or knowledge to
14 form a belief as to the truth of the allegations contained therein, and on that basis denies
15 them.

16 40. Answering Paragraph 40, Defendant states that the allegations are not
17 directed at Defendant such that no response is required, and none is given. To the
18 extent a response is required, Defendant lacks sufficient information or knowledge to
19 form a belief as to the truth of the allegations contained therein and on that basis denies
20 them.

21 41. Answering Paragraph 41, Defendant states that the allegations are not
22 directed at Defendant such that no response is required, and none is given. To the
23 extent a response is required, Defendant admits that a birth certificate is a trusted
24 government-issued document. Defendant denies the remaining allegations in Paragraph
25 41.

26 42. Answering Paragraph 42, Defendant states that the allegations are not
27 directed at Defendant such that no response is required, and none is given. To the
28 extent a response is required, Defendant admits that birth certificates may be accepted

1 as government-issued identification in some circumstances. Defendant lacks sufficient
2 information or knowledge to form a belief as to the truth of the remaining allegations
3 contained in Paragraph 42 and on that basis denies them.

4 43. Answering Paragraph 43, Defendant states that the allegations are not
5 directed at Defendant such that no response is required, and none is given. To the
6 extent a response is required, Defendant lacks sufficient information or knowledge to
7 form a belief as to the truth of the allegations contained therein and on that basis denies
8 them.

9 44. Answering Paragraph 44, Defendant states that the allegations are not
10 directed at Defendant such that no response is required, and none is given. To the
11 extent a response is required, Defendant lacks sufficient information or knowledge to
12 form a belief as to the truth of the allegations contained therein and on that basis denies
13 them.

14 45. Answering Paragraph 45, Defendant states that the allegations are not
15 directed at Defendant such that no response is required, and none is given. To the
16 extent a response is required, Defendant lacks sufficient information or knowledge to
17 form a belief as to the truth of the allegations contained therein and on that basis denies
18 them.

19 46. Answering Paragraph 46, Defendant states that the allegations call for
20 legal conclusions such that no response is required, and none is given. To the extent a
21 response is required, Defendant admits the allegations and asserts that the cited statute
22 speaks for itself.

23 47. Answering Paragraph 47, Defendant states that the allegations are not
24 directed at Defendant and call for legal conclusions such that no response is required,
25 and none is given. To the extent a response is required, Defendant affirmatively asserts
26 that the statute speaks for itself.

27 48. Answering Paragraph 48 Defendant states that the allegations call for
28 legal conclusions such that no response is required, and none is given. To the extent a

1 response is required, Defendant asserts that the statute and rule, in their entirety, speak
2 for themselves.

3 49. Answering Paragraph 49, Defendant states that the allegations call for
4 legal conclusions such that no response is required, and none is given. To the extent a
5 response is required, Defendant denies the allegations in Paragraph 49 and asserts that
6 the statute speaks for itself.

7 50. Answering Paragraph 50, Defendant states that the allegations call for
8 legal conclusions such that no response is required, and none is given. To the extent a
9 response is required, Defendant asserts that the statute speaks for itself.

10 51. Answering Paragraph 51, Defendant states that the allegations are not
11 directed at Defendant such that no response is required, and none is given. To the
12 extent a response is required, Defendant cannot answer for the Arizona courts;
13 Defendant lacks sufficient information or knowledge to form a belief as to the truth of
14 the allegations and on that basis denies them.

15 52. Answering Paragraph 52, Defendant states that the allegations are not
16 directed at Defendant and call for legal conclusions such that no response is required,
17 and none is given. To the extent a response is required, Defendant lacks sufficient
18 information or knowledge to form a belief as to the truth of the remaining allegations in
19 Paragraph 52 and on that basis denies them.

20 53. Answering Paragraph 53, Defendant states that the allegations are not
21 directed at Defendant and call for a legal conclusion such that no response is required,
22 and none is given. To the extent a response is required, Defendant denies the
23 allegations in Paragraph 53.

24 54. Answering Paragraph 54, Defendant states that the allegations are not
25 directed at Defendant such that no response is required, and none is given. To the
26 extent a response is required, Defendant cannot answer on behalf of the Arizona courts;
27 Defendant lacks sufficient information or knowledge to form a belief as to the truth of
28 the allegations in Paragraph 54 and on that basis denies them.

1 55. Answering Paragraph 55, Defendant states that the allegations call for
2 legal conclusions such that no response is required, and none is given. To the extent a
3 response is required, Defendant affirmatively asserts that the statute and rule speak for
4 themselves. Defendant denies the remaining allegations in Paragraph 55.

5 56. Answering Paragraph 56, Defendant denies the allegations.

6 57. Answering Paragraph 57, Defendant denies the allegations.

7 58. Answering Paragraph 58, Defendant states that the allegations are not
8 directed at Defendant such that no response is required, and none is given. To the
9 extent a response is required, Defendant lacks sufficient information or knowledge to
10 form a belief as to the truth of the allegations contained therein and on that basis denies
11 them.¹

12 59. Answering Paragraph 59, Defendant states that the allegations are not
13 directed at Defendant such that no response is required, and none is given. To the
14 extent a response is required, Defendant lacks sufficient information or knowledge to
15 form a belief as to the truth of the allegations contained therein and on that basis denies
16 them.

17 60. Answering Paragraph 60, Defendant states that the allegations are not
18 directed at Defendant such that no response is required, and none is given. To the
19 extent a response is required, Defendant lacks sufficient information or knowledge to
20 form a belief as to the truth of the allegations contained therein and on that basis denies
21 them.

22 61. Answering Paragraph 61, Defendant states that the allegations are not
23 directed at Defendant such that no response is required, and none is given. To the
24 extent a response is required, Defendant lacks sufficient information or knowledge to
25

26
27 ¹ Further answering Paragraphs 58 to 72, Defendant states that the allegations are
28 irrelevant because Plaintiffs have voluntarily dismissed D.T. as a Plaintiff, and the
Court has thus ordered D.T.'s claims dismissed. (Docs. 56 and 78).

1 form a belief as to the truth of the allegations contained therein and on that basis denies
2 them.

3 62. Answering Paragraph 62, Defendant states that the allegations are not
4 directed at Defendant such that no response is required, and none is given. To the
5 extent a response is required, Defendant lacks sufficient information or knowledge to
6 form a belief as to the truth of the allegations contained therein and on that basis denies
7 them.

8 63. Answering Paragraph 63, Defendant states that the allegations are not
9 directed at Defendant such that no response is required, and none is given. To the
10 extent a response is required, Defendant lacks sufficient information or knowledge to
11 form a belief as to the truth of the allegations contained therein and on that basis denies
12 them.

13 64. Answering Paragraph 64, Defendant states that the allegations are not
14 directed at Defendant such that no response is required, and none is given. To the
15 extent a response is required, Defendant lacks sufficient information or knowledge to
16 form a belief as to the truth of the allegations contained therein and on that basis denies
17 them.

18 65. Answering Paragraph 65, Defendant states that the allegations are not
19 directed at Defendant such that no response is required, and none is given. To the
20 extent a response is required, Defendant lacks sufficient information or knowledge to
21 form a belief as to the truth of the allegations contained therein and on that basis denies
22 them.

23 66. Answering Paragraph 66, Defendant states that the allegations are not
24 directed at Defendant such that no response is required, and none is given. To the
25 extent a response is required, Defendant lacks sufficient information or knowledge to
26 form a belief as to the truth of the allegations contained therein and on that basis denies
27 them.

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1 67. Answering Paragraph 67, Defendant states that the allegations are not
2 directed at Defendant such that no response is required, and none is given. To the
3 extent a response is required, Defendant lacks sufficient information or knowledge to
4 form a belief as to the truth of the allegations contained therein and on that basis denies
5 them.

6 68. Answering Paragraph 68, Defendant states that the allegations are not
7 directed at Defendant such that no response is required, and none is given. To the
8 extent a response is required, Defendant lacks sufficient information or knowledge to
9 form a belief as to the truth of the allegations contained therein and on that basis denies
10 them.

11 69. Answering Paragraph 69, Defendant states that the allegations are not
12 directed at Defendant such that no response is required, and none is given. To the
13 extent that a response is required, Defendant lacks sufficient information or knowledge
14 to form a belief as to the truth of the process that D.T.'s parents and the court took to
15 obtain and issue a court order. Defendant denies the remaining allegations in Paragraph
16 69.

17 70. Answering Paragraph 70, Defendant states that the allegations are not
18 directed at Defendant such that no response is required, and none is given. To the
19 extent a response is required, Defendant lacks sufficient information or knowledge to
20 form a belief as to the truth of the allegations contained therein and on that basis denies
21 them.

22 71. Answering Paragraph 71, Defendant states that the allegations are not
23 directed at Defendant such that no response is required, and none is given. To the
24 extent a response is required, Defendant denies the allegations in paragraph 71.

25 72. Answering Paragraph 72, Defendant lacks sufficient information or
26 knowledge to form a belief as to the truth of the allegation that the judge made a
27 statement in court to D.T.'s parents. Defendant admits that the court order that D.T.
28 obtained was sufficient to amend D.T.'s birth certificate. Defendant also admits that

1 Lizette submitted an application to ADHS to change the sex listed on D.T.'s birth
2 certificate. Further answering Paragraph 72, Defendant denies the allegations remaining
3 therein.

4 73. Answering Paragraph 73, Defendant states that the allegations are not
5 directed at Defendant such that no response is required, and none is given. To the
6 extent a response is required, Defendant lacks sufficient information or knowledge to
7 form a belief as to the truth of the allegations contained therein and on that basis denies
8 them.²

9 74. Answering Paragraph 74, Defendant states that the allegations are not
10 directed at Defendant such that no response is required, and none is given. To the
11 extent a response is required, Defendant lacks sufficient information or knowledge to
12 form a belief as to the truth of the allegations contained therein and on that basis denies
13 them.

14 75. Answering Paragraph 75, Defendant states that the allegations are not
15 directed at Defendant such that no response is required, and none is given. To the
16 extent a response is required, Defendant lacks sufficient information or knowledge to
17 form a belief as to the truth of the allegations contained therein and on that basis denies
18 them.

19 76. Answering Paragraph 76, Defendant states that the allegations are not
20 directed at Defendant such that no response is required, and none is given. To the
21 extent a response is required, Defendant lacks sufficient information or knowledge to
22 form a belief as to the truth of the allegations contained therein and on that basis denies
23 them.

24 77. Answering Paragraph 77, Defendant states that the allegations are not
25 directed at Defendant such that no response is required, and none is given. To the
26

27 ² Further answering Paragraphs 73 to 85, Defendant states that the allegations are
28 irrelevant because Plaintiffs have voluntarily dismissed Jane Doe as a Plaintiff, and the
Court has thus ordered Jane Doe's claims dismissed (Docs. 56 and 78).

1 extent a response is required, Defendant lacks sufficient information or knowledge to
2 form a belief as to the truth of the allegations contained therein and on that basis denies
3 them.

4 78. Answering Paragraph 78, Defendant states that the allegations are not
5 directed at Defendant such that no response is required, and none is given. To the
6 extent a response is required, Defendant lacks sufficient information or knowledge to
7 form a belief as to the truth of the allegations contained therein and on that basis denies
8 them.

9 79. Answering Paragraph 79, Defendant states that the allegations are not
10 directed at Defendant such that no response is required, and none is given. To the
11 extent a response is required, Defendant lacks sufficient information or knowledge to
12 form a belief as to the truth of the allegations contained therein and on that basis denies
13 them.

14 80. Answering Paragraph 80, Defendant states that the allegations are not
15 directed at Defendant such that no response is required, and none is given. To the
16 extent a response is required, Defendant lacks sufficient information or knowledge to
17 form a belief as to the truth of the allegations contained therein and on that basis denies
18 them.

19 81. Answering Paragraph 81, Defendant states that the allegations are not
20 directed at Defendant such that no response is required, and none is given. To the
21 extent a response is required, Defendant lacks sufficient information or knowledge to
22 form a belief as to the truth of the allegations contained therein and on that basis denies
23 them.

24 82. Answering Paragraph 82, Defendant states that the allegations are not
25 directed at Defendant such that no response is required, and none is given. To the
26 extent a response is required, Defendant lacks sufficient information or knowledge to
27 form a belief as to the truth of the allegations contained therein and on that basis denies
28 them.

1 83. Answering Paragraph 83, Defendant states that the allegations are not
2 directed at Defendant such that no response is required, and none is given. To the
3 extent a response is required, Defendant lacks sufficient information or knowledge to
4 form a belief as to the truth of the allegations contained therein and on that basis denies
5 them.

6 84. Answering Paragraph 84, Defendant admits that Defendant and Plaintiff
7 Jane Doe entered a joint stipulation resulting in an order from this Court instructing
8 ADHS to amend the sex listed on her birth certificate to female (Doc. 39, 40) which
9 ADHS processed under Subsection (A)(4) in accordance with the agreement of the
10 parties. Defendant denies the remainder of the allegations in Paragraph 84.

11 85. Answering Paragraph 85, Defendant states that the allegations are not
12 directed at Defendant such that no response is required, and none is given. To the
13 extent a response is required, Defendant lacks sufficient information or knowledge to
14 form a belief as to the truth of the allegations contained therein and on that basis denies
15 them.

16 86. Answering Paragraph 86, Defendant states that the allegations are not
17 directed at Defendant such that no response is required, and none is given. To the
18 extent a response is required, Defendant lacks sufficient information or knowledge to
19 form a belief as to the truth of the allegations contained therein and on that basis denies
20 them.

21 87. Answering Paragraph 87, Defendant states that the allegations are not
22 directed at Defendant such that no response is required, and none is given. To the
23 extent a response is required, Defendant lacks sufficient information or knowledge to
24 form a belief as to the truth of the allegations contained therein and on that basis denies
25 them.

26 88. Answering Paragraph 88, Defendant states that the allegations are not
27 directed at Defendant such that no response is required, and none is given. To the
28 extent a response is required, Defendant lacks sufficient information or knowledge to

1 form a belief as to the truth of the allegations contained therein and on that basis denies
2 them.

3 89. Answering Paragraph 89, Defendant states that the allegations are not
4 directed at Defendant such that no response is required, and none is given. To the
5 extent a response is required, Defendant lacks sufficient information or knowledge to
6 form a belief as to the truth of the allegations contained therein and on that basis denies
7 them.

8 90. Answering Paragraph 90, Defendant states that the allegations are not
9 directed at Defendant such that no response is required, and none is given. To the
10 extent a response is required, Defendant lacks sufficient information or knowledge to
11 form a belief as to the truth of the allegations contained therein and on that basis denies
12 them.

13 91. Answering Paragraph 91, Defendant states that the allegations are not
14 directed at Defendant such that no response is required, and none is given. To the
15 extent a response is required, Defendant lacks sufficient information or knowledge to
16 form a belief as to the truth of the allegations contained therein and on that basis denies
17 them.

18 92. Answering Paragraph 92, Defendant states that the allegations are not
19 directed at Defendant such that no response is required, and none is given. To the
20 extent a response is required, Defendant lacks sufficient information or knowledge to
21 form a belief as to the truth of the allegations contained therein and on that basis denies
22 them.

23 93. Answering Paragraph 93, Defendant states that the allegations are not
24 directed at Defendant such that no response is required, and none is given. To the
25 extent a response is required, Defendant lacks sufficient information or knowledge to
26 form a belief as to the truth of the allegations contained therein and on that basis denies
27 them.

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1 94. Answering Paragraph 94, Defendant states that the allegations are not
2 directed at Defendant such that no response is required, and none is given. To the
3 extent a response is required, Defendant lacks sufficient information or knowledge to
4 form a belief as to the truth of the allegations contained therein and on that basis denies
5 them.

6 95. Answering Paragraph 95, Defendant states that the allegations are not
7 directed at Defendant such that no response is required, and none is given. To the
8 extent a response is required, Defendant lacks sufficient information or knowledge to
9 form a belief as to the truth of the allegations contained therein and on that basis denies
10 them.

11 96. Answering Paragraph 96, Defendant states that the allegations are not
12 directed at Defendant such that no response is required, and none is given. To the
13 extent a response is required, Defendant lacks sufficient information or knowledge to
14 form a belief as to the truth of the allegations contained therein and on that basis denies
15 them.

16 97. Answering Paragraph 97, Defendant states that the allegations are not
17 directed at Defendant such that no response is required, and none is given. To the
18 extent a response is required, Defendant lacks sufficient information or knowledge to
19 form a belief as to the truth of the allegations contained therein and on that basis denies
20 them.

21 98. Answering Paragraph 98, Defendant states that the allegations are not
22 directed at Defendant such that no response is required, and none is given. To the
23 extent a response is required, Defendant lacks sufficient information or knowledge to
24 form a belief as to the truth of the allegations contained therein and on that basis denies
25 them.

26 99. Answering Paragraph 99, Defendant states that the allegations are not
27 directed at Defendant such that no response is required, and none is given. To the
28 extent a response is required, Defendant lacks sufficient information or knowledge to

1 form a belief as to the truth of the allegations contained therein and on that basis denies
2 them.

3 100. Answering Paragraph 100, Defendant states that the allegations are not
4 directed at Defendant such that no response is required, and none is given. To the
5 extent a response is required, Defendant lacks sufficient information or knowledge to
6 form a belief as to the truth of the allegations contained therein and on that basis denies
7 them.

8 101. Answering Paragraph 101, Defendant states that the allegations are not
9 directed at Defendant such that no response is required, and none is given. To the
10 extent a response is required, Defendant lacks sufficient information or knowledge to
11 form a belief as to the truth of the allegations contained therein and on that basis denies
12 them.

13 102. Answering Paragraph 102, Defendant states that the allegations are not
14 directed at Defendant such that no response is required, and none is given. To the
15 extent a response is required, Defendant lacks sufficient information or knowledge to
16 form a belief as to the truth of the allegations contained therein and on that basis denies
17 them.

18 103. Answering Paragraph 103, Defendant states that the allegations are not
19 directed at Defendant such that no response is required, and none is given. To the
20 extent a response is required, Defendant lacks sufficient information or knowledge to
21 form a belief as to the truth of the allegations contained therein and on that basis denies
22 them.

23 104. Answering Paragraph 104, Defendant states that the allegations are not
24 directed at Defendant such that no response is required, and none is given. To the
25 extent a response is required, Defendant lacks sufficient information or knowledge to
26 form a belief as to the truth of the allegations contained therein and on that basis denies
27 them.
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1 105. Answering Paragraph 105, Defendant states that the allegations are not
2 directed at Defendant such that no response is required, and none is given. To the
3 extent a response is required, Defendant lacks sufficient information or knowledge to
4 form a belief as to the truth of the allegations contained therein and on that basis denies
5 them.

6 106. Answering Paragraph 106, Defendant states that the allegations are not
7 directed at Defendant such that no response is required, and none is given. To the
8 extent a response is required, Defendant lacks sufficient information or knowledge to
9 form a belief as to the truth of the allegations contained therein, and on that basis denies
10 them.

11 107. Answering Paragraph 107, Defendant states that the allegations are not
12 directed at Defendant such that no response is required, and none is given. To the
13 extent a response is required, Defendant lacks sufficient information or knowledge to
14 form a belief as to the truth of the allegations contained therein and on that basis denies
15 them.

16 108. Answering Paragraph 108, Defendant states that the allegations are not
17 directed at Defendant such that no response is required, and none is given. To the
18 extent a response is required, Defendant lacks sufficient information or knowledge to
19 form a belief as to the truth of the allegations contained therein and on that basis denies
20 them.

21 109. Answering Paragraph 109, Defendant states that the allegations are not
22 directed at Defendant such that no response is required, and none is given. To the
23 extent a response is required, Defendant lacks sufficient information or knowledge to
24 form a belief as to the truth of the allegations contained therein and on that basis denies
25 them.

26 110. Answering Paragraph 110, Defendant states that the allegations are not
27 directed at Defendant such that no response is required, and none is given. To the
28 extent a response is required, Defendant lacks sufficient information or knowledge to

1 form a belief as to the truth of the allegations contained therein and on that basis denies
2 them.

3 111. Answering Paragraph 111, Defendant states that the allegations are not
4 directed at Defendant such that no response is required, and none is given. To the
5 extent a response is required, Defendant lacks sufficient information or knowledge to
6 form a belief as to the truth of the allegations contained therein and on that basis denies
7 them.

8 **CLASS ACTION ALLEGATIONS**

9 112. Answering Paragraph 112, Defendant states that the allegations are not
10 directed at Defendant such that no response is required, and none is given. To the
11 extent a response is required, Defendant admits that Plaintiffs purport to bring their
12 claims under Federal Rule of Civil Procedure 23(a) and (b)(2) on behalf of themselves
13 and other similarly situated individuals. Defendant denies that their claims meet these
14 requirements for class certification.

15 113. Answering Paragraph 113, Defendant states that the allegations are not
16 directed at Defendant such that no response is required, and none is given. To the
17 extent a response is required, Defendant admits that Plaintiffs are requesting
18 certification of the proposed class definition in Paragraph 113 but denies that Plaintiffs'
19 claims meet the requirements for class certification.

20 114. Answering Paragraph 114, Defendant states that the allegations are not
21 directed at Defendant such that no response is required, and none is given. To the
22 extent a response is required, Defendant denies that Plaintiffs are adequate class
23 representatives. Defendant lacks sufficient information or knowledge to form a belief
24 as to the truth of the remaining allegations in Paragraph 114 and on that basis denies
25 them.

26 115. Answering Paragraph 115, Defendant states that the allegations are not
27 directed at Defendant and call for a legal conclusion such that no response is required,
28 and none is given. To the extent a response is required, Defendant denies that

1 Plaintiffs' claims meet the numerosity requirements of Rule 23(a)(1). Defendant lacks
2 sufficient information or knowledge to form a belief as to the truth of the remaining
3 allegations in Paragraph 115 and on that basis denies them.

4 116. Answering Paragraph 116, Defendant states that the allegations are not
5 directed at Defendant and call for a legal conclusion such that no response is required,
6 and none is given. To the extent a response is required, Defendant denies that
7 Plaintiffs' claims meet the commonality requirements of Rule 23(a)(2). Defendant
8 further denies the remaining allegations in Paragraph 116.

9 117. Answering Paragraph 117, Defendant states that the allegations are not
10 directed at Defendant and call for a legal conclusion such that no response is required,
11 and none is given. To the extent a response is required, Defendant denies that
12 Plaintiffs' claims meet the typicality requirements of Rule 23(a)(3). Defendant lacks
13 sufficient information or knowledge to form a belief as to the truth of the remaining
14 allegations in Paragraph 117 and on that basis denies them.

15 118. Answering Paragraph 118, Defendant states that the allegations are not
16 directed at Defendant and call for a legal conclusion such that no response is required,
17 and none is given. To the extent a response is required, Defendant denies that Plaintiffs
18 meet the adequacy requirements of Rule 23(a)(4). Defendant lacks sufficient
19 information or knowledge to form a belief as to the truth of the remaining allegations in
20 Paragraph 118 and on that basis denies them.

21 119. Answering Paragraph 119, Defendant states that the allegations are not
22 directed at Defendant and call for a legal conclusion such that no response is required,
23 and none is given. To the extent a response is required, Defendant denies that
24 Plaintiffs' counsel meet the adequacy requirements of Rule 23(a)(4). Defendant lacks
25 sufficient information or knowledge to form a belief as to the truth of the remaining
26 allegations in Paragraph 119 and on that basis denies them.

27 120. Answering Paragraph 120, Defendant states that the allegations call for a
28 legal conclusion such that no response is required, and none is given. To the extent a

1 response is required, Defendant denies that Plaintiffs' claims meet the requirements of
2 Rule 23(b)(2) and that "Defendants have acted or refused to act on grounds that apply
3 generally to the Class." Defendant lacks sufficient information or knowledge to form a
4 belief as to the truth of the remaining allegations in Paragraph 120 and on that basis
5 denies them.

6 **COUNT I**

7 **(Alleged Violation of the Equal Protection Clause**
8 **of the Fourteenth Amendment of the United States Constitution)**

9 121. Answering Paragraph 121, Defendant restates and incorporates by
10 reference the responses set forth in the above paragraphs.

11 122. Answering Paragraph 122, Defendant states that the allegations are not
12 directed at Defendant such that no response is required, and none is given. To the
13 extent a response is required, Defendant asserts that the constitutional provision and
14 statute speak for themselves.

15 123. Answering Paragraph 123, Defendant states that the allegations call for
16 legal conclusions such that no response is required, and none is given. To the extent a
17 response is required, Defendant denies the allegations in Paragraph 123.

18 124. Answering Paragraph 124, Defendant states that the allegations call for
19 legal conclusions such that no response is required, and none is given. To the extent a
20 response is required, Defendant denies the allegations in Paragraph 124.

21 125. Answering Paragraph 125, Defendant denies the allegations in Paragraph
22 125.

23 126. Answering Paragraph 126, Defendant states that the allegations are not
24 directed at Defendant and call for a legal conclusion such that no response is required,
25 and none is given. To the extent a response is required, Defendant denies the
26 allegations in Paragraph 126.

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COUNT II
**(Alleged Violation of the Substantive Due Process Right
to Privacy under the United States Constitution)**

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3 127. Answering Paragraph 127, Defendant restates and incorporates by
4 reference the responses set forth in the above paragraphs.

5 128. Answering Paragraph 128, Defendant states that the allegations are not
6 directed at Defendant such that no response is required, and none is given. To the
7 extent a response is required, Defendant asserts that the constitutional provision and
8 statute speak for themselves.

9 129. Answering Paragraph 129, Defendant states that the allegations are not
10 directed at Defendant such that no response is required, and none is given. To the
11 extent a response is required, Defendant asserts that the constitutional provision and
12 statute speak for themselves.

13 130. Answering Paragraph 130, Defendant states that the allegations are not
14 directed at Defendant and call for a legal conclusion such that no response is required,
15 and none is given. To the extent a response is required, Defendant denies the
16 allegations in Paragraph 130.

17 131. Answering Paragraph 131, Defendant states that the allegations are not
18 directed at Defendant such that no response is required, and none is given. To the
19 extent a response is required, Defendant lacks sufficient information or knowledge to
20 form a belief as to the truth of the allegations and on that basis denies them.

21 132. Answering Paragraph 132, Defendant states that the allegations are not
22 directed at Defendant and call for legal conclusions such that no response is required,
23 and none is given. To the extent a response is required, Defendant denies the
24 allegations in Paragraph 132.

25 133. Answering Paragraph 133, Defendant states that the allegations are not
26 directed at Defendant and call for legal conclusions such that no response is required,
27 and none is given. To the extent a response is required, Defendant denies the
28 allegations in Paragraph 133.

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COUNT IV

(Alleged Violation of the Substantive Due Process Right to choose whether to undergo a particular medical treatment under the United States Constitution)

140. Answering Paragraph 140, Defendant restates and incorporates by reference the responses set forth in the above paragraphs.

141. Answering Paragraph 141, Defendant states that the allegations are not directed at Defendant and call for legal conclusions such that no response is required, and none is given. To the extent a response is required, the constitutional provision and cited cases speak for themselves.

142. Answering Paragraph 142, Defendant states that the allegations are not directed at Defendant and call for legal conclusions such that no response is required, and none is given. To the extent a response is required, Defendant denies the allegations in Paragraph 142.

143. Answering Paragraph 143, Defendant states that the allegations are not directed at Defendant and call for legal conclusions such that no response is required, and none is given. To the extent a response is required, Defendant denies the allegations in Paragraph 143.

144. Answering Paragraph 144, Defendant states that the allegations are not directed at Defendant and call for a legal conclusion such that no response is required, and none is given. To the extent a response is required, Defendant denies the allegations in Paragraph 144.

Answering Plaintiffs' Prayer for Relief

The remainder of the Amended Complaint consists of Plaintiff's prayer for relief to which no response is required. To the extent a response is required, Defendant generally and specifically denies all allegations that Plaintiff is entitled to any requested relief.

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1 **General Denial of Allegations Except Those Specifically Admitted**

2 Unless specifically admitted above, Defendant denies each and every allegation
3 contained in the Complaint.

4 **Affirmative Defenses**

5 1. As a separate defense and in the alternative, Plaintiffs fail to state a claim
6 against Defendant upon which relief may be granted.

7 2. As a separate defense and in the alternative, this Court lacks subject
8 matter jurisdiction over Plaintiffs' claims under 28 U.S.C. § 1331, where no
9 constitutional violation has occurred.

10 3. As a separate defense and in the alternative, Plaintiffs lack Article III and
11 prudential standing.

12 4. As a separate defense and in the alternative, Plaintiffs lack standing to
13 seek declaratory judgment and/or injunctive relief where they have not suffered actual
14 injury.

15 5. As a separate defense and in the alternative, Defendant did not cause
16 Plaintiffs injury.

17 6. As a separate defense and in the alternative, Plaintiffs' claims cannot be
18 redressed by the Court where it lacks the authority to rewrite or amend the challenged
19 statute and regulation in order to grant declaratory and/or injunctive relief.

20 7. As a separate defense and in the alternative, Defendant did not violate
21 Plaintiffs' constitutional rights and cannot be enjoined to grant relief where Defendant
22 lacks authority to promulgate a process for amending birth certificates that exceeds the
23 authority already granted by A.R.S. § 36-337, or to allow Plaintiffs to participate in the
24 administrative process afforded to individuals who have already undergone a sex-
25 change operation or who have a chromosomal count that establishes the sex of the
26 person as different than in the registered birth certificate.

27 8. As a separate defense and in the alternative, this Court lacks jurisdiction
28 under the *Rooker-Feldman* Doctrine factors, including but not limited to, the fact that

1 Plaintiffs' claims are inextricably intertwined with the petitions Plaintiffs filed in state
2 court to amend their birth certificates such that adjudication of their claims would
3 undercut the state ruling and/or require this Court to interpret the application of state
4 laws or procedural rules. *Rooker v. Fidelity Trust Co.*, 263 U.S. 413 (1923); *District of*
5 *Columbia Court of Appeals. v. Feldman*, 460 U.S. 462 (1983).

6 9. As a separate defense and in the alternative, this Court should abstain
7 from exercising jurisdiction under the *Younger* Doctrine factors, including but not
8 limited to, the fact Plaintiffs have filed state-court petitions to amend their birth
9 certificates, Arizona has an important interest in processing and maintaining adequate
10 birth certificates, Plaintiffs' claims implicate the enforceability of Arizona statutes and
11 regulations, Plaintiffs had an adequate opportunity to raise their claims in their state
12 proceedings, and Plaintiffs seek declaratory and injunctive relief that interferes with the
13 state-court proceedings. *Younger v. Harris*, 401 U.S. 37 (1971).

14 10. As a separate defense and in the alternative, this Court should abstain
15 from exercising jurisdiction under the *Brillhart* Doctrine and/or the *Colorado River*
16 Doctrine factors, including but not limited to, the fact that Plaintiffs filed a state-court
17 petition to amend their birth certificates before filing their claims in this Court,
18 proceeding with their claims will likely result in piecemeal litigation, the state-court
19 proceedings could moot Plaintiffs' claims and render this Court's intervention
20 unnecessary, state law provides the rule of decision, the state-court proceedings raise the
21 same or substantially similar issues and are adequate to protect Plaintiffs' federal rights,
22 Plaintiffs filed this lawsuit after experiencing a setback in state court, and resolution of
23 the state-court petitions will fully resolve Plaintiffs claims. *Brillhart v. Excess Ins. Co.*
24 *of Am.*, 316 U.S. 491 (1942); *Colorado River Water Conservation Dist. v. United States*,
25 424 U.S. 800 (1976);

26 11. As a separate defense and in the alternative, this Court should abstain
27 from exercising jurisdiction until Plaintiffs' state court petitions have concluded under
28 the *Pullman* Doctrine factors, including but not limited to, the fact that Plaintiffs' claims

1 touch upon a sensitive area of social policy exclusively reserved to Arizona, the claims
2 can be mooted by a state-court order on Plaintiffs’ petitions to amend their birth
3 certificates, and Plaintiffs’ claims turn on the interpretation of Arizona statutes and
4 regulations. *R.R. Comm’n of Texas v. Pullman Co.*, 312 U.S. 496 (1941).

5 12. As a separate defense and in the alternative, the Arizona statute and
6 regulation, A.R.S. § 36-337 and A.A.C. § R9-19-208, do not deny any individual due
7 process of law.

8 13. As a separate defense and in the alternative, neither A.R.S. § 36-337 nor
9 A.A.C. § R9-19-208 deprives or otherwise unconstitutionally interferes with any
10 individual’s constitutionally protected interests.

11 14. As a separate defense and in the alternative, A.R.S. § 36-337 and A.A.C. §
12 R9-19-208 do not deny any individual equal protection under the law.

13 15. As a separate defense and in the alternative, A.R.S. § 36-337 and A.A.C. §
14 R9-19-208 are facially neutral because they apply to *all* persons seeking to amend their
15 birth certificates, including those wishing to amend their gender/sex markers—and do
16 not intentionally discriminate against Plaintiffs or any transgender person.

17 16. As a separate defense, and in the alternative, Defendant alleges that this
18 case is not certifiable as a class action pursuant to Fed. R. Civ. P. 23, et seq.

19 17. As a separate defense, and in the alternative, Defendant alleges that
20 Plaintiffs lack standing to maintain this action as a class action.

21 18. As a separate defense, and in the alternative, Defendant alleges that
22 Plaintiffs lack standing to assert claims on behalf of other individuals.

23 19. As a separate defense, and in the alternative, Defendant alleges that
24 Plaintiffs and putative class members have not suffered actual injury.

25 20. As a separate defense, and in the alternative, Defendant alleges that
26 Plaintiffs are not proper class representatives.

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1 21. As a separate defense and in the alternative, Plaintiffs are unable to
2 establish that Defendant caused all putative class members' alleged constitutional
3 violations.

4 22. As a separate defense and in the alternative, Plaintiffs are unable to
5 establish that their and putative class members' claims can be redressed through the
6 declaratory and/or injunctive relief requested.

7 23. As a separate defense, and in the alternative, Defendant alleges that
8 Plaintiffs' and the putative class members' own conduct caused or contributed to the
9 alleged harm, thus diminishing or eliminating their right to relief.

10 24. As a separate defense, and in the alternative, Defendant alleges that she
11 has acted reasonably and lawfully under the circumstances.

12 25. As a separate defense, and in the alternative, Defendant alleges that her
13 actions and inactions have been made pursuant to a legitimate government purpose.

14 26. As a separate defense, and in the alternative, Defendant alleges that she
15 has no authority over the Arizona Superior Court and its actions, which are the bases for
16 Plaintiffs' claims.

17 27. As a separate defense, and in the alternative, Plaintiffs have failed to
18 comply with Arizona's notice of claim of unconstitutionality statute for a declaratory
19 judgment.

20 28. As a separate defense, and in the alternative, to the extent that any
21 monetary claim is asserted, Plaintiffs have failed to comply with Arizona's notice of
22 claim statute.

23 29. As a separate defense, and in the alternative, Defendant has absolute
24 and/or qualified immunity.

25 30. Although Defendant does not have specific facts in support of her
26 remaining defenses at this time, Defendant reserves the right to assert the following
27 affirmative defenses pursuant to Fed. R. Civ. P. 8 and 12 should subsequent discovery
28

1 disclose facts in support of them, including, but not limited to, waiver, estoppel, release,
2 laches, and res judicata.

3 **WHEREFORE**, Defendant requests that the Court enter judgment against any
4 or all Plaintiffs and in favor of Defendant on all claims in the Complaint as follows:

- 5 1. Dismissing Plaintiffs claims with prejudice;
- 6 2. Denying Plaintiffs any relief;
- 7 3. Awarding Defendant taxable costs from the earliest date and from the
8 highest rate allowed by law;
- 9 4. Awarding Defendant costs, expenses, and attorneys' fees; and
- 10 5. Awarding Defendant any other and further relief that the Court deems just
11 and equitable.

12 **REQUEST FOR A JURY TRIAL**

13 Plaintiffs do not seek any damages, including nominal damages (Doc. 79). To
14 the extent Plaintiffs seek any non-equitable relief, Defendant requests a jury trial on all
15 triable issues raised in the Amended Complaint.

16 Respectfully submitted this 19th day of August, 2021.

17 STRUCK LOVE BOJANOWSKI & ACEDO, PLC

18
19 By /s/ Daniel P. Struck

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CERTIFICATE OF SERVICE

I hereby certify that on August 19, 2021, I electronically transmitted the attached document to the Clerk’s Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to the following CM/ECF registrants:

- Asaf Orr aorr@nclrights.org
- Barrett J. Anderson banderson@cooley.com
- Colin M. Proksel cproksel@omlaw.com
- Mary R. O’Grady mogrady@omlaw.com
- Patrick P. Gunn pgunn@cooley.com
- Payslie M. Bowman pbowman@omlaw.com

I hereby certify that on this same date, I served the attached document by U.S. Mail, postage prepaid, on the following, who is not a registered participant of the CM/ECF System:

N/A

/s/ Daniel P. Struck _____