



ATTORNEYS AT LAW

The Wilenchik & Bartness Building
2810 North Third Street Phoenix, Arizona 85004

Telephone: 602-606-2810 Facsimile: 602-606-2811

Dennis I. Wilenchik, #005350
Karl Worthington, #018703
admin@wb-law.com

Maria Syms, Bar No. 023019
Director of Legal Services
Arizona Department of Education
1535 W Jefferson, BIN #50
Phoenix, AZ 85007
602-542-5240
Maria.Syms@azed.gov

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

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

1 Superintendent Horne respectfully submits this Third Supplement in opposition to
2 Plaintiffs' Motion for Preliminary Injunction requesting the Court to grant Superintendent
3 Horne's request to continue the hearing on the Preliminary Injunction to mid-August. Plaintiffs
4 have had more than a year since the passage of the Save Women's Sports Act to research clinical
5 studies, interview and vet scientific experts, and prepare lay and expert declarations in support of
6 their case. In the interest of fairness, Superintendent Horne is merely asking for a brief
7 continuance to have a few extra weeks to have the smallest fraction of the year-long prep time
8 Plaintiffs had before filing the lawsuit.

9 The Court initially scheduled the hearing for June 26, 2023, with the joint pre-hearing
10 statement to be submitted on June 16, 2023, giving Defendant Horne just a few weeks to prepare
11 since the filing of the Plaintiffs' Complaint and accompanying expert and layman declarations.
12 Defendant Horne's counsel is scheduled to be in trial on June 26, 2023 and the Court thus set a
13 conference to reschedule the hearing. Superintendent Horne therefore renews his request that the
14 Preliminary Injunction hearing not be scheduled before mid-August 2023 to allow him sufficient
15 time to fairly identify clinical studies and expert witnesses. This will give witnesses sufficient
16 time to fairly examine and assess the declarations of Plaintiffs' expert witnesses, conduct any
17 necessary research and other preparation, and draft their own declarations for the Court's
18 consideration.

19 The Save Women's Sports Act (A.R.S. § 15-120.02, the "Act") was signed into law on
20 March 30, 2022. Plaintiffs nevertheless chose not to file their request for more than a full year,
21 until April 17, 2023. The delay was a strategic choice meant to disadvantage all Defendants and
22 proposed intervenors by limiting the time to respond. This unfair strategy is further evidenced by
23 Plaintiffs (1) filing the litigation in a forum that is inconvenient to every party that intends to
24 defend the Act, (2) opposing Superintendent Horne's Motion to Transfer, (3) failing to sue the
25 entity that passed the law (i.e., the Arizona Legislature), and (4) opposing the intervention of the
26 true Defendants in this case, (i.e., the Legislative Leaders). Plaintiffs' delay in filing their lawsuit
27 indicates Plaintiffs are seeking every strategic advantage to impair and hamstring a fair defense
28 of the Save Women's Sports Act.

1 Superintendent Horne is working diligently to identify and prepare expert reports for the
2 Preliminary Injunction hearing and will continue to do so. Superintendent Horne merely seeks a
3 fair opportunity to present a defense that is balanced against the extensive preparation Plaintiffs
4 did prior to filing the lawsuit.

5 **RESPECTFULLY SUBMITTED** on June 7, 2023.

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

7
8 /s/ Dennis I. Wilenchik

9 Dennis I. Wilenchik, Esq.

10 Karl Worthington, Esq.

11 The Wilenchik & Bartness Building

12 2810 North Third Street

13 Phoenix, Arizona 85004

14 admin@wb-law.com

15 *Attorneys for Defendant Thomas C. Horne*

16
17 /s/ Maria Syms, Esq.

18 Director of Legal Services

19 Arizona Department of Education

20 1535 W Jefferson, BIN #50

21 Phoenix, AZ 85007

22 Maria.Syms@azed.gov

23 *Attorneys for Defendant Thomas C. Horne*

24 **CERTIFICATE OF SERVICE**

25 I hereby certify that on June 7, 2023, I electronically transmitted the attached document to
26 the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic
27 Filing to the CM/ECF registrants.

28 *By: /s/ Hilary Myers*