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Attorneys for Defendant Thomas C. Horne

UNITED STATES DISTRICT COURT

DISTRICT OF ARIZONA

**Jane Doe, by her next friends and parents
Helen Doe and James Doe; and Megan Roe,
by her next friends and parents, Kate Roe
and Robert Roe,**

Plaintiffs,

v.

**Thomas C. Horne, in his official capacity as
State Superintendent of Public Instruction;
Laura Toenjes, in her official capacity as
Superintendent of the Kyrene School
District; Kyrene school District; the Gregory
School; and Arizona Interscholastic
Association, Inc.,**

Defendants.

Case No. 4:23-cv-00185-JGZ

**REQUEST TO RESCHEDULE
HEARING**

1 Defendant Thomas C. Horne, in his official capacity as State Superintendent of Public
2 Instruction (“Defendant Horne”), respectfully requests that the Court re-schedule the hearing on
3 Plaintiffs’ Motion for Preliminary Injunction (the “Hearing”).

4 In an Order dated May 25, 2023, the Court set the Hearing for June 26, 2023, at 9:00 to
5 take place in person in Tucson, Arizona. Defendant Horne (pending the intervention of the
6 legislative leaders) is the only defendant in this matter who will be defending the Save Women’s
7 Sports Act, A.R.S. § 15-120.02. Therefore, if the legislative leaders have not been permitted to
8 intervene before the Hearing, Defendant Horne’s participation at the Hearing will be necessary if
9 both sides of this important public policy issue are to be heard.

10 Counsel for Defendant Horne currently has a long-scheduled trial in Maricopa County
11 Superior Court set to proceed through June 26, 2023, the date scheduled for the Hearing. Ex. A
12 (05-22-23 Minute Entry). Defendant Horne therefore requests that the Court either (1) re-schedule
13 the Hearing for one of the dates listed below, or (2) query counsel for all parties either by
14 telephonic conference or by email from the Court’s assistant or any other means the Court prefers,
15 to coordinate in setting a Hearing date that is available to all parties wishing to participate in the
16 Hearing.

17 The following dates are available to counsel for Defendant Horne:

18 June 28, 2023.

19 June 29, 2023.

20 **RESPECTFULLY SUBMITTED** on May 30, 2023.

21 **WILENCHIK & BARTNESS, P.C.**

22 /s/ Dennis I. Wilenchik

23 Dennis I. Wilenchik, Esq.

24 Karl Worthington, Esq.

25 The Wilenchik & Bartness Building

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Attorneys for Defendant Thomas C. Horne

1 /s/ Maria Syms, Esq.
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7 *Attorneys for Defendant Thomas C. Horne*

8 CERTIFICATE OF SERVICE

9 I hereby certify that on May 30, 2023, I electronically transmitted the attached document
10 to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic
11 Filing to the CM/ECF registrants.

12 *By: /s/ Hilary Myers*

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WILENGHIK & BARTNESS
A PROFESSIONAL CORPORATION

EXHIBIT A



Clerk of the Superior Court
*** Electronically Filed ***
05/22/2023 8:00 AM

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2021-004382

05/17/2023

HONORABLE DANIELLE J. VIOLA

CLERK OF THE COURT
L. Gilbert
Deputy

THOMAS TAGLIARINI SR., et al.

QUYEN T PHAM

v.

STATE OF ARIZONA

DENNIS I WILENCHIK

JASON M KELLY
JUDGE VIOLA

MINUTE ENTRY

East Court Building – Courtroom 714

9:15 a.m. This is the time set for a Status Conference. The following parties appear virtually through the Court Connect platform:

- Plaintiffs are represented by counsel, Anoop Bhatheja
- Defendant is represented by counsel, Tyler Swensen and Davis Bauer

A record of the proceedings is made digitally in lieu of a court reporter.

The Court outlines the documents reviewed in preparation for this hearing.

Counsel are directed to submit to the Court in PDF format the depositions for which there are objections to designated portions of testimony.

The parties shall meet and confer regarding the issue of calling virtual witnesses.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2021-004382

05/17/2023

Argument is presented on the parties' positions with respect to bifurcation.

Having considered prior arguments of counsel, the memoranda submitted by both parties, and the arguments this date,

THE COURT FINDS that bifurcation is appropriate. Accordingly,

IT IS ORDERED bifurcating trial in this matter. Phase I of trial will proceed as to liability, fault, and any affirmative defense, and Phase II will proceed as to damages.

In light of the bifurcation of trial, the Court will add two days to the trial schedule **should they be necessary, those being June 26 and June 27, 2023.** The parties are advised that the Court will not be available, if necessary, for the presentation of any testimony and evidence on the afternoon of June 26, 2023. The parties are further advised that the Judicial Conference is being held June 28 – 30, 2023, and the Court, if necessary, may have another judicial office available to return a verdict.

The parties agree that two alternate jurors will be sufficient.

Discussion is held regarding jury instructions and forms of verdict.

IT IS ORDERED that the parties shall submit to the Court their proposed jury instructions and a proposed schedule for both Phase I and Phase II of trial no later than **May 30, 2023.**

IT IS FURTHER ORDERED affirming the 10-Day Jury Trial set to commence on **June 12, 2023 at 8:30 a.m.**

9:43 a.m. Matter concludes.

UNITED STATES DISTRICT COURT

DISTRICT OF ARIZONA

**Jane Doe, by her next friends and parents
Helen Doe and James Doe; and Megan Roe,
by her next friends and parents, Kate Roe
and Robert Roe,**

Plaintiffs,

v.

**Thomas C. Horne, in his official capacity as
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District; Kyrene school District; the Gregory
School; and Arizona Interscholastic
Association, Inc.,**

Defendants.

Case No. 4:23-cv-00185-JGZ

**ORDER GRANTING
REQUEST TO RESCHEDULE
HEARING**

Pursuant to Defendant Thomas C. Horne’s Request to Reschedule Hearing and for good cause shown,

IT IS HEREBY ORDERED:

Setting hearing on Plaintiffs’ Motion for Preliminary Injunction on:

_____ June 28, 2023 at ____:____ am/pm

_____ June 29, 2023 at ____:____ am/pm

ELECTRONICALLY DATED and SIGNED.