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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

**SECOND SUPPLEMENT TO
DEFENDANT HORNE'S RESPONSE TO
PLAINTIFFS' MOTION FOR A
PRELIMINARY INJUNCTION**

1 Subsequent to the filing of Defendant Thomas C. Horne’s Response to Plaintiffs’ Motion
2 for a Preliminary Injunction (the “Response”), a relevant news article was published. Defendant
3 Horne therefore further supplements his Response with the attached news article. Ex. A (Dan
4 Roan, *British Cycling to ban transgender women from competing in female category*, [bbc.com](https://www.bbc.com/sport/cycling/65718748#:~:text=British%20Cycling%20is%20to%20ban,%20open%20category'%20with%20men.)
5 (May 26, 2023) [https://www.bbc.com/sport/cycling/65718748#:~:text=British%-](https://www.bbc.com/sport/cycling/65718748#:~:text=British%20Cycling%20is%20to%20ban,%20open%20category'%20with%20men.)
6 [20Cycling%20is%20to%20ban,%20open%20category'%20with%20men.](https://www.bbc.com/sport/cycling/65718748#:~:text=British%20Cycling%20is%20to%20ban,%20open%20category'%20with%20men.)).

7 The article addresses a decision by British Cycling to change their policy regarding
8 biological men/transgender women competing against biological women in cycling. British
9 Cycling had previously allowed biological males/transgender females to compete if their
10 testosterone levels were medically suppressed. But it was determined that transgender women
11 still retain a serious physical advantage over biological women in sports competition regardless
12 of the testosterone suppression. “Research studies indicate that even with the suppression of
13 testosterone, transgender women who transition post-puberty retain a performance advantage,”
14 said British Cycling. . . . In March, UK Athletics also banned transgender women from competing
15 in the female category in its competitions and events. There have been similar moves in
16 swimming, triathlon and both codes of rugby.”

17 The change in policy came after an outcry from women athletes objecting to the undeniable
18 unfairness of such competition. The article therefore timely raises facts highly relevant to the issue
19 of the fairness—or lack of fairness—in forcing biological females to compete against biological
20 males/transgender females.

21 Giving biological females a chance to compete and excel in sports, without unfair
22 competition from biological males, regardless of puberty blockers, is one of the important
23 governmental interests protected by the Save Women’s Sports Act.
24
25
26
27
28

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

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

3 /s/ Dennis I. Wilenchik

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18 **CERTIFICATE OF SERVICE**

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

22
23 *By: /s/ Hilary Myers*

EXHIBIT A



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British Cycling to ban transgender women from competing in female category



British Cycling's Jon Dutton 'confident' new policies safeguard fairness

British Cycling is to ban transgender women from the female category of its competitions following a nine-month review and consultation.

Under a new participation policy that the governing body said was "predicated on fairness", such athletes will compete in an 'open category' with men.

Female races will be "for those whose sex was assigned female at birth".

The changes will prevent riders such as Emily Bridges potentially being part of the British women's team.

Last year Bridges - the country's highest-profile transgender cyclist - was stopped from competing in her first elite women's race by the UCI, cycling's world federation, despite meeting the rules at the time.

Bridges reacted to the announcement with a statement on social media, calling the change a "violent act" by a "failed organisation" that was "controlling" the conversation on transgender inclusion.

She added that the racing scene was "dying under its watch" and that British Cycling was engaged in "culture wars".

British Cycling's policy had allowed transgender women to take part in elite female events if they met testosterone-based regulations.

But with the governing body at the heart of the debate over balancing inclusion with fairness, its [regulations were suspended](#) amid mounting controversy about Bridges and a review was launched.

"Research studies indicate that even with the suppression of testosterone, transgender women who transition post-puberty retain a performance advantage," said British Cycling.

"Our aim in creating our policies has always been to advance and promote equality, diversity and inclusion, while at the same time prioritising fairness of competition.

"We recognise the impact the suspension of our policy has had on trans and non-binary people, and we are sorry for the uncertainty and upset that many have felt during this period."

Transgender women will be able to participate in non-competitive recreational and community cycling without restriction.

The new policies will be implemented by the end of the year.

'You have no right to tell me when I am done' - Bridges response

In her statement, Bridges was critical of the state of British Cycling and its treatment of transgender riders.

"Cycling is still one of the whitest, straightest sports out there and you couldn't care less," she said. "I agree there needs to be a nuanced policy discussion and continue to conduct research. This hasn't happened.

"Research isn't being viewed critically, or any discussion about the relevance of the data to specific sports.

"I've given my body up to science for the last two years, and this data will be out soon.

"There is actual, relevant data coming soon and discussions need to be had."

Bridges claimed discussion of the debate is "inherently political" and "framed by the media who are driven through engagement by hate", saying she was "terrified to exist".

She claimed British Cycling was "furthering a genocide against us. Bans from sport is how it starts".

She added: "I know a lot of people will think I'm being dramatic, or overplaying how scary things are at the moment. I don't even know if I want to race my bike any more... but you have no right on telling me when I am done."

British Cycling is not commenting on Bridges' statement.

What's the background?



Emily Bridges previously set a national junior men's record over 25 miles and was selected to join British Cycling's senior academy in 2019

Having been a highly promising competitor in junior men's events, Bridges came out as transgender in 2020, starting hormone therapy as part of her gender dysphoria treatment.

She then became eligible to compete in elite women's events under British Cycling's transgender regulations, which required riders to have had testosterone levels below five nanomoles per litre for a 12-month period prior to competition.

But days before the 2022 National Omnium Championships, the UCI said Bridges' participation could only be allowed once her eligibility to race in international competitions was confirmed, dashing her hopes of competing for Wales in the Commonwealth Games.

A group of elite female cyclists called on the UCI to "rescind" its rules around transgender participation, claiming female athletes in the UK were "willing to boycott" events over their "concerns about fairness in their sport".

Bridges said she felt "harassed and demonised" and had "little clarity" on her eligibility. She added that she "does not have any advantage" over her competitors, and could prove it with data.

While British Cycling suspended its rules, the UCI then toughened its regulations, doubling the qualification period to two years and lowering the required testosterone threshold for transgender women riders to 2.5nmol/L.

But this month, after Austin Killips became [the first transgender woman to win a UCI women's stage race](#) at the Tour of the Gila, the world governing body re-opened consultation on the issue, saying it "hears the voices of female athletes and their concerns about an equal playing field for competitors".

'Paucity of research' - British Cycling boss

"We acknowledge the paucity of research at this time, but can only look at what's available to use," said British Cycling chief executive Jon Dutton.

"I am confident that we have developed policies that both safeguard the fairness of cycle-sport competition, whilst ensuring all riders have opportunities to participate.

"We have always been very clear that this is a challenge far greater than one sport. We remain committed to listening to our communities, to monitor changes in the scientific and policy landscape, to ensure that sport is inclusive for all."

Fiona McAnena from Fair Play For Women told BBC Radio 4's World at One she was "concerned about all the women and girls who need to know that sport will be fair so I think an open category is a great solution because it doesn't negate anyone's identity...[and] the female category can be protected."

"We're finally reverting to fairness. We are going to see it across all sports."

However Joanna Harper - a sports scientist who studies the effects of transition on transgender athletes, and who is transgender herself - said she was "disappointed but not surprised".

"I don't think it's necessary" she told BBC Radio 5Live. "Trans women have been competing in cycling for many years...and although they have achieved some success in the sport, they are under-represented and are not anywhere near taking over the sport."

In March, [UK Athletics](#) also [banned](#) transgender women from competing in the female category in its competitions and events. There have been similar moves in [swimming, triathlon](#) and [both codes of rugby](#).

A number of studies have suggested transgender women retain cardiovascular and strength advantages compared to female athletes, even after taking testosterone-suppressing hormones.

Critics of transgender athletes' participation in some women's sports argue that gives them a disproportionate advantage over their peers and limits opportunities for their rivals.

However, others argue there is not enough detailed research in the area, that the science is not clear, and that with very few elite transgender athletes, sport should be more inclusive, with open categories criticised for being [discriminatory](#).

British Cycling said its women-only community programme "will continue to remain open and inclusive for transgender women and non-binary people" who can "continue to participate in a broad range of British Cycling activities in line with their gender identities".

Across the BBC

- Will they carve a brighter future down under? [Ten Pound Poms starring Michelle Keegan and Warren Brown](#)
- Could eating nuts reduce your waistline? [Michael Mosley chews over the surprising benefits of these nutrient powerhouses](#)