

1 Fennemore Craig, P.C.
2 Timothy J. Berg (No. 004170)
3 Amy Abdo (No. 016346)
4 Ryan Curtis (No. 025133)
5 Shannon Cohan (No. 034429)
6 2394 E. Camelback Road, Suite 600
7 Phoenix, Arizona 85016
8 Telephone: (602) 916-5000
9 Email: tberg@fennemorelaw.com
10 Email: amy@fennemorelaw.com
11 Email: rcurtis@fennemorelaw.com
12 Email: scohan@fennemorelaw.com

13 Attorneys for Defendants
14 State of Arizona, Andy Tobin, and Paul Shannon

15 UNITED STATES DISTRICT COURT
16 DISTRICT OF ARIZONA

17 Russell B. Toomey,

18 Plaintiff,

19 v.

20 State of Arizona, et al.

21 Defendants.

CV-19-00035-TUC-RM

**DECLARATION OF RYAN CURTIS
IN SUPPORT OF DEFENDANTS
STATE OF ARIZONA'S, ANDY
TOBIN'S, AND PAUL SHANNON'S
REPLY IN SUPPORT OF MOTION
FOR SUMMARY JUDGMENT**

22 I, Ryan Curtis, submit this declaration under penalty of perjury pursuant to
23 28 U.S.C. § 1746 and declare as follows:

24 1. I am a Director at Fennemore Craig, P.C., am licensed to practice law in the
25 State of Arizona, and am lead counsel for Defendants State of Arizona, Andy Tobin, and
26 Paul Shannon (collectively, the "State Defendants").

2. I submit this declaration in support of the State Defendants' Reply In Support
of Motion for Summary Judgment, filed concurrently.

3. I base this declaration on my personal knowledge and on information obtained
in the course of the above-captioned matter.

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4. Attached as **Exhibit A** is a true and correct copy of excerpts of Christina Corieri's Deposition Transcript, dated July 13, 2022.

5. Attached as **Exhibit B** is a true and correct copy of excerpts of Elizabeth Schafer's Deposition Transcript, dated April 28, 2021.

6. Attached as **Exhibit C** is a true and correct copy of the webpage found at <https://cfo.asu.edu/benefits>, as viewed on November 18, 2022.

I declare under penalty of perjury that the foregoing is true and correct.

EXECUTED this 23rd day of November, 2022.


By: _____
Ryan Curtis

28377363

EXHIBIT A

Christina Corieri - 07/13/2022

UNITED STATES DISTRICT COURT

DISTRICT OF ARIZONA

RUSSELL B. TOOMEY,)
)
 Plaintiff,)
)
 vs.) 4:19-CV-00035
)
 STATE OF ARIZONA; ARIZONA BOARD)
 OF REGENTS, d/b/a UNIVERSITY OF)
 ARIZONA, a governmental body of)
 the State of Arizona; et al.,)
)
 Defendants.)
 _____)

VIDEOTAPED DEPOSITION OF CHRISTINA CORIERI

(Via Zoom Videoconference)

July 13, 2022

8:30 a.m.

Phoenix, Arizona

Glennie Reporting Services, LLC
1555 East Orangewood Avenue
Phoenix, Arizona 85020
602.266.6535
www.glennie-reporting.com

Prepared by:
Robin L. B. Osterode
CSR, RPR
CA CSR No. 7750
AZ CR No. 50695

Christina Corieri - 07/13/2022

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1 A. No.

2 Q. What do you disagree with?

3 MS. LAMM: Object to the form of the question.

4 THE WITNESS: Well, some of it I don't even
5 know what she's referring to. I don't know what the mass
6 resistance is. I don't know what the Alfred Kinsey
7 occultic faux science is. I don't even know what she's
8 talking about.

9 BY MR. ECKSTEIN:

10 Q. Okay. You've never heard of Alfred Kinsey?

11 A. I think I have vaguely heard of him as a
12 university professor. I've never read anything --

13 Q. I guess --

14 A. I'm sorry?

15 Q. I guess that's the difference -- the difference
16 in our generations. You've never heard of the Kinsey
17 Reports --

18 A. I never --

19 Q. -- in the 1940s?

20 All right. That's fine.

21 I want to ask you, do you agree that gender
22 reassignment surgery was not welcome in the governor's
23 office?

24 MS. LAMM: Object to the form of the question.

25 THE WITNESS: We -- we have never had a

Christina Corieri - 07/13/2022

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1 conversation about this, so I have no objection to
2 decisions that -- that people make.

3 BY MR. ECKSTEIN:

4 Q. Okay. And so you don't know whether it was
5 welcome or not welcome. Correct?

6 A. We don't have a position on this.

7 Q. Or -- no position at all?

8 A. No, this is an individual decision.

9 Q. All right. When you're saying individual
10 decision, what do you mean by that?

11 A. I mean it's a decision for somebody to make for
12 themselves. I -- I do not have a position on feelings on
13 whether or not somebody, you know, gets it or not. It
14 just doesn't --

15 Q. But if a person is employed by the State of
16 Arizona, say by the University of Arizona and wants to
17 have gender reassignment surgery, that person could not
18 have it at any time during the time you've been employed
19 by that office. Correct?

20 MS. COHAN: Form.

21 MS. LAMM: Object to the form of the question.

22 THE WITNESS: That's not true.

23 BY MR. ECKSTEIN:

24 Q. Oh, tell me why it's not true.

25 A. Because you can always get it if you are

Christina Corieri - 07/13/2022

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1 A. Okay.

2 Q. Okay. Thank you.

3 I want to take you back to the September 2016
4 time frame. And I'm just going to paraphrase what you
5 said about that. I'm not trying to put words in your
6 mouth, but you described recalling two meetings that
7 occurred generally in the early September 2016 time frame
8 concerning a potential change to the ADOA plan as it
9 relates to gender reassignment surgery.

10 Do you recall that discussion?

11 MS. LAMM: Object to -- object to the form of
12 the question.

13 THE WITNESS: I want to correct. I said
14 August 2016. I was actually out of the country for most
15 of September 2016.

16 BY MR. POWELL:

17 Q. Okay. So the August time frame, then.

18 A. The August time frame was the first
19 conversation, the meeting, the follow-up conversations,
20 e-mails, happened after September of -- of 2016. So
21 those were more like the, I think November-ish time
22 frame.

23 Q. Okay. We'll get to some of those documents and
24 we'll be precise about the dates of them. But I wanted
25 just to address a couple threshold issues. You and

Christina Corieri - 07/13/2022

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1 meeting or the lead-up to the meeting?

2 A. I don't know leading up to the meeting in
3 August, because I was invited to it by Mike Liburdi.

4 Q. Okay. So this e-mail -- and, finally, please
5 tell us who Jill Metzinger is who is cc'd here.

6 A. Jill Metzinger was my assistant, and she
7 confirmed this call for me. However, Jill did not
8 realize or look and see that at the time of this call, I
9 would have been at the airport preparing to board a
10 flight out of the country.

11 Q. Did the call go forward at the time proposed,
12 which was for tomorrow, which would be September 2nd?
13 Did you end up not participating in this call?

14 A. So I do not remember participating in this
15 call. On Friday, September 2nd, I had a ticket to Rome,
16 I was -- my flight was leaving before 11:00 a.m. My
17 father had left me in charge of my youngest sister, who
18 has development disabilities, so I was trying to deal
19 with boarding a plane and taking care of my youngest
20 sister. I don't recall if I called in and listened to
21 part of this call, or if I skipped this call, but I have
22 no memory of it, other than that I remember being
23 incredibly hectic and stressed that morning dealing with
24 my youngest sister.

25 Q. Okay. And let me just go back to the beginning

Christina Corieri - 07/13/2022

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1 services e-mail. There was no e-mail to me on that. I
2 was not aware of that e-mail until Mr. Eckstein showed
3 that to me. So the only time I typically get ones
4 forwarded to me is if there is a problem with an agency
5 that we have to get fixed in regards to, I like this
6 bill, I don't like this bill.

7 They could get thousands of e-mails or phone
8 calls on any given bill and some of them are, you know,
9 not bills that you -- that you would think are going to
10 be the ones that get the high areas. I think maybe our
11 highest was related to Salt River horses of all things.

12 Q. And, by the way, I didn't mean to imply that
13 you had received that e-mail. Just give me a moment
14 here.

15 Ms. Corieri, would you turn to Tab 35 in our
16 binder.

17 A. I have to change binders, hold on.

18 MR. POWELL: Take your time.

19 THE WITNESS: Okay.

20 (Marked for identification [Exhibit 103.](#))

21 BY MR. POWELL:

22 Q. Exhibit Corieri -- sorry, this is the -- the
23 Tab 35, is an e-mail that was sent from something called
24 The Daily Signal to what appears to be your e-mail
25 address at the governor's office, Ms. Corieri, dated

Christina Corieri - 07/13/2022

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1 January 20, 2018. And it has a long subject line, but
2 one part of which says, "This man received 167 sex change
3 surgeries and he lives in a world of regret."

4 What is this document, Ms. Corieri?

5 A. I don't recall this document, but I receive
6 many e-mails from many different lists that end up in my
7 e-mail box every day. Everything from POLITICO to ones
8 from right-leaning groups like Heritage, ones from
9 liberal-leaning groups like the Center for Budget and
10 Policy, and the Brookings Institute, ones from AEI and
11 Cato. I have my ones I read more often than others. And
12 I get probably 30 to 40 e-mail lists a day.

13 Q. Is this something --

14 A. Some are on things like marijuana and all sorts
15 of stuff.

16 Q. And is this something that, this Daily Signal,
17 which appears to be a product of the Heritage Foundation,
18 did you subscribe for this?

19 A. I don't remember signing up for this. I may
20 have, but a lot of times other people sign us up for
21 their group lists, because they want us to see the
22 e-mails that they send. The only ones I specifically
23 remember subscribing to are POLITICO, because you select
24 the topics that you want.

25 Q. Do you recall in this time frame receiving from

Christina Corieri - 07/13/2022

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1 The Daily Signal -- or receiving versions of the -- or
2 issues of The Daily Signal, I should say, that raised
3 issues about sex change surgeries?

4 A. This one obviously did. I don't recall reading
5 this one. And I will tell you that, generally, during
6 legislative session I don't have time to read lists that
7 come to me. This particular one is January 20th. That
8 means we're at the beginning of session. That is likely
9 budget week. It is an incredibly busy time in our
10 office, and you don't read things that are not
11 immediately necessary at that time.

12 Q. Do you -- for how long back in time have you
13 been receiving The Daily Signal, do you know?

14 A. I would guess that this goes back fairly far
15 in -- in my -- but I would guess that all of them go back
16 fairly far.

17 Q. Back as far as 2016?

18 A. Very likely, but I don't know.

19 (Marked for identification Exhibit 104.)

20 BY MR. POWELL:

21 Q. If you could look now at Tab 33, and this is
22 also from The Daily Signal to your e-mail address. This
23 one is dated Saturday, September 2nd, 2017, at 11:03 a.m.
24 And it -- the second item that shows up on the first page
25 says, "My sex change was a myth. Why trying to change

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1 one's sex will always fail."

2 Do you recall receiving an article from The
3 Daily Signal on that topic?

4 A. I don't recall this. This obviously was in
5 my -- in my e-mail box. I would have been on vacation at
6 this point, as I went away for Labor Day that year. So I
7 certainly didn't read it then and it would not be on my
8 high level of important things to read when I got back,
9 so I don't recall reading this. I doubt that I did.

10 MR. POWELL: Why don't we take -- we may well
11 be done, but if we could take another five-minute break,
12 we'll take a look at where we are and get back to you.

13 THE VIDEOGRAPHER: Off the record at 12:19 p.m.
14 (Recessed from 12:19 p.m. until 12:27 p.m.)

15 THE VIDEOGRAPHER: We are on the record at
16 12:27 p.m.

17 Please proceed when ready.

18 MR. ECKSTEIN: In the Ninth Circuit argument in
19 this case, Mr. Berg represented to the Ninth Circuit and
20 then Fennemore, I think also represented to the district
21 court that it would not assert an attorney-client
22 privilege.

23 Shannon, is that correct?

24 MS. COHAN: No, that is not accurate. We -- we
25 said we would not assert the advice of counsel defense.

Christina Corieri - 07/13/2022

1 STATE OF ARIZONA)
2 COUNTY OF MARICOPA)

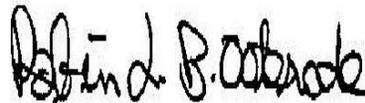
3 BE IT KNOWN that the foregoing proceedings
4 were taken before me; that the witness before testifying
5 was duly sworn by me to testify to the whole truth; that
6 the foregoing pages are a full, true, and accurate record
7 of the proceedings all done to the best of my skill and
8 ability; that the proceedings were taken down by me in
9 shorthand and thereafter reduced to print under my
10 direction.

11 [X] Review and signature was requested.

12 [] Review and signature was waived.

13 [] Review and signature not required.

14 I FURTHER CERTIFY that I have complied with
15 the ethical obligations set forth in the ACJA 7-206(F)(3)
16 and ACJA 7-206(J)(1)(g)(1) and (2). Dated at Phoenix,
17 Arizona, this 23rd day of July, 2022.

18 

19 _____
20 ROBIN L. B. OSTERODE, RPR
21 CA CSR No. 7750
22 AZ CR No. 50695

23 * * * * *

24 I CERTIFY that Glennie Reporting Services,
25 LLC, has complied with the ethical obligations set forth
in ACJA 7-206(J)(1)(g)(1) through (6).

26 

27 _____
28 GLENNIE REPORTING SERVICES, LLC
29 Registered Reporting Firm
30 Arizona RRF No. R1035

EXHIBIT B

IN THE UNITED STATES DISTRICT COURT

DISTRICT OF ARIZONA

RUSSELL B. TOOMEY,)
)
 Plaintiff,)
)
 vs.) 4:19-cv-00035
)
 STATE OF ARIZONA; ARIZONA BOARD)
 OF REGENTS, D/B/A UNIVERSITY OF)
 ARIZONA, a governmental body of)
 the State of Arizona; et al.,)
)
 Defendants.)
)

VIDEOTAPED DEPOSITION OF ELIZABETH MARIE SCHAFER

Via Zoom videoconference
April 28, 2021
8:33 a.m.

Glennie Reporting Services, LLC
1555 East Oranewood Avenue
Phoenix, Arizona 85020

602.266.6535
www.glenne-reporting.com

Prepared by:

Jill Marnell, RPR
Arizona Certified
Reporter No. 50021

Elizabeth Schafer, Videotaped - 04/28/2021

150

1 Do you see that?

2 A. Yes.

3 Q. Let's talk about Kelly first. Do you know
4 which -- Or who is Kelly? Who are you referring to?

5 A. It's the finance manager.

6 Q. Is that Kelly Sharritts?

7 A. Yes.

8 Q. So you had gotten with Kelly Sharritts to talk
9 about the difference between per employee and per member
10 statements; is that right?

11 A. Well, based on the earlier email we just looked
12 at, that was one of my first questions, was, were we
13 talking per member per -- or per employee? So obviously I
14 had to go to her to try and get clarification on that.

15 Q. And did Kelly give you clarification on that?

16 A. She must have.

17 Q. What do you remember about the clarification
18 Kelly gave you?

19 A. I remember nothing about that conversation except
20 for what's in front of me. So I'm assuming she said it
21 was per employee.

22 Q. Okay. In the email you say [as read]: I made
23 the changes we discussed.

24 If we look at the chart, you notice that the
25 first bullet point that was in the previous version of the

Elizabeth Schafer, Videotaped - 04/28/2021

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1 chart which had mentioned the cost being, quote,
2 relatively low is no longer there.

3 Do you see that?

4 A. I do.

5 Q. Did Marie Isaacson direct you to make that
6 change?

7 A. I have no memory of that, but I would guess that,
8 yes, she probably did.

9 Q. And so as we mentioned before, Marie Isaacson was
10 ultimately directing what this chart looked like and what
11 it contained. Is that right?

12 A. I needed to please Marie, yes.

13 Q. And in needing to please Marie, one of the
14 changes that you made or likely made was removing this
15 bullet point that said the overall impact to cost would be
16 relatively low.

17 A. Yes.

18 Q. Do you remember or do you know why Marie wanted
19 you to remove that bullet point?

20 A. No.

21 Q. Do you have a guess based on your interactions
22 with Marie Isaacson and based on circumstances of this
23 chart why she might have wanted you to delete that bullet
24 point?

25 A. If I had to guess, someone didn't want it in

Elizabeth Schafer, Videotaped - 04/28/2021

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1 black and white.

2 Q. And who would that someone might have been?

3 A. I have no idea.

4 Q. And to be clear, what they didn't want in black
5 and white was that the cost to ADOA would be relatively
6 low.

7 A. Yeah, the way it was -- it makes it sound like
8 it's not a lot of money.

9 Q. Okay. We can turn to Tab 30. This has been
10 premarked as Schafer [Exhibit 30](#). And we can enter it into
11 the record as Schafer [Exhibit 30](#). In the bottom
12 right-hand corner you should see AZSTATE.151707.

13 Do you see that?

14 A. I do.

15 Q. And this is another version of the chart that you
16 were working on; correct?

17 A. Yes.

18 Q. I will represent to you that this document is a
19 stand-alone document, meaning it's not attached to any
20 email. Does that make sense?

21 A. Yes.

22 Q. I will also represent to you that unlike the
23 other charts that we had previously looked at this one
24 does not have a draft watermark. I don't know if you
25 noticed but the other ones had a draft watermark

1 STATE OF ARIZONA)
) ss.
 2 COUNTY OF YAVAPAI)

3 BE IT KNOWN that the foregoing proceedings were
 4 taken before me; that the witness before testifying was
 5 duly sworn by me to testify to the whole truth; that the
 6 foregoing pages are a full, true, and accurate record of
 7 the proceedings, all done to the best of my skill and
 8 ability; that the proceedings were taken down by me in
 9 shorthand and thereafter reduced to print under my
 10 direction.

11 I CERTIFY that I am in no way related to, nor
 12 employed by any of the parties hereto, and have no
 13 interest in the outcome thereof.

- 14 [X] Review and signature was requested.
- 15 [] Review and signature was waived.
- 16 [] Review and signature not requested.

17 I CERTIFY that I have complied with the ethical
 18 obligations set forth in ACJA 7-206(F)(3) and ACJA
 19 7-206(J)(1)(g)(1) and (2). Dated at Prescott, Arizona,
 20 this 10th day of May, 2021.

Jill Marnell

21 JILL MARNELL
 22 Certified Reporter #50021
 23 Registered Professional Reporter

24 * * * * *

25 I CERTIFY that GLENNIE REPORTING SERVICES, LLC, has
 26 complied with the ethical obligations set forth in ACJA
 27 7-206(J)(1)(g)(1) through (6).

28 GLENNIE REPORTING SERVICES, LLC
 29 Registered Reporting Firm
 30 Arizona RRF No. R1035

EXHIBIT C

Benefits Enrollment

[Home](#) / [Human Resources](#) / Benefits Enrollment

Open enrollment

Welcome to ASU's benefits open enrollment period. **Enrollment is now open until 5 p.m., Nov. 13, 2022.** Open enrollment is your opportunity to change your benefits coverage, enroll or continue a flexible spending account or review and designate life insurance beneficiaries.

[Enroll today](#)

Information sessions

The Office of Human Resources benefits team hosted virtual webinars to review the 2023 benefit plans.

[Watch recorded information sessions](#)

Plan updates and changes

Benefits plans are reviewed annually to ensure ASU employees have access to comprehensive benefits plans that enhance the total compensation of its faculty and staff. In 2023, benefits-eligible faculty and staff will have a new dental carrier and access to a new subsidy for gender-affirming procedures. See what's new for the 2023 benefits plan year.

Dental carrier change

The Cigna Dental Health Maintenance Organization dental plan will no longer be available to ASU employees starting Jan. 1, 2023. If you are currently enrolled in Cigna dental, you must select a new dental carrier during benefits open enrollment. The Cigna DHMO plan will be replaced by the United Healthcare Solstice S800B Dental Plan. Delta Dental will remain a carrier option for 2023.

UHC dental plan is similar in structure to Cigna dental, and premiums for 2023 will remain the same. You do not need to be enrolled in the UHC medical plan to enroll in the UHC DHMO dental plan. Visit the [dental web page](#) for details and updated fees.

Gender-affirming medical care

ASU values inclusion and fair treatment of all members of our community.

Effective Jan. 1, 2023, ASU will provide a financial subsidy of up to \$10,000 for gender-affirming medical care services not currently covered by the Arizona Department of Administration health care plan. Please review the following subsidy details. [Read More](#)

- Employees and dependents must be enrolled in an ASU medical plan to qualify.
- This gender-affirming subsidy is not an elected benefit. Eligible employees can submit a request after Jan. 1, 2023.
- This is a per-person maximum lifetime benefit.
- Only available for medical services performed after Jan. 1, 2023; it is not retroactive.
- If you enroll in a High Deductible Health Plan, you must exhaust your annual deductible.

Please [contact the Employee Service Center](#) with questions about gender-affirming medical care and eligibility.

Flexible Spending Accounts

If you have an annual flexible spending account, enrollment is required. FSA contributions must be re-elected each year.

- Annual contribution limit increase to \$3,050 for the health care FSA and Limited health care FSA.
- Maximum carryover amount of \$610 for the health care FSA and Limited health care FSA.
- Minimum annual contribution amount of \$100 for all flexible spending plans.

Benefits guide

Our benefits guide in the navigation menu on this page provides information about the following plan options and guidelines:

Employee healthcare guide provides information about medical, pharmacy, dental and vision plans available to benefits-eligible full and part-time employees.

Enrollment and administration guide explain eligibility rules, enrollment guidelines, plan contacts, pre-collected benefits deductions and Affordable Care Act coverage.

Family resource guide offers information about ASU's family policies, practices and programs.

[Employee healthcare](#)

[Enrollment and Administration](#)

[Family Resource Guide](#)
[designate life insurance](#)

[Financial security](#)

[Leaves of absence](#)

[Retirement](#)

[Workers' compensation](#)

Announcements

[ASU names Michael G. Latsko VP and chief human resources officer](#)

[ASU News: Forbes names ASU as top employer in Arizona](#)
[Delta Dental will remain a carrier](#)

[ASU receives HAWP Gold award](#)

[Employee discounts update](#)

[Earn up to \\$200 with HIP](#)

Financial security guide provides information about flex spending and health saving accounts, life and disability insurance programs, qualified tuition reduction and other voluntary benefits.

Leaves of absence guide provide information about how to submit requests for family, medical, personal or military leaves.

Retirement guide explains our programs, how to retire from ASU and how to work after retirement

Workers' compensation guide offers coverage and reporting information.

An employee with a disability may request an alternate format by contacting the HR Employee Service Center at 855-278-5081.

Contact

Email: [Email Us](#)

General Information

Employee Services - 855-278-5081.

Faculty Services - 480-727-9900.

Fax numbers

Benefits and Leaves

480-993-0007

Retirement

480-993-0008

ASU Business and Finance



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#1 in the U.S. for innovation
ASU ahead of MIT and Stanford — U.S. News & World Report, 7 years, 2016–2022

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