

No. 23-1078 (L) (2:21-cv-00316)

**IN THE  
UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT**

B.P.J., by her next friend and mother; HEATHER JACKSON,

*Plaintiff - Appellant,*

versus

WEST VIRGINIA STATE BOARD OF EDUCATION; HARRISON  
COUNTY BOARD OF EDUCATION; WEST VIRGINIA SECONDARY  
SCHOOL ACTIVITIES COMMISSION; W. CLAYTON BURCH, in his  
official capacity as State Superintendent; DORA STUTLER, in her official  
capacity as Harrison County Superintendent,

*Defendants - Appellees.*

and

THE STATE OF WEST VIRGINIA; LAINEY ARMISTEAD,

*Intervenors - Appellees*

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On Appeal from the United States District Court for the Southern District of  
West Virginia (Charleston Division)  
The Honorable Joseph R. Goodwin, District Judge  
District Court Case No. 2:21-cv-00316

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**JOINT APPENDIX – VOLUME 2 OF 9 (JA0531-JA1084)**

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IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
CHARLESTON DIVISION

\* \* \* \* \*

B.P.J., by her next friend and \*  
Mother, HEATHER JACKSON, \*  
Plaintiff \* Case No.  
vs. \* 2:21-CV-00316  
WEST VIRGINIA STATE BOARD OF \*  
EDUCATION, HARRISON COUNTY \*  
BOARD OF EDUCATION, WEST \*  
VIRGINIA SECONDARY SCHOOL \*  
ACTIVITIES COMMISSION, W. \*  
CLAYTON BURCH in his official \*  
Capacity as State Superintendent, \* VIDEOTAPED  
DORA STUTLER in her official \* VIDEOCONFERENCE  
Capacity as Harrison County \* DEPOSITION  
Superintendent, PATRICK MORRISEY \* OF  
In his official capacity as \* ARON JANSSEN, M.D.  
Attorney General, and THE STATE \* April 4, 2022  
OF WEST VIRGINIA, \*  
Defendants \*

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VIDEOTAPED VIDEOCONFERENCE DEPOSITION  
OF  
ARON JANSSEN, M.D., taken on behalf of the Defendant,  
State of West Virginia herein, pursuant to the Rules of  
Civil Procedure, taken before me, the undersigned, Lacey  
C. Scott, a Court Reporter and Notary Public in and for  
the State of West Virginia, on Thursday, April 4, 2022,  
beginning at 9:09 a.m.

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ATTORNEY

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S T I P U L A T I O N

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(It is hereby stipulated and agreed by and between  
counsel for the respective parties that reading,  
signing, sealing, certification and filing are not  
waived.)  
-----

P R O C E E D I N G S

-----  
ATTORNEY BARHAM: Counsel has stipulated  
that our court reporter present this morning can swear  
in the witness, so I will let the court reporter take  
care of that.

---

ARON JANSSEN, M.D.,  
CALLED AS A WITNESS IN THE FOLLOWING PROCEEDINGS, AND  
HAVING FIRST BEEN DULY SWORN, TESTIFIED AND SAID AS  
FOLLOWS:

---

VIDEOGRAPHER: My name is Jacob Stock.  
I'm a Certified Legal Video Specialist employed by  
Sargent's Court Reporting Services. The date today is  
April 4th, 2022. The time on the video monitor reads  
9:09 a.m. This deposition is being taken remotely by

1 Zoom conference. The caption is in the United States  
2 District Court for the Southern District of West  
3 Virginia, Charleston Division, BPJ, et al., versus West  
4 Virginia State Board of Education, et al. Civil Action  
5 Number 2:21-CV-00316. The name of the witness is Aron  
6 Janssen. Will the attorneys present state their names  
7 and the parties they represent?

8 ATTORNEY BARHAM: My name is Travis  
9 Barham. I represent the intervenors in this case. And  
10 with me is Lawrence Wilkinson.

11 ATTORNEY CSUTOROS: Rachel Csutoros also  
12 for intervenor.

13 ATTORNEY TRYON: This is David Tryon of  
14 the West Virginia Attorney General's Office,  
15 representing the State of West Virginia.

16 ATTORNEY DENIKER: Good morning. Susan  
17 Deniker. Counsel for Defendants Harrison County Board  
18 of Education and Superintendent Dora Stutler.

19 ATTORNEY MORGAN: This is Kelly Morgan on  
20 behalf of the West Virginia Board of Education and  
21 Superintendent Burch.

22 ATTORNEY GREEN: This is Roberta Green  
23 here on behalf of West Virginia Secondary School  
24 Activities Commission.

1                    ATTORNEY BLOCK: For Plaintiff BPJ, this  
2 is Josh Block from the ACLU.

3                    ATTORNEY SWAMINATHAN: This is Sruti  
4 Swaminathan from Lambda Legal on behalf of Plaintiff.

5                    ATTORNEY HARTNETT: Good morning. This  
6 is Kathleen Hartnett at Cooley on behalf of Plaintiff.

7                    ATTORNEY BARR: Andrew Barr from Cooley  
8 on behalf of Plaintiff.

9                    ATTORNEY PELET DEL TORO: Good morning.  
10 This is Valeria Pelet Del Toro from Cooley on behalf of  
11 Plaintiff.

12                    ATTORNEY REINHARDT: This is Elizabeth  
13 Reinhardt from Cooley on behalf of Plaintiff.

14                    VIDEOGRAPHER: If that's everyone, the  
15 witness has already been sworn in and we can begin.

16                    ---

17                    EXAMINATION

18                    ---

19 BY ATTORNEY BARHAM:

20 Q. Good morning, Dr. Janssen.

21 A. Good morning.

22 Q. Have you ever had a deposition before?

23 A. No.

24 Q. All right.



1 I'm going to ask you a series of questions  
2 about this case and your involvement in it. Do your  
3 best to answer audibly. Just nodding the head, while it  
4 can be captured on video cannot be captured by our court  
5 reporter, and so we'll try to make her life as easy as  
6 possible.

7 I'm going to do my best to wait until you finish  
8 an answer before starting the next question. And I will  
9 ask that you do the same. We'll probably violate that  
10 rule a few times, but cross talk doesn't translate well  
11 on the record. So if you need to take a break at any  
12 time today, please let me know and we will do our best  
13 to facilitate that as quickly as possible. I know we  
14 need to take a break at two o'clock.

15 A. I think about 2:30, 2:45, something like that.

16 Q. Okay.

17 You just let us know when you need to take it.  
18 All right.

19 ATTORNEY BARHAM: I'm going to show you a  
20 document we're going to mark as Exhibit-1. This will be  
21 Tab 90 for online purposes.

22 ---

23 (Whereupon, Exhibit 1, Expert Report, was  
24 marked for identification.)



1 professionally competent in using the American  
2 Psychiatric Association's Diagnostic and Statistical  
3 Manual, DSM-V, to make child and adolescent mental  
4 illness or psychiatric diagnoses generally beyond just  
5 gender dysphoria?

6 A. Yes.

7 Q. Do you have any residency or fellowship in  
8 pediatrics?

9 A. No.

10 Q. Do you have any residency or fellowship in  
11 endocrinology?

12 A. No.

13 Q. Do you have any training in sports physiology?

14 A. No.

15 Q. Do you have any training in sports medicine?

16 A. No.

17 Q. Have you published any papers, conducted any  
18 research or given any lectures relating to sports  
19 physiology?

20 A. No.

21 Q. Have you published any papers, conducted any  
22 research or given any lectures relating to sports  
23 medicine?

24 A. No.

1 Q. Have you published any papers, conducted any  
2 research or given any lectures relating to male  
3 physiological advantages in athletics before, during or  
4 after puberty?

5 A. No.

6 ATTORNEY BLOCK: Objection to form. You  
7 can answer.

8 BY ATTORNEY BARHAM:

9 Q. Have you published any papers, conducted any  
10 research or given any lectures relating to the impact of  
11 any drugs or hormones on athletic performance?

12 A. No.

13 Q. Have you published any papers, conducted any  
14 research or given any lectures relating to the impact of  
15 testosterone suppression on athletic performance?

16 A. No.

17 Q. Have you published any papers, conducted any  
18 research or given any lectures relating to the effect of  
19 transsex surgeries on athletic performance?

20 A. No.

21 ATTORNEY BLOCK: Objection. Objection to  
22 terminology.

23 BY ATTORNEY BARHAM:

24 Q. Have you published any papers, conducted any

1 research or given any lectures relating to the safety  
2 issues and risks to women associated with transgender  
3 participation in female athletics by male athletes?

4 ATTORNEY BLOCK: Objection to form.  
5 Sorry, objection to form.

6 THE WITNESS: Yeah, I think there's a bit  
7 of a premise in there that I don't agree with, but I  
8 have not given any lectures about transgender  
9 participation in sports.

10 BY ATTORNEY BARHAM:

11 Q. Do you consider --- do you have any professional  
12 expertise related to the concept of fairness?

13 A. I do not.

14 Q. Do you have any professional expertise on the  
15 definition of fairness?

16 A. I do not.

17 Q. Would you agree that fairness is an elusive,  
18 subjective concept with malleable boundaries?

19 ATTORNEY BLOCK: Objection to form.

20 THE WITNESS: I do not have an opinion on  
21 the definition of fairness.

22 BY ATTORNEY BARHAM:

23 Q. Have you treated or personally examined BPJ?

24 A. I have not.

1 Q. You have no direct knowledge as to what Tanner  
2 stage BPJ started puberty blockers at the age.

3 Correct?

4 A. Correct.

5 Q. You do not know how BPJ's physiology or athletic  
6 capabilities compare with genetic females at the same  
7 age?

8 A. I do not.

9 ATTORNEY BLOCK: Objection to  
10 terminology.

11 BY ATTORNEY BARHAM:

12 Q. This report, Exhibit-1 of 20 pages sets out the  
13 complete statement of all opinions that you will testify  
14 to at trial.

15 Correct?

16 A. Which report are you referring to?

17 Q. The report in front of you, Exhibit-1, Tab 90.

18 A. And can you repeat the question? Sorry.

19 Q. This report sets out a complete statement of all  
20 opinions that you will testify to at trial.

21 Correct?

22 A. I do not know the answer to that. I mean, I  
23 would assume so, but I don't know. I've never been in a  
24 trial, so I don't know if there will be questions asked

1 outside of this document.

2 Q. Does this report identify all facts and data  
3 that you considered in forming the opinions that you set  
4 forth in your report?

5 A. I wouldn't say it has all facts because I don't  
6 think it is possible to include all facts in an expert  
7 report, but the relevant facts, yes.

8 Q. This includes the facts that you'll rely on in  
9 supporting those opinions.

10 Correct?

11 A. That's correct.

12 Q. Does your report set out all the reasons for the  
13 opinions that you propose to offer?

14 A. Yes.

15 Q. Your footnotes cite to I believe 32 scientific  
16 or professional articles and you reference some others  
17 in your CV. Are those all the articles that form the  
18 basis of the opinions you propose to offer?

19 A. No.

20 Q. What other articles form the basis of the  
21 opinions you propose to offer?

22 A. I guess the question is what has formed my  
23 professional expertise around gender health, and I've  
24 read a lot that aren't necessarily going to be apropos

1 to this specific report.

2 Q. But those are the articles that you cited and  
3 referenced in this document are those that you relied  
4 upon as the basis of opinions that you intend to offer.

5 Correct?

6 A. That is correct.

7 Q. You currently serve as the Clinical Associate  
8 Professor of Child and Adolescent Psychiatry.

9 Correct?

10 A. Yes.

11 Q. And what institution is that with?

12 A. It is with Northwestern University Feinberg  
13 School of Medicine, and Ann and Robert H. Lurie  
14 Children's Hospital of Chicago.

15 Q. And how much of your time in this position is  
16 related to discussing or treating gender dysphoric  
17 children and adolescents?

18 ATTORNEY BLOCK: Objection to  
19 terminology.

20 THE WITNESS: It's hard to quantify.  
21 Probably about 40 percent of my time is allocated in  
22 some way to either clinical care, research or academics  
23 around gender health.

24 BY ATTORNEY BARHAM:



1 Q. And what is your compensation for this position?

2 A. It is roughly \$265,000 a year in salary.

3 Q. You also serve as the Vice Chair of the  
4 Pritzker Department of Psychology and Behavioral Health  
5 at the Ann and Robert H. Lurie Children's Hospital of  
6 Chicago.

7 Correct?

8 A. That's correct.

9 Q. And how much of your time in this position is  
10 related to discussing or treating gender dysphoric  
11 children and adolescents?

12 ATTORNEY BLOCK: Objection to  
13 terminology.

14 THE WITNESS: Again, it is hard to parse  
15 out what specific about my leadership role is around  
16 gender health but it is a minority of my day-to-day  
17 work in that role.

18 BY ATTORNEY BARHAM:

19 Q. Do you have an approximate percentage?

20 A. No.

21 Q. Twenty-five (25) percent, more or less?

22 A. Probably ten percent.

23 Q. Ten percent. Okay.

24 And what is your compensation for that

1 position?

2 A. I get a stipend of around \$30,000.

3 Q. You currently serve as the Medical Director of  
4 Outpatient Psychiatric Services at the Lurie Children's  
5 Hospital of Chicago.

6 Is that correct?

7 A. That;s correct.

8 Q. And how much of your time in this position is  
9 related to discussing or treating gender dysphoric  
10 children and adolescents?

11 ATTORNEY BLOCK: Objection to  
12 terminology.

13 THE WITNESS: About 25 percent of my time  
14 is probably spent discussing or related to the health of  
15 transgender youth or transgender --- gender diverse  
16 youth.

17 BY ATTORNEY BARHAM:

18 Q. And what is your compensation for that position?

19 A. There is no compensation.

20 Q. You currently serve as the Clinical Director of  
21 the NYU Gender and Sexuality Services.

22 Is that correct?

23 A. That is not correct.

24 Q. When did you conclude your role in that

1 position? I'm referencing page one of your CV.

2 A. That was when I moved to Chicago a few years  
3 ago.

4 Q. Okay.

5 So where it says 2011 to present Clinical  
6 Director, NYU Sexuality Service, that is just a typo?

7 A. That is a typo, yes.

8 Q. You currently serve as the Associate Professor  
9 of Child and Adolescent Psychology at Northwestern  
10 University, and we have already discussed that. Is  
11 there a difference between Clinical Associate Professor  
12 and Associate Professor of Child and Adolescent  
13 Psychiatry?

14 A. No.

15 Q. You serve as the Vice Chair of Clinical Affairs  
16 at the Pritzker Department of Psychiatry and Behavioral  
17 Health at the Lurie Children's Hospital.

18 Correct?

19 A. That's correct.

20 Q. And how much time in this position is related to  
21 discussing or treating gender dysphoric children and  
22 adolescents?

23 ATTORNEY BLOCK: Objection to  
24 terminology.

1                   THE WITNESS: I think I answered that one  
2 with the guess of about ten percent.

3 BY ATTORNEY BARHAM:

4       Q.       Okay?

5                   So that's the same as the Vice Chair of the  
6 Department of Psychiatry?

7       A.       Correct.

8       Q.       You currently serve as the Associate Editor for  
9 Transgender Health.

10                  Correct?

11       A.       That is correct.

12       Q.       And what is your compensation for that position?

13       A.       There is no compensation for that position.

14       Q.       What is that publication's annual income?

15       A.       I do not know.

16       Q.       You serve as a reviewer for LGBT Health.

17                  Correct?

18       A.       Yes.

19       Q.       And how much of your time is related --- in that  
20 position is related to treating or discussing  
21 transgender children and adolescents?

22       A.       I would say 100 percent of my review time with  
23 LGBT health is around gender.

24       Q.       Do you receive any compensation for that

1 position?

2 A. I do not.

3 Q. Do you receive any compensation for your role as  
4 a reviewer with the Journal of the Academy of Child and  
5 Adolescent Psychiatry?

6 A. I do not.

7 Q. You served in various positions with different  
8 professional organizations according to paragraphs 11  
9 and 12 of your report. Do any of those positions  
10 provide you financial compensation?

11 A. No.

12 Q. You founded and directed Gender Variant Youth  
13 and Family Network.

14 Correct?

15 A. Correct.

16 Q. What's your compensation for that position?

17 A. Zero.

18 Q. What is the entity's annual income or budget?

19 A. Zero.

20 Q. You indicate in your report that you have seen  
21 approximately 500 transgender patients.

22 Is that correct?

23 A. That is correct.

24 Q. How many patients do you see per year?

1                    ATTORNEY BLOCK:    Objection to form.

2                    THE WITNESS:    I'd have to look at my  
3 report.    I don't have the information in front of me  
4 right now.

5    BY ATTORNEY BARHAM:

6            Q.        Do you have a ballpark of how many patients you  
7 see in a year?

8            A.        I don't.

9            Q.        Does this include --- and I'm assuming that your  
10 colleagues see additional patients beyond just those  
11 that you see.

12                    Correct?

13            A.        Correct.

14            Q.        How frequently do you see each patients?

15            A.        I see --- the frequency with which I see  
16 patients is dependent upon their clinical need, so  
17 between once or twice a week to once every three months.

18            Q.        And how much are patients charged per  
19 appointment?

20            A.        Everything is billed to their insurance, so I'm  
21 not sure.

22            Q.        Do you receive any other income related to your  
23 work on gender dysphoria?

24            A.        I'm being paid for my expert report for this, so

1 that's the only other income I receive.

2 Q. Do you receive any speaking fees?

3 A. I have received speaking fees for participation  
4 and grand rounds as an example.

5 Q. And how much would those speaking fees run?

6 A. It is typically about a thousand dollars per  
7 event.

8 Q. Before the last four years had you provided any  
9 expert testimony on issues related to gender dysphoria?

10 A. Can you clarify the difference between  
11 testimonies and reports? I've submitted a report but  
12 not ---.

13 Q. Okay.

14 So you have submitted a report?

15 A. Correct.

16 Q. Do you remember what case that involved?

17 A. That involves Medicaid and top surgery in  
18 Arizona.

19 Q. Okay.

20 Have you ever provided any testimony in trial  
21 or deposition before related to gender dysphoria?

22 A. I have not.

23 Q. And how much compensation have you received so  
24 far in this case?

1 A. This case so far, none thus far.

2 Q. How much are you expecting to receive so far in  
3 this case?

4 A. I haven't added up my invoice yet, but I imagine  
5 it's probably around \$10,000.

6 Q. Okay.

7 Do you have any professional expertise related  
8 to the legal definition of relevance?

9 A. I do not.

10 Q. Do you have any legal training or education?

11 A. I do not.

12 Q. When you were preparing your report did you  
13 consult the Federal Rules of Evidence or any other legal  
14 sources as to the meaning of relevance?

15 A. I did not.

16 Q. Several people in this case have referenced  
17 disorders of sexual development. Would you agree that  
18 gender dysphoria is not a disorder of sexual  
19 development?

20 ATTORNEY BLOCK: Objection to form.

21 THE WITNESS: Gender dysphoria has not  
22 been classified as a disorder of sexual development.

23 BY ATTORNEY BARHAM:

24 Q. Of the approximately 500 transgender patients



1 you had seen how many suffered from disorder of sexual  
2 development?

3 A. A minority of patients, less than ten.

4 Q. So you would agree that the vast majority of  
5 individuals with gender dysphoria or who assert a  
6 transgender identity do not suffer from a disorder of  
7 sexual development.

8 Correct?

9 ATTORNEY BLOCK: Objection to form.

10 THE WITNESS: The data we have speaks to  
11 the majority of people with gender dysphoria do not have  
12 a disorder of sex development.

13 BY ATTORNEY BARHAM:

14 Q. Do you have any reason to believe that BPJ  
15 suffers from a disorder of sexual development?

16 A. I have not reviewed BPJ's case.

17 Q. Are you aware of any instance in which an  
18 individual with a disorder of sexual development has  
19 attempted to play on a girls' or women's sports team in  
20 West Virginia?

21 A. I am not aware.

22 Q. Is it your opinion that a person's gender  
23 identity is durable?

24 ATTORNEY BLOCK: Objection to form.

1                    THE WITNESS: Can you define durable?

2                    BY ATTORNEY BARHAM:

3                    Q.            Unchanging.

4                    ATTORNEY BLOCK: Objection to form.

5                    THE WITNESS: It is my testimony that  
6 there is a concept of gender identity that remains  
7 generally fixed for most people throughout their lives.

8                    BY ATTORNEY BARHAM:

9                    Q.            So it's your opinion that a person's gender  
10 identity cannot be changed with medical or mental health  
11 intervention.

12                                    Correct?

13                    COURT REPORTER: Sorry, Counsel, that  
14 question one more time.

15                    BY ATTORNEY BARHAM:

16                    Q.            So it's your opinion that a person's gender  
17 identity cannot be changed with medical or mental health  
18 intervention.

19                                    Correct?

20                    A.            Yes.

21                    ATTORNEY BARHAM: I'm going to hand you  
22 what we're going to mark as Exhibit-2. This will be  
23 Tab 5.

24                                    ---

1 (Whereupon, Exhibit-2, Endocrine  
2 Society's Guidelines, was marked for  
3 identification.)

4 ---

5 BY ATTORNEY BARHAM:

6 Q. If you'll turn to page 3873 of this document.  
7 This document is the Endocrine Society's Guidelines,  
8 Endocrine Treatment of Gender Dysphoric or Gender  
9 Incongruent Persons, Endocrine Society Clinical Practice  
10 Guideline published in 2017.

11 Correct?

12 A. That is correct.

13 Q. On page 3873 of this document the Endocrine  
14 Society indicates that this continuum gender identity  
15 ranged from all male through something in between to all  
16 female yet such a classification does not take into  
17 account that people may have gender identities outside  
18 this continuum. For instance, some experience  
19 themselves as having both a male and female gender  
20 identity whereas others completely renounce any gender  
21 classification. There are also reports of individuals  
22 experiencing a continuous and rapid involuntary  
23 alternation between a male and female identity.

24 Do you see that?

1 A. I don't see that.

2 Q. Second column, towards the bottom of the page.

3 A. Yes, I see that.

4 Q. Is this consistent with your understanding of  
5 gender identity?

6 ATTORNEY BLOCK: Can you give him time to  
7 read?

8 ATTORNEY BARHAM: Gladly.

9 THE WITNESS: I think there is a  
10 difference between a gender identity and how people  
11 understand and express that gender identity. And in the  
12 context of this article the rapid involuntary alteration  
13 between male and female identity as an example is a case  
14 reported of single individuals subjective experience of  
15 their gender according to the reference.

16 BY ATTORNEY BARHAM:

17 Q. And by that you're referring to note ten?

18 A. Correct.

19 Q. So according to this document, someone can be  
20 one sex or the other, both, neither or in between.

21 Correct?

22 ATTORNEY BLOCK: Objection to form.

23 THE WITNESS: I can't speak for the  
24 conclusions drawn by the author of this article.

1 BY ATTORNEY BARHAM:

2 Q. And according to the Endocrine Society a  
3 person's gender identity can change rapidly.

4 Correct?

5 ATTORNEY BLOCK: Objection to form.

6 THE WITNESS: I'm not a part of the  
7 Endocrine Society, so I'm not sure how they discuss  
8 this.

9 BY ATTORNEY BARHAM:

10 Q. According to this document, the Endocrine  
11 Society is indicating that there are reports, plural, of  
12 individuals, plural, experiencing a continuous and rapid  
13 involuntary alternation between male and female gender  
14 identity.

15 Correct?

16 A. That is documented in the article.

17 Q. Okay.

18 A. I'm not sure of the governance of the Endocrine  
19 Society.

20 Q. Do you think the Endocrine Society Guidelines  
21 are wrong?

22 ATTORNEY BLOCK: Objection to form.

23 THE WITNESS: I think anything relating  
24 to gender identity has to be taken in a broader context

1 within both the article in and of itself but in broader  
2 practice and specifically around children and  
3 adolescents.

4 BY ATTORNEY BARHAM:

5 Q. So what is your basis for indicating that this  
6 statement is potentially inaccurate?

7 ATTORNEY BLOCK: Objection to form.

8 THE WITNESS: I think there is more  
9 context that's needed in order to understand the intent  
10 of the authors in this particular section.

11 ATTORNEY BARHAM: I'm going to hand you  
12 what we will mark as Exhibit-3. This is the document  
13 from the World Health Organization entitled Gender and  
14 Health.

15 ---

16 (Whereupon, Exhibit-3, World Health  
17 Organization, was marked for  
18 identification.)

19 ---

20 BY ATTORNEY BARHAM:

21 Q. Are you familiar with the World Health  
22 Organization?

23 A. I've heard of them.

24 Q. Do you agree with these World Health

1 Organization statements?

2 ATTORNEY BLOCK: Objection to form. Can  
3 he have time to read the document?

4 ATTORNEY BARHAM: Of course.

5 VIDEOGRAPHER: Counsel, is that Tab 10?

6 LAW CLERK WILKINSON: Tab 10.

7 ATTORNEY BARHAM: It is.

8 VIDEOGRAPHER: Okay. Thank you.

9 THE WITNESS: Can you repeat the  
10 question?

11 BY ATTORNEY BARHAM:

12 Q. Do you agree with these World Health  
13 Organization statements?

14 A. Not in their entirety.

15 Q. In what parts do you dispute?

16 A. The word gender as a concept is much more  
17 complicated and I do not agree with their  
18 characterization in this page.

19 Q. So the World Health Organization says that  
20 gender itself is a social construct and can change over  
21 time.

22 Correct?

23 ATTORNEY BLOCK: Objection to form. Does  
24 this document have a URL to it?

1                    ATTORNEY BARHAM: It does, but I don't  
2 see it printed on the document.

3                    LAW CLERK WILKINSON: We can get it.

4                    ATTORNEY BARHAM: We can supply that.

5                    THE WITNESS: I agree that it says on the  
6 document that gender varies from society to society and  
7 can change over time.

8 BY ATTORNEY BARHAM:

9            Q.        And according to the World Health Organization,  
10 gender identity refers to a person's experience of  
11 gender which is a social construct.

12                    Correct?

13                    ATTORNEY BLOCK: Objection to form.

14                    THE WITNESS: I don't see in the document  
15 where it refers to gender identity or defines gender  
16 identity.

17 BY ATTORNEY BARHAM:

18            Q.        It says gender interacts with different sex,  
19 which refers to the different biological and  
20 physiological characteristics of males, females,  
21 intersex persons such as chromosomes, hormones and  
22 reproductive organs.

23                    Correct?

24            A.        That is correctly read. I don't see gender



1 identity defined in this document.

2 Q. Gender identity refers to a person's deeply held  
3 internal and individual experience of gender.

4 Correct?

5 A. That's what it says here, yes.

6 Q. If an individual asserts an identity of man or  
7 both, how can a clinician verify whether that individual  
8 is telling the truth?

9 ATTORNEY BLOCK: Objection to form.

10 THE WITNESS: I'm not sure what exactly  
11 that means. The process of an assessment for gender  
12 care involves a complex series of interviews,  
13 diagnostics.

14 BY ATTORNEY BARHAM:

15 Q. So how does the clinician assess whether the  
16 patient is accurately relating their experiences?

17 A. In the typical process, particularly around  
18 child and adolescent psychiatry, part of the assessment  
19 involves information gathered from multiple contexts.

20 Q. Such as?

21 A. Such as parents, schools, caregivers, other  
22 providers, history over time, et cetera.

23 Q. And if --- so how does one assess from those  
24 various contexts whether someone who's claiming to be

1 male or both is accurately relating what's going on?

2 ATTORNEY BLOCK: Objection to form.

3 THE WITNESS: Yeah, I guess I don't  
4 understand the question exactly. You know, my job is  
5 not necessarily to define what is accurate in someone's  
6 own experience. It's to understand how that fits into  
7 typical processes and developmental expectations for the  
8 broad range of gender diversity over time.

9 BY ATTORNEY BARHAM:

10 Q. How do you determine whether someone in that  
11 scenario is accurately understanding his own subjective  
12 feelings --- his or her subjective feelings?

13 ATTORNEY BLOCK: Objection to form.

14 THE WITNESS: The context of the  
15 treatment is really important. If an individual is  
16 seeking specific interventions that require a mental  
17 health assessment, there are specific components of that  
18 mental health assessment that must be met.

19 BY ATTORNEY BARHAM:

20 Q. So what are the treatments that would require a  
21 mental health assessment?

22 A. Puberty blocking medications, hormones or  
23 surgery.

24 Q. And what are the interventions that would not

1 require mental health evaluations, in your opinion?

2 ATTORNEY BLOCK: Objection to form.

3 THE WITNESS: It depends upon what  
4 guidelines you're talking about and what recommendations  
5 that the family is looking for.

6 BY ATTORNEY BARHAM:

7 Q. Well, what are some of the interventions? You said  
8 there's some interventions that would require a mental  
9 health evaluation, so that implies that there are some  
10 that would not. What are the interventions that would  
11 not require a mental health evaluation?

12 ATTORNEY BLOCK: Objection to form.

13 THE WITNESS: You know, parents giving  
14 hugs to their kids is not something that a mental health  
15 assessment would require. Providing a way of helping  
16 families to understand their kids or asking questions is  
17 not something that requires a mental health evaluation  
18 and some children will socially transition prior to any  
19 assessments by any mental health professional.

20 BY ATTORNEY BARHAM:

21 Q. How do you determine --- if an individual  
22 asserts a gender identity of male or both, how do you  
23 determine whether the individual is making a statement  
24 based on societal expectations for a particular gender

1       rather than ---?

2                    ATTORNEY BLOCK:   Objection.   Travis, I'm  
3       sorry, the male or both phrasing, is that a quote from  
4       something.   I don't have the paper in front of me, so  
5       just want to clarify.

6                    ATTORNEY BARHAM:   No, that's not a  
7       question from something.   That's just my question.

8                    ATTORNEY BLOCK:   Okay.

9                    THE WITNESS:   Can you repeat the  
10       question?

11       BY ATTORNEY BARHAM:

12            Q.       If an individual asserts a gender identity male  
13       or both, how can a clinician verify whether the  
14       individual is making the statement based on societal  
15       expectations for a particular gender rather than his own  
16       genuine gender?

17                    ATTORNEY BLOCK:   Objection to form.

18                    THE WITNESS:   I personally never had  
19       anybody assert an identity of male or both, but part of  
20       the assessment of --- if we are diagnosing gender  
21       dysphoria is understanding the cultural and social  
22       contexts and ensuring that folks are not presenting with  
23       a gender identity that is incongruent with their sex  
24       assigned at birth because of actual or perceived

1 cultural advantages.

2 BY ATTORNEY BARHAM:

3 Q. And how does one go about assessing the  
4 motivations behind the claimed gender identity or  
5 transgender sex?

6 ATTORNEY BLOCK: Objection to form.

7 THE WITNESS: For any psychiatric  
8 assessment this is through a combination of interviews,  
9 gathering history from relevant data sources and  
10 sometimes for some people structured interviews or  
11 scales.

12 BY ATTORNEY BARHAM:

13 Q. And how long does it take to conduct such an  
14 assessment?

15 A. There is no specific timeframe involved in this  
16 assessment. It really depends upon contextual factors  
17 that are hard to nail down.

18 Q. So if you were treating a child or teenager, how  
19 many relevant data sources would you need to get  
20 information from in order to make a complete assessment  
21 of the child's motivations?

22 A. I don't think there's ever going to be a  
23 concrete answer in terms of how many. There's not a  
24 specific answer of how many sources are necessary. It's



1 identification.)

2 ---

3 BY ATTORNEY BARHAM:

4 Q. Are you familiar with this study? This is a  
5 study from the Harvard Medical School entitled Gender  
6 Fluidity: What it Means and Why Support Matters?

7 ATTORNEY BLOCK: Objection.

8 THE WITNESS: This looks like a popular  
9 website article and not a study.

10 BY ATTORNEY BARHAM:

11 Q. Are you familiar with the author, Dr. Sabrina  
12 Katz --- Sabra Katz-Wise?

13 A. Dr. Katz-Wise has published in the world of  
14 transgender health. I'm not familiar with them  
15 personally, I don't know them.

16 Q. Do you know Dr. Katz-Wise at least by  
17 reputation?

18 A. I don't. I've only read some studies.

19 Q. But you would agree that she is highly respected  
20 in this area.

21 Correct?

22 A. I would not be able to offer an opinion.

23 Q. But she is widely published in this area.

24 Correct?

1                    ATTORNEY BLOCK: Objection to form.

2                    THE WITNESS: From my recollection, yes.

3                    BY ATTORNEY BARHAM:

4                    Q.        At the bottom of page two of this document, Dr.  
5                    Katz-Wise indicates that while some people develop a  
6                    gender identity early in childhood others may identify  
7                    with one gender at one time and then another gender  
8                    later on.

9                    Is that correct?

10                  A.        You're reading that accurately, yeah.

11                  Q.        So according to this article, on page three a  
12                  gender fluid person is one whose gender identity changes  
13                  frequently.

14                  Correct?

15                  ATTORNEY BLOCK: Objection to form.

16                  THE WITNESS: I do not --- I have not  
17                  read it in here that it is defined in that way and  
18                  that's not how I would define gender fluidity.

19                  BY ATTORNEY BARHAM:

20                  Q.        At least you see the statement at the first full  
21                  paragraph at the top of page three, ultimately anyone  
22                  who identifies as gender fluid, is a gender fluid person  
23                  often the term is used for a person's gender expression  
24                  or gender identity, essentially their internal sense of



1 self changes frequently?

2 ATTORNEY BLOCK: Objection. We're  
3 jumping quickly from pages. Can you give him some more  
4 time to read before answering the question?

5 ATTORNEY BARHAM: Certainly.

6 THE WITNESS: Yes. I'm not seeing where  
7 that is here. Can you point that out for me?

8 BY ATTORNEY BARHAM:

9 Q. Top of page three, just above that, how is  
10 gender fluidity related to health in child and teens?

11 A. Gender fluidity is a very nonspecific term that  
12 means very different things to different people. In the  
13 practice of the clinical work with transgender and  
14 gender diverse youth, kids who are self identifying as  
15 gender fluid, I want to understand what it means to them  
16 and what that definition is for that individual. I  
17 don't think there is one established definition of  
18 gender fluidity that has been agreed upon.

19 Q. But at least some respected professionals in  
20 this arena indicate that the term gender fluidity means  
21 that the person's internal sense of self, their gender  
22 identity changes frequently.

23 Correct?

24 ATTORNEY BLOCK: Objection to form.

1                   THE WITNESS: I can't speak to what Dr.  
2 Katz-Wise is using to define it. The way I would  
3 describe gender fluidity, again outside the context of  
4 how my patients are actually using the term, is that  
5 understanding of the expression of gender identity may  
6 change over time.

7 BY ATTORNEY BARHAM:

8           Q.       So you said that their understanding of gender  
9 identity can change over time. Dr. Katz-Wise says that  
10 their gender identity changes frequently?

11                   Is that correct?

12           A.       That's what it stated in this popular press  
13 article.

14           Q.       And Dr. Katz-Wise is an Assistant Professor in  
15 Adolescent and Young Adult Medicine at Boston Children's  
16 Hospital.

17                   Is that correct?

18           A.       I would have to take your word for that.

19           Q.       Okay.

20                   Are you aware that she co-directs the Harvard  
21 Sexual Orientation and Gender Identity Expression Equity  
22 Research Collaborative?

23           A.       I do not know the term, no.

24                   ATTORNEY BARHAM: I'm going to show you

1 what we will mark as Exhibit-5, and this will be Tab 13.

2 ---

3 (Whereupon, Exhibit-5, American  
4 Psychological Association Guidelines,  
5 was marked for identification.)

6 ---

7 BY ATTORNEY BARHAM:

8 Q. This document is the American Psychological  
9 Association Guidelines for Psychological Practice with  
10 Transgender and Gender Non-Conforming People.

11 Correct?

12 A. That is correct.

13 Q. And on page 836 of this document the APA writes  
14 just as some people experience their sexual orientation  
15 as being fluid or variable, some people also experience  
16 their the gender identity as fluid.

17 Correct?

18 A. Can you show me on the page where that is?

19 Q. The bottom of the first paragraph in the first  
20 column of page 836.

21 A. Yes.

22 Q. So the APA Guidelines say that gender identity  
23 can be fluid or changing.

24 Correct?

1                    ATTORNEY BLOCK: Objection to form.

2                    THE WITNESS: Well, I think the important  
3 piece is some people experience gender identity as fluid  
4 or variable.

5 BY ATTORNEY BARHAM:

6            Q.        So it can be fluid or changing?

7                    Correct?

8                    ATTORNEY BLOCK: Objection to form.

9 BY ATTORNEY BARHAM:

10           Q.        For at least some people.

11                    Correct?

12                    THE WITNESS: As I would describe it and  
13 understand it, that's the experience of expression of  
14 gender identity can be fluid over time, which is  
15 different.

16 BY ATTORNEY BARHAM:

17           Q.        How is that different to say that one's gender  
18 identity changes?

19           A.        It's getting a little complicated in terms of  
20 the concepts that we're talking about, but the identity  
21 that gender identity is something that is inherently  
22 fixed, that how people understand, experience it and  
23 express it can change over time. That's the difference.

24           Q.        But the American Psychological Association at

1 least describes gender identity as being fluid.

2 Correct?

3 ATTORNEY BLOCK: Objection to form.

4 THE WITNESS: In the article that you  
5 have put in front of me it describes that people's  
6 experience of their gender identity is fluid over time.

7 BY ATTORNEY BARHAM:

8 Q. Let's go back to Tab 5, which is Exhibit-2. Are  
9 you familiar with the Endocrine Society Guidelines?

10 A. I am.

11 Q. Is it your view that these guidelines were  
12 developed through rigorous scientific processes?

13 ATTORNEY BLOCK: Objection to form.

14 THE WITNESS: I agree.

15 BY ATTORNEY BARHAM:

16 Q. Would you agree that these guidelines were  
17 developed by among the most respected researchers in the  
18 field?

19 ATTORNEY BLOCK: Objection to form.

20 THE WITNESS: I wouldn't disagree with  
21 that, no.

22 BY ATTORNEY BARHAM:

23 Q. Do you respect Dr. Hembree of Columbia  
24 University Medical Center?

1 A. I do.

2 Q. Do you respect Dr. Cohen-Kettenis of the  
3 University of Amsterdam?

4 A. I would say I respect all of these clinicians  
5 and researchers, although Sabine Hannema I am not  
6 familiar personally.

7 Q. If you will turn to page 3879 of this document.  
8 Right under the heading evidence this article reports  
9 that the large majority, about 85 percent of prepubertal  
10 children with a childhood diagnosis did not remain GD,  
11 slash, gender incongruent in adolescence.

12 Is that correct?

13 A. That is correctly read, yes.

14 Q. And footnote 20 of this document cites to Dr.  
15 Steensma, de Vries, Cohen-Kettenis article in 2013?

16 A. That's correct.

17 Q. These are extensively published original peer  
18 reviewed research --- peer reviewed researchers in the  
19 field.

20 Correct?

21 A. Correct.

22 Q. So this committee reveals evidence that the  
23 large majority of children, about 85 percent, with a  
24 childhood diagnosis do not remain gender dysphoric in

1 gender adolescence.

2 Correct?

3 ATTORNEY BLOCK: Objection to form.

4 THE WITNESS: Yeah, in these studies have  
5 been published primarily by the Dutch clinic the rates  
6 of dissentience of the diagnosis of gender dysphoria has  
7 been upwards of 85 percent.

8 BY ATTORNEY BARHAM:

9 Q. And at the bottom of the first column of  
10 page 3879 the committee indicates that their clinical  
11 experience suggests that the persistence of gender  
12 dysphoria or gender incongruence can only be reliably  
13 assessed after the first signs of puberty.

14 Is that correct?

15 A. That is what is written, yes.

16 Q. You have not offered an opinion in your report  
17 as to whether or --- whether or to what transgender  
18 identity has a biological basis.

19 Is that correct?

20 A. Let me just make sure that I'm reviewing it. I  
21 have not offered an opinion.

22 Q. If you will turn to page 76 of Exhibit-2, Tab 5.  
23 The committee with all of its experience and presenting  
24 all the evidence said that gender dysphoria in children,

1 quote, does not invariably persist into adolescence and  
2 adulthood.

3 Is that correct?

4 A. That is correct.

5 Q. In fact, this committee concluded that that  
6 gender dysphoria, a minority of prepubertal children  
7 appears to persist in adolescence.

8 Is that correct?

9 A. That is correct.

10 Q. I'm going to turn your attention to --- this  
11 will be Tab 15, Exhibit-6.

12 ---

13 (Whereupon, Exhibit-6, Lisa Littman  
14 Study, was marked for identification.)

15 ---

16 BY ATTORNEY BARHAM:

17 Q. This is a 2021 study by Lisa Littman entitled  
18 Individuals Treated for Gender Dysphoria with a Medical  
19 and/or Surgical Transition who Subsequently  
20 De-transitioned.

21 Is that correct?

22 A. That is correct.

23 Q. Are you familiar with this study?

24 A. I am.



1 Q. The study was based on survey responses from a  
2 hundred adult individuals who were approved for hormonal  
3 and/or surgical transition, underwent such transition,  
4 lived in a transgender identity for a period of years  
5 and then decided to de-transition or revert to a gender  
6 identity associated with their biological sex.

7 Is that correct?

8 A. That is my understanding of the study, yes.

9 Q. And all of the subjects had detransitioned by  
10 discontinuing their medications, having surgeries to  
11 reverse the effects of transition or both.

12 Correct?

13 ATTORNEY BLOCK: Objection to form. Are  
14 you reading something?

15 ATTORNEY BARHAM: I'm referencing  
16 page two, column two, at the bottom of the page.

17 THE WITNESS: My recollection from the  
18 study was that this was all self report, so there was no  
19 way to verify if that was correct or true.

20 BY ATTORNEY BARHAM:

21 Q. But that's at least what the participants  
22 reported.

23 Correct?

24 A. From my recollection. I'd have to reread the

1 entire study to say for sure but that is my  
2 recollection, yes.

3 Q. And if you turn to page eight of the second  
4 column, under the heading de-transition?

5 A. I don't have page numbers on mine.

6 ATTORNEY BLOCK: Do you reference the  
7 page number at the top?

8 ATTORNEY BARHAM: The source contains no  
9 page numbers, making it difficult.

10 BY ATTORNEY BARHAM:

11 Q. Under the heading detransition it's the page  
12 right before table four.

13 ATTORNEY BLOCK: I'm sorry. Can I see  
14 the heading on the document? Just for the record, this  
15 doesn't appear to be a paginated version of the article  
16 where, you know, when I pull it up I get a publication,  
17 date and pages. So I don't know if this is the final  
18 version of the article or not, but you can proceed with  
19 the questions.

20 ATTORNEY BARHAM: Counsel, I'll return to  
21 your concerns, Mr. Block.

22 BY ATTORNEY BARHAM:

23 Q. Do you see the one page before the page that  
24 contains Table 4?

1 A. I do.

2 Q. Do you see the heading detransition?

3 A. I do.

4 Q. And it says there that when participants decided  
5 to detransition they were a mean age of 26.4 years old.

6 Correct?

7 A. That is correct.

8 Q. Have you read this study before today?

9 A. I have.

10 Q. So doesn't this study at least suggest that  
11 patients may think they have a sense of belonging to the  
12 opposite sex but can be mistaken?

13 ATTORNEY BLOCK: Objection to form.

14 THE WITNESS: I think what this study  
15 does is hear experiences from a select group of  
16 individuals who are motivated to participate in the  
17 study about detransition and hear their experiences of  
18 their care.

19 BY ATTORNEY BARHAM:

20 Q. But the study still indicates that those  
21 individuals had a sense of belonging to the opposite sex  
22 and later concluded that they were were mistaken.

23 Is that correct?

24 A. You will have to forgive my clinician nature

1 here, but language is important when working with  
2 patients who are transitioning. I don't know if that's  
3 the language that they would use or if that is the  
4 language that was used in this particular survey.

5 Q. But the effect of detransitioning is that they  
6 at one time thought they belonged to the opposite sex  
7 and then later concluded that they did not?

8 ATTORNEY BLOCK: Objection to the form.

9 THE WITNESS: Again, I think we would  
10 want to know specifically what each individual person,  
11 how they described their process. I don't know what  
12 detransition means to those who are taking a relatively  
13 anonymous survey, so it's hard to draw a conclusion  
14 about the specific nature of it. The generally accepted  
15 upon definition of detransition is generally aligned  
16 with somebody who reverts back to a gender identity or  
17 gender expression that is more aligned with their sex  
18 assigned at birth.

19 BY ATTORNEY BARHAM:

20 Q. This study defines detransition as discontinuing  
21 medications, having surgeries to reverse the effect of  
22 transition or both.

23 Is that correct? It is on page two?

24 A. Show me where on page two.

1 Q. The second column of page two, at the bottom of  
2 the page?

3 ATTORNEY BLOCK: Objection to form.

4 THE WITNESS: Yeah. I'm not seeing that  
5 Dr. Littman is specifically defining detransition but  
6 describing the objective of the study for folks who  
7 detransitioned by those aspects that you noted.

8 BY ATTORNEY BARHAM:

9 Q. Okay.

10 But she notes in the last paragraph on that  
11 page the objective of the current study was to describe  
12 the population of individuals, skipping, who then  
13 detransitioned by discontinuing medications, having  
14 surgery to reverse the effects of transition or both?

15 A. That's correct.

16 Q. So she is indicating what she understands  
17 detransitioning to mean in this article.

18 Correct?

19 ATTORNEY BLOCK: Objection to form.

20 THE WITNESS: Again I'm not sure how she  
21 specifically defines detransition. It is not  
22 necessarily made clear in that statement.

23 BY ATTORNEY BARHAM:

24 Q. Is it true that people may mistake feelings

1 resulting from trauma, mental illness or homophobia for  
2 a genuine sense of transgender identity?

3 ATTORNEY BLOCK: Objection to form.

4 THE WITNESS: I think there are a lot of  
5 complicated experiences that people may have that make  
6 them question their gender identity.

7 BY ATTORNEY BARHAM:

8 Q. So it's at least possible that people could  
9 mistake feelings resulting from trauma, mental illness  
10 or homophobia for genuine sense of transgender identity.

11 Correct?

12 ATTORNEY BLOCK: Objection to form.

13 THE WITNESS: I don't disagree with that,  
14 no.

15 BY ATTORNEY BARHAM:

16 Q. You said it's complicated, so it sounds like it  
17 would be hard sometimes for a clinician to tell with  
18 certainty what's going on?

19 ATTORNEY BLOCK: Objection to form.

20 THE WITNESS: What I would describe is  
21 that in anything related to mental health that there are  
22 complications and nuances. This is no different.

23 BY ATTORNEY BARHAM:

24 Q. Now, I believe you alluded to this a moment ago.

1 You mentioned that this is a self-reporting study and it  
2 obviously concerns an emotionally fraught area of gender  
3 identity. So is it your position that this does not  
4 produce scientifically meaningful results?

5 A. I don't know what you mean by scientifically  
6 meaningful.

7 Q. Do you believe that this --- the results of this  
8 article are scientifically reliable?

9 A. It depends upon what question is being asked.  
10 As a blanket, any kind of selection bias, particularly  
11 for this study based upon where the participants were  
12 drawn from makes us not want to draw conclusions about  
13 their generalized applicability of this study to other  
14 transgender folks, including other folks who may have  
15 detransitioned, but the goal of science is not  
16 necessarily to draw widely applicable conclusions, but  
17 to put us in a position where we can ask more questions  
18 and improve our care for our patients.

19 Q. Now, why do you say --- why do you highlight  
20 concerns about where the participants were drawn from?

21 A. I highlight that because it creates a sense of  
22 selection bias, which potentially, as I said, can reduce  
23 the why applicability of the conclusions drawn.

24 Q. And why do you say that there is a potential for

1 selection bias in this article?

2 A. Based upon the websites that Dr. Littman has  
3 drawn her participants.

4 Q. And why do you have concerns about those  
5 websites?

6 A. I have concerns about the websites because of  
7 the contents of those websites.

8 Q. And what is contents of those websites that  
9 causes you concern?

10 A. The content of the websites is unscientific.  
11 And I guess I'm not sure how to articulate it in a most  
12 defined way very specific to answering a set of  
13 questions that reenforces the prestudy hypotheses.

14 Q. So which websites that she drew participants  
15 from cause you concern?

16 A. As an example, Fourth Wave Now is a website that  
17 Dr. Littman had used for some of her study recruitment.

18 Q. And why are you concerned about the use of  
19 Fourth Wave now in the recruitment process?

20 A. What I would say is that when you're designing a  
21 study that presupposes the conclusion and the website is  
22 designed to attract people who presuppose that  
23 conclusion, that limits the applicability of the  
24 results. It just have to be taken into account. It



1 doesn't mean that there isn't data from this kind of  
2 snowball recruitment that isn't valuable and I wouldn't  
3 say that there isn't value to some of Dr. Littman's  
4 work, specifically this study as compared to the last,  
5 though you have to take it in the context with which it  
6 was developed.

7 Q. So are you suggesting that Dr. Littman  
8 presupposed the conclusion that she wanted to reach in  
9 designing this survey?

10 A. I'm less familiar with the design of this study  
11 than previous studies that she has designed, which I  
12 would say that was correct.

13 Q. What other websites did she use in the process  
14 to cause you concern?

15 A. I'm not as familiar with this study, so I don't  
16 know if she specifically identified which websites. And  
17 I can't recall right now on the others which they were.

18 Q. If you look at page three she discusses the  
19 method and the participants and procedures. Would  
20 reviewing that refresh your recollection as to any  
21 concerns about participants?

22 A. It would not because she does not describe the  
23 specific fora. She describes a closed Facebook group,  
24 Tumbler, Twitter and Reddit, but those are large

1 websites that have a lot of different kind of content.

2 Q. So is it your position that it's not possible to  
3 know whether anonymous or any results have any relation  
4 to true fact in actual case histories?

5 A. That is not my position.

6 Q. Do you have any --- you mentioned earlier  
7 something about how these were anonymous results. So is  
8 it possible to know whether they actually corresponded  
9 with true cases?

10 A. I think anonymous surveys, you have to really  
11 dig into the specifics of the survey design in order to  
12 draw conclusions. And again, with any study in any  
13 survey in particular you just want to make sure you have  
14 an understanding of that context how broadly to draw  
15 conclusions.

16 Q. Would you agree that online recruitment does not  
17 provide a statistically meaningful sample?

18 A. I would not agree with that.

19 Q. Is it your position --- how can an online  
20 recruitment produce a statistically meaningful sample?

21 A. I think I would need to understand the context  
22 of what you mean by statistically meaningful. There is  
23 a difference between a survey that could be potentially  
24 poorly designed and yet reach statistical significance.

1 You would need to understand the broader context in  
2 order to draw conclusions about what that statistical  
3 significance means and that means really digging into  
4 the specific methodology of this study. There is a vast  
5 literature about efficacy of survey data and it really  
6 depends on the specifics.

7 Q. We've previously referenced paragraph eight of  
8 your report where you mention you've seen approximately  
9 500 transgender patients.

10 ATTORNEY BLOCK: Travis, sorry, not to  
11 avoid a pending question, but we're almost at one hour,  
12 so if this is a good time, if you're moving to a  
13 different subject maybe this would be a good time to  
14 break.

15 ATTORNEY BARHAM: Let me wrap up a few  
16 more and then we will do that.

17 ATTORNEY BLOCK: Thanks.

18 BY ATTORNEY BARHAM:

19 Q. Your clinical practice for children and  
20 adolescents started in 2013, about eight years ago.

21 Is that correct?

22 A. No, I finished medical school in 2011 and have  
23 been working with adults, children and adolescents since  
24 then.

1 Q. Okay.

2 A. Actually that's when I finished --- to go back,  
3 that's when I finished my residency and fellowship. I  
4 finished medical school in 2006. I can't believe it's  
5 been long.

6 Q. And when did you begin your work in child and  
7 adolescent psychiatry?

8 A. I had child and adolescent psychiatry  
9 experiences when I was in medical school.

10 Q. When did you begin practicing child and  
11 adolescent psychiatry?

12 A. That's not a very specific term. I practiced  
13 child psychiatry as a medical student in my training.

14 Q. When were you licensed, when were you first  
15 licensed to practice child and adolescent psychiatry?

16 A. There's no specific license to practice child  
17 psychiatry. Anybody who is --- has a medical license  
18 can practice any medical specialty. I was Board  
19 Certified in Child and Adolescent Psychiatry, which is a  
20 different process and I would have to look through to  
21 recall the date. I'm assuming that it's 2012 or 2013.  
22 2013 is when I was Board Certified.

23 Q. So when did you begin --- and you finished your  
24 fellowship in child and adolescent psychiatry when?

1 A. 2011.

2 Q. 2011. When did you begin treating as a child  
3 and adolescent psychiatrist children with gender  
4 dysphoria?

5 ATTORNEY BLOCK: Objection to form.

6 THE WITNESS: I saw children with gender  
7 dysphoria during my residency and in my fellowship.

8 BY ATTORNEY BARHAM:

9 Q. And your fellowship?

10 A. Between 2006 and 2009.

11 Q. And what proportion of those patients socially  
12 transitioned?

13 A. Of all of the patients that I saw in my training  
14 or in all of the patients that I've seen over my time as  
15 a physician?

16 Q. Let's go first with the training.

17 A. It was a much smaller number, so probably if I  
18 were to guess, and I'm going back, probably close to  
19 95 percent.

20 Q. Ninety-five (95) percent socially transitioned  
21 when you were in training?

22 A. Yes.

23 Q. And how many of your patients overall have  
24 socially transitioned?

1           A.       I'm not sure how to answer that question. Over  
2 the course of our time working together, before I  
3 started seeing them or --- I'm not sure how to  
4 accurately answer that question.

5           Q.       Over the --- just in general how many of your  
6 patients socially transitioned, not just while they were  
7 being treated under your care?

8           A.       And these are patients who are seeing me  
9 specifically through the context of gender or of those  
10 500 transgender patients?

11          Q.       Of the 500 transgender patients.

12          A.       Probably --- I mean, it's a guess but probably  
13 in the order of 85 percent.

14          Q.       And what proportion of the 500 patients used  
15 puberty blockers?

16          A.       Probably a minority of those patients. If I had  
17 to guess, probably 20 percent or less.

18          Q.       And what percent of those 500 transgender  
19 patients used cross sex hormones?

20          A.       I don't have my records in front of me, so it  
21 would really just be a guess, but probably close to the  
22 same percentage that socially transitioned, probably a  
23 little bit less than that.

24          Q.       If I recall correctly that's about 85 percent?

1 A. Probably somewhere on the order of that.

2 ATTORNEY BLOCK: Would now be a good time  
3 for that break?

4 ATTORNEY BARHAM: One last question.

5 BY ATTORNEY BARHAM:

6 Q. What systems do you have in place to track these  
7 patients five years after they have been in your care?

8 A. I have the same systems as most psychiatrists.  
9 We see the patients within our care. Folks will reach  
10 out to us after time has passed and it's one of the  
11 great pleasures of being a child psychiatrist, we get to  
12 see folks longitudinally. So there is not a specific  
13 system apart from mutual care.

14 Q. So you rely on them to reach out to you.  
15 Is that correct?

16 ATTORNEY BLOCK: Objection to form.

17 THE WITNESS: It depends on context.

18 BY ATTORNEY BARHAM:

19 Q. But do you have any systematic way of tracking  
20 all patients five years after they leave your care?

21 A. There is no systematic way of tracking all  
22 patients.

23 ATTORNEY BARHAM: All right. Let's take  
24 a break. How long would you all like?





1 detransitioned who have described those experiences.

2 There has not been a specific survey designed of  
3 detransitioners outside of this one that I'm aware of.

4 BY ATTORNEY BARHAM:

5 Q. Has anyone written an article finding fault with  
6 the way Dr. Littman interpreted the data that ---?

7 ATTORNEY BLOCK: Objection to form.

8 THE WITNESS: For this specific data set  
9 or for previous?

10 BY ATTORNEY BARHAM:

11 Q. For this specific data set?

12 A. For this specific data set, from my  
13 recollection, this was studied --- or published just  
14 recently so I'm not aware of any. It doesn't mean that  
15 there aren't.

16 Q. Are you aware of any studies that contradict Dr.  
17 Littman's conclusions in this 2021 article?

18 A. If you give me a moment I will read the  
19 conclusion.

20 ATTORNEY BLOCK: Objection to form.

21 THE WITNESS: Inasmuch as Dr. Littman's  
22 conclusion is that there's no single narrative to  
23 explain the experiences of all individuals who  
24 detransitioned and we should take care to avoid painting

1 the population with a broad brush, I agree with that  
2 conclusion.

3 BY ATTORNEY BARHAM:

4 Q. Are you aware of any studies that contradict her  
5 conclusions not just in the conclusion section but her  
6 description of the detransitioners?

7 ATTORNEY BLOCK: Objection to the form.

8 THE WITNESS: I think it's hard to  
9 provide a specific answer to that question. We have to  
10 look at each study and judge each individual study based  
11 upon the merits. The conclusions she draws are from a  
12 subset of patients with a very specific viewpoint, and I  
13 agree with her and her conclusion that there needs to be  
14 more research to better understand the broader  
15 implications of this care.

16 BY ATTORNEY BARHAM:

17 Q. You're not aware of any article that has been  
18 published specifically critiquing this 2021 study by Dr.  
19 Littman.

20 Is that correct?

21 A. Not that I'm aware of.

22 ATTORNEY BLOCK: Objection to form.

23 BY ATTORNEY BARHAM:

24 Q. A few moments ago we were also talking about the

1 patients that you have treated, the 500 transgender  
2 patients you referenced in your report, and you  
3 mentioned that about 20 percent or less of those had  
4 used puberty blockers. I'm wondering why that  
5 percentage is so low.

6 ATTORNEY BLOCK: Objection to form.

7 THE WITNESS: I don't know. Low compared  
8 to what? I think it's important to understand the  
9 context that in 2011, when I first started my gender  
10 program, that puberty blocking medications were not  
11 widely available, cost upwards of \$3,000 a month and  
12 were not covered by most insurance. So puberty blockers  
13 were not something that were available in the same way  
14 they are now. And I also saw a fair number of adults  
15 and older adolescents for whom puberty blockers are not  
16 indicated.

17 BY ATTORNEY BARHAM:

18 Q. So of the 500 patients that you reference in  
19 paragraph eight of your report, what percentage of those  
20 are adults?

21 A. I would really have to go back and look. I  
22 mean, in my current practice, I see adolescents and  
23 young adults, so kind of parsing out artificially who is  
24 18 and up, it would take some time to do that. Probably

1 in the order of 75 percent are children in adolescence,  
2 25 percent adults. But of course, over 2011 to now, a  
3 lot of those folks are now adults.

4 Q. And when I'm asking about these percentages I  
5 mean when you were treating them. What percentage of  
6 the patients you were treating were children?

7 A. That's my best guess.

8 Q. Seventy-five (75) percent?

9 A. Yes.

10 Q. And are you distinguishing between prepubertal  
11 children and adolescents in that 75 percent or both?

12 A. That's both.

13 Q. Of that 75 --- of all the patients you've seen,  
14 at the time you saw them, how many were prepubertal  
15 children?

16 A. Probably --- and again, I have to give this a  
17 major caveat. I would have to go back and look through  
18 everything, but I would say probably 25 percent of that  
19 75 percent were prepubertal at the time of initial  
20 assessment.

21 Q. And so then the remaining 75 percent of 75 would  
22 be adolescents.

23 Is that correct?

24 A. Correct.

1                    ATTORNEY BLOCK: Objection to form.

2                    BY ATTORNEY BARHAM:

3                    Q.        How many of your patients of those 500 patients  
4                    have detransitioned in a year?

5                    A.        It's kind of a hard question to answer. The one  
6                    patient who self identifies as having detransitioned  
7                    started seeing me after she had detransitioned.

8                    Q.        Have any of your patients detransitioned while  
9                    under your care?

10                  A.        Not that I'm aware of.

11                  Q.        And is the one patient who detransitioned before  
12                  starting to see you, is that the only patient you're  
13                  aware of of the 500 that has detransitioned?

14                  A.        That is the only one that I'm aware of, yes.  
15                  But can I clarify that of those 500 patients there are  
16                  certainly those who did not choose to transition.

17                  Q.        And how many of the 500 chose not to transition?

18                  A.        If I had to guess, probably about 10 to 20,  
19                  probably ten percent.

20                  Q.        And did they make that decision before puberty  
21                  began?

22                  A.        It was a mix.

23                  Q.        Of those who chose not to transition, how many  
24                  were children when they made that decision?

1           A.       I couldn't tell you at that point, but  
2 significantly more were the prepubertal youth than  
3 adolescents.

4           Q.       This is a sensitive question. I mean no offense  
5 by it, but how many of the 500 patients have made the  
6 sad decision to commit suicide?

7                    ATTORNEY BLOCK: I'm sorry. I couldn't  
8 heat that. Can you speak up?

9           BY ATTORNEY BARHAM:

10          Q.       How many of the 500 patients have made the sad  
11 decision to commit suicide?

12                    ATTORNEY BLOCK: Objection to form.

13                    THE WITNESS: Is your question how many  
14 have completed suicide?

15           BY ATTORNEY BARHAM:

16          Q.       Correct.

17          A.       Of those 500 patients, zero.

18          Q.       How many of those 500 patients have been  
19 hospitalized for a psychiatric illness?

20          A.       I do not have that information in front of me.

21          Q.       Do you have any general idea?

22          A.       I don't.

23          Q.       After five or more years what percentage of your  
24 patients would be characterized as lost to follow-up?



1 paginated in the top right corner or top inside corner.  
2 On page one the first sentence of the last paragraph  
3 says gender transition is as scientifically fascinating  
4 as it is socially controversial for it poses significant  
5 professional and bioethical challenges for those  
6 clinicians working in the field of gender dysphoria.

7 Do you agree that gender detransition poses  
8 significant professional and bioethical challenges for  
9 professionals treating gender dysphoria?

10 ATTORNEY BLOCK: Objection to form.

11 THE WITNESS: I don't necessarily agree  
12 with the language. And certainly don't agree with the  
13 author to use something that's scientifically  
14 fascinating. What I think is that every decision that  
15 we make in child psychiatry in particular is fraught  
16 with ethical challenges. This is not any different from  
17 the ethical challenges that we face with a lot of other  
18 interventions.

19 BY ATTORNEY BARHAM:

20 Q. What challenges does detransition pose to your  
21 profession in your view?

22 ATTORNEY BLOCK: Objection to form.

23 THE WITNESS: I don't see how it poses  
24 any challenges to my work.



1 BY ATTORNEY BARHAM:

2 Q. Page three of this article, the authors identify  
3 several things that may prompt a person's decision to  
4 detransition including understanding how past trauma,  
5 internalized sexism and other psychological difficulties  
6 influence the experience of gender dysphoria.

7 Correct?

8 ATTORNEY BLOCK: Objection. Can you give  
9 him a chance to read?

10 ATTORNEY BARHAM: Of course.

11 THE WITNESS: And can you repeat what you  
12 said?

13 BY ATTORNEY BARHAM:

14 Q. On page three the authors identify several  
15 things that may prompt a person's decision to  
16 detransition including, quote, understanding how past  
17 trauma, internalized sexism and other psychological  
18 difficulties influence the experience of gender  
19 dysphoria.

20 Correct?

21 A. Sorry. Just give me a second to look at the  
22 context here.

23 Q. Sure.

24 A. I agree that's how it is written and there

1 appears to be no basis from which the author has built  
2 that assertion. There is no methods described in this  
3 whatsoever.

4 Q. I believe the author in that instance is citing  
5 Dodsworth 2020, Gonzalez 2019, Herzog 2017, and one,  
6 two, three, four other studies.

7 Do you see that?

8 A. I see those studies. I'd have to look at the  
9 specific studies in order to understand the implications  
10 and the context.

11 Q. But the authors obviously seem to have a basis  
12 or at least a citation basis for what they're saying.

13 Is that correct?

14 ATTORNEY BLOCK: Objection to form.

15 THE WITNESS: Again, without knowing the  
16 specifics of those studies it's hard for me to say.

17 BY ATTORNEY BARHAM:

18 Q. The authors also indicate that solving previous  
19 psychological or slash emotional problems that  
20 contributed to gender dysphoria may prompt the decision  
21 to detransition.

22 Is that correct?

23 A. Where is that?

24 Q. They are citing Butler and Hutchinson, 2020,

1 Stella 2016. It is the same paragraph.

2 A. Got it. Yeah I don't know what solving a  
3 psychological or emotional problem means in this  
4 context.

5 Q. But these authors are at least indicating that  
6 solving these problems, however they mean the term, may  
7 prompt a decision to detransition.

8 Is that correct?

9 ATTORNEY BLOCK: Objection to form.

10 THE WITNESS: I think I've answered how I  
11 can answer that.

12 BY ATTORNEY BARHAM:

13 Q. Okay.

14 Let's go back to Tab 15, which is Exhibit-6.  
15 This was the Littman study that we were discussing a  
16 moment ago. On page three --- excuse me, according to  
17 Table 5, on page nine, 60 percent of the participants in  
18 this survey reported that they became more comfortable  
19 identifying as their natal sex.

20 Is that correct?

21 ATTORNEY BLOCK: Objection to form.

22 THE WITNESS: I see 65 percent of those  
23 assigned female at birth and 48 of those assigned male  
24 at birth reported that.

1 BY ATTORNEY BARHAM:

2 Q. So 45 and 15 is 60, so that would be 60 percent  
3 of the 100 participants in the study.

4 Correct?

5 ATTORNEY BLOCK: Objection to form.

6 THE WITNESS: I believe.

7 BY ATTORNEY BARHAM:

8 Q. I'm sorry. I didn't hear your answer.

9 A. I trust your math, yes.

10 Q. Okay.

11 And on page 12, under the heading discussion,  
12 this survey indicates that only a small percentage of  
13 detransitioners, 24 percent, informed the clinicians and  
14 clinics that facilitated their transfer that they ---  
15 their transition that they had detransitioned.

16 Is that correct?

17 ATTORNEY BLOCK: Objection to form.

18 THE WITNESS: Yes, the participants in  
19 the study, that is correct.

20 BY ATTORNEY BARHAM:

21 Q. And you testified a moment ago, if I recall  
22 correctly, please correct me if I'm wrong, that you are  
23 aware of only one patient in your career that has  
24 detransitioned.

1 Is that correct?

2 A. That I'm aware of, yes.

3 Q. Let's go to Tab 116, which is Exhibit-8.

4 ---

5 (Whereupon, Exhibit-8, Article by

6 Vandebussche, was marked for

7 identification.)

8 ---

9 BY ATTORNEY BARHAM:

10 Q. Are you familiar with this article?

11 A. I have not read this article.

12 Q. And this is a 2021 article by I believe a  
13 gentleman named --- or an individual named  
14 Vandebussche, Detransitioned Related Needs in Sports.

15 Is that correct?

16 A. That is correct.

17 Q. Did you review this article when preparing your  
18 report?

19 A. I did not.

20 Q. If you look at page four this article examined a  
21 sample survey of 237 detransitioners.

22 Is that correct?

23 ATTORNEY BLOCK: Objection. Can you give  
24 him time to read the document he has never seen before.

1                    ATTORNEY BARHAM: Certainly.

2                    THE WITNESS: Can you repeat the  
3 question?

4 BY ATTORNEY BARHAM:

5            Q.        This article highlights the results of a survey  
6 of 237 detransitioners.

7                    Correct?

8            A.        Yes, as they are defining detransitioning, yes.

9            Q.        And on page five these authors --- these  
10 researchers report that 70 percent of participants  
11 detransitioned because they realized that their gender  
12 dysphoria was related to other issues.

13                    Correct?

14            A.        Correct.

15            Q.        And that was the most common reported reason for  
16 detransitioning.

17                    Correct?

18            A.        As they stated, yes.

19            Q.        In paragraph 43 of your report you cite Lisa  
20 Littman's 2018 study. Paragraph 43. And you highlight  
21 what you describe as serious methodological flaws that  
22 render the study meaningless.

23                    Is that correct?

24            A.        Correct.

1                    ATTORNEY BARHAM: I want to show you  
2 Tab 117, and this will be Exhibit 9. It will be an  
3 article by Lily Durwood entitled Mental Health and Self  
4 Worth in Socially Transitioned Transgender People.

5                    ---

6                    (Whereupon, Exhibit-9, Article by Lily  
7 Durwood, was marked for identification.)

8                    ---

9 BY ATTORNEY BARHAM:

10 Q. Are you familiar with this article?

11 A. I am.

12 Q. You cited this in footnote nine of your report  
13 as demonstrating the treatment associated with social  
14 transitions.

15 Correct?

16 A. I have to look at the specific footnote. I know  
17 I cited it, but I don't know if it was citing to that  
18 specific conclusion.

19 Q. By all means take a look.

20 A. Can you point me to where my footnote is?

21 Q. Footnote nine is --- let me find it myself.

22 ATTORNEY SWAMINATHAN: It's page 11.

23 THE WITNESS: Yes.

24 BY ATTORNEY BARHAM:

1 Q. The Durwood article in 2017 is a survey of  
2 children and their parents about the children's mental  
3 health.

4 Is that correct?

5 A. Correct.

6 Q. The children in the Durwood article were not  
7 surveyed or assessed by clinicians.

8 Is that correct?

9 A. I don't know the answer to that. I'd have to  
10 look at the specific ---.

11 Q. Well, if this is a self report it would be  
12 reporting what the children themselves said.

13 Correct?

14 ATTORNEY BLOCK: Objection. Let him have  
15 time to read the article.

16 THE WITNESS: The trans youth project was  
17 directed by Dr. Ulson involved clinicians in the  
18 assessment of the children and their families. So I'm  
19 not sure specifically. I would have to go through the  
20 methods of this one particularly for me to recall.

21 As you will see from the procedure on  
22 page 117 whenever possible parents and children  
23 completed the measurements in separate rooms or far  
24 enough in the same room to be out of ear shot. And so



1 they were researchers who were boarded who were  
2 participating in these interviews with the kids and  
3 their families.

4 BY ATTORNEY BARHAM:

5 Q. But those researchers were just recording what  
6 the students said out loud?

7 A. Correct.

8 Q. So there's no clinical assessment of the  
9 children as part of this survey.

10 Is that correct?

11 ATTORNEY BLOCK: Object to form.

12 THE WITNESS: I wouldn't be able to  
13 answer that question. It depends upon how it's used.  
14 In a research context you might be using the same  
15 instruments that we would use for clinical assessments,  
16 but for the sake of research purposes it's not used in  
17 that way.

18 BY ATTORNEY BARHAM:

19 Q. But the purpose of this article was just to  
20 record what the children said as a self report.

21 Is that correct?

22 ATTORNEY BLOCK: Objection to form.

23 THE WITNESS: As far as I understand the  
24 point of this article, they utilized child self report

1 which is what is typically used in children mental  
2 health studies.

3 BY ATTORNEY BARHAM:

4 Q. According to page --- the second page of this  
5 article, which is page 117, the participants were  
6 recruited through word of mouth, national and local  
7 support groups, summer camps and online forums for  
8 families of transgender and gender nonconforming youth.

9 Correct?

10 A. That is correct.

11 Q. Frequently in your report you refer to  
12 gender-affirming care. What in your view are the  
13 components of gender-affirming care?

14 ATTORNEY BLOCK: Objection to form.

15 THE WITNESS: I think that there is no  
16 one agreed upon use of that term and it is used by  
17 different people in different context to mean whatever  
18 they want it to mean, depending upon who is asking the  
19 questions. The way that I define it, for my own  
20 practice, is that it's important for children to be  
21 heard and listened to, that any particular gender  
22 identity outcome is not better than any other and that  
23 the child and families should be directing the process  
24 with appropriate assessments and interventions.

1 BY ATTORNEY BARHAM:

2 Q. How do you handle a situation where parental  
3 desires may be differ than the child's desires?

4 A. That is almost a universal phenomenon of  
5 parenthood, so there's not an atypical process. When  
6 there is disagreement about specific issues in the  
7 treatment plan those interventions are going to be  
8 tailored to the individual families based upon their  
9 need.

10 Q. So when you use gender-affirming care what do  
11 you view as the different components or different  
12 aspects of gender-affirming care in your practice?

13 ATTORNEY BLOCK: Objection to form.

14 THE WITNESS: I think that is also going  
15 to be highly context dependent. I'm a psychiatrist and  
16 I see a lot of children with complex psychiatric needs,  
17 so my process for gender-affirming care is going to be  
18 different than what somebody else might describe as  
19 gender-affirming care, but I think I highlighted what I  
20 see as the components of it for myself.

21 BY ATTORNEY BARHAM:

22 Q. I've missed in your list of the different  
23 components, so could you explain again what do you see  
24 as the components of gender-affirming care?

1           A.       That it should be child and family led, that  
2 listening to and understanding the child is an important  
3 aspect of the process and that there is no gender  
4 identity outcome that is privileged over another. I'm  
5 sure I said it slightly differently than the last time  
6 around but the concepts are the same.

7           Q.       Do you consider social transition to be a  
8 component of gender-affirming care?

9           A.       I think that understanding the risks, benefits  
10 and alternatives of social transition is a part of  
11 gender-affirming care. In that way, sometimes  
12 recommending not socially transitioning is a part of  
13 gender-affirming care.

14          Q.       But gender-affirming care can be an approach  
15 used as part of gender-affirming care.

16                   Is that correct?

17                   ATTORNEY BLOCK: Objection to the form.

18                   THE WITNESS: Can you repeat the  
19 question?

20 BY ATTORNEY BARHAM:

21          Q.       Social transitioning can be a method used as  
22 part of gender-affirming care.

23                   Correct?

24          A.       It is an option.

1 Q. An available tool.

2 Correct?

3 A. Yes.

4 Q. Is it your belief that social transition is a  
5 type of medical or mental health treatment for gender  
6 dysphoria?

7 A. It's a hard question to answer. Social  
8 transition is a pretty diverse concept that's hard to  
9 get as a categorical variable to study, but the  
10 implication is that there's a lot of things that are  
11 often helpful for mental health that aren't specifically  
12 mental health treatments, right, like exercise, regular  
13 sleep. These aren't specific mental health  
14 interventions but nevertheless have impacts on mental  
15 health outcomes.

16 Q. Well, in paragraph 90 --- I mean paragraph 36 of  
17 your report you say that social transition is a  
18 treatment for gender dysphoria?

19 A. Yeah I would agree with that.

20 Q. So what kind of treatment is it?

21 A. It's a psychosocial intervention.

22 Q. Psychosocial. What does social transitioning  
23 include in your view?

24 A. I have to recall if I provided an operational

1 definition for it in my report. Essentially what we're  
2 talking about is an alignment of gender role and gender  
3 identity. So that's transition of name, pronouns, hair,  
4 participation in sex-segregated activities, et cetera.

5 Q. And so social transition in your view means the  
6 participation in girls or boys athletic teams in  
7 competitions consistent with ones gender identity.

8 Is that correct?

9 A. Again, it's going to be context dependent. It  
10 is not a yes or no question around social transition.  
11 What we're going to be doing in the context of an  
12 assessment is understanding the risks and benefits of  
13 all the various options that we have.

14 Q. I understand that it can differ from person to  
15 person, but participation in girls or boys athletic  
16 teams in competition consistent with one's gender  
17 identity is an aspect, a possible aspect, of social  
18 transitioning.

19 Correct?

20 A. It may be an option for some students, yes.

21 Q. Do you consider the use of puberty blockers to  
22 be an available tool as part of gender-affirming care?

23 A. I do.

24 ATTORNEY BLOCK: Objection to form.

1 BY ATTORNEY BARHAM:

2 Q. Do you consider the use of cross sex hormones to  
3 be an available tool as part of gender-affirming care?

4 ATTORNEY BLOCK: Objection to form.

5 THE WITNESS: Gender-affirming care can  
6 include hormones.

7 BY ATTORNEY BARHAM:

8 Q. Are there any other available tools that you use  
9 as part of gender-affirming care?

10 A. Yes, there is a lot of tools that I use that are  
11 involved in gender-affirming care. Work with the family  
12 is one big piece of it. Work with the school is  
13 another. Referrals for surgery when indicated,  
14 recommendations for assessment and treatment of any  
15 co-occurring mental health disorder is a part of it.

16 Q. What is your role in the prescribing of puberty  
17 blockers?

18 A. I'm occasionally in the role of doing a mental  
19 health assessment prior to initiation of those  
20 medications.

21 Q. And are you the individual who would prescribe  
22 the puberty blockers?

23 A. I am not.

24 Q. What type of professional would be responsible

1 for the prescribing?

2 A. In the clinics that I have worked these are  
3 either adolescent medicine specialists or pediatric  
4 endocrinologists.

5 Q. And is the same true with cross sex hormones?

6 A. Yes.

7 Q. In your report you describe gender-affirming  
8 care as the prevailing model of care for transgender  
9 youth.

10 Is that correct? And I'm referencing  
11 paragraph 15 of your report.

12 A. Yes.

13 Q. Later on in your report you refer to prevailing  
14 standards of care, paragraph 18, paragraph 26, for  
15 example. By that are you referring to gender-affirming  
16 care?

17 A. Which paragraph?

18 Q. Eighteen (18) and 26.

19 A. I would say that it is a part of what I'm  
20 referring to but not the entirety of what I'm referring  
21 to.

22 Q. What else are you referring to in paragraph 18  
23 and 26 when you say prevailing standards of car?

24 A. This would include a lot of components,



1 including both the Endocrine Society Guidelines, the  
2 World Professional Association for Transgender Health  
3 Guidelines as well as recommendations and ethical  
4 guiding principles of the various governing bodies that  
5 we all work with.

6 Q. And you would describe those various documents  
7 that you just referenced as reflecting gender-affirming  
8 care.

9 Correct?

10 A. I would have to go through, for example, the  
11 Endocrine Society Guidelines to know whether or not they  
12 use that specific term. Again, I think I just want to  
13 make sure that I'm emphasizing that gender-affirming  
14 care does not have an agreed upon definition so it's  
15 controversial and I wouldn't know how to answer that  
16 question.

17 Q. As you use the term and as you define the term  
18 in your practice, would you consider the WPATH standards  
19 to fall under the umbrella of gender-affirming care?

20 A. I would yes.

21 Q. And would you consider the Endocrine Society  
22 Guidelines to fall under the umbrella of  
23 gender-affirming care?

24 A. I would, yes.

1 Q. In paragraph 15 of your report you claim that  
2 gender-affirming care is endorsed by at least five  
3 professional associations.

4 ATTORNEY BLOCK: Objection to form.

5 BY ATTORNEY BARHAM:

6 Q. And you reference others. What other  
7 organizations are you alluding to in paragraph 15 of  
8 your report?

9 A. I don't want to get the name of the organization  
10 incorrect, but National Association of Social Workers  
11 and the National Association of Marital and Family  
12 Therapists have released statements about it, but I  
13 don't have specific recollection of those sitting here  
14 today.

15 Q. Okay.

16 Are there any other organizations besides those  
17 and those listed in paragraph 15?

18 A. There likely are but none that are coming to  
19 mind today.

20 Q. When you were preparing your report did you  
21 consult the standards of care articulated by any  
22 international professional organizations?

23 A. Yes.

24 Q. Which ones?

1 A. Both the Endocrine Society Guidelines as well as  
2 the WPATH standards of care.

3 Q. Any other international or professional  
4 organizations?

5 A. Not that I can recall, no.

6 Q. Are you aware that international and  
7 professional organizations have been moving away from  
8 using puberty blockers and cross sex hormones on  
9 children and adolescents under the age of 16?

10 ATTORNEY BLOCK: Objection to form.

11 THE WITNESS: I don't see that that is  
12 necessarily accurate. I'm going to have to take a break  
13 in five minutes if that is okay.

14 ATTORNEY BARHAM: This would be the  
15 perfect time.

16 THE WITNESS: I will be quick.

17 VIDEOGRAPHER: Going off the record. The  
18 current reads 11:01.

19 OFF VIDEOTAPE

20

---

21 (WHEREUPON, A SHORT BREAK WAS TAKEN.)

22

---

23 ON VIDEOTAPE

24

VIDEOGRAPHER: Back on the record. The

1 current time is 11:06 a.m.

2 ATTORNEY BARHAM: I'm going to show you  
3 what we will mark as Exhibit 10, this will be Tab 91.

4 ---

5 (Whereupon, Exhibit-10, Statement by  
6 Royal Australian and New Zealand College  
7 of Psychiatrists, was marked for  
8 identification.)

9 ---

10 BY ATTORNEY BARHAM:

11 Q. This is a statement from the Royal Australian  
12 and New Zealand College of Psychiatrists.

13 Correct?

14 ATTORNEY BLOCK: Objection. Can you give  
15 him a chance to look at the document?

16 THE WITNESS: It's what it says. I don't  
17 know what the government structure of this organization  
18 is or how they release their statements or how they are  
19 developed.

20 BY ATTORNEY BARHAM:

21 Q. This is Position Statement 103, according to the  
22 document.

23 Correct?

24 A. I will take your word for it if that's what it

1 says.

2 Q. Right below the title. And it was published in  
3 August of 2021.

4 Is that correct?

5 A. I don't know where it says that.

6 Q. Right below the tab.

7 A. Got it.

8 Q. The Royal Australian and New Zealand College of  
9 Psychiatrists is the professional body of psychiatrists  
10 for those two countries.

11 Is that correct?

12 ATTORNEY BLOCK: Objection.

13 THE WITNESS: I do not know that.

14 BY ATTORNEY BARHAM:

15 Q. I'm sorry. I didn't catch your answer.

16 A. I do not know.

17 Q. According to page three of this document, the  
18 Royal College has concluded that there are, quote,  
19 polarized views and mixed evidence regarding treatment  
20 options for people presenting with gender identity  
21 concerns, especially children and young people.

22 Do you see that?

23 A. I see that.

24 Q. Do you agree with their assessment?

1 A. Yes.

2 Q. So this means that professionals can disagree  
3 with each other as to how to treat children and young  
4 people with gender dysphoria.

5 Is that correct?

6 ATTORNEY BLOCK: Objection to form.

7 THE WITNESS: Yeah. I think any  
8 treatment decision, you're going to have professionals  
9 disagreeing with you about the best course of action.  
10 This isn't any different than that.

11 BY ATTORNEY BARHAM:

12 Q. And on page four of the document the Royal  
13 College says that psychiatric assessment and treatment  
14 should be both --- should be both based on available  
15 evidence and allow for full exploration of a person's  
16 gender identity. And it emphasizes the importance of  
17 the psychiatrist's role to undertake for assessment in  
18 evidence-based treatment ideally as part of a  
19 multidisciplinary team, especially highlighting  
20 distinguishing issues which may need addressing and  
21 treating. Do you agree with the Royal College's  
22 emphasis on psychiatrists' role and how it's important  
23 to ensure appropriate care for gender dysphoria?

24 ATTORNEY BLOCK: Objection to form.

1                   THE WITNESS: Psychiatrists are often a  
2 useful adjunct to the team, but isn't a necessary  
3 requirement. There are many other mental health  
4 professionals who have expertise and can fill this role.

5 BY ATTORNEY BARHAM:

6           Q.       And what other professionals do you think could  
7 fill this role?

8           A.       This would be licensed clinical mental health  
9 professionals.

10          Q.       And those would include?

11          A.       Psychologists, social workers, marital and  
12 family therapists and there are probably other titles  
13 that are governed by their regulatory boards that I  
14 don't recall right now.

15 BY ATTORNEY BARHAM:

16          Q.       And on what are you basing your disagreement  
17 with the Royal College's emphasis on the importance of  
18 the psychiatrist's role

19                   ATTORNEY BLOCK: Objection to form and  
20 characterization of the document.

21                   THE WITNESS: The WPATH standards of care  
22 as an example does not dictate necessary involvement of  
23 a psychiatrist. And I would have to review the  
24 Endocrine Society, but I don't believe that they

1 specifically --- from my guild either.

2 BY ATTORNEY BARHAM:

3 Q. Is it true that psychiatrists have training and  
4 skills that psychologists and marital therapists and  
5 social workers do not have?

6 A. That is correct.

7 ATTORNEY BARHAM: I'm going to hand you  
8 what we will mark as Exhibit-11. And this will be  
9 Tab 92 for those watching online.

10 ---

11 (Whereupon, Exhibit-11, Policy Change  
12 Regarding Hormonal Treatment of Minors,  
13 was marked for identification.)

14 ---

15 BY ATTORNEY BARHAM:

16 Q. This document is an announcement of a policy  
17 change regarding hormonal treatment of minors with  
18 gender dysphoria at Astrid Lidgren Children's Hospital.  
19 Are you aware that this is the main gender clinic in  
20 Sweden?

21 ATTORNEY BLOCK: Objection to form.

22 THE WITNESS: I don't see any specific  
23 information about this document that reports where it's  
24 from.



1 BY ATTORNEY BARHAM:

2 Q. Are you aware of Astrid Lindgren Hospital by  
3 reputation?

4 A. I don't know if that's the name of it. No, I  
5 don't recall the specific name of the Swedish Children's  
6 Hospital.

7 Q. Are you aware that the Swedish Agency for Health  
8 Technology Assessment and Assessment of Social Services  
9 published an overview of the knowledge base which showed  
10 a lack of evidence of both long-term consequences of the  
11 treatments of gender dysphoria?

12 A. I have heard ---.

13 ATTORNEY BLOCK: Objection to form and  
14 where are you quoting from?

15 ATTORNEY BARHAM: Halfway through the  
16 first paragraph of the background section on page one.

17 ATTORNEY BLOCK: I'm sorry. Where was  
18 this document obtained from?

19 ATTORNEY BARHAM: I can supply that  
20 information, but this is an announcement of a policy  
21 change from a Children's Hospital in Sweden.

22 ATTORNEY BLOCK: Just for the record,  
23 this doesn't seem to have a walk --- like --- it just  
24 looks like words on a page without other sourcing on it.

1                    ATTORNEY BARHAM: Your objection is  
2 noted.

3                    THE WITNESS: I mean without speaking to  
4 the providence of the document, I have heard that there  
5 was a change within the Swedish establishment in regards  
6 to prepubertal youth or prepubertal youth.

7 BY ATTORNEY BARHAM:

8            Q.        And what was your understanding of that change?

9            A.        I would have to look through the specifics to  
10 know for sure.

11           Q.        What is your general understanding of the nature  
12 of that change?

13           A.        My general understanding was there was a pause  
14 on some of the treatments, medical treatments available  
15 for children with gender dysphoria.

16           Q.        And by pause, at least according to this  
17 document, it means that they had decided hormonal  
18 treatments, i.e. puberty blocking and cross sex  
19 hormones, will not be initiated in gender-dysphoric  
20 patients under the age of 16.

21                    Correct? First bullet point in executive  
22 decisions.

23            A.        Again, not knowing the providence of this  
24 document, that's what this document says, yes.

1 Q. Are you aware that the United Kingdom's National  
2 Health Service put an end to initiating hormone  
3 treatment in new cases of individuals under 16?

4 ATTORNEY BLOCK: Objection to form and  
5 foundation.

6 THE WITNESS: My understanding is that  
7 it's under litigation right now and a final decision has  
8 not been reached, but I could be wrong about that.

9 BY ATTORNEY BARHAM:

10 Q. Are you aware that that's at least a current  
11 practice to put an end to initiating hormonal treatment  
12 in new patients --- in new cases of individuals under  
13 16?

14 ATTORNEY BLOCK: Objection to form.

15 THE WITNESS: Can you repeat the  
16 question?

17 BY ATTORNEY BARHAM:

18 Q. Are you aware that the United Kingdom's National  
19 Services' current practice is to put an end to  
20 initiating hormonal treatments in new cases of  
21 individuals under 16?

22 ATTORNEY BLOCK: Objection to form and  
23 foundation.

24 THE WITNESS: I do not have the NHS

1 policies in front of me, so I cannot speak to that.

2 ATTORNEY BARHAM: The document Exhibit  
3 --- what number are on, 11.

4 LAW CLERK WILKINSON: 11, yes

5 BY ATTORNEY BARHAM:

6 Q. Exhibit 11 indicates, quote, the United  
7 Kingdom's National Health Service put an end to  
8 initiating hormonal treatment in new cases of  
9 individuals under 16. Do you have any reason to believe  
10 that that statement is inaccurate?

11 ATTORNEY BLOCK: Just objection that this  
12 document came out at a certain time and so it's just not  
13 clear what timeframe, you know, this question is  
14 referring to. And just another objection to this  
15 document. This appears to be a translation ---.

16 ATTORNEY BARHAM: Your objection is  
17 noted. And we've already agreed that there are the  
18 three objections, so I will ask you to cease the  
19 speaking objections.

20 THE WITNESS: I have reason to doubt it.  
21 Yes.

22 BY ATTORNEY BARHAM:

23 Q. What is your reason to doubt it?

24 A. My understanding is that there were legal

1 processes involved that have changed the landscape of  
2 this care in the U.K.

3 Q. Are you aware of the National Health Service  
4 reinitiating hormonal treatments in new cases of  
5 individuals under 16?

6 A. I am unsure. That's where my doubt is.

7 Q. But you're aware that at one time they put an  
8 end to those treatments for individuals under the age of  
9 16?

10 A. Yes.

11 ATTORNEY BLOCK: Objection to form.

12 THE WITNESS: Yes.

13 ATTORNEY BARHAM: I'm going to show you  
14 what we will mark as Exhibit-12. This is a document ---  
15 an article by Lisa Nainggolan. I'm probably butchering  
16 the last name.

17 LAW CLERK WILKINSON: Tab 93.

18 ATTORNEY BARHAM: Tab 93, entitled  
19 Hormonal Treatment of Youth with Gender Dysphoria Stops  
20 in Sweden.

21 ---

22 (Whereupon, Exhibit-12, Article by Lisa  
23 Nainggolan, was marked for  
24 identification.)

1 ---

2 BY ATTORNEY BARHAM:

3 Q. In the fourth paragraph it indicates that other  
4 centers in Sweden that treat gender dysphoria youth in  
5 Loom and Licopene will follow the lead of the ALB. Are  
6 you aware that those two clinics had made the same  
7 decision as the Astrid Lindgren Children's Hospital?

8 A. I am not.

9 ATTORNEY BARHAM: I'm going to show you  
10 what we will mark as Exhibit-4 --- I mean, I'm sorry  
11 Tab 94, Exhibit 13.

12 ---

13 (Whereupon, Exhibit-13, Study, was marked  
14 for identification.)

15 ---

16 BY ATTORNEY BARHAM:

17 Q. Are you aware that Finland has similarly  
18 reversed its course issuing new guidelines that allow  
19 puberty blockers only on a case by case basis after  
20 extensive psychiatric assessment?

21 ATTORNEY BLOCK: Objection to form. And  
22 can you give the witness and me a chance to see this  
23 document? Can the document be scrolled down?

24 THE WITNESS: What I can say about this

1 document is that I don't --- I've not heard of what  
2 Cohere Finland is and how their recommendations impact  
3 policies on the ground in Finland.

4 BY ATTORNEY BARHAM:

5 Q. So are you not familiar with Cohere as an  
6 entity?

7 A. Correct.

8 Q. And that was a question. Are you?

9 A. I am not.

10 Q. Have you seen this document before today?

11 A. I have not.

12 ATTORNEY BARHAM: I'm going to show you  
13 what we'll mark as Exhibit 14, and this will be Tab 95  
14 for those watching at a distance.

15 ---

16 (Whereupon, Exhibit-14, Article Published  
17 on Medscape.com, was marked for  
18 identification.)

19 ---

20 BY ATTORNEY BARHAM:

21 Q. This is an article by Betsy McCall published on  
22 Medscape.com on October 7th, 2021.

23 Is that correct?

24 A. Yes.

1 Q. If you look at the third paragraph from the  
2 bottom. Ms. McCall reports that Scandinavian countries,  
3 most notably Finland, once eager advocates for the  
4 gender-affirmative approach, have pulled back and issued  
5 new treatment guidelines in 2020, stating that  
6 psychotherapy rather than gender reassignment should be  
7 the first line of treatment for gender dysphoric youth.  
8 Do you see that?

9 A. I see that.

10 Q. Do you agree with that approach?

11 ATTORNEY BLOCK: Objection to form.

12 THE WITNESS: Medscape is a popular press  
13 forum for discussing issues and the language that is  
14 used by this author implies to me that this is not  
15 somebody who has a great deal of expertise or  
16 understanding in this field.

17 BY ATTORNEY BARHAM:

18 Q. Do you agree with using psychotherapy rather  
19 than gender reassignment as the first line of treatment  
20 for gender dysphoric youth?

21 A. The term gender reassignment in and of itself is  
22 not a meaningful term in this context, and so it's  
23 unclear what this particular author is trying to get  
24 across. And it's a false dichotomy that is being



1 positive that doesn't actually happen.

2 Q. Are you aware that Finland had issued new  
3 treatment guidelines in 2020?

4 A. I don't recall the specifics of when guidelines  
5 were recommended. But based upon the document that you  
6 placed in front of me it seems to be yes. But I think  
7 the description of those guidelines and what you put in  
8 front of me as the Cohere guidelines, which again I'm  
9 not sure what they actually represent in terms of their  
10 policies, there are contradictions there.

11 ATTORNEY BLOCK: I'm sorry. I want to  
12 put on the record this document about Finland also  
13 appears to be a translation from the original by the  
14 Society for Evidence Based Gender Medicine whose website  
15 describes it as an unofficial translation. So I just  
16 want to note that for the record.

17 ATTORNEY BARHAM: So noted. I'm going to  
18 show you what we will mark as Exhibit 15, Tab 96.

19 ---

20 (Whereupon, Exhibit-15, Article in  
21 National Health Service, was marked for  
22 identification.)

23 ---

24 BY ATTORNEY BARHAM:

1 Q. And I will direct your attention to page 13.  
2 This is a --- to identify the document for the record.  
3 This is an Evidence Reviewed Gonadotrophin Releasing  
4 Hormone Analogs for Children and Adolescents with Gender  
5 Dysphoria, from the National Health Service in 2021 ---  
6 or in 2020. On page 13, right at the beginning of the  
7 conclusions section the authors indicate that the  
8 results of studies that reported impact on the critical  
9 outcomes of gender dysphoria and mental health and the  
10 important outcomes of body image and psychosocial impact  
11 in children and adolescents with gender dysphoria are a  
12 very low certainty using modified grade. They suggest  
13 little change with GnRH analogs from baseline to  
14 follow-up. Do you see that?

15 A. I do not.

16 Q. First paragraph, under the conclusion.

17 A. Yes, I see that.

18 Q. Do you have any scientific basis for disputing  
19 this conclusion?

20 ATTORNEY BLOCK: Objection. Let him read  
21 the document.

22 THE WITNESS: I mean, without having seen  
23 this before, I'm not sure what the scoping was for how  
24 they defined which studies to include, which ones were

1 excluded, which would be required in a validated  
2 metaanalysis type approach. So without a very specific  
3 description of the methodology it's going to be hard for  
4 me to make an educated statement.

5 BY ATTORNEY BARHAM:

6 Q. If you look at page three of the document, under  
7 executive summary it highlights the nine observational  
8 studies that were included in the evidence review.

9 A. Yeah, in a metaanalysis or even a systematic  
10 review one of the processes that occurs is you define as  
11 the authors what you are searching for, what are the  
12 exclusionary and inclusionary criteria for each  
13 individual study and a list of every single study that  
14 was reviewed and why or why not it was included. That  
15 is missing here, so it's --- I don't know how the  
16 authors decided which ones to include or which ones not  
17 to include, which makes it hard to draw a conclusion  
18 from the report as it stands.

19 Q. Have you seen any other reports that suggest  
20 that the evidence being discussed on page 13 under the  
21 conclusions heading isn't anything higher than a very  
22 low certainty using modified grade?

23 A. I'm not 100 percent familiar with modified grade  
24 as a methodology, so I can't speak to how that would

1 apply to other studies.

2 Q. And the next paragraph the authors indicate that  
3 studies found differences in outcome could represent  
4 changes that are either a questionable clinical value or  
5 the studies themselves are not reliable and changes  
6 could be due to confounding bias or chance. Do you  
7 agree that that is possible?

8 ATTORNEY BLOCK: Objection to form.

9 THE WITNESS: Well, I agree that all  
10 things are possible, that scientific literature is not  
11 always 100 percent drawing any conclusions. But again,  
12 without knowing specifically how they included what they  
13 included or why they included what they included and why  
14 they opt to remove others, it's not possible for me to  
15 draw a specific conclusion from this.

16 BY ATTORNEY BARHAM:

17 Q. In paragraph 34 of your report you distinguish  
18 Dr. Levine's approach to treating gender dysphoria as  
19 --- or you describe it as gender identity conversion  
20 model. Do you recall that?

21 A. Yes.

22 Q. In your view are there two approaches to  
23 treating gender dysphoria in children and adolescents,  
24 the gender-affirming model and the conversion therapy

1 model?

2 ATTORNEY BLOCK: Objection to form.

3 THE WITNESS: I would not agree with that  
4 characterization.

5 BY ATTORNEY BARHAM:

6 Q. How many other approaches do you see? How do  
7 you categorize the different approaches for treating  
8 gender dysphoria in children and adolescents?

9 A. I don't agree with the premise, but there  
10 specific defined treatment paradigms that are used. I  
11 think there are --- there are elements of conversion  
12 therapy as I referred to in my report. There are  
13 elements of gender-affirming care and there is a  
14 spectrum in between that.

15 Q. What are the elements --- what are the elements  
16 of identity --- gender identity conversion model in your  
17 mind?

18 A. I think the primary element as I understand it  
19 in conversion therapy is a presupposition that a  
20 transgender outcome is an inherently negative outcome  
21 and that engagement or interventions should be put into  
22 place in order to make that outcome the least likely as  
23 possible.

24 Q. And in your mind gender-affirming care is care

1 that affirms that child's gender identity.

2 Correct?

3 ATTORNEY BLOCK: Objection to form.

4 THE WITNESS: As I described earlier,  
5 there are multiple components to how I would define  
6 gender-affirming therapy.

7 ATTORNEY BARHAM: Let's go to Exhibit 16,  
8 this will be Tab 97.

9

---

10 (Whereupon, Exhibit-16, Article by  
11 Roberto D'Angelo, was marked for  
12 identification.)

13

---

14 BY ATTORNEY BARHAM:

15 Q. This is an article by Roberto D'Angelo published  
16 in 2020, entitled One Science Does Not Fit All. Are you  
17 familiar with these authors?

18 A. Not personally, no.

19 Q. Are you familiar with them by reputation?

20 A. Looking at Dr. D'Angelo's footnotes, given that  
21 he works for the Society for Evidence Based Gender  
22 Medicine, then I might draw some conclusions from that.

23 Q. And what conclusions would you draw from that?

24 A. That there is a presupposition that transgender

1 identity is a negative outcome.

2 Q. And why would you draw that conclusion from that  
3 association?

4 A. Based upon the description of the care on the  
5 website. But that would be an assumption. I would  
6 never do that on any individual basis for any of these  
7 authors without knowing them.

8 Q. Beyond the association, do you have any reason  
9 to doubt the scholarly integrity of the authors here?

10 A. I think you can't really talk about scholarly  
11 integrity when it's a letter to the editor. It's not  
12 the same --- same level of evidence as another study  
13 would be.

14 Q. It's a letter to the editor that cites 37  
15 different sources.

16 Is that correct? I'm looking at the last page.

17 A. The sources aren't numbered, so I don't know how  
18 many sources it has, but ---.

19 ATTORNEY BLOCK: Let him look at it.

20 BY ATTORNEY BARHAM:

21 Q. The references at the end are numbered. Excuse  
22 me. I apologize. I was looking at the wrong document.

23 A. There are 37 footnotes. I would assume that you  
24 are correct on that.

1 Q. We are talking about this letter to the editor  
2 --- let me clarify for the record because I was looking  
3 at the wrong document prior to questioning for which I  
4 apologize. This letter to the editor contains  
5 approximately two pages of typed materials listing the  
6 references that it uses.

7 Correct?

8 A. Yes, correct.

9 Q. Did you review this article when preparing your  
10 report?

11 A. I did not.

12 Q. Did you review this article before today?

13 A. I have not.

14 Q. The article reviews the document published by  
15 Turban, et al., in 2020, a study by Turban, et al, in  
16 2020.

17 Is that correct?

18 A. It does.

19 ATTORNEY BLOCK: Objection to form.

20 BY ATTORNEY BARHAM:

21 Q. If you look at the last page, that article is  
22 the same article that you cited in paragraph 34 of your  
23 report.

24 Is that correct?



1 A. That's correct.

2 Q. This D'Angelo, et al. criticized Turban on  
3 page one for his simplistic affirmation versus  
4 conversion binary --- or I should state permeates his  
5 narrative and establishes a foundation for their  
6 analysis and conclusions. Do you see that on the first  
7 page?

8 A. What page?

9 Q. The first page, second column, middle paragraph.

10 A. I see that, yes.

11 Q. These authors state the notion that all therapy  
12 interventions for gender dysphoria can be categorically  
13 classified into this simplistic binary betrays a  
14 misunderstanding of the complexity of psychotherapy.  
15 Would you agree with that statement?

16 ATTORNEY BLOCK: Objection to form and  
17 asking him questions about an article he hasn't read.

18 THE WITNESS: The premise of that  
19 statement implies a cognition on behalf of the authors  
20 of that study that I don't think is necessarily  
21 accurate. I don't think that the authors of the Turban  
22 study would suggest that there is a simple binary of  
23 therapy interventions.

24 BY ATTORNEY BARHAM:

1 Q. And you would also say there's not a simplistic  
2 binary.

3 Is that correct?

4 A. That is correct.

5 Q. So in paragraph 34 of your report you're not  
6 trying to draw a --- you're not trying to draw some sort  
7 of dichotomy between Dr. Levine's approach and yours?

8 ATTORNEY BLOCK: Objection to form.

9 THE WITNESS: It is less helpful for me  
10 to describe it as identifying a dichotomy but really  
11 more focused on the goals of treatment approach. And if  
12 the goal of the treatment approach is a conversion type  
13 goal, then I think there is a draw between that and the  
14 standard of care of the affirmative model.

15 BY ATTORNEY BARHAM:

16 Q. So that in your view are there two different  
17 treatment goals when treating gender dysphoria? We can  
18 categorize treatment approaches by the goals, conversion  
19 therapy versus the gender-affirming model that you have  
20 outlined?

21 ATTORNEY BLOCK: Objection to form.

22 THE WITNESS: The way I would describe  
23 the goal of the gender-affirming model is to have a  
24 healthy, resilient child whatever the gender identity

1 ends up being, whether that is a cisgender identity or  
2 transgender identity. The difference between that and a  
3 conversion therapy is again a presupposition that a  
4 transgender identity is an inherently worse outcome  
5 which is not focused on the overall mental health and  
6 wellbeing of the child.

7 BY ATTORNEY BARHAM:

8 Q. I understand the distinction that you're making.  
9 I'm trying to understand are there --- as we assess  
10 different people's approaches to this area, can we  
11 characterize them by the goals of their approach into a  
12 gender-affirming model and a conversion therapy model  
13 and those are basically two different camps.

14 Is that correct?

15 ATTORNEY BLOCK: Objection to form.

16 THE WITNESS: We cannot.

17 BY ATTORNEY BARHAM:

18 Q. And in saying that I'm not trying to say that  
19 therapeutic techniques belong in one or the other. I'm  
20 just trying to say can we categorize treatment  
21 approaches by the goals?

22 ATTORNEY BLOCK: Objection to form.

23 BY ATTORNEY BARHAM:

24 Q. Because that seems to be what you are doing in

1 paragraph 34 of your report.

2 A. There's a process versus an outcome question  
3 that I'm just not understanding the distinction between  
4 for as I'm defining conversion therapy here, it is a  
5 specific goal that a transgender outcome is a negative  
6 outcome. For gender-affirming therapy or interventions  
7 there is no presupposed outcome that is better than  
8 another other than building the mental health and  
9 well-being of the child.

10 Q. Okay.

11 A. And there is many different ways of approaching  
12 that question and intervening that are going to be  
13 outside of the scope of a goal-based approach.

14 Q. It still sounds and again I'm just trying to  
15 explore and understand what you're saying here. It  
16 still sounds like there is one approach that has a goal  
17 in your view of having the child return to comfort with  
18 the child's natal sex and then there is another approach  
19 that has a goal that says I don't care where you end up.  
20 Is that fair to say?

21 ATTORNEY BLOCK: Objection to form.

22 THE WITNESS: Again, I think it really  
23 narrows down what's a highly complex question, so it's  
24 really hard to give an answer to that. But if we define

1 conversion as approach one and everything else outside  
2 of that, I can work with that if that is helpful for  
3 having further discussion or asking more questions.

4 BY ATTORNEY BARHAM:

5 Q. Is that the way you would describe this  
6 situation in the field at present?

7 A. It is not the way I would describe the situation  
8 in the field.

9 Q. On page five of this article ---.

10 ATTORNEY BLOCK: I'm sorry, which  
11 article?

12 ATTORNEY BARHAM: On Tab 97 of  
13 Exhibit 16. Dr. D'Angelo's article.

14 BY ATTORNEY BARHAM:

15 Q. It sounds to me like you are rejecting what  
16 these authors describe as a conflation of ethical  
17 non-affirming psychotherapy and conversion therapy, next  
18 to the last paragraph on the page.

19 ATTORNEY BLOCK: Objection. Please give  
20 him time to read the page.

21 THE WITNESS: I've never seen of or heard  
22 a definition for ethical non-affirmative psychotherapy,  
23 so I don't know what that means.

24 BY ATTORNEY BARHAM:

1 Q. Is it your position that there is no such thing?

2 A. I have never heard of such a thing.

3 Q. On page six, in the first column, the authors  
4 write, in fact, some homophobic societies and indeed  
5 families that reject homosexuality among their children  
6 have embraced the affirmative biomedical pathway, which  
7 poses questions as to whether, quote, affirmative care  
8 in some cases in some instances serve the role of gay  
9 conversion therapy. Do you believe that that's a  
10 legitimate concern?

11 A. I do not.

12 Q. Why not?

13 A. As I mentioned before, affirmative care is not  
14 presupposed any one specific outcome.

15 Q. Do you think that someone can have a concern  
16 that affirmative care could serve the role regardless of  
17 its dole, serve the role of gay conversion therapy?

18 ATTORNEY BLOCK: Objection to form.

19 THE WITNESS: Well, the authors appear to  
20 have that concern. It is not a concern that has been  
21 borne out by the literature in my clinical experience.

22 BY ATTORNEY BARHAM:

23 Q. Do you believe that the authors are reasonable  
24 in having that concern?

1           A.       I can't speak to what the authors' motivations  
2 are for writing this. I do not know.

3           Q.       Based on your knowledge of the field, do you  
4 believe that that's a reasonable concern?

5           A.       I do not.

6           Q.       Why not?

7           A.       Because understanding the overlap and the  
8 interaction between gender identity and sexuality and  
9 sexual orientation is a part of the assessment process  
10 in affirming care.

11          Q.       At the bottom of page one the authors write, if  
12 anything other than affirmation is viewed as GICE ---.

13          A.       What page is that?

14          Q.       On page six, I'm sorry. Same page you were on  
15 with the gay affirmative therapy or gay conversion  
16 therapy. The last paragraph in column one of page six.  
17 If anything other than affirmation is viewed as GICE, it  
18 follows that the provision of psychotherapy in these  
19 clinical scenarios can be seen as harmful conversion  
20 efforts. If these therapeutic efforts do not aim to  
21 convert or consolidate an identity but instead aim to  
22 help individuals gain a deeper understanding of their  
23 discomfort with themselves, the factors that have  
24 contributed to their distress and their motivations for

1 seeking transition. Is it your position that there are  
2 no therapeutic interventions that do not aim to convert  
3 or consolidate an identity?

4 ATTORNEY BLOCK: Objection to form.

5 THE WITNESS: What I would say is that  
6 helping individuals gain a deeper understanding of their  
7 discomfort with themselves, the factors contributing to  
8 their distress and their motivations for seeking  
9 transition is a vital and inherent part of  
10 gender-affirming care.

11 BY ATTORNEY BARHAM:

12 Q. But a moment ago you indicated that you were not  
13 aware of any ethical non-affirmative psychotherapy?

14 A. That is not a phrase that I have heard or have  
15 heard described. What the passage that you are  
16 referring to describes is a very typical process  
17 involved in any kind of standard of care around anything  
18 really is understanding motivations and understanding  
19 distress. There is nothing --- there is nothing novel  
20 about that description of care that is not already under  
21 the umbrella of affirming care.

22 Q. And a little bit later in that paragraph, I  
23 believe at the top of column two of page six, the  
24 authors right both conversion and affirmative therapy



1 efforts carry the risk of undue influence potentially  
2 compromising patient autonomy. Do you agree that that  
3 is a possibility?

4 A. Again, I'm not sure what the authors are  
5 referring to when they say affirmation therapy efforts  
6 because what they're describing as ethical,  
7 non-affirmative interventions falls to me under the  
8 clear rubric of affirming care, so I don't know what  
9 they mean by this.

10 Q. Okay.

11 In paragraph 35 of your report you indicate ---  
12 you stated research indicates that social transitioning  
13 significantly improves the mental health of transgender  
14 young people.

15 Is that correct?

16 A. Yes.

17 ATTORNEY BARHAM: And I'm going to show  
18 you what we will mark as Exhibit 17. This is Tab 118  
19 for those following from a distance. This is a study by  
20 Gibson, et al. published in 2021.

21 ---

22 (Whereupon, Exhibit 17, Study by Gibson,  
23 et al., was marked for identification.)

24 ---

1 BY ATTORNEY BARHAM:

2 Q. You've cited this article in footnote nine of  
3 your report.

4 Is that correct?

5 A. Let me just double check. I believe so. Yes.

6 Q. Under methods on page one of Exhibit-17 it  
7 indicates this a cross-sectional study.

8 Is that correct?

9 A. That is correct.

10 Q. Can cross-sectional studies be used to  
11 demonstrate causation?

12 A. Not on their own, no.

13 Q. So this study does not show that social  
14 transitions caused any improvement in mental health.

15 Correct?

16 A. This study demonstrated that there was a  
17 correlation between improved mental health and social  
18 transition.

19 Q. So it did not show causation.

20 Is that correct?

21 A. It did not show causation.

22 Q. I'm going to show you Exhibit 9. Let's go back  
23 to Exhibit 9.

24 LAW CLERK WILKINSON: Tab 117.

1 BY ATTORNEY BARHAM:

2 Q. Tab 117. This is the article by Lily Durwood,  
3 et al. published in 2017. You cited this article also  
4 in footnote nine of your report.

5 Is that correct?

6 A. That is correct.

7 Q. And we have previously discussed how this  
8 article reports what children and parents said about the  
9 children's mental health.

10 Is that correct?

11 A. That is correct.

12 Q. Really a self report.

13 Correct?

14 A. I think we went through that earlier. It was  
15 not just a self report. These were interview led  
16 evaluations.

17 Q. But an interview led self report.

18 Correct?

19 A. There were also parent reports that were ---.

20 Q. And so self reports of children, parental  
21 reports about their children.

22 Correct?

23 A. Correct.

24 Q. Okay.

1           And then in footnote nine you also cite a study  
2 by Olson, et al. in 2016, footnote nine of your report.

3           Correct?

4           A.       That is correct.

5           Q.       And in footnote nine you indicate that alleged  
6 statistical errors in that article have already been  
7 corrected in 2018.

8           Correct?

9           A.       Correct.

10          Q.       And for that assertion you cite a study by  
11 Olson, et al. in 2018.

12          Is that correct?

13          A.       I don't see that.

14                    ATTORNEY BLOCK: Objection. Where are  
15 you at?

16                    THE WITNESS: I don't see it. If you can  
17 point to me where that is.

18          BY ATTORNEY BARHAM:

19          Q.       Footnote nine, on page 11, small statistical  
20 errors in Olson 2016 had already been corrected in 2018,  
21 see Olson, et al., 2018, mental health of transgender  
22 student who are supported in their identity throughout.

23          A.       Yes.

24          Q.       Is that correct?



1           Is that correct?

2           A.     That is correct.

3           Q.     And the studies that you're citing for that  
4     assertion are those listed in footnote 14 of your  
5     report.

6           Correct?

7           A.     That is correct.

8           Q.     Are there any others that you are referencing?

9           A.     Those are the only that I'm referencing.

10          Q.     In paragraph 41 of your report you claim that  
11     Dr. Cantor fails to discuss many of the studies  
12     documenting the benefits of puberty blocking medication.  
13     Which of the studies in footnote 14 did he fail to  
14     discuss?

15          A.     I would need to review Dr. Cantor's report to  
16     know specifically.

17          Q.     Do you recall now which ones he failed to  
18     discuss?

19          A.     I do not.

20                     ATTORNEY BARHAM: All right. I'm going  
21     to show you what we will mark as Exhibit-19, and this is  
22     Tab 98.

23   ---

24   (Whereupon, Exhibit-19, Article by

1 Tordoff, et al., was marked for  
2 identification.)

3 ---

4 BY ATTORNEY BARHAM:

5 Q. This is an article by Tordoff, et al, published  
6 in 2022, entitled Mental Health Outcomes in Transgender  
7 and Non-Binary Youth Receiving Gender-Affirming Care.  
8 This is one of the studies that you cited in footnote 14  
9 of your report?

10 A. That is correct.

11 Q. According to table one on page five of this  
12 report 65 percent of the participants were also  
13 receiving mental health therapy.

14 Is that correct?

15 A. That is correct.

16 Q. So it's not possible to determine how much of  
17 the improvement was due to puberty blocking medication  
18 and gender-affirming hormone therapy and how much was  
19 due to the mental health therapy.

20 Correct?

21 ATTORNEY BLOCK: Objection to form.

22 THE WITNESS: There is a lot of questions  
23 in that one singular question about study design and  
24 what we know about the history of transgender health

1 outcomes prior to the existence of gender-affirming  
2 care. As this study is designed, it is not designed in  
3 such a way to be able to specifically keep that apart.

4 ATTORNEY BARHAM: All right.

5 I'm going to show you what we will mark  
6 as Exhibit-20, and this will be Tab 99.

7 ---

8 (Whereupon, Exhibit-20, Article by Amy  
9 Green, et al., was marked for  
10 identification.)

11 ---

12 BY ATTORNEY BARHAM:

13 Q. This is the second article. This is an article  
14 by Amy Green entitled ---- it says et al. entitled  
15 Association of Gender Affirming Hormone Therapy with  
16 Depression, Thoughts of Suicide and Attempted Suicide  
17 Among Transgender and Nonbinary Youth published in 2021.  
18 This is the second article that you cited in footnote 14  
19 of your report.

20 Is that correct?

21 A. That is correct.

22 Q. On page six of this report, column two, the  
23 authors indicate that causation cannot be inferred due  
24 to this study's cross-sectional design.



1 Correct?

2 A. That is correct.

3 Q. This study also does not prove that puberty  
4 blocking medication and gender-affirming hormone therapy  
5 caused any improvements.

6 Correct?

7 ATTORNEY BLOCK: Objection to form.

8 THE WITNESS: This study was not designed  
9 to show a causal outcome, no.

10 ATTORNEY BARHAM: Let's go to Exhibit 21,  
11 this will be Tab 100.

12 ---

13 (Whereupon, Exhibit-21, Article by  
14 Turban, et al., was marked for  
15 identification.)

16 ---

17 BY ATTORNEY BARHAM:

18 Q. This is an article by Turban, et al. published  
19 in 2020 entitled Pubertal Risks for Transgender Youth  
20 and Risks of Suicide Ideation --- Suicidal Ideation?

21 ATTORNEY BLOCK: Objection to misreading  
22 the name of the study.

23 BY ATTORNEY BARHAM:

24 Q. This is the third article that you cited in

1 footnote 13 of your report.

2 Is that correct?

3 A. That is correct.

4 Q. And on page seven of this article the authors  
5 also indicate that limitations include the  
6 cross-sectional --- the study's cross-sectional design,  
7 which does not allow for determination of causation.

8 Is that correct?

9 A. That is correct.

10 Q. So this study does not prove that puberty  
11 blocking medication and gender affirming hormone therapy  
12 caused any improvements.

13 Correct?

14 A. This study was not designed to demonstrate  
15 causation.

16 ATTORNEY BARHAM: I'm going to show you  
17 what we will mark as Exhibit-22. This is an article by  
18 Achille, et al. entitled Longitudinal Impact of Gender  
19 Affirming Endocrine Intervention on Mental Health and  
20 Well-being of Transgender Youths, Preliminary Results  
21 published in 2020.

22 ---

23 (Whereupon, Exhibit-22, Article by

24 Achille, et al., was marked for

1 identification.)

2 ---

3 BY ATTORNEY BARHAM:

4 Q. You also cited this article in footnote 14 of  
5 your report.

6 Is that correct?

7 A. Yes, I did.

8 Q. And on page two of this report, the bottom of  
9 the first column, the authors write that most  
10 subjects --- quote, most subjects were followed by  
11 mental health professionals, closed quote, and quote,  
12 those that were not were encouraged to see a mental  
13 health professional.

14 Correct?

15 A. That is correct.

16 Q. And on page three, the first column, the authors  
17 say that after statistically adjusting for psychiatric  
18 medication and engagement in counseling, quote, most  
19 predictors did not reach statistical significance.

20 Is that correct?

21 A. Where are you?

22 Q. Page three, column one, under regression  
23 analysis.

24 A. Correct.

1                    ATTORNEY BARHAM: I'm going to show you  
2 what we will mark as Exhibit-23, this is Tab 102.

3                    ---

4                    (Whereupon, Exhibit-23, Article by Kuper,  
5 et al., was marked for identification.)

6                    ---

7 BY ATTORNEY BARHAM:

8            Q.        This is an article by Kuper, et al. published in  
9 2020, entitled Body Dissatisfaction and Mental Health  
10 Outcomes of Youth on Gender Affirming Hormone Therapy.  
11 On page six --- let me rephrase that for the record.  
12 You cited this article in footnote 14 of your report.

13                    Is that correct?

14            A.        That is correct.

15            Q.        According to Table 2 on page six none of the  
16 results for those receiving puberty suppression were  
17 statistically significant.

18                    Correct?

19            A.        I need a few minutes.

20            Q.        Take your time.

21            A.        As I read the bottom of that table, there are a  
22 number of analyses that reached statistical  
23 significance.

24            Q.        But if you look at the lines for each one under

1 each of the scores, body dissatisfaction, depressive  
2 symptoms, depressive symptoms QIDS, anxiety symptoms,  
3 panic symptoms, generalized anxiety symptoms, social  
4 anxiety symptoms, separation anxiety symptoms, school  
5 avoidance symptoms, the lines marked puberty suppression  
6 have no superscript on them.

7 Is that correct?

8 ATTORNEY BLOCK: Objection to form.

9 THE WITNESS: That is correct.

10 BY ATTORNEY BARHAM:

11 Q. So none of those --- none of the specific  
12 findings regarding individuals on puberty suppression  
13 only were statistically significant.

14 Is that correct?

15 A. None of them were statistically significant as  
16 measured by their reports.

17 ATTORNEY BARHAM: I'm going to show you  
18 what we will mark as Exhibit-24. This will be Tab 103.

19 ---

20 (Whereupon, Exhibit-24, Article by van  
21 der Miesen, et al., marked for  
22 identification.)

23 ---

24 BY ATTORNEY BARHAM:

1 Q. This is an article by van der Miesen, et al.,  
2 published in 2020 entitled Psychological Functioning in  
3 Transgender Adolescents Before and After Gender  
4 Affirmative Care Compared with Cisgender General  
5 Population of Peers. You cited this article in footnote  
6 14 of your report.

7 Is that correct?

8 A. That is correct.

9 Q. The authors on page five, in column two, the  
10 authors of this study ---.

11 A. What page?

12 Q. Page five.

13 A. I have that in the 700s.

14 Q. Oh 703, sorry. 703. The fifth page, but it's  
15 paginated 703. The authors of this study indicate that,  
16 quote, due to its cross-sectional design, the present  
17 study cannot provide evidence about the direct benefits  
18 of puberty suppression over time and long-term mental  
19 health outcomes?

20 Correct?

21 A. I don't see where that is.

22 Q. Next to the last paragraph in the second column.  
23 The third and most important --- skipping the  
24 cross-sectional design of this study different

1 participants in the groups before and after puberty  
2 suppression may potentially limit the results?

3 A. Yes, I see that.

4 Q. The present study can therefore not provide  
5 evidence about the direct benefits of puberty  
6 suppression over time and the long-term mental health  
7 outcomes.

8 Is that correct?

9 A. That is correct.

10 Q. So the authors of this study indicate that  
11 conclusions about the long-term benefits of puberty  
12 suppression should thus be made with extreme caution,  
13 meaning prospective long-term follow-up studies with  
14 repeated measured design of individuals being followed  
15 over time to confirm.

16 Is that correct?

17 A. That is correct.

18 ATTORNEY BARHAM: I'm going to show you  
19 what we will mark as Exhibit-25. This will be Tab 104.

20 ---

21 (Whereupon, Exhibit-25, Article by de  
22 Vries, was marked for identification.)

23 ---

24 BY ATTORNEY BARHAM:

1 Q. This is an article by van der Miesen --- or I  
2 mean De Vries, et al --- excuse me, De Vries, et al.,  
3 2014, Young Adult Psychosocial Outcome After Puberty  
4 Suppression and Gender Reassignment. This is the last  
5 article you cite in footnote 14 of your report.

6 Is that correct?

7 A. That is correct.

8 Q. At the Dutch clinic patients who receive puberty  
9 blockers also receive psychotherapy.

10 Is that correct?

11 A. That is correct.

12 Q. So again, there is no way to determine how much  
13 of the improvement reflected in this study is due to the  
14 puberty blockers and how much is due to the  
15 psychotherapy.

16 Correct?

17 ATTORNEY BLOCK: Objection to the form.

18 THE WITNESS: Let me restate my response  
19 to the previous question. The Dutch clinic always  
20 recommends participation in therapy. I'm not a  
21 100 percent certain that every participant participated  
22 in the therapy as directed.

23 BY ATTORNEY BARHAM:

24 Q. For the most part, the Dutch model combined



1 psychotherapy with puberty blockers.

2 Correct?

3 ATTORNEY BLOCK: Objection.

4 THE WITNESS: That is correct. And may I  
5 state that I think that is part of the reason that the  
6 van der Miesen study is quite important because it does  
7 start to look at the impact of being on the wait list  
8 and the impacts of just getting psychotherapy alone  
9 versus access to puberty suppression and/or hormones.

10 ATTORNEY BARHAM: I'm going to show you  
11 what we're going to mark as Exhibit-26. Tab 105.

12 ---

13 (Whereupon, Exhibit-26, Article, was  
14 marked for identification.)

15 ---

16 BY ATTORNEY BARHAM:

17 Q. This is an article by Michael Biggs published in  
18 2020, Gender Dysphoria and Psychological Functioning in  
19 Adolescents Treated with GnRHa. Are you familiar with  
20 this study?

21 ATTORNEY BLOCK: Objection,  
22 mischaracterizes the document.

23 BY ATTORNEY BARHAM:

24 Q. Are you familiar with this letter to the editor?

1 A. I have not read this letter to the editor.

2 Q. If you look at bottom of page one continuing  
3 onto page two, the author writes an additional  
4 complication with this treatment is that the Dutch model  
5 combines GnRHa with psychological support so the two  
6 effects are inevitably conflated. Do agree with that  
7 statement?

8 A. I do not.

9 Q. Why?

10 A. Use of GnRH logs for this kind of intervention  
11 were first used in 1999. So every --- every transgender  
12 person prior to 1999 had no access to this kind of  
13 treatment. Between 1999 and probably about 2014 these  
14 medications were not widely available and so unavailable  
15 for use for most people. So we have the clinical  
16 experience of adults, talking retrospectively, about  
17 their experiences as well as the patients that we have  
18 treated that did versus did not have access to these  
19 interventions. So we have both clinical experience and  
20 some retrospective data that looks at this question  
21 specifically.

22 Q. Can retrospective data demonstrate causation?

23 A. In some cases it can.

24 Q. But retrospective data is subject to recall by

1 us in other drawbacks that undermine its reliability.

2 Correct?

3 ATTORNEY BLOCK: Objection to form.

4 THE WITNESS: It depends upon the type of  
5 data that is being calculated.

6 BY ATTORNEY BARHAM:

7 Q. Why do you mean by that?

8 A. If it is qualitative interview data, yes, there  
9 is retrospective data that reviews contemporary  
10 documentation and charts, lab results, imaging results,  
11 et cetera. That is less confounded by that kind of  
12 bias.

13 Q. When we are talking about people recalling their  
14 experiences before hormone therapy was available that  
15 would be the qualitative type of data.

16 Correct?

17 A. Correct. And when analyzing that data you have  
18 to take that into account.

19 Q. So that still doesn't help me understand why you  
20 disagree with that statement because the Dutch model  
21 combines hormones with psychosocial --- psychological  
22 support, the two effects are inevitably conflated?

23 A. We have a long history of people receiving  
24 psychological support alone. And with the addition of

1 these interventions and this model of care, outcomes  
2 improve with specific measures around gender dysphoria.

3 Q. Over that time the psychological support would  
4 have evolved as more understanding was gained.

5 Correct?

6 A. One would hope, yes.

7 ATTORNEY BLOCK: Objection to form.

8 BY ATTORNEY BARNHAM:

9 Q. But for the individuals who receive treatment  
10 under the Dutch model, receiving both the hormones and  
11 the psychological support, it's impossible to determine  
12 how much improvement was due to the psychological  
13 support and how much was due to the hormones.

14 Correct?

15 ATTORNEY BLOCK: Objection to form.

16 THE WITNESS: There has not been a study  
17 that has sought to identify the specific percentage of  
18 impact of those two.

19 ATTORNEY BARHAM: All right.

20 I'm going to show you what we will mark  
21 as Exhibit 27.

22 ---

23 (Whereupon, Exhibit 27, Article, was  
24 marked for identification.)

1

---

2

BY ATTORNEY BARHAM:

3

Q. Tab 106. This is an article by Costa, et al.

4

In 2015 Psychological Support, Puberty Expression and

5

Psychosocial Functioning in Adolescents with Gender

6

Dysphoria.

7

Is that correct?

8

A. That is correct.

9

Q. You cite this article in footnote 14 of your

10

report.

11

Is that correct?

12

A. That's correct.

13

Q. Now, in this study there were two groups of

14

adolescents, those who receive both puberty --- I mean,

15

both therapy and puberty blockers at the outset and

16

those who received just therapy at the outset.

17

Correct?

18

A. I'll need a minute to refresh myself.

19

Q. Sure. And I'm referencing pages 228, the second

20

column over to 229, the top of the first column.

21

A. That's correct.

22

Q. And on page 2211 going over to 2212, the

23

author's note that the difference between the

24

immediately eligible group and the delayed eligible

1 group failed to reach significance.

2 Correct?

3 A. So as I read this, immediately eligible group  
4 who had a higher in psychosocial functioning did not  
5 show any significant improvement after 12 months, but  
6 after 12 months there was a statistical difference.

7 Q. Then it says finally, even if the end or  
8 follow-up study, plan three, immediately eligible group  
9 had a five point higher CGAS score than the delayed  
10 eligible group, this difference failed to reach  
11 significance.

12 Correct?

13 A. That's correct. What I have to point out there,  
14 is CGAS is the children's global assessment scale, and  
15 not a measure of gender dysphoria or quality of life or  
16 distress in body.

17 Q. Is it a measure of a child's mental health?

18 ATTORNEY BLOCK: Objection.

19 THE WITNESS: It is a rough and very  
20 precise measure of general functioning.

21 BY ATTORNEY BARHAM:

22 Q. But it is the scale that this study was using.

23 Correct?

24 A. That is correct.

1                    ATTORNEY BARHAM: Let's go to tab 28.

2                    ---

3                    (Whereupon, Exhibit 28, Article by  
4                    Edwards-Leeper, was marked for  
5                    identification.)

6                    ---

7                    THE WITNESS:

8                    And to clarify the CGAS is something that  
9                    is clinician rated of remedy objective criteria.

10                  BY ATTORNEY BARHAM:

11                  Q.        Do you want to take a break?

12                  A.        In a few minutes if that's okay.

13                  Q.        Are you aware of Dr. Edwards-Leeper's reputation  
14                  in the field?

15                  A.        I am.

16                  Q.        Are you personally acquainted with Dr.  
17                  Edwards-Leeper?

18                  A.        I am.

19                  Q.        Have the two of you worked together in the  
20                  American Psychiatric Academics Association?

21                  A.        We have not worked together through the American  
22                  Psychiatric Association. Dr. Edwards-Leeper is a  
23                  psychologist.

24                  Q.        She served as a member of the task force to

1 develop practice guidelines for working with transgender  
2 individuals? Have you served in a similar capacity with  
3 the American Psychiatric Association?

4 A. I have. And we both worked together on the  
5 WPATH standards of care provision.

6 Q. You anticipated my next question. So you would  
7 agree that Dr. Edwards-Leeper is considered an  
8 international expert in this area.

9 Correct?

10 A. Yes. Dr. Edwards-Leeper is a complicated figure  
11 right now, but yes, she has a lot of expertise.

12 ATTORNEY BARHAM: I want to show you what  
13 we will mark as Exhibit 29. This is Tab 29.

14 --

15 (Whereupon, Exhibit 29, Article by  
16 Edwards-Leeper, was marked for  
17 identification.)

18 ---

19 ATTORNEY BLOCK: I imagine you have a lot  
20 of questions about this next document, and I just want  
21 to make sure the witness has a chance to have a bathroom  
22 break if it's going to go on for ten minutes or more.

23 ATTORNEY BARHAM: I have no objection to  
24 that.





1 Post by Dr. Edwards-Leeper and Dr. Anderson.

2 Is that correct?

3 A. That is correct.

4 Q. What is it --- are there any other publications  
5 that Dr. Edwards-Leeper has written recently that caused  
6 you to describe her as a complicated figure?

7 A. No, no.

8 Q. So just this one article.

9 Is that correct?

10 A. Yes.

11 Q. Are you familiar with Dr. Anderson?

12 A. I am.

13 Q. She is a clinical psychiatrist?

14 A. She is a psychologist.

15 Q. A psychologist. And Dr. Anderson has been  
16 working with transgender youth for a long time.

17 Is that correct?

18 A. I'm not a hundred percent familiar with Dr.  
19 Anderson's history, I don't know.

20 Q. Was she in the field before you?

21 A. I don't know.

22 Q. Dr. Anderson is also a transgender.

23 Is that correct?

24 A. That is correct.

1 Q. Dr. Anderson is a member of the American  
2 Psychological Association Committee tasked with writing  
3 guidelines and working with transgender individuals.

4 Is that correct?

5 A. I do not know.

6 Q. Dr. Anderson is a former president of the U.S.  
7 Professional Association for Transgender Health.

8 Is that correct?

9 A. That is correct.

10 Q. Dr. Anderson is a former board member for the  
11 World Professional Association for Transgender Health.

12 Correct?

13 A. I'm not sure.

14 Q. Beyond the committee assignments listed on  
15 page two of your CV have you held any committee  
16 assignments for the USPATH or WPATH Organizations?

17 A. Not additional committee assignments than WPATH  
18 or USPATH, no.

19 Q. In this copy published in the Washington Post  
20 Dr. Edwards-Leeper and Dr. Anderson summarizes a  
21 situation of a 13-year old natal girl with no prior  
22 history of gender dysphoria. Some issues of sexual  
23 assault and depression and then an abrupt announcement  
24 of this child of transgender identity.

1 Does that summarize the scenario they outline?

2 A. That is the scenario they outlined.

3 ATTORNEY BLOCK: Objection to form.

4 BY ATTORNEY BARNHAM:

5 Q. What percent of your patients first present as a  
6 team without a prior gender dysphoria diagnosis?

7 A. Well, first I just want to address the scenario  
8 with Patricia, this is a popular press article, so I  
9 have no idea if Patricia is a real person or an amalgam.

10 Q. Understood.

11 A. I hope it's an amalgam, because it would be  
12 unethical to not have consent to publish this story.  
13 Whether or not a child has a diagnosis of gender  
14 dysphoria before they come to see me is dependent upon  
15 if they've had previous evaluations, so it's dependent.  
16 I don't have a specific number for you.

17 Q. In general, how many of your patients first  
18 present as a team versus first presenting as a child?

19 A. That is very different, depending upon which  
20 cite that I was practicing at. So in New York I saw  
21 more prepubertal youth than I do in Chicago.

22 Q. So in New York, what percent of your patients  
23 first presented as adolescents versus children?

24 A. I think I answered that question earlier. If I

1 remember it was 25 percent of the 75 percent.

2 Q. And in Chicago how many --- what percentage of  
3 your patients present as adolescents versus as teen?

4 A. Probably 90 percent during adolescence.

5 Q. And are those all adolescents who first  
6 presented as adolescents or did they first present with  
7 gender dysphoria as a child?

8 A. It's a combination of both.

9 Q. So of your adolescent patients how many  
10 presented first as an adolescent, and how many presented  
11 as a child?

12 A. I don't have that information in front of me.

13 Q. Do you have a general ballpark idea?

14 A. No, I mean, the question --- I guess what I'm  
15 struggling with is that there are a lot of adolescents  
16 who I see who presented the first as adolescent, but  
17 have clear symptoms of gender dysphoria going back to  
18 childhood. So I'm not sure how to characterize those  
19 children in your question.

20 Q. What percent of the patients that present  
21 themselves to you first as an adolescent are natal  
22 female?

23 ATTORNEY BLOCK: Objection to  
24 terminology.

1                   THE WITNESS: I would say in the clinic  
2 where I'm practicing, currently certainly over half of  
3 the children presenting in adolescence for the first  
4 time are assigned female at birth.

5 BY ATTORNEY BARHAM:

6           Q.       And in New York, what percent of the patients  
7 that presented to you first as an adolescent or natal  
8 female?

9           A.       In New York it was more even split between those  
10 assigned female and those assigned male at birth.

11          Q.       And here when you say it's more than 50 percent  
12 are we talking 75 percent, we're talking 80 percent,  
13 90 percent?

14          A.       I don't have that information in front of me, so  
15 I couldn't tell you specifically. It would be a guess.

16          Q.       Do you have a range?

17          A.       I don't. I don't. More than 50 is the closest  
18 that I can get right now.

19          Q.       More than 75 percent?

20          A.       Probably not, no.

21          Q.       So somewhere between 50 and 75?

22          A.       That's a good guess.

23          Q.       What proportion of teen girls presenting at your  
24 clinic have suffered sexual assault or abuse of any

1 sort?

2 A. So if we're talking assigned females at birth,  
3 is that what you mean?

4 Q. Yes. Natal females.

5 A. Between one out four and one out of eight  
6 assigned females at birth who do not identify as  
7 transgender have exposure to sexual assault and trauma f  
8 some kind. What we know from the literature is that  
9 rates of sexual assault and sexual abuse of transgender  
10 youth is higher than that and my patients are relatively  
11 similar to that, so probably in the order of 25 to  
12 30 percent.

13 Q. What policies do you have in place to ensure  
14 adequate counseling and therapy for that trauma before  
15 making any decisions regarding hormones?

16 ATTORNEY BLOCK: Objection to form.

17 THE WITNESS: Assessing co-occurring  
18 psychiatric disorders or stressors or traumas is an  
19 inherent part of any assessment.

20 BY ATTORNEY BARHAM:

21 Q. Beyond just it being an inherent part of any  
22 assessment, do you have any other policies or standards  
23 that you use to ensure that the trauma is addressed  
24 before making decisions regarding hormones?

1                    ATTORNEY BLOCK: Objection to form.

2                    THE WITNESS: I mean, I don't have a  
3 written down policy. Incorporating understanding of  
4 trauma is always going to be an important part of any  
5 informed assessment prior to moving forward with an  
6 intervention.

7                    BY ATTORNEY BARHAM:

8            Q. Do you agree or disagree that before prescribing  
9 hormones to a teen girl who has suffered sexual abuse or  
10 depression, medical professionals have a responsibility  
11 to confirm that the patient has received a thorough  
12 mental health assessment, including investigating how  
13 other mental health issues and any other changes in her  
14 life might be contributing to her desire are perceived  
15 transgender identification?

16                    ATTORNEY BLOCK: Objection to form and  
17 terminology.

18                    THE WITNESS: So for any child regardless  
19 of gender, who we are recommending a medical or surgical  
20 intervention, we are assessing for the presence of  
21 gender dysphoria, the presence of co-occurring  
22 psychiatric disorders and their impact on that diagnosis  
23 or the capacity to consent to treatment, and a clear  
24 understanding of the risks, benefits and alternatives of



1 whatever that intervention may be.

2 BY ATTORNEY BARHAM:

3 Q. So then --- and that would include investigating  
4 how other mental health issues and other changes in her  
5 life might be contributing to her desire or perceived  
6 transgender identification?

7 A. That is correct.

8 ATTORNEY BLOCK: Objection to terminology  
9 and pronouns.

10 BY ATTORNEY BARHAM:

11 Q. Do you agree or disagree that the standards of  
12 care recommend mental support and comprehensive  
13 assessment for all dysphoric youth before starting  
14 medical interventions?

15 A. I would agree that the current recommendations,  
16 which are in the process of being updated recommend that  
17 a mental health assessment be in place. And it's not a  
18 mandate that psychotherapy is a requirement prior to  
19 initiation of medical care for gender dysphoria, and it  
20 is not indicated for every patient.

21 Q. And that's partly because the standards of care  
22 are guidelines not mandates.

23 Correct?

24 A. It's mostly because of the indications for the

1 patient's best interest that psychotherapy is not a  
2 requirement for folks who are otherwise doing well.

3 Q. But it's also true that the standards of care  
4 are guidelines not mandates.

5 Correct?

6 A. That is correct. They are guidelines.

7 Q. On page two of this article the author is ---  
8 and by this article I'm referring to tab 29. The author  
9 has indicated that a study of ten pediatric gender  
10 clinics in Canada found that half do not require  
11 psychological assessment before initiating puberty  
12 blockers or hormones.

13 Is that your policy?

14 A. Where is this in the article? I don't see it.

15 Q. The bottom of page two?

16 A. What I want to emphasize is this is an opt ed  
17 and a popular press outlet and not a study. So I have  
18 no idea where they gathered their information about this  
19 or the accuracy of the statement, nor do I know what the  
20 authors meant by a psychological assessment.

21 Q. I understand. I did not mean to imply that  
22 this article Exhibit --- tap 29 is a study. I was  
23 merely quoting the authors, that a study of ten  
24 pediatric gender clinics found that half do not require

1 psychological assessment before initiating puberty  
2 blockers or hormones. My question to you is, is that  
3 your policy?

4 ATTORNEY BLOCK: Objection to form.

5 THE WITNESS: Again, I can't speak to the  
6 accuracy of Dr. Edwards-Leeper and Dr. Anderson's  
7 description of a study that I haven't seen.

8 BY ATTORNEY BARHAM:

9 Q. I'm not asking you to. I'm asking do you have  
10 --- is it your policy at your clinic that you do not  
11 require psychological assessments before initiating  
12 puberty blockers for hormones?

13 A. We require psychological assessments prior to  
14 initiation, yes.

15 ATTORNEY TRYON: Travis, it's Dave Tryon.  
16 You referred to this as Tab 29, I believe you mean  
17 Exhibit 29. Is that right?

18 ATTORNEY BARHAM: It's both Exhibit 29  
19 and Tab 29.

20 BY ATTORNEY BARHAM:

21 Q. When patients come to you referred by a  
22 pediatrician or counselor with no expertise in gender  
23 dysphoria assessment or diagnosis, what policies do you  
24 have to ensure that the patients receive full and

1 adequate course of mental healthcare before prescribing  
2 life altering hormones?

3 ATTORNEY BLOCK: Objection to form.

4 THE WITNESS: As a mental health  
5 professional I'm not the person who is prescribing those  
6 treatments.

7 BY ATTORNEY BARHAM:

8 Q. Before you recommend someone for eligibility for  
9 life-altering hormones?

10 ATTORNEY BLOCK: Objection to form.

11 THE WITNESS: Prior to making a  
12 recommendation of hormone initiation I'm doing my own  
13 assessment and ensuring that those standards are met.

14 BY ATTORNEY BARHAM:

15 Q. So beyond your own assessments do you have any  
16 policies that guide that process?

17 A. Our clinic has its own policies dependent upon  
18 clinical practice or whether or not patients are  
19 enrolled in a particular trial, but it is the standard  
20 of care as laid out by both Endocrine Society and WPATH  
21 that adolescent patients have a psychological  
22 assessment. There's a lot of latitude for what that  
23 actually means.

24 Q. And on page three of this document, Exhibit 29,

1 the bottom of the first paragraph the authors write as a  
2 result we may be harming some of the young people we  
3 strive to support, people who may not be prepared for  
4 the gender transitions they are being rushed into.

5 Do you share the concern of these authors?

6 A. I don't have numbers on my end. Which --- where  
7 is it?

8 Q. (Indicating).

9 A. Got it. Can you repeat the question? Sorry.

10 Q. The authors express concern that we may be ---  
11 quote, we may be harming some of the young people we  
12 strive to support, people who may not be prepared for  
13 the gender transitions they are being rushed into.

14 Do you share the author's concern?

15 A. I do not. These are tested hypotheses that can  
16 be researched, and this is not what this is.

17 Q. You said you have no concern that people are  
18 being rushed into gender transitions?

19 A. This is a supposition by these two authors that  
20 people are being rushed into gender transition. I'm not  
21 sure what that means, and that has not been the clinical  
22 experience that I've had nor what the guidelines  
23 recommend.

24 Q. So you were not aware of people being rushed

1 into transitions that they are not ready for?

2 A. That has not been my experience, no.

3 Q. On page four towards the bottom of the page, the  
4 authors reference a recent study of 100 detransitioners,  
5 38 percent of whom reported that they believe their  
6 original dysphoria had been caused by something specific  
7 such as trauma, abuse or mental health condition.  
8 Fifty-five (55) percent of whom said they did not  
9 receive adequate evaluation from a Dr. Or mental health  
10 professional before starting transition.

11 Are you aware of that study that authors  
12 reference here?

13 ATTORNEY BLOCK: Object to form.

14 THE WITNESS: I am --- I'm assuming  
15 because I think they have a footnote in here somewhere,  
16 but it is not in this particular article, but they are  
17 receiving to the recent 2021 Littman study  
18 detransitioners.

19 BY ATTORNEY BARHAM:

20 Q. Do you share the concern that some have been  
21 misdiagnosed as transgender when their gender dysphoria  
22 was, in fact, not innate, but cause by something  
23 specific, such as trauma, abuse or mental health  
24 condition?

1           A.       I really don't mean to parse this, but I don't  
2 know what Dr. Edwards-Leeper or Dr. Anderson's concerns  
3 are, but the evidence that we have from the literature  
4 and from our clinical experience is that this is not a  
5 broad experience of most children.

6           Q.       And what literature, are you referencing when  
7 you say we referenced the literature?

8           A.       I'm referencing the literature that I cited in  
9 my report.

10          Q.       And which specific portions of your report are  
11 you referencing?

12          A.       Let me just take a moment. What I'm referencing  
13 is the longitudinal studies in particular that have  
14 followed these kids over time.

15          Q.       And which ones would those be in your report?

16          A.       Really anything from the Dutch clinic is going  
17 to have a longitudinal focus to them, but I think what's  
18 more important is that in all of these studies, which  
19 include some of the Dutch studies both in childhood and  
20 adults that have looked at regret rates or detransition  
21 have shown that this is a very infrequent occurrence,  
22 and there has been nothing I've read within the  
23 scientific literature that in, any way, tries to  
24 operationalize this idea of children being forced into

1 or pressured into transition.

2 Q. What steps do you take to ensure that gender  
3 dysphoria, the child's --- the child's or teen's gender  
4 dysphoria was not caused by something specific such as  
5 trauma, abuse or mental health condition before  
6 recommending someone for puberty blocking or cross sex  
7 hormones?

8 ATTORNEY BLOCK: Objection to form.

9 THE WITNESS: I perform a thorough  
10 evaluation.

11 BY ATTORNEY BARHAM:

12 Q. Anything beyond the thorough evaluation?

13 A. A very thorough evaluation. It involves  
14 multiple steps as I described earlier.

15 Q. So this comprehensive --- the authors actually  
16 talk about a comprehensive assessment on page three of  
17 their article. And they indicate that comprehensive  
18 assessment and gender exploratory therapy helps ---  
19 quote, helps a young person peel back the layers of  
20 their developing adolescent identity and examines  
21 factors that contribute to their dysphoria. And those  
22 include --- so what steps did you take to identify the  
23 factors that may contribute to a child's or teen's sense  
24 of dysphoria?



1                    ATTORNEY BLOCK: Objection to form.

2                    THE WITNESS: It is a thorough assessment  
3 and there are multiple factors within that assessment  
4 that speak to those concerns specifically.

5 BY ATTORNEY BARHAM:

6            Q.        And what are those multiple factors?

7            A.        Understanding developmental history, getting  
8 multiple performance, doing the diagnostic assessment of  
9 any co-occurring mental health conditions and ensuring  
10 that those are adequately explored and understood.

11           Q.        What factors in a transgender identity do you  
12 identify as most often contributing to gender dysphoria?

13                    ATTORNEY BLOCK: Objection to form.

14                    THE WITNESS: I think it's complicated to  
15 answer that in a short way, because not every child who  
16 identifies as transgender would meet diagnostic criteria  
17 for gender dysphoria. And specifically, if we agreed  
18 with the premise that the gender dysphoria is being  
19 caused by trauma that's specifically a rule out of the  
20 diagnosis of gender dysphoria. So that is part of what  
21 we're doing in an assessment is to understand the role  
22 of other potential factors in helping a kid explore and  
23 understand their identity.

24 BY ATTORNEY BARHAM:

1 Q. Then allow me to clarify the question. What  
2 factors other than an innate transgender identity do you  
3 identify as most often contributing to a child's  
4 transgender identification?

5 ATTORNEY BLOCK: Objection to form.

6 THE WITNESS: The children that I have  
7 treated over my years of doing this work that describe a  
8 gender identity that is inconsistent who don't  
9 ultimately meet the criteria for gender dysphoria are  
10 often children who have been subjected to multiple types  
11 of trauma. That would be one of the factors.

12 BY ATTORNEY BARHAM:

13 Q. What other ones would you identify?

14 A. The other factors are around parental conflicts.  
15 That's probably the other large cohort of kids when  
16 exploration is the full come around which parents,  
17 particularly divorcing parents, are acting in conflict.

18 Q. So by that you mean, for example one parent  
19 supporting an affirmation approach and the other raising  
20 concerns about proceeding in that direction?

21 ATTORNEY BLOCK: Objection to form.

22 THE WITNESS: That's not an infrequent  
23 occurrence and this is a very rare outcome to that, but  
24 in that cohort of patients who desist, I would say in

1 their identities that is a shared characteristic of some  
2 of the patients that I have seen.

3 BY ATTORNEY BARHAM:

4 Q. So you have not only two factors that could  
5 contribute to a child's transgender identification,  
6 other than ---?

7 A. Can I stop you, sir? I'm not identifying that  
8 as a cause or a causal factor in a core gender identity.  
9 It is the understanding and expression of that identity  
10 that often changes.

11 Q. Okay.

12 And that is why I was trying to talk about  
13 transgender identification more broadly. But you've  
14 identified two factors that contribute to that not  
15 necessarily causal but contribute. Are there any others  
16 that you have identified as most often contributing  
17 as ---?

18 A. Not that I have seen.

19 Q. The authors on page three express a concern  
20 about other influences that patients can be subjected  
21 to, so as in these assessments patients reflect on the  
22 duration of the dysphoria they feel they continue a  
23 gender --- the intersection of sexual orientation, et  
24 cetera, social media, internet and peer influences.

1 Do you share concerns that teens maybe misled by  
2 TikTok or other social media to self diagnose as  
3 transgender when, in fact, other factors have driven  
4 their gender dysphoria or their transgender  
5 identification?

6 ATTORNEY BLOCK: Objection to form.

7 THE WITNESS: To clarify transgender  
8 isn't a diagnosis, so I'm not concerned about that  
9 specifically. And I think that's the study of all  
10 phenomenon, whether or not this is occurring, but again,  
11 as a part of a comprehensive gender assessment, we are  
12 looking at multiple factors beyond a child's  
13 self-report.

14 BY ATTORNEY BARHAM:

15 Q. So do you share concerns that teens may be  
16 misled by social media to self declare as transgender  
17 when, in fact, other factors have driven their gender  
18 dysphoria?

19 ATTORNEY BLOCK: Objection.

20 THE WITNESS: I would not characterize it  
21 in that way.

22 BY ATTORNEY BARHAM:

23 Q. How would you characterize it?

24 A. I would characterize it by taking exploration of

1 an identity via TikTok for what it is, as a normal  
2 process of adolescent development and having a child who  
3 self identifies as transgender as a result of seeing a  
4 video on TikTok is not going to be the child who meets  
5 the typical phenomenology that we would see with gender  
6 dysphoria. That is part of the assessment that we are  
7 evaluating.

8 Q. Okay.

9 So then in general, you don't agree with the  
10 concerns that the authors raise regarding the influence  
11 of social media, internet and peer influences.

12 Correct?

13 A. I would say it's a matter of degree. I don't  
14 think social media has been a particularly healthy thing  
15 for kids in general, and understanding how it impacts  
16 kids is something that we all need to be learning more  
17 about.

18 Q. In the last paragraph on page three, the authors  
19 talk about how the WPATH recommends collaborative  
20 approach that involves parents and take into account the  
21 complexities of adolescents.

22 Do you see that?

23 A. Yes.

24 Q. Do you understand the WPATH standards of care

1 for adolescents to call for a collaborative approach  
2 that involves both parents whenever possible?

3 A. There is not a specific call out within the  
4 standards of care for my recollection that say both  
5 parents need be involved, but that's certainly implied  
6 and is the general practice to include all parents or  
7 all family members who are involved in the child's life  
8 whomever is going to need to be in the room in order to  
9 both get a clear understanding of what's going on as  
10 well as make sure the child gets the adequate support to  
11 be able to thrive.

12 Q. So is it your understanding that the WPATH  
13 standards of care would allow treatment to proceed based  
14 on the consent of one parent?

15 A. As we talked about earlier, these are guidelines  
16 and not mandates. In practice within the United States  
17 almost all consent processes for puberty suppression and  
18 hormones go through a two parent consent process  
19 whenever possible, even though that is not a requirement  
20 of the law.

21 Q. What I'm trying to get to is what is the  
22 requirements of the guidelines, recognizing that the  
23 guidelines are not mandatory, but do the guidelines  
24 allow for treatment based on the consent of one parent?

1           A.       I think one of the limitations of an  
2 international document is that there is not going to be  
3 that level of specificity because consent laws are going  
4 to be different from state to state, not to mention  
5 country to country.

6           Q.       Okay.

7                    On page two --- I'm sorry, on page three ---  
8 let me clarify again. I'm sorry I confused myself. On  
9 page two the authors write that after exploring who she  
10 was --- after a year of exploring who she was, Patricia  
11 no longer felt she was a boy, she decided to stop  
12 binding her breasts and wearing boys clothes.

13                   What proportion of those who present at your  
14 clinic change their minds and decided to remain with or  
15 return to the gender identity of their natal sex before  
16 undergoing any hormonal treatments?

17                    ATTORNEY BLOCK:   Objection to form.

18                    THE WITNESS:   I'm one practitioner in my  
19 clinic, so I don't have the data on everybody. And I  
20 think a lot of that is going to depend upon the  
21 population that you are seeing.

22                    BY ATTORNEY BARHAM:

23           Q.       What proportion of your patients then changed  
24 their mind and decide to remain or return to the gender

1 identity of their natal sex before undergoing any  
2 hormonal treatments?

3 ATTORNEY BLOCK: Objection to form.

4 THE WITNESS: I would say a minority of  
5 patients.

6 BY ATTORNEY BARHAM:

7 Q. Do you have a range?

8 A. I don't. I think when you were asking those  
9 questions at the beginning about my 500 transgender  
10 patients in that cohort, and I think 75 percent pursued  
11 some things, but being that 25 percent that didn't.  
12 Somewhere in there.

13 Q. On page five of this document, the last page the  
14 authors report a rising a number of detransitioners that  
15 clinicians report seeing. Are you aware of this rising  
16 number of detransitioners?

17 ATTORNEY BLOCK: Objection to form.

18 THE WITNESS: I'm aware that these two  
19 authors are raising that it's a possibility. It is not  
20 something that I've seen published in the literature.

21 BY ATTORNEY BARHAM:

22 Q. Have you seen a rising number of detransitioners  
23 at your clinic?

24 A. I think the question is whether or not the



1 percentage is changing and that's not an answer we know.  
2 I think by definition the more people you see the more  
3 folks --- the detransition you're going to see. And the  
4 difference of children who had access to gender care now  
5 compared to a decade ago is just orders of magnitude  
6 different. But I don't know or there has not been any  
7 evidence that I've seen that the percentage of kids who  
8 detransition is any different now than it was a decade  
9 ago.

10 Q. A few paragraphs above what we were just looking  
11 at, it says only a quarter of these individuals told  
12 their doctors they had reversed their transitions making  
13 this population especially hard to track. Would you  
14 agree that this population is difficult to track?

15 ATTORNEY BLOCK: Objection to form.

16 THE WITNESS: Again, this is not a study  
17 and so it's hard to kind of make a pronouncement about a  
18 population without a defined understanding of what that  
19 population actually is. Our folks who don't talk to  
20 their medical professionals about dissatisfaction in  
21 their care, a difficult population to treat, I think,  
22 probably by definition that is true.

23 BY ATTORNEY BARHAM:

24 Q. And to be clear, I wasn't asking if they're

1 difficult to treat, I was just asking would you agree  
2 they're difficult to track?

3 A. I think by definition, yes, if they are not  
4 reaching out to their providers or dropping out of  
5 studies, yes.

6 Q. The next to last paragraph of this article  
7 begins by saying the pressure by activists, medical and  
8 mental health providers along with a national LGBT  
9 organizations to silence the voices of detransitioners  
10 and sabotage the discussion around what is occurring in  
11 the field is unconscionable. Do you agree that it is  
12 concerning that certain organizations are seeking to  
13 silence the voice of detransitioners?

14 ATTORNEY BLOCK: Objection to form.

15 THE WITNESS: It is not my experience  
16 that organizations are seeking to silence the voices of  
17 folks who identify as detransitioners, no.

18 BY ATTORNEY BARHAM:

19 Q. If they were would you agree that that is  
20 unconscionable?

21 ATTORNEY BLOCK: Objection to form.

22 THE WITNESS: My job as a psychiatrist  
23 and a child psychiatrist in particular is to understand  
24 the kid who is sitting in front of me in that very

1 moment. I want to understand how to best meet their  
2 needs. So anything that is going to interfere with me  
3 being able to understand that is going to be a problem  
4 for me.

5 ATTORNEY BARHAM: I'm going to show you  
6 what we will mark as Exhibit-30. This is also Tab 30.

7 ---

8 (Whereupon, Exhibit-30, Interview by Lisa  
9 Selin Davis, was marked for  
10 identification.)

11 ---

12 BY ATTORNEY BARHAM:

13 Q. This is an interview written up by Lisa Selin  
14 Davis of Quillette entitled Trans Pioneer Explains her  
15 Resignation from the U.S. Professional Association for  
16 Transgender Health, published at the beginning of 2022.  
17 Are you familiar with this article?

18 A. I am not.

19 Q. I'm going to direct your attention to  
20 page three. This is an interview with Dr. Anderson, the  
21 same individual who is a co-author of the Washington  
22 Post article we were just discussing.

23 Correct?

24 A. That is correct.

1 Q. On page three Dr. Anderson states, the data are  
2 very clear that adolescent girls are coming to gender  
3 clinics in greater proportion than adolescent boys and  
4 this is a change in the last couple of years and it's an  
5 open question, what do we make of that. We really don't  
6 know what's going on and we should be concerned about  
7 it. Does her experience match your experience?

8 ATTORNEY BLOCK: Objection to form.

9 THE WITNESS: I think it's consistent in  
10 the literature that we've seen more assigned females at  
11 birth presenting for care than in the past.

12 BY ATTORNEY BARHAM:

13 Q. And have you seen this change in balance since  
14 approximately 2015?

15 A. I don't know if I would say --- I could point to  
16 one specific year, but with each year it seems like  
17 that's --- I think probably that's when the data came  
18 out that that demonstrated it.

19 Q. When do you recall beginning to see this trend  
20 develop?

21 A. I think one of the challenges is that the scope  
22 of the literature is limited to a few very specific  
23 subsets of where clinical care is practiced, and so we  
24 have to just be careful not to completely generalize.

1 So in these specific clinics what we have seen is a  
2 preponderance and an increase of assigned females at  
3 birth. I can't speak to this being a national  
4 phenomenon, but the literature probably certainly all  
5 points in that direction. I think personally for me I  
6 just started to see more assigned females at birth  
7 presenting in adolescence I think in the mid 2010s is  
8 not unreasonable.

9 Q. Is there any test in scientific understanding as  
10 to why this trend in the literature is developing?

11 A. There is not.

12 Q. Do you agree that this is something that  
13 practitioners should be very concerned about before  
14 agreeing to administer sterilizing cross sex hormones to  
15 teen girls?

16 ATTORNEY BLOCK: Objection to form.

17 THE WITNESS: The thing that's important  
18 is what are the specific factors of the child in the  
19 family that is sitting in front of you and how to ensure  
20 that that child has gotten appropriate care and that  
21 we're making a recommendation based upon the best  
22 interest of that individual child that is irrespective  
23 of population-based changes that are happening.

24 BY ATTORNEY BARHAM:

1 Q. Don't you need to assess though whether the  
2 individual in front of you is exemplar of that national  
3 --- of that trend in the literature?

4 A. That's where --- that's where an assessment  
5 comes in.

6 Q. So you would agree then that practitioners  
7 should be concerned about this trend before deciding to  
8 administer hormones.

9 Correct?

10 ATTORNEY BLOCK: Objection to form.

11 THE WITNESS: What I'm stating is that  
12 the guidelines for what's involved in assessment have  
13 been relatively clear and that we want to make the  
14 decisions based upon what's in the best interest and  
15 understanding of the patient and family that we are  
16 seeing. We should always be concerned. We should  
17 always be building up our understanding of the field, as  
18 well as some of the epidemiology of the field. But that  
19 doesn't change the individual experiences of the patient  
20 and the family that we're meeting with.

21 BY ATTORNEY BARHAM:

22 Q. Okay.

23 At the bottom of page four Dr. Anderson says  
24 that she is, quote, worried that there is a new group of

1 adolescents who have preexisting mental health problems  
2 and are looking for an explanation about who they are.  
3 And there's a bit of I would say fantasy about seeking  
4 to form an identity that may then explain their  
5 distress. You would agree that the adolescent years can  
6 be distressing for many teens, whether they are  
7 transgender or not.

8 Correct?

9 ATTORNEY BLOCK: Objection to form.

10 THE WITNESS: I would wholly agree with  
11 that, yes.

12 BY ATTORNEY BARHAM:

13 Q. Do you share the concern that some teens who  
14 present at clinics are indulging in a fantasy about what  
15 a transgender identity will do for them and their  
16 distress?

17 A. I would not put it in that way, no.

18 Q. As part of your assessment do you have to --- as  
19 part of your thorough assessment do you have to assess  
20 whether the teen is incorrectly assessing what a  
21 transgender identity would do for them and their  
22 distress?

23 A. A part of any formed --- informed consent  
24 process is assessing the understanding of the child and

1 the family's understanding of the risks, benefits and  
2 alternatives of that specific intervention. That would  
3 include an unrealistic belief about what the potential  
4 benefits may be.

5 Q. All right.

6 I want to go to page five of this document.  
7 Dr. Anderson indicates earlier today I talked to some  
8 parents who brought their child to a health  
9 professional. The child is seen three times by a  
10 therapist and then recommended for hormones. The  
11 therapist never talked to the parents. Do you share her  
12 concern that three sessions with a mental health  
13 providers is far less than required before a competent  
14 diagnosis of a durable transgender identity can be made?

15 ATTORNEY BLOCK: Objection to the form.

16 THE WITNESS: I would not. The objection  
17 as I read it in this article that you've put in front of  
18 me with the interview with Dr. Anderson, her concern  
19 seems to be more about not having spoken to the parents  
20 prior to the recommendation. And I can't take her word  
21 for it that this was true. We hear a lot of things from  
22 parents who express frustration with care that is  
23 ultimately found not to be accurate.

24 BY ATTORNEY BARHAM:



1 Q. Would you share the concern that prescribing  
2 hormones if one parent is strongly opposed to it is  
3 creating a likelihood of family conflict that is going  
4 to likely be destabilizing and harmful to the child?

5 ATTORNEY BLOCK: Objection to the form.  
6 Are you referencing something in the article or is this  
7 your own question?

8 ATTORNEY BARHAM: I am referencing  
9 page six, where Dr. Anderson says you don't want to rush  
10 ahead with a kid, giving them encouragement that they're  
11 going to get hormones until we bring their parents  
12 along. Battling the parents is a no win proposition.

13 BY ATTORNEY BARHAM:

14 Q. So just to be clear about the question do you  
15 share the concern that prescribing hormones if one  
16 parent is strongly opposed is likely creating the  
17 likelihood of family conflict that may be separately  
18 destabilizing and harmful to the child?

19 ATTORNEY BLOCK: Objection to the form  
20 and foundation.

21 THE WITNESS: What I hear Dr. Anderson's  
22 concern from this is that battling with parents is a  
23 no-win proposition. I think that's different from  
24 recommending a treatment that not all parents agree to.

1 I think it's about the work of psychotherapy, which  
2 involves understanding and hearing parents' experiences  
3 and objections.

4 BY ATTORNEY BARHAM:

5 Q. Do you think that prescribing hormones if one  
6 parent is strongly opposed is likely creating family  
7 conflict that may be separately destabilizing and  
8 harmful to the child?

9 A. I can't answer that question without a specific  
10 family scenario in front of me. I have seen the  
11 opposite be the case where the conflict is the creation  
12 of the lack of consensus as opposed to the other way  
13 around. And I've seen kids in my experience treating  
14 kids who had parents who have opted out of any  
15 decisional capacity and the kid's medical care but  
16 nevertheless do much better when given access to this  
17 care.

18 Q. But it is also possible that prescribing  
19 hormones over the objection of one parent can create  
20 conflict within the family.

21 Correct?

22 ATTORNEY BLOCK: Objection to the form.

23 THE WITNESS: Understanding the impact of  
24 any intervention is a part of that consent process.

1 BY ATTORNEY BARHAM:

2 Q. I'm just asking if that's a possible outcome?

3 A. Yes.

4 Q. All right.

5 Is it your opinion that it's unreasonable to  
6 exclude from female teams biological males, and by that  
7 I mean people with XY chromosomes, who have gained a  
8 physiological advantage as a result of undergoing male  
9 puberty?

10 A. This is outside of the scope of what I was  
11 providing my testimony on.

12 Q. Well, in paragraph 52 of your report you say no  
13 reasonable mental health professional could think the  
14 act in question is anything but harmful to the mental  
15 health of transgender youth and that preventing  
16 transgender youth from participating in the same  
17 activities as their peers undermines their ability to  
18 socially transition and prevents transgender youth from  
19 accessing important educational and social benefits.

20 So I'm asking you is it your opinion that it's  
21 unreasonable to exclude from female teams biological  
22 males who have gained a physiological advantage as a  
23 result of undergoing male puberty?

24 ATTORNEY BLOCK: Objection to form and

1 scope.

2 THE WITNESS: Again, I can testify to the  
3 mental health aspects of exclusion. I can't testify to  
4 the endocrinologic changes of the physiologic changes in  
5 sports specifically.

6 BY ATTORNEY BARHAM:

7 Q. I'm not asking you to testify to the  
8 endocrinology aspects of this. I'm just asking is it  
9 your opinion that if we assume that an individual has  
10 gained physiological advantage as a result of undergoing  
11 male puberty that it is still unfair to --- or  
12 unreasonable to exclude them from competing on a women's  
13 team?

14 ATTORNEY BLOCK: Objection to form and  
15 scope.

16 THE WITNESS: That is not an assumption I  
17 feel comfortable making.

18 BY ATTORNEY BARHAM:

19 Q. Well, if you say that it is no reasonable mental  
20 health professional can say that this Act is anything  
21 but harmful to the mental health of transgender youth  
22 that doesn't depend upon whether the child has undergone  
23 male puberty or not.

24 Is that correct?

1 A. That is correct.

2 Q. So even if the child --- even if the individual  
3 has undergone male puberty you're saying that no  
4 reasonable mental health professional could think that  
5 the Act is anything but harmful, barring them from  
6 competing on the women's team is anything but harmful.

7 Is that correct?

8 A. I would say exclusion and isolation from access  
9 to same aged peer activities is likely to be harmful  
10 from a mental health perspective.

11 Q. To what extent can puberty blockers started  
12 late, such as age 14, unring the bell by reversing  
13 physical changes in male puberty?

14 ATTORNEY BLOCK: Sorry, I can't hear the  
15 questions.

16 BY ATTORNEY BARHAM:

17 Q. To what extent do puberty blockers started late,  
18 for example age 14, unring the bell by reversing the  
19 physical changes of male puberty?

20 ATTORNEY BLOCK: Objection to form and  
21 scope.

22 THE WITNESS: It is a complicated  
23 question that is best left to an endocrinologist to  
24 answer.

1 BY ATTORNEY BARHAM:

2 Q. Can puberty blockers reverse the physical  
3 changes of male puberty to the genitals?

4 ATTORNEY BLOCK: Objection to form and  
5 scope?

6 THE WITNESS: It's the same answer. I  
7 would defer to an endocrinologist on that response.

8 BY ATTORNEY BARHAM:

9 Q. Can puberty blockers reverse the physical  
10 changes to the hair?

11 ATTORNEY BLOCK: Same objections.

12 THE WITNESS: Again, I would defer to an  
13 endocrinologist.

14 BY ATTORNEY BARHAM:

15 Q. Can they reverse the physical changes to the  
16 voice or the muscles?

17 ATTORNEY BLOCK: Same objections.

18 THE WITNESS: Same answer.

19 BY ATTORNEY BARHAM:

20 Q. Can they reverse the effect --- the physical  
21 changes of male puberty to the heart or lung size?

22 ATTORNEY BLOCK: Same objection.

23 THE WITNESS: Same answer.

24 BY ATTORNEY BARNHAM:

1 Q. Isn't it true that puberty blockers just stop  
2 further typical male development?

3 ATTORNEY BLOCK: Same objections.

4 THE WITNESS: I would --- I would give  
5 two responses. One, I would want an endocrinologist to  
6 weigh in on the specifics, but clearly puberty blockers  
7 are also prescribed to folks assigned females at birth  
8 as well. There's more than just impacts on testosterone  
9 as a result of these medications.

10 BY ATTORNEY BARHAM:

11 Q. I understand, but you make recommendations for  
12 whether people are eligible to receive puberty blocking  
13 hormones.

14 Is that correct?

15 A. That is correct.

16 Q. So you have to have some understanding of the  
17 effects of these medications.

18 Is that correct?

19 A. That is correct.

20 Q. So isn't it true that puberty blockers  
21 administered to natal males should stop further typical  
22 male development?

23 ATTORNEY BLOCK: Objection to form and  
24 scope.

1                   THE WITNESS:    I'd have the same answer,  
2   and they do more than that.

3   BY ATTORNEY BARNHAM:

4       Q.       What else do they do?

5       A.       Again, I would defer to the endocrinologist for  
6   the specific pathophysiology of how GnRH analogs affect  
7   a complicated physiology of the body.

8       Q.       But what is your understanding of how they  
9   affect because you said they also do other things?

10               ATTORNEY BLOCK:  Objection to form and  
11   scope.

12               THE WITNESS:  I think I answered it.  In  
13   the GnRH analogs are given an anatomic manner compared  
14   to the pulsatile way in which GnRH is released during  
15   the puberty, which is what causes the suppression of  
16   other hormones more than just testosterone and estrogen.

17   BY ATTORNEY BARNHAM:

18       Q.       If puberty blocking hormones are administered to  
19   a natal male, do they cause that individual to undergo  
20   typically female pubertal development?

21               ATTORNEY BLOCK:  Objection to form and  
22   scope.

23               THE WITNESS:  They do not.

24   BY ATTORNEY BARHAM:



1 Q. So they just stop further male development.

2 Correct?

3 ATTORNEY BLOCK: Same objections.

4 THE WITNESS: As kind of a Gestalt pithy  
5 response, yes, they cause puberty for assigned females  
6 at birth and assigned males at birth who are given these  
7 medications.

8 BY ATTORNEY BARNHAM:

9 Q. When does puberty typically begin in biological  
10 males?

11 ATTORNEY BLOCK: Same objections.

12 THE WITNESS: Those are very known data  
13 that an endocrinologist could tell you.

14 BY ATTORNEY BARHAM:

15 Q. I'm sure, though, that as a psychiatrist you  
16 have a general understanding of what ages puberty  
17 typically begins in biological males?

18 ATTORNEY BLOCK: Same objections.

19 THE WITNESS: I do, however, I am  
20 assessing individuals who come through my office. And  
21 regardless of what the population says about when  
22 puberty is typical, it's going to depend upon who that  
23 individual child is and when they develop puberty.

24 BY ATTORNEY BARHAM:

1 Q. I understand, but my question isn't about an  
2 individual. My question is when does it typically begin  
3 in biological males.

4 ATTORNEY BLOCK: Same objections.

5 THE WITNESS: Again, this is a very  
6 knowable fact-based answer in a population level. It's  
7 not information I have in front of me.

8 BY ATTORNEY BARHAM:

9 Q. So you have no --- is it your testimony that you  
10 have no information as to when puberty typically begins  
11 in biological females?

12 ATTORNEY BLOCK: Can I just give a  
13 standing objection to questions asking the witness about  
14 the effects --- the endocrinology effects of blockers  
15 and hormones, so I don't have to make an objection each  
16 time?

17 ATTORNEY BARHAM: Yes.

18 THE WITNESS: My testimony is I don't  
19 want to give an imprecise answer for a question that  
20 there is a specific answer to.

21 BY ATTORNEY BARHAM:

22 Q. What is your understanding, as you sit here  
23 today, as to when puberty typically begins in males?

24 A. The range for typical puberty in males tends to

1 be around the 12ish mark. But there is a broad  
2 variability. And again, there is an answer that exists  
3 for this question that I don't have in front of me.

4 Q. Are you familiar with Tanner stages of puberty?

5 A. I am.

6 Q. What are the different Tanner stages of puberty?

7 A. Tanner stages one through five are the different  
8 Tanner stages.

9 Q. So what is Tanner stage one in biological males?

10 A. It depends upon if we're talking about genitalia  
11 or chest development, but it's no pubertal changes,  
12 so ---.

13 Q. And what is two?

14 A. Two is at the initial stages of pubertal changes  
15 that you start to see. The specifics of the Tanner  
16 staging is something that you need to be trained on. I  
17 would not claim myself as an expert in being able to  
18 accurately assess the Tanner stage of a child.

19 Q. Do you know when --- at what ages Tanner Stage 2  
20 typically initiates in biological males?

21 A. Again, it's going to be an individualized  
22 experience and that's why we do assessments.

23 Q. Do you have a range, an age range as to when it  
24 typically begins?

1 A. When we talk about the onset of puberty, we're  
2 talking about Tanner stage two typically.

3 Q. And at what age do those typically arise?

4 A. For assigned males at birth or assigned females?

5 Q. For biological males.

6 ATTORNEY BLOCK: Objection to  
7 terminology.

8 THE WITNESS: So for folks assigned male  
9 at birth, again, we're going to see it in that 12-ish  
10 range.

11 BY ATTORNEY BARHAM:

12 Q. And Tanner Stage 3, what is that?

13 A. Further development. There's tables and charts  
14 you would have to look at. I'm not going to be able to  
15 use language to describe it in an accurate way.

16 Q. And when --- approximately when, what age range  
17 does Tanner Stage 3 begin in biological males?

18 A. That's not an answer that I can give you.

19 Q. And what is Tanner Stage 4?

20 A. The same answer is further progression of  
21 pubertal changes.

22 Q. And do you know what age range that typically  
23 begins in biological males?

24 A. Same answer as before. That's not an answer I

1 have here.

2 Q. And would the same answers hold true for Tanner  
3 Stage 5? Is that a yes?

4 A. That's a yes. I forgot that nodding ---.

5 Q. Yes. You've been pretty good today. I've been  
6 impressed.

7 Doesn't the position that allowing biological  
8 males to play on a girls team if they blocked puberty  
9 before it begins create pressure for parents and  
10 children to make puberty blocking decision at a young  
11 age?

12 ATTORNEY BLOCK: Objection to form.

13 BY ATTORNEY BARHAM:

14 Q. Sort of put them in a now or never situation?

15 A. Of those 500 patients that I have seen, that has  
16 never come up as a concern.

17 Q. The athletic issue has never come up as a  
18 concern?

19 A. It has not.

20 Q. Do you think it would --- as a practitioner in  
21 the field do you think it would even be ethical for the  
22 State of West Virginia to structure its law in a way  
23 that puts now or never pressure on parents and children  
24 who are dealing with gender dysphoria to decide at an

1 early age whether to stop the natural development of  
2 puberty?

3 ATTORNEY BLOCK: Objection to form.

4 THE WITNESS: As a child psychiatrist in  
5 this field we're doing individual-based assessments with  
6 the children and families that are in front of us. And  
7 what that means in the context of this question is that  
8 we are assessing all of their different activities,  
9 interests and working with all the systems that we can  
10 to ensure a safe and appropriate set of decisions that  
11 are going to lead to the best outcomes for this  
12 individual child and not a medical emphasis that is  
13 outside of the scope that I can answer.

14 BY ATTORNEY BARHAM:

15 Q. But you're familiar with the ethical standards  
16 of your field.

17 Is that correct?

18 A. I am, yes.

19 Q. Under those ethical standards would it be  
20 ethical for the State to structure its law in a way that  
21 puts this kind of now or never pressure on parents and  
22 children?

23 ATTORNEY BLOCK: Objection to form. Also  
24 the witness is in shadow. I can't really see him for

1 the camera.

2 THE WITNESS: Is that better?

3 ATTORNEY BLOCK: Yes.

4 THE WITNESS: Can you repeat the  
5 question? I'm sorry.

6 BY ATTORNEY BARHAM:

7 Q. As someone familiar with the ethical standards  
8 of psychiatry, do you think it would be ethical for the  
9 State of West Virginia to structure its law in a way  
10 that puts now or never pressure on parents and children  
11 who are dealing with gender dysphoria to decide at an  
12 early age whether to stop the natural development of  
13 puberty?

14 ATTORNEY BLOCK: Objection to form.

15 THE WITNESS: I mean that's a question  
16 that has a testable hypothesis. Does X intervention  
17 lead to this kind of pressure? That's not a study that  
18 I've ever seen nor has it been my clinical experience  
19 that it's been the case.

20 BY ATTORNEY BARHAM:

21 Q. Would it be ethical to put that kind of pressure  
22 on someone under the ethical standards of the field of  
23 psychiatry?

24 ATTORNEY BLOCK: Objection to form and

1 foundation?

2 THE WITNESS: It is a very theoretical  
3 question that really doesn't enter into it when we are  
4 one on one with these kids and their families.

5 BY ATTORNEY BARHAM:

6 Q. I'm not asking about one on one interactions  
7 with kids and families. I'm asking in general in theory  
8 is it ethical to put that kind of pressure on someone?

9 ATTORNEY BLOCK: Objection to form and  
10 foundation.

11 THE WITNESS: I'm sorry I can't give a  
12 better answer, but ensuring that a child is making a  
13 decision without coercion is a part of the informed  
14 consent process.

15 BY ATTORNEY BARHAM:

16 Q. Is it your opinion that it is unreasonable to  
17 exclude from female teams biological males who begin  
18 undergoing male puberty but are now on puberty blockers?

19 ATTORNEY BLOCK: Objection to form and  
20 scope.

21 THE WITNESS: Can you repeat the  
22 question?

23 BY ATTORNEY BARHAM:

24 Q. Is it your opinion that it is unreasonable to



1 exclude from female teams biological males who begin  
2 undergoing male puberty but are now on puberty blockers?

3 A. Is it unethical is the question?

4 Q. Unreasonable.

5 A. Unreasonable. I would defer to kind of our  
6 physiology and endocrinology experts and our medical  
7 ethics experts in rendering an opinion on that  
8 specifically.

9 Q. Is it your opinion that it is harmful to youth's  
10 mental health to be excluded from female teams  
11 biological males who begin undergoing male puberty but  
12 are now on puberty blockers?

13 A. What I would say is that exclusion as well as  
14 specific legal exclusion from activities of same-aged  
15 peers is likely to be harmful for a kid's mental health.

16 Q. Now, the Act in question does not prevent a  
17 biological male who has gender dysphoria from competing  
18 on the boys team.

19 Is that correct?

20 ATTORNEY BLOCK: Objection to form and  
21 scope.

22 THE WITNESS: I'd need to know specifics.  
23 I don't know what you're referring to. I think lots of  
24 people have different policies around how this actually

1 works.

2 BY ATTORNEY BARHAM:

3 Q. I'm asking your understanding of the statute  
4 upon which you're opining.

5 A. Can you repeat the question, please?

6 Q. The Act in question does not prevent a  
7 biological male who is experiencing gender dysphoria  
8 from competing on the boys team.

9 Correct?

10 ATTORNEY BLOCK: Objection to form and  
11 scope.

12 THE WITNESS: So one, I don't know what  
13 biological male necessarily means.

14 BY ATTORNEY BARHAM:

15 Q. An individual with XY chromosomes, natal male?

16 A. So assigned male at birth can have a number of  
17 reasons why they might not be able to play on the boys  
18 team, including intensity of gender dysphoria.

19 Q. But the law does not prevent them from playing  
20 on the boys team.

21 Correct?

22 A. From my read of the law it does not prevent them  
23 from playing on the boys team. Again, from a mental  
24 health perspective, their gender dysphoria may.

1 Q. So is it harmful to the mental health of a  
2 biological male who is experiencing gender dysphoria to  
3 be excluded from the women's team even if he is on  
4 puberty blockers?

5 ATTORNEY BLOCK: Objection to form and  
6 terminology.

7 THE WITNESS: Any potential exclusions  
8 from a peer-appropriate activity has the potential to  
9 have negative consequences on the mental health of that  
10 girl. And again, that's going to be something that on  
11 an individual basis we are assessing.

12 BY ATTORNEY BARHAM:

13 Q. And that would be irrespective of whether the  
14 individual is on puberty blockers, begins to undergo  
15 male puberty or not.

16 Correct?

17 A. An individual assessment is going to be  
18 inherently tailored to wherever an individual is.

19 ATTORNEY BARHAM: Why don't we pause for  
20 lunch?

21 ATTORNEY BLOCK: Let's go off the record.

22 VIDEOGRAPHER: Going off the record. The  
23 current time reads 1:24 p.m.

24 OFF VIDEOTAPE

1

---

2

(WHEREUPON, A SHORT BREAK WAS TAKEN.)

3

---

4

ON VIDEOTAPE

5

VIDEOGRAPHER: Back on the record. The

6

current time reads 1:53 p.m.

7

BY ATTORNEY BROOKS:

8

Q. What does puberty suppression or puberty

9

blockers do?

10

ATTORNEY BLOCK: Objection to form and

11

scope.

12

THE WITNESS: I think I answered that

13

question before. So they suppress the endogenous

14

release of testosterone and estrogen as well as some

15

other hormones.

16

BY ATTORNEY BARHAM:

17

Q. How does puberty suppression differ from cross

18

sex hormones?

19

ATTORNEY BLOCK: Same objection.

20

THE WITNESS: Totally different

21

medication. One suppress hormones and the other is a

22

direct hormone itself.

23

BY ATTORNEY BARHAM:

24

Q. So cross sex hormones are given with the

1 intention of causing development typical to the other  
2 sex.

3 Correct?

4 A. It depends upon the context in which hormones  
5 are used. And again, I would defer for my endocrinology  
6 colleagues on the specifics.

7 Q. So if cross sex hormones are given to a natal  
8 male as part of treatment for gender dysphoria, what is  
9 the intention?

10 ATTORNEY BLOCK: Objection to form.

11 THE WITNESS: As I understand it, if an  
12 assigned male at birth is given cross sex hormones that  
13 is estrogen in order to provide the effects of estrogen  
14 on the body.

15 BY ATTORNEY BARHAM:

16 Q. And the effects of estrogen on the body are what  
17 natal females would naturally experience as a result of  
18 puberty.

19 Correct

20 A. I mean, that is correct, yes.

21 Q. And so if a natal female is given cross sex  
22 hormones, she's being given testosterone to create the  
23 effects that natal males would naturally experience  
24 through puberty.

1 Correct?

2 A. Typically speaking, an assigned female at birth  
3 is going to be receiving testosterone and will have the  
4 subsequent effects as a result of having testosterone in  
5 the bloodstream.

6 Q. Maybe I was confused, a natal male who is given  
7 cross sex hormones?

8 A. You were right.

9 Q. I was right, okay. At what Tanner stage do you  
10 recommend that a patient begin puberty blocker hormones?

11 A. Again, that's going to depend upon an  
12 individualized assessment with the family, but never  
13 before Tanner Stage 2 of puberty.

14 Q. And in what age does Tanner Stage 2 begin again?

15 ATTORNEY BLOCK: Asked and answered.

16 THE WITNESS: I think I answered that  
17 question. It really depends upon the person.

18 BY ATTORNEY BARHAM:

19 Q. And typically ---.

20 A. And for an assigned male at birth we're talking  
21 12-ish, but again I would refer to my endocrinology  
22 colleagues on the specific dates.

23 Q. And through what Tanner stage do you recommend  
24 that a patient remain on puberty blockers?

1           A.       That's not a question I can speak to. That's a  
2 question for the physician or provider who's prescribing  
3 that specific medication.

4           Q.       So after you recommend that a patient receive  
5 puberty blocking hormones, what is your continuing  
6 involvement in the puberty blocking process?

7           A.       My continuing involvement really depends upon  
8 the individual child and family for the sake of a mental  
9 health assessment. For the initiation of puberty  
10 suppression it's an assessment for the initiation of  
11 puberty suppression. The involvement thereafter is  
12 really dependent upon what the individual needs of that  
13 child are.

14          Q.       Do you play any role in continuing to advise  
15 whether the patient can continue to receive puberty  
16 blocking hormones or come off of them?

17          A.       It really depends upon the context. If the  
18 child is seeking to come off of puberty suppression  
19 because of a shift in their understanding of their  
20 identity, certainly that's a conversation that I would  
21 be involved in. If they are coming off of puberty  
22 suppression because they have a sufficient amount of  
23 testosterone or estrogen in their system that they are  
24 no longer requiring that from a medical purpose, that's

1 not a discussion that I'm privy to.

2 Q. When you are discussing puberty blockers with  
3 patients and their parents do you describe them as  
4 placing a pause on puberty?

5 A. That's not specific language that I use.

6 Q. Do you describe them as being reversible?

7 A. Again, that's not a language that I use. I'm  
8 much more specific in my discussions.

9 Q. So on the issue of whether puberty blocking  
10 hormones are reversible, what do you tell parents and  
11 patients?

12 A. I would say, by and large, most of the effects  
13 of puberty suppression are reversible.

14 Q. And when you say by and large what effects are  
15 you referencing?

16 A. What I'm referencing is that the literature is  
17 still an open book and we are constantly seeking and  
18 learning new information. We want to understand what  
19 those potential new data tell us about the efficacy,  
20 safety, et cetera, of these interventions.

21 Q. So when you say they are by and large the  
22 effects are reversible, which effects are you  
23 referencing are the by and large?

24 A. When I say by and large, it's really a caveat to



1 allow for the things that we don't yet know.

2 Q. So which effects are reversible?

3 A. Virtually all of the effects that we're aware of  
4 are reversible.

5 Q. When you're discussing puberty blockers with  
6 patients and their parents do you describe them as safe?

7 A. Safe isn't a binary concept in my world. There  
8 is no such thing as anything that is completely safe or  
9 unsafe. So we talk about gradations of risk with any  
10 intervention.

11 Q. So for puberty blockers what are the --- what's  
12 the gradation of risk?

13 A. It is individualized to the specific needs of  
14 the child and the family.

15 Q. In general, what is your understanding of the  
16 gradations of risk across the board?

17 ATTORNEY BLOCK: Objection to form.

18 THE WITNESS: I don't have a better  
19 answer for you because that's the whole process of doing  
20 an informed consent process, is understanding what are  
21 the specific risks and benefits and alternatives for  
22 that individual child.

23 BY ATTORNEY BARHAM:

24 Q. Are you aware of the literature regarding any

1 testing of puberty blocking hormones and the gradations  
2 of risks presented in those tests?

3 A. I'm not sure what you mean by tests.

4 ATTORNEY BLOCK: Objection to form.

5 THE WITNESS: I'm not sure what you mean  
6 by testing.

7 BY ATTORNEY BARHAM:

8 Q. Don't medications undergo testing before they  
9 can be used?

10 A. There's a wide variety of processes by which  
11 medications are approved or not approved for certain  
12 indications.

13 ATTORNEY BARHAM: Let's go to Tab 5. I  
14 believe that's Exhibit-2.

15 LAW CLERK WILKINSON: Exhibit-2.

16 BY ATTORNEY BARHAM:

17 Q. It's the Endocrine Society Guidelines from 2017.

18 THE WITNESS: Yes.

19 BY ATTORNEY BARHAM:

20 Q. On page 3880 the Endocrine Society states we  
21 suggest that clinicians begin pubertal hormone  
22 suppression therapy --- pubertal hormone suppression  
23 after girls and boys first exhibit physical changes of  
24 puberty, Tanner stages G-2/B-2. Is that consistent with

1 your practice?

2 ATTORNEY BLOCK: Objection to form.

3 THE WITNESS: This is --- the document,  
4 as I read it, is a set of guidelines for the practice of  
5 care that should be individually applied to each child  
6 and family. My practice takes these recommendations and  
7 individually applies them to the specific risks,  
8 benefits and alternatives for the child sitting in front  
9 of me.

10 BY ATTORNEY BARHAM:

11 Q. On the prior page in number 1.4 the Endocrine  
12 Society recommends against puberty blocking and gender  
13 affirming hormone treatment in prepubertal children. Do  
14 you approve the use of puberty blockers before puberty?

15 A. I do not.

16 Q. You didn't recommend or prescribe any puberty  
17 blockers for BPJ.

18 Is that correct?

19 A. I have not.

20 Q. You did not evaluate BPJ before he started  
21 taking puberty blockers.

22 Is that correct?

23 A. I have not evaluated her or seen her, these  
24 materials.

1 Q. Is it your opinion that no responsible clinics  
2 begin puberty blocking before puberty begins?

3 ATTORNEY BLOCK: Objection to form and  
4 scope.

5 THE WITNESS: There's no indication to  
6 start puberty blocking agents until Tanner Stage 2.

7 BY ATTORNEY BARHAM:

8 Q. Isn't it true that there have been no Phase I  
9 clinical trials to test the safety of GnRH inhibitors  
10 for this age group?

11 A. That is my understanding, but I would have to  
12 specifically review the literature with that question in  
13 mind. I'm not familiar --- completely familiar with the  
14 phased nomenclature in this context.

15 Q. Isn't it true that there have been no Phase I  
16 clinical trials to test the safety of GnRH inhibitors  
17 for this duration?

18 A. Again I would need to find a definition of what  
19 you are referring to by Phase I specifically.

20 Q. Isn't it true there have been no clinical trials  
21 per FDA rules for this use of puberty blockers?

22 A. I don't know what is meant by per FDA rules.

23 Q. Food and Drug Administration rules?

24 A. Yeah. I'm not familiar with what their rules

1 are. There have been clinical trials of these  
2 medications for this purpose.

3 Q. Which clinical trials are you referencing?

4 A. There are clinical trials through the Dutch  
5 clinic. There is also an ongoing clinical trial here in  
6 the U.S., a multi-phase study.

7 Q. That study is still ongoing.

8 Correct.

9 A. That is correct.

10 Q. So there are no completed clinical trials in the  
11 United States under FDA rules.

12 Correct?

13 A. I am not ---.

14 ATTORNEY BLOCK: Objection to the form.

15 THE WITNESS: I can't say that I'm  
16 familiar with all clinical trials that have ever  
17 happened, so that's not a statement I can answer.

18 BY ATTORNEY BARHAM:

19 Q. You're not aware of any, though?

20 A. I don't know what is meant by Phase I and what  
21 specifically is registered with the FDA for their  
22 purposes versus the copious numbers of clinical trials  
23 that have happened.

24 Q. Are you aware of any clinical trials in the

1 United States that have been completed regarding the  
2 safety of using puberty blockers for gender dysphoria?

3 ATTORNEY BLOCK: Objection to form.

4 THE WITNESS: Yeah, I'm not sure how I  
5 can answer that because I'm not aware of all of the  
6 trials that have occurred.

7 ATTORNEY BLOCK: Counsel, can we have a  
8 discussion about the scope of this deposition? I'm  
9 happy to have it off the record. I don't want it to  
10 influence the witness at all, but this is a rebuttal  
11 witness addressing specific issues and it seems that,  
12 you know, there are a lot of questions that are just  
13 really far outside the scope. So I'd love to have a  
14 discussion.

15 ATTORNEY BARHAM: I'm happy to go off the  
16 record.

17 VIDEOGRAPHER: Going off the record. The  
18 current time reads 2:07 p.m.

19 OFF VIDEOTAPE

20 ---

21 (WHEREUPON, AN OFF RECORD DISCUSSION WAS HELD.)

22 ---

23 ON VIDEOTAPE

24 VIDEOGRAPHER: Back on the record. The

1 current time reads 2:17 p.m.

2 BY ATTORNEY BARHAM:

3 Q. We were looking at Tab 5, which is Exhibit-2,  
4 page 3874. About three-quarters down the first column  
5 the Endocrine Society indicates, quote, in the future we  
6 need more rigorous evaluations of the effectiveness and  
7 safety of endocrine and surgical protocols and  
8 specifically highlight the need to include a careful  
9 assessment of the effect of prolonged delay of puberty  
10 in adolescence on bone health, gonadal function and the  
11 brain.

12 Do you see that?

13 A. I see that, yes.

14 Q. Do you agree that more rigorous evaluations of  
15 the safety of endocrine and surgical protocols are  
16 needed?

17 A. I would agree that that's an important goal for  
18 all treatments, yes.

19 Q. Do you agree that because, as the Endocrine  
20 Society indicated here, that these evaluations are  
21 needed in the future, that this --- that they have not  
22 been done yet?

23 A. Well, this is published in 2017. There are  
24 ongoing trials that are happening now, and some that

1 have had at least preliminary data presented at various  
2 meetings that have looked at some of these.

3 Q. So the issue here is the prolong delay of  
4 puberty. You would agree that it's quite different from  
5 treating individuals with precocious puberty.

6 Correct?

7 ATTORNEY BLOCK: Objection to form and  
8 scope.

9 THE WITNESS: As a non-endocrinologist I  
10 wouldn't hazard an opinion on that.

11 BY ATTORNEY BARHAM:

12 Q. Do you treat individuals for precocious puberty?

13 A. I do not.

14 Q. Do you agree with the Endocrine Society that  
15 there have not yet been a study of how the prolonged  
16 delay of puberty affects bone health?

17 ATTORNEY BLOCK: Objection to form and  
18 scope.

19 THE WITNESS: I don't know if I can  
20 answer that in the most accurate way. I know I've seen  
21 preliminary data presented at various meetings about  
22 impacts on bone health, but I'm not as familiar with the  
23 endocrine literature as I am with the mental health  
24 literature.



1 BY ATTORNEY BARHAM:

2 Q. Do you agree that there has not yet been a study  
3 on the prolonged effect of --- the prolonged delay of  
4 puberty affecting gonadal function?

5 ATTORNEY BLOCK: Objection to form and  
6 scope.

7 THE WITNESS: Same answer as to the last  
8 one.

9 BY ATTORNEY BARNHAM:

10 Q. And that is the same as fertility?

11 Correct?

12 A. There has been more study fertility in those  
13 populations.

14 Q. Do you agree there has not yet been a study on  
15 how the prolonged delay of puberty affects the brain?

16 A. There are ongoing studies.

17 Q. None complete yet?

18 A. None that have published thus far that I'm aware  
19 of again.

20 Q. And when you say there are ongoing studies of  
21 bone health, none have published so far that you're  
22 aware of.

23 Correct?

24 A. I know I have seen data published at various

1 national and international meetings, so I could not  
2 answer that question accurately. I think things have  
3 been published on bone health, but I'm not familiar with  
4 --- I'm not as familiar with the endocrinologic  
5 literature as I am the mental health literature.

6 Q. Are you aware of any studies that have been  
7 completed regarding the prolonged delay of puberty  
8 affecting the cognitive, emotional, social and sexual  
9 development?

10 A. Can you repeat the question?

11 Q. Are you aware of any studies that have been  
12 completed regarding the prolonged delay --- of how the  
13 prolonged delay of puberty affects the cognitive,  
14 emotional, social and sexual development?

15 A. There have been a number of studies including  
16 studies that we have referenced here that have looked at  
17 long-term psychosocial outcomes for these kids. So  
18 certainly some of those items have been looked at quite  
19 extensively. Some have not yet or have studies that are  
20 ongoing.

21 Q. If the Endocrine Society is indicating that all  
22 of this is needed research, why are you --- what do you  
23 tell parents about the relative safety of puberty  
24 blocking hormones?

1           A.       What I would say this was published in 2017, and  
2       so we would want to update since then about any  
3       literature since then on these potential risks. What I  
4       want to do is make sure that the endocrinologist or the  
5       adolescent medicine specialist, whoever it is that is  
6       prescribing the specific treatment knows how to have  
7       those discussions based on the psychiatric needs of the  
8       patients that I'm seeing.

9           Q.       Let's turn to 3872 in this document. The  
10       Endocrine Society indicates that the task force followed  
11       the approach recommended by the grading of  
12       recommendations and assessments, development and  
13       evaluation group. The international group with  
14       expertise in the development and implementation of  
15       evidence based guidelines. Do you see that in the  
16       second column?

17          A.       Yes.

18          Q.       And in this document they indicate that the use  
19       of the phrase we recommend and the number one are strong  
20       recommendations --- use the phrase we recommend ---  
21       recommendations use the phrase of we suggest in number  
22       two.

23                    Is that correct?

24          A.       Correct.

1 Q. So the recommendations regarding the use of  
2 puberty blockers are based on low quality evidence.

3 Correct?

4 ATTORNEY BLOCK: Objection to form.

5 THE WITNESS: What I can state is how  
6 this particular working group within the Endocrine  
7 Society characterized it using the assessment tool and  
8 using this assessment tool that is how it was graded for  
9 the sake of this set of guidelines.

10 BY ATTORNEY BARHAM:

11 Q. Were you aware of this when you drafted your  
12 report?

13 A. Yes.

14 Q. Do you agree or disagree with this assessment of  
15 the quality of the evidence?

16 A. Based upon how they did it, I would agree. In  
17 the world of child psychiatry this is very common.  
18 There is very little that we have in terms of very  
19 mainstream standard of care treatments that has anything  
20 other than poor quality of evidence based upon using  
21 these standards.

22 ATTORNEY BARHAM: I'm going to hand you  
23 what we will mark as Exhibit 31, and that will be  
24 Tab 76?

1                   THE WITNESS: Thanks.

2                   LAW CLERK WILKINSON: You're welcome.

3                   ---

4                   (Whereupon, Exhibit 31, Label of Lupron,  
5                   was marked for identification.)

6                   ---

7                   BY ATTORNEY BARHAM:

8                   Q.       This is the label of Lupron, pharmaceutical  
9                   label for Lupron. Right at the top of page one, this  
10                  label indicates that Lupron is approved for puberty  
11                  blocking or delay for precocious puberty.

12                  Correct?

13                  A.       That is correct.

14                  Q.       And precocious puberty is a hormonal imbalance.  
15                  Correct?

16                  A.       I think there's a precise terminology for  
17                  precocious puberty that involves more than just a  
18                  hormonal imbalance.

19                  Q.       But it's a malfunction of hormonal controls in  
20                  the brain?

21                  ATTORNEY BLOCK: Objection to the form.

22                  THE WITNESS: My understanding as a  
23                  non-endocrinologist is that's initiation of puberty much  
24                  earlier than anticipated or expected based upon the

1 history of the family.

2 BY ATTORNEY BARHAM:

3 Q. So Lupron is inspected and approved by the FDA  
4 for safety and efficacy for precocious puberty not for  
5 all other possible uses.

6 Correct?

7 A. Correct.

8 Q. And Lupron was tested only for delaying puberty  
9 up until the normal age of puberty.

10 Correct?

11 ATTORNEY BLOCK: Objection to form.

12 THE WITNESS: I'm not familiar with the  
13 literature that was used for gaining the FDA approval  
14 for this indication.

15 BY ATTORNEY BARHAM:

16 Q. If you turn to section 14.1, 14.1 you'll see  
17 that it says that this --- Lupron was tested for monthly  
18 administration on 6 males and 49 females.

19 Is that correct?

20 A. That is correct.

21 Q. And on the next page you'll see it was tested  
22 for three months administration on 8 males and 76  
23 females.

24 Is that correct?

1 A. I do not see where it says that.

2 Q. 14.2?

3 A. Yes.

4 Q. Do you know why the test was weighted towards  
5 girls?

6 ATTORNEY BLOCK: Objection to form and  
7 scope and foundation.

8 THE WITNESS: It would be a mere  
9 supposition on my end.

10 BY ATTORNEY BARHAM:

11 Q. Is it because precocious puberty is more common  
12 in girls?

13 A. I would defer to an endocrinologist on this  
14 epidemiology of that.

15 Q. But the goal of using Lupron in this context is  
16 to help steer the body into healthy and normal  
17 development.

18 Correct?

19 ATTORNEY BLOCK: Objection to form,  
20 scope.

21 THE WITNESS: Generally speaking I would  
22 agree with that.

23 BY ATTORNEY BARHAM:

24 Q. Prescribing Lupron or other GnRH for gender

1 dysphoria disrupts hormones and developments at an early  
2 stage.

3 Correct?

4 ATTORNEY BLOCK: Objection to the form  
5 and scope.

6 THE WITNESS: Again, as a mental health  
7 professional, this would be outside of my area of  
8 expertise to comment on that.

9 BY ATTORNEY BARHAM:

10 Q. Would you agree that normal pubertal development  
11 includes bone growth, such as height?

12 ATTORNEY BLOCK: Objection to form and  
13 scope.

14 THE WITNESS: Yes, I would.

15 BY ATTORNEY BARHAM:

16 Q. Would you agree that normal pubertal development  
17 can include bone strengthening?

18 ATTORNEY BLOCK: Objection to form and  
19 scope.

20 THE WITNESS: Specifics of that question  
21 are really outside of my scope of understanding in the  
22 practice that I have.

23 BY ATTORNEY BARHAM:

24 Q. But in general, you would agree that bones get



1 stronger during puberty, especially for men?

2 ATTORNEY BLOCK: Objection to form and  
3 scope.

4 THE WITNESS: My understanding is that  
5 the process of bone health is a quite dynamic, not  
6 static nor binary process, so it's more complicated than  
7 I feel that I can answer that question to.

8 BY ATTORNEY BARHAM:

9 Q. But do bones generally get stronger as puberty  
10 progresses?

11 ATTORNEY BLOCK: Objection to form and  
12 scope.

13 THE WITNESS: Again, I think it's a more  
14 complicated answer than a yes or a no but I'm not ---.

15 BY ATTORNEY BARHAM:

16 Q. Would you agree that normal pubertal development  
17 includes brain development?

18 A. Yes.

19 Q. Each of these things have stopped or decreased  
20 by the administration of puberty blockers.

21 Correct?

22 A. I don't think we can say that it's been stopped  
23 or decreased. There's not a term decreasing brain  
24 development that has been studied or referred to in the

1 literature as I'm aware of it.

2 Q. Slower brain development?

3 ATTORNEY BLOCK: Objection to form.

4 THE WITNESS: Slower isn't a word that  
5 I've used, seen in the literature either.

6 ATTORNEY TRYON: Travis, can you speak up  
7 just a little bit more, please?

8 ATTORNEY BARHAM: Certainly.

9 BY ATTORNEY BARHAM:

10 Q. Would you agree that normal pubertal development  
11 also includes psychosocial development of an adult  
12 identity as a sexual being contemporaneous with ones  
13 peers?

14 A. I would say I would agree with that as an  
15 adolescent developmental process, not necessarily as a  
16 pubertal developmental process.

17 Q. What's the --- what's your distinction between  
18 an adolescent pubertal development --- excuse me, an  
19 adolescent developmental process and a pubertal  
20 developmental process?

21 A. As an example, folks who have delayed puberty,  
22 so 16-year olds who I have seen that have yet to undergo  
23 all stages of puberty nevertheless develop a sense of  
24 identity independent of the fact that their puberty has

1 been delayed.

2 Q. But their development in that regard is not  
3 contemporaneous with their peers.

4 Correct?

5 ATTORNEY BLOCK: Objection to form.

6 THE WITNESS: In my specific hypothetical  
7 some of their development is going to be contemporaneous  
8 with their peers. Some of it will not be.

9 ATTORNEY BARHAM: I'm going to show you  
10 what we will mark as Exhibit 32. This will be Tab 73.

11 ---

12 (Whereupon, Exhibit 32, Puberty Blockers  
13 Document, marked for identification.)

14 ---

15 THE WITNESS: Can I ask a clarifying  
16 question, it is 2:32 east coast time, not central.

17 ATTORNEY SWAMINATHAN: Yes.

18 LAW CLERK WILKINSON: Tab 73.

19 BY ATTORNEY BARHAM:

20 Q. This document is a hand out --- or it's from the  
21 --- I'm going to butcher the name, Doernbecher  
22 Children's Hospital at OHSU from their gender clinic and  
23 about puberty blockers document. At the bottom of page  
24 three, this document indicates that researchers have not

1 finished studying how safe puberty blockers are in the  
2 long-term.

3 Do you agree with that?

4 A. Yeah, I would agree with that.

5 Q. On the next page this document says that because  
6 puberty block --- because blocking puberty hormones can  
7 weaken your bones, it is best to just take them for just  
8 two or three years.

9 Do you agree or disagree?

10 A. That is outside of my scope of expertise.

11 Again, this is a public facing the most like  
12 website. I can't be quite certain what the context of  
13 this is, but the individualized discussions you're  
14 having with patients and families is always going to be  
15 more complex than one or two sentences.

16 Q. Do you expect to offer any opinion in this case  
17 that puberty blockers administered according to your  
18 guidelines are safe and reversible?

19 A. I don't --- I guess I don't understand the  
20 question. I provided my expert testimony and my  
21 testimony is focused on the mental health effects of  
22 various interventions.

23 Q. Okay.

24 Do you anticipate saying anything about the

1 reversibility of puberty blockers?

2 A. Other than what I have already discussed, I  
3 don't think so.

4 Q. Let's go to tab 5, I think that's Exhibit 2.  
5 And on page 3874, again, about two-thirds down the first  
6 column, the Endocrine Society says we still need to  
7 study the effects of puberty blocking hormones on  
8 gonadal function.

9 Correct?

10 A. Yes.

11 Q. That refers to hormone secretion.

12 Correct?

13 A. Hormone secretion?

14 Q. Uh-huh (yes).

15 A. I'm not sure what you mean by that.

16 Q. Gonadal function refers to the achievement of  
17 the production by the gonads of fertile ova or sperm.

18 Correct?

19 ATTORNEY BLOCK: Objection to form and  
20 scope.

21 THE WITNESS: I can't speak to the  
22 author's intent for how they used that language. It's  
23 broader in scope from my perspective than that.

24 BY ATTORNEY BARHAM:

1 Q. Does it include the achievement of production of  
2 fertile ova or sperm?

3 A. That is a component, yes.

4 Q. What other components do you have in mind for  
5 that term?

6 A. For gonadal development includes size, shape,  
7 sexual functioning.

8 Q. On page 31, I want to go to --- have we done  
9 Tab 6 yet?

10 ATTORNEY BARHAM: I want to introduce  
11 what will be marked as Exhibit 33, this will be Tab 6.  
12 These are Endocrine Society guidelines from 2009.

13 LAW CLERK WILKINSON: I don't think I  
14 have that.

15 ATTORNEY BARHAM: Maybe we do.

16 LAW CLERK WILKINSON: Six?

17 ATTORNEY BARHAM: Uh-huh (yes).

18 LAW CLERK WILKINSON: Uh-uh (no).

19 BY ATTORNEY BARHAM:

20 Q. We will go back to Tab 5 then, Exhibit 2. Would  
21 you agree that if the administration for puberty  
22 blockers for gender dysphoria has irreversible effects  
23 on brain development, that would be a serious safety  
24 problem?

1                    ATTORNEY BLOCK:    Objection to form.

2                    THE WITNESS:    All risks are graded risk  
3 an benefits as well as alternatives for each individual  
4 child.

5    BY ATTORNEY BARHAM:

6            Q.        But if it had an irreversible affect on brain  
7 development that would still be a serious concern,  
8 regardless of the gradations that we would have to  
9 consider and address it?

10                   ATTORNEY BLOCK:    Objection to form.

11                   THE WITNESS:    There are a number of  
12 interventions that lead to irreversible changes that are  
13 beneficial and are not of concern to safety.

14                   ATTORNEY BARHAM:    All right.

15                                Do we have Tab 32?

16                   LAW CLERK WILKINSON:    That one I have.

17                   ATTORNEY BARHAM:    This will be Exhibit  
18 33, Tab 32 just to make it conducive.

19    ---

20    (Whereupon, Exhibit 33, Endocrine  
21 Society's Guidelines, was marked for  
22 identification.)

23    ---

24    BY ATTORNEY BARHAM:

1 Q. And if you look on --- at the end of the  
2 document where it says for more information, it stated  
3 this is a document from the National Institute of Mental  
4 Health.

5 Correct?

6 ATTORNEY BLOCK: Objection to form,  
7 foundation.

8 THE WITNESS: I have no idea of what the  
9 context of this website is or what this is from.

10 BY ATTORNEY BARHAM:

11 Q. But it gives the National Institute of Mental  
12 Health's website.

13 Is that correct?

14 A. It does.

15 Q. And it says for more information you can e-mail  
16 the National Institute of Mental Health e-mail address.

17 Correct?

18 A. That is correct.

19 Q. And that's a part of the National Institute.  
20 Right?

21 A. It is.

22 Q. And the citations it's drawing from articles in  
23 1999 and 2000.

24 Correct?



1 A. That is correct.

2 Q. On page one in the middle column, the article  
3 describes gray matter at the thinking part of the brain.  
4 Do you agree with that description?

5 A. I would describe it as a gross  
6 mischaracterization of the complexity of the brain.

7 Q. What is your understanding of the function of  
8 the gray matter?

9 A. That is one element of it. I think it is a lot  
10 of nuance, I guess is the word that I'm looking for.  
11 It's not characterized by that much of a pithy phrase,  
12 not of a neuropathologist.

13 Q. The article talks about a second wave of  
14 production in gray matter that peaks around age 11 in  
15 girls and 12 in boys. And the article refers to that as  
16 just prior to puberty. In terms of Tanner stages that  
17 would be around Tanner 2 for most boys and girls, would  
18 it not?

19 A. That would be Tanner Stage 1.

20 Q. That would be Tanner Stage 1. But by 11 or 12  
21 you have already --- by age 12-ish in boys, it's typical  
22 for puberty blockers to have been administered.

23 Correct?

24 A. To use the language of this article, the

1 differences in Tanner stages is caused by the, quote,  
2 surging sex hormones not the other way around. So it's  
3 not about age, but it's the exposure to hormones that  
4 causes the Tanner stages to develop.

5 Q. Have you made a study yourself about the timing  
6 of brain gray matter development and the puberty  
7 hormones in causing that development?

8 A. I have not.

9 Q. Do you have any reason to doubt the timing and  
10 nature of development as set out in this National  
11 Institute of Health publication?

12 ATTORNEY BLOCK: Objection to form and  
13 foundation.

14 THE WITNESS: I only have the context of  
15 this article that you've put in front of me for the  
16 first time and in this article they describe the brain  
17 changes just happening prior to puberty, which is prior  
18 to when we would be initiating any interventions  
19 medically.

20 BY ATTORNEY BARHAM:

21 Q. And it says though that it is possibly the  
22 thickening peaks around 11 or 12, depending on girls and  
23 boys and that's possibly related to the influence of  
24 surging sex hormones.

1 Correct?

2 A. If that's what it says, yes.

3 Q. Do you know --- have you conducted any studies  
4 to determine the effect of administering puberty  
5 blockers during the ordinary years of puberty and how  
6 that would impact the ordinary development of brain  
7 matter in the brain of a child?

8 A. I have not, but it kind of sounds like that is  
9 conflating this as a study, which is definitely not.

10 Q. No, I'm just asking if you had conducted any  
11 such studies?

12 A. I have not.

13 Q. Are you aware of any such studies?

14 A. There are studies that are ongoing now.

15 Q. That are ongoing.

16 ATTORNEY BARHAM: Okay.

17 I'm going to show you what we marked as  
18 Exhibit 34, this will be Tab 33.

19 ---

20 (Whereupon, Exhibit 34, Article by  
21 Blakemore, et al., was marked for  
22 identification.)

23 ---

24 BY ATTORNEY BARHAM:

1 Q. This is an article by Blakemore, et al.,  
2 published in 2010, The Role of Puberty in the Developing  
3 Adolescent Brain. On page 929, the article states the  
4 ages at which these peaks in gray matter volume were  
5 observed correspond to the sexually dimorphic ages  
6 gonadarche, I'm mispronouncing that, onset which  
7 suggests possible interactions between puberty hormones  
8 and gray matter development.

9 Do you agree or disagree with that statement?

10 A. I'm not seeing where you're referring to this.

11 Q. On page 929, first column right above the role  
12 of puberty in gray matter development?

13 A. As stated in this study, the changes were  
14 observed to correspond to the ages which suggest  
15 possible interactions. I have no objection to the idea  
16 that there are possible interactions between puberty  
17 hormones and gray matter development, but again, outside  
18 the field of my expertise.

19 Q. Okay.

20 It also refers to other MRI studies showing a  
21 gradual emergence of sexual dimorphisms across puberty.  
22 Do you know what sexual dimorphism of the brain means?

23 A. I do.

24 Q. What does it mean?

1           A.       Differences that are measurable between folks  
2 assigned female and folks assigned male at birth is  
3 typically how that is described.

4           Q.       On the first page of this document it says  
5 throughout adolescence there are changes in the  
6 structure and function of the brain, sexual dimorphism  
7 in many of these changes suggest possible relationships  
8 to puberty.

9                   This article is saying that the available  
10 evidence suggests sex links puberty hormones to play a  
11 role in stimulating brain development; do you agree?

12                   ATTORNEY BLOCK:   Objection to form.

13                   THE WITNESS:   Certainly I agree that  
14 exposure to sex hormone is a part of brain development  
15 for all people. We know less about the developing brain  
16 for transgender youth.

17 BY ATTORNEY BARHAM:

18           Q.       Do you agree this includes a aspects of brain  
19 development that differ between healthy males and  
20 healthy females?

21                   ATTORNEY BLOCK:   Objection as to form.

22                   THE WITNESS:   I don't. I haven't seen  
23 any literature that speaks to that specific question.

24 BY ATTORNEY BARHAM:

1 Q. Okay.

2 Let's go back to Exhibit 2, page 3882?

3 ATTORNEY BLOCK: What page was that,  
4 Counsel?

5 ATTORNEY BARHAM: 3882.

6 BY ATTORNEY BARHAM:

7 Q. Under the heading side effects, the article  
8 indicates that the primary risk of pubertal suppression  
9 in GD, gender incongruent adolescents may include,  
10 ellipses, unknown effects on brain development, do you  
11 see that?

12 A. I see that.

13 Q. And in the first column of 3883 indicates that  
14 animal data suggests there may be effects of GnRH  
15 analogs on cognitive function.

16 Do you see that?

17 A. I see that.

18 Q. Cognitive function means the ability to think.  
19 Correct?

20 A. That is one aspect of cognitive functioning.

21 Q. Do you tell parents and patients that the  
22 Endocrine Society has indicated that there are unknown  
23 effects on brain development related to the use of  
24 puberty blocking hormones?

1           A.       I typically use language that is more similar to  
2 how they actually described it in this article which is  
3 to say that it may have unknown effects on brain  
4 development.

5           Q.       Okay.

6                    ATTORNEY BARHAM:   Let's go to Tab 32,  
7 which we have already looked at and that is Exhibit.

8                    LAW CLERK WILKINSON:   Exhibit 33.

9           BY ATTORNEY BARHAM:

10          Q.       Exhibit 33?

11                   ATTORNEY GREEN:   Travis, this is Roberta  
12 Green. I'm sorry to interrupt. I wondered if you  
13 wouldn't mind keeping your voice up I'm just having  
14 trouble hearing. No doubt it's me but it'd be great.  
15 Thank you.

16                   ATTORNEY BARHAM:   It may also be where  
17 I'm located in the room, but I'm getting it from enough  
18 people, so I appreciate the reminder.

19                   VIDEOGRAPHER:   Counsel, did you say  
20 Exhibit 33.

21                   ATTORNEY BARHAM:   Exhibit 33.

22           BY ATTORNEY BARHAM:

23          Q.       Page two at the top refers to the gray matter  
24 --- or the white matter and how research purports a wave

1 of white matter growth that begins at the front of the  
2 brain in early childhood, moves to the side after  
3 puberty, striking growth spurts can be seen from age 6  
4 to 13 in areas connecting brain regions specialized for  
5 language and understanding special relationships. Ages  
6 11, 12 and 13 are sort of the heart and center of  
7 puberty.

8 Correct?

9 ATTORNEY BLOCK: Objection to form.

10 THE WITNESS: It depends upon the child.

11 BY ATTORNEY BARHAM:

12 Q. In general?

13 ATTORNEY BLOCK: Same objection.

14 THE WITNESS: I don't want it to be like  
15 I'm parsing this out, but it's really important. We  
16 can't apply population based data onto an individual and  
17 make conclusions about it.

18 BY ATTORNEY BARHAM:

19 Q. But we can assess population-based data as to  
20 when puberty is generally occurring and generally it's  
21 occurring around the ages of 11 to 13?

22 A. I would agree with the statement that puberty is  
23 generally occurring within those age ranges, yes.

24 Q. And that is also approximately when puberty



1 blocking hormones are being prescribed.

2 Is that true?

3 A. It depends upon the individual.

4 Q. But generally around age 12 is what you  
5 indicated earlier.

6 Correct?

7 A. It really depends upon the individual. To  
8 clarify, it's based upon Tanner stage as one element,  
9 age has one element, psychosocial functioning has  
10 another, family choices. It's a calculus of the risks,  
11 benefits and alternatives that guide when we decide to  
12 intervene if we decide to intervene.

13 Q. So you would agree that a teenage brain and  
14 cognitive development across puberty is a very  
15 complicated area and one that's not easily understood.

16 Correct?

17 ATTORNEY BLOCK: Objection to form.

18 THE WITNESS: Yes, adolescent brain  
19 development is a complicated phenomenon for sure. I  
20 have no objection to that.

21 BY ATTORNEY BARHAM:

22 Q. Is that an area of your professional research  
23 and investigation?

24 A. Specifically on neuroscience with regard to

1 adolescent development, no, it is not.

2 ATTORNEY BARHAM: Let's go to Tab 8.

3 THE WITNESS: I need to take another  
4 bathroom break.

5 ATTORNEY BARHAM: Let's just take a break  
6 now. Let's go off the record.

7 VIDEOGRAPHER: Going off the record. The  
8 current time reads 2:53 p.m.

9 OFF VIDEOTAPE

10 ---

11 (WHEREUPON, A SHORT BREAK WAS TAKEN.)

12 ---

13 ON VIDEOTAPE

14 VIDEOGRAPHER: Back on the record. The  
15 current time reads 3:00 p.m.

16 BY ATTORNEY BARHAM:

17 Q. Are you an expert on suicide and suicidality?

18 A. I guess I don't know exactly how to qualify that  
19 response. I know more than most people about suicide  
20 and suicidality, yes.

21 Q. Have you made any systematic study of suicide  
22 among the thousands treated at the NYU Gender and  
23 Sexuality Service?

24 A. I have not.

1 Q. Have you made any systematic studies of suicide  
2 among the thousands treated at the Lurie Children's  
3 Hospital here in Chicago?

4 A. I have a study ongoing.

5 Q. Has that study generated any preliminary results  
6 yet?

7 A. It has not.

8 Q. Have you made any systemic studies of suicide  
9 among the thousands you've treated at the Gender Variant  
10 Youth and Family Network?

11 A. That is not a clinical service.

12 Q. Are you aware that suicide for any reason is  
13 extremely rare among children younger than 15?

14 ATTORNEY BLOCK: Objection to form.

15 THE WITNESS: I would disagree with that  
16 as a statement. It's among one of the top causes of  
17 death for children of ages 10 to 15.

18 BY ATTORNEY BARHAM:

19 Q. And what's your basis for saying that?

20 A. The CDC data.

21 Q. Did you cite that data in your report?

22 A. I did not.

23 Q. You're not offering an opinion that BPJ faced a  
24 high suicide risk unless put on puberty blockers.

1 Correct?

2 A. I am not.

3 Q. Has any responsible health authority or  
4 organization made a claim that the use of puberty  
5 blockers relate to suicide?

6 ATTORNEY BLOCK: Objection to form.

7 THE WITNESS: I mean, that's a big list.  
8 I don't think any that I'm aware of have made the claim,  
9 especially when it comes to causation.

10 BY ATTORNEY BARHAM:

11 Q. In paragraph 19 of your report you refer to  
12 gender-affirming hormone therapy and you make similar  
13 statements in paragraphs 39, 40, 41 and 42. What do you  
14 mean by gender affirming hormone therapy?

15 A. Typically speaking when I'm referring to  
16 gender-affirming hormone therapy, these are hormones  
17 that are aligned with the gender identity.

18 Q. So that means the administration of cross sex  
19 hormones.

20 Is that correct?

21 ATTORNEY BLOCK: Objection to form.

22 THE WITNESS: Yeah. I mean, I think I  
23 would call them gender-affirming hormones. That is how  
24 typically they are referred to in the literature.

1 BY ATTORNEY BARHAM:

2 Q. So this means that you would administer  
3 testosterone to natal females.

4 Correct?

5 ATTORNEY BLOCK: Objection to form.

6 THE WITNESS: I personally would not,  
7 but ---.

8 BY ATTORNEY BARHAM:

9 Q. Cross sex hormones or gender-affirming hormones  
10 refers to the administration of testosterone to natal  
11 females.

12 Correct?

13 A. Or assigned females at birth, yes, that's  
14 correct.

15 Q. And it means the administration of testosterone  
16 suppression of estrogen for natal males.

17 Correct?

18 ATTORNEY BLOCK: Objection to form.

19 THE WITNESS: Assigned male at birth,  
20 yes.

21 BY ATTORNEY BARHAM:

22 Q. You mean assigned males at birth?

23 A. Yes. Is that what I not said? Sorry.

24 Q. What is your role in the administration of cross

1 sex hormones?

2 A. It depends on the child and the family, but my  
3 role is most often as a mental health professional who  
4 is either doing the assessment or providing care for the  
5 co-occurring psychiatric disorders that are present in  
6 that individual child.

7 Q. Cross sex hormones prevent rather than enable an  
8 adolescent from becoming capable of reproducing  
9 sexually.

10 Correct?

11 ATTORNEY BLOCK: Objection to the form.

12 THE WITNESS: That's not something that I  
13 can answer. That's out of the scope of my expertise.

14 BY ATTORNEY BARHAM:

15 Q. You lack an understanding of the effects of  
16 administering cross sex hormones?

17 ATTORNEY BLOCK: Objection to form.

18 THE WITNESS: I would disagree with that  
19 statement.

20 BY ATTORNEY BARHAM:

21 Q. So my question is what is the effect of  
22 administering cross sex hormones on an adolescent's  
23 ability to develop and become capable of reproducing  
24 sexually?

1           A.       It's a highly complicated question that depends  
2 upon a lot of factors that are above the scope of my  
3 testimony here. As an example, there are many adult  
4 transgender men who become pregnant despite being on  
5 testosterone for many years.

6           Q.       And what studies are you referencing that  
7 support that statement?

8           A.       I'm not referencing any studies to this. I'm  
9 referencing personal experiences.

10          Q.       Okay.

11                   Cross sex hormones cannot cause an adolescent  
12 to develop the genitalia associated with his or her ---  
13 his or her desired transgender identity.

14                   Correct?

15                           ATTORNEY BLOCK: Objection to form.

16                           THE WITNESS: That's correct.

17 BY ATTORNEY BARHAM:

18          Q.       Cross sex hormones also cannot achieve male  
19 height in a natal female.

20                   Correct?

21                           ATTORNEY BLOCK: Objection to form.

22                           THE WITNESS: I would defer to my  
23 endocrine colleagues on that answer.

24 BY ATTORNEY BARHAM:

1 Q. Can cross sex hormones change the hip and leg  
2 configuration in a natal male to match that of a natal  
3 female?

4 ATTORNEY BLOCK: Objection to form.

5 THE WITNESS: I would defer to my  
6 endocrine colleagues on that question.

7 ATTORNEY BARHAM: Let's go to Tab 77.  
8 This is probably new.

9 LAW CLERK WILKINSON: Yes.

10 ATTORNEY BARHAM: This is an article by  
11 Guss, et al. in 2015, entitled Transgender and Gender  
12 Non-Conforming Adolescent Care. This will be  
13 Exhibit 35.

14 ---

15 (Whereupon, Exhibit-35, Article by Guss,  
16 et al., was marked for identification.)

17 ---

18 BY ATTORNEY BARHAM:

19 Q. Are you familiar with the authors?

20 LAW CLERK WILKINSON: I'm sorry. I gave  
21 you the wrong one. Here is the right one.

22 THE WITNESS: I know Dr. Shumer. And we  
23 read something by Katz-Wise earlier. I don't know Carly  
24 Guss.



1 BY ATTORNEY BARHAM:

2 Q. Page four of this document indicates that if a  
3 patient is on cross sex hormones it's important to  
4 remind them that the side effects may be infertility.

5 Is that correct?

6 A. Where are you pointing to?

7 Q. The top of page four.

8 A. Yes.

9 Q. Do you agree with that statement?

10 A. I agree.

11 Q. Do you know of any long-term studies that will  
12 change to what extent infertility caused by taking cross  
13 sex hormones can be reversed later in life?

14 A. There are ongoing studies now, but I'm not aware  
15 of any that have published anything.

16 Q. Have you studied the literature regarding mental  
17 health problems in adults resulting from sterility?

18 ATTORNEY BLOCK: Objection to form.

19 THE WITNESS: I don't know what you mean  
20 by studied. I don't think probably more than any  
21 cursory manner.

22 BY ATTORNEY BARHAM:

23 Q. The use of cross sex hormones to affirm a  
24 transgender identity is an off-label use.

1 Correct?

2 ATTORNEY BLOCK: Objection to  
3 terminology.

4 THE WITNESS: If by off label you mean  
5 off label for the FDA?

6 BY ATTORNEY BARHAM:

7 Q. Yes.

8 A. Yeah, as far as I know. Again, I'm not  
9 prescribing these medications as a psychiatrist.

10 Q. Earlier you mentioned that some of your  
11 patients, some trans --- some women --- natal females  
12 who identify as male have been able to become pregnant.  
13 Do you recall that testimony?

14 A. I did not say anything about my patients, I said  
15 those were personal experiences.

16 Q. Personal experiences. I'm sorry. I assumed it  
17 was patients, so thank you for that correction. I would  
18 like to show you Tab 81. This is going to be an article  
19 by Moseson, et al. in 2020, entitled Pregnancy  
20 Intentions and Outcomes, tab 81 for those at home and  
21 Exhibit 36 for the record.

22 --

23 (Whereupon, Exhibit-36, Article by  
24 Moseson, et al., was marked for

1 identification.)

2 ---

3 BY ATTORNEY BARHAM:

4 Q. Are you familiar with this study?

5 A. Certainly not the details of it. This is the  
6 first time I'm recalling looking at it.

7 Q. Are you aware of any other studies regarding the  
8 ability of individuals taking cross sex hormones to  
9 become pregnant?

10 A. There are a number of ongoing studies that are  
11 looking into those questions, yes.

12 Q. If you look at Table 3 on page number 36, this  
13 table indicates there were 79 pregnancies among the  
14 respondents who have ever used testosterone.

15 Do you see that?

16 A. Yes.

17 Q. And there were 342 among those who have never  
18 used testosterone.

19 Do you see that?

20 A. I see that.

21 Q. But only 15 of these pregnancies occurred after  
22 initiating testosterone. Is that correct? And I'm  
23 referencing page 33 when I say that, at the bottom of  
24 page 33.

1                    ATTORNEY BLOCK: Where is this on page  
2 33?

3                    ATTORNEY BARHAM: The very last line on  
4 page 33 extending over onto page 35.

5                    THE WITNESS: I see on Table 2 the number  
6 of pregnancies after initiating testosterone was 15.

7 BY ATTORNEY BARHAM:

8            Q.        So the other 337 of the pregnancies tell us  
9 nothing about the impact of testosterone on female  
10 fertility and the possible impact of birth defects.

11                    Correct?

12            A.        Well, the question about fertility certainly  
13 doesn't speak to us being able to understand it more  
14 based upon the data points. And without reading the  
15 article I don't know if the author said anything about  
16 birth defects.

17            Q.        On page 35 it indicates that 2 of the 15 --- or  
18 4 of the 15 pregnancies that started while taking  
19 testosterone half of them ended in miscarriage.

20                    Correct?

21            A.        Yes.

22            Q.        One ended in abortion and one was not reported.

23                    Correct?

24            A.        I don't see where that is.

1 Q. It's the same line. Two of these four  
2 pregnancies ended in miscarriage, parentheses, one ended  
3 in abortion in the outcome and testosterone duration for  
4 the other four were not reported?

5 A. Yes.

6 Q. Okay.

7 And there is no data given on the other outcome  
8 of the other 11 pregnancies. So this article does not  
9 document a single live birth to a natal female at any  
10 time after taking testosterone.

11 Correct?

12 ATTORNEY BLOCK: Objection to form. And  
13 give him a chance to read, please.

14 THE WITNESS: I would really have to read  
15 the article quite closely to agree with that. I'm not  
16 seeing the text in this article to support that. In the  
17 Pregnancy Intentions and Outcomes, as I'm reading it, it  
18 discusses what the potential outcomes are, but it didn't  
19 parse those into who had testosterone before or after,  
20 so I'm not sure.

21 BY ATTORNEY BARHAM:

22 Q. Okay.

23 Let me shift gears and turn to paragraph 37 of  
24 your report. There you indicate --- you state that

1 there is no evidence supporting Dr. Levine's speculation  
2 that allowing prepubertal children to sexually  
3 transition puts children on a conveyor belt to becoming  
4 transgender adolescents and adults. And you say  
5 evidence shows that prepubertal children who are likely  
6 to have a stable transgender identity into adolescence  
7 are the children who are most likely to articulate a  
8 strong and consistent need to socially transition.

9 Do you see that?

10 A. I see that.

11 Q. And in footnote 11 you cite an article by  
12 Steensma published in 2013.

13 Is that correct?

14 A. That's correct.

15 ATTORNEY BARHAM: I will show you what  
16 we're going to mark as Exhibit 37, Tab 120, and I will  
17 also show you Tab 121, which is Exhibit 38.

18 ---

19 (Whereupon, Exhibit-37, Article by  
20 Steensma, was marked for  
21 identification.)

22 (Whereupon, Exhibit-38, Analysis, was  
23 marked for identification.)

24 ---

1 BY ATTORNEY BARHAM:

2 Q. Tab 120, Exhibit 37, is the Steensma article  
3 that you cited in footnote 11 of your report.

4 Is that correct?

5 A. That is correct.

6 Q. Let's look at Table 1 on page 584. And it gives  
7 --- in the first four columns it gives numbers on  
8 persistence and desistance among the study subjects.  
9 And about halfway down it delineates how many of the  
10 persisting boys and girls and desisting boys and girls  
11 had a childhood diagnosis of gender identity disorder.

12 Correct?

13 A. Correct.

14 Q. And it also breaks down how many were  
15 subthreshold. I'm presuming that means for gender  
16 identity disorder.

17 Correct?

18 A. That is correct.

19 Q. So according to Table 1, 91.3 of the 23  
20 persisting boys had gender identity disorder.

21 Correct?

22 A. Correct.

23 Q. So that means about 21 of the 23 persisting boys  
24 had that condition.

1 Correct.

2 A. Correct.

3 Q. And according to Table 1, 95.8 of the 24  
4 persisting girls had the same diagnosis or 23 of the 24.

5 Correct?

6 A. That's correct.

7 Q. And according to the same Table, 39.3 of the 56  
8 desisting boys had that diagnosis.

9 Correct?

10 A. That is correct.

11 Q. So that's 22 of the 56.

12 Correct?

13 A. I'll take your word for the math.

14 Q. Well, you can see it on Exhibit-121 (sic). On  
15 Table 1, 58.3 of the 24 desisting girls had gender  
16 identity disorder or 14 of the 24.

17 Correct?

18 A. Correct.

19 Q. Do you see any reason to dispute the figures set  
20 forth on Exhibit --- on Tab 121, Exhibit 39 ---  
21 Exhibit 38?

22 A. No, I have no reason to ---.

23 ATTORNEY SWAMINATHAN: I think he is  
24 looking at the wrong document.



1 BY ATTORNEY BARHAM:

2 Q. I'm talking about this.

3 A. Got it. So this is a transposition from  
4 Table 1?

5 Q. Correct.

6 A. I mean, I'm going to have ---.

7 ATTORNEY BLOCK: Just objection. I'm  
8 sorry, can we put on the record what this document is?  
9 Is it a reprint of what's in the Steensma or is it new  
10 analysis that ---?

11 ATTORNEY BARHAM: Exhibit 38 is an  
12 analysis of the Steensma 2013 article that is  
13 Exhibit 37.

14 ATTORNEY BLOCK: Thank you. And is  
15 there an author of the analysis?

16 ATTORNEY BARHAM: I'm sorry. Say that  
17 again.

18 ATTORNEY BLOCK: Is there an author of  
19 this analysis?

20 ATTORNEY BARHAM: Yes, it was me.

21 BY ATTORNEY BARHAM:

22 Q. So according to the figures that have been  
23 calculated from table one of the Steensma article, 80  
24 children --- of the 80 children who had gender identity

1 disorder, 44 persisted and 36 desisted.

2 Is that correct?

3 ATTORNEY BLOCK: Objection to give the  
4 witness a chance to see it on his own what the figures  
5 are.

6 THE WITNESS: I'm not sure I understand  
7 what your question is.

8 BY ATTORNEY BARHAM:

9 Q. Of the children with the --- the 80 children who  
10 had a diagnosis of gender identity disorder, 44  
11 persisted and 36 desisted.

12 Is that correct?

13 A. I would have to do the math myself for me to say  
14 yes to that, but it's about right.

15 Q. So according to Steensma figures, of the  
16 children with the strongest transgender identity as  
17 children 55 percent persisted and 45 percent desisted.

18 Correct?

19 ATTORNEY BLOCK: Objection to form.

20 THE WITNESS: Again, I would have to run  
21 those numbers myself in order to --- unless it's  
22 referred to already in the article, but that sounds  
23 about right.

24 BY ATTORNEY BARHAM:

1 Q. In footnote 12 of your report, paragraph 37, you  
2 cite an article by Rae saying for the proposition that  
3 socially transitioning before puberty did not increase  
4 children's cross gender identification and deferring  
5 transgender did not decrease cross gender  
6 identification.

7 Is that correct?

8 A. That is correct.

9 ATTORNEY BARHAM: All right.

10 Let's turn to Tab 108. This will be  
11 Exhibit 39, and it will be an article by Rae, et al.  
12 published in 2019, Predicting Early Childhood Gender  
13 Transitions.

14 ATTORNEY BLOCK: It's 2:22 central time.  
15 So the witness has to take a break at 2:30?

16 THE WITNESS: I can do 2:45.

17 ---

18 (Whereupon, Exhibit 39, Article by Rae,  
19 et al., marked for identification.)

20 ---

21 BY ATTORNEY BARHAM:

22 Q. Exhibit 39 is the article that you cited in  
23 footnote 12 of your report.

24 Is that correct?

1 A. That's correct.

2 Q. On page 679 the author indicates that  
3 replication of this affect is muted preferably from  
4 longitudinal study comparing a single group of children  
5 before and after transition.

6 Correct?

7 A. That's correct.

8 Q. And the authors also indicate that they tested a  
9 sample skewed by race, class, parental that education  
10 and political affiliation that may or may not affect the  
11 children that are socially transitioning now or in the  
12 future.

13 Correct?

14 A. That is correct.

15 Q. And they also indicate that follow-up occurred  
16 only two years after testing and some of the children  
17 who had not transitioned could transition in the future  
18 and some who had transitioned could not revert in the  
19 future.

20 Correct?

21 A. Correct.

22 Q. And they indicated that there sample is likely  
23 an over estimate of how many gender conforming children  
24 in the general population will socially transition.

1 Correct?

2 A. Where is that in the article?

3 Q. Second column of page 679.

4 A. Yes.

5 Q. Same column they also indicate that they relied  
6 on a convenient sample of individuals recruited through  
7 lists and events serving transgender children and gender  
8 non-conforming children.

9 Correct?

10 A. That is correct.

11 Q. Let's go back to Tab 5, which is Exhibit 2.

12 Page 3879, the Endocrine Society indicates that if  
13 children have completely socially transitioned they have  
14 my greater difficulty returning to the original gender  
15 on entering puberty.

16 Is that correct?

17 A. That's correct. It says it there, but that's  
18 based on supposition.

19 Q. Footnote 40 --- reference number 40 supposition  
20 --- reference number 40 is an article by Steensma, et  
21 al., published in 2011.

22 Are you saying that that's a supposition?

23 ATTORNEY BLOCK: Objection to form.

24 THE WITNESS: No, I'm saying that the

1 part of that article that refers to the theoretical risk  
2 is based not on any data that was collected by the  
3 researchers in that study.

4 BY ATTORNEY BARHAM:

5 Q. The Endocrine Society also indicates that the  
6 social transition has been found to contribute to the  
7 likelihood of persistence.

8 Is that correct?

9 A. That is a misstating of Dr. Steensma.

10 Q. That is what the Endocrine Society has  
11 concluded.

12 Correct?

13 ATTORNEY BLOCK: Objection to form.

14 THE WITNESS: That is what they have  
15 written here in the article you presented, yes.

16 ATTORNEY BARHAM: Let's go to Tab 97  
17 number ---.

18 LAW CLERK WILKINSON: Exhibit 16.

19 BY ATTORNEY BARHAM:

20 Q. Exhibit Number 16, and we are going to be  
21 looking at the sixth page of this document. And Dr.  
22 D'Angelo, et al. article indicates that since almost all  
23 the children treated with puberty blockers proceeded to  
24 cross sex hormones concerns have been raised that

1 puberty blockers may consolidate gender dysphoria in  
2 young people putting them on a lifelong path of  
3 biomedical invention.

4 Is that correct?

5 ATTORNEY BLOCK: Object is to form.

6 THE WITNESS: Can you show me where that  
7 is on this page?

8 BY ATTORNEY BARHAM:

9 Q. The first column on the second paragraph. The  
10 second column.

11 ATTORNEY TRYON: Jake, can you scroll  
12 down a bit?

13 THE WITNESS: I would not agree with how  
14 you asked that question, I guess. Can you repeat it or  
15 clarify?

16 BY ATTORNEY BARHAM:

17 Q. I just was reading what it said. They indicate  
18 in this section additionally since almost all of the  
19 children treated with puberty blockers proceed to cross  
20 sex hormones citing de Vries 2014, concerns have been  
21 raised at puberty blockers may consolidate gender  
22 dysphoria in young people, putting them on a lifelong  
23 path of biomedical interventions?

24 A. It's bit of a logical leap and also just

1 incorrect. The de Vries study specifically was looking  
2 at the children in the Amsterdam clinic, which is not  
3 broadly applicable to other gender clinics across the  
4 rest of the world.

5 Q. But you relied upon de Vries 2014 article in  
6 your report as well, didn't you?

7 A. I agree. Yeah.

8 Q. So there are professionals who have raised these  
9 concerns and hold the concerns that social transitioning  
10 cannot change the outcome for a child.

11 Is that correct?

12 ATTORNEY BLOCK: Objection to form.

13 THE WITNESS: I think there's two  
14 different questions. The first question is, do I agree  
15 with this statement that almost all children treated  
16 with puberty blockers proceed to cross sex hormones?  
17 That is not data that we have nor does this article  
18 point to data other than the Dutch clinic that has a  
19 very specific protocol.

20 The question about whether social  
21 transition changes a child's trajectory is a different  
22 question. It is a question that the Dutch have raised  
23 as a possibility, but has not, I have not seen any  
24 literature that provides evidence for that.



1 BY ATTORNEY BARHAM:

2 Q. But you will recognize that there are some  
3 researchers in the field who have raised these concerns  
4 and do hold these concerns.

5 Correct?

6 A. There are researchers in the field who ask these  
7 questions, yes.

8 ATTORNEY BARHAM: Let's go to Tab 38.

9 ATTORNEY TRYON: How late are we going in  
10 this session; until 2:30 or 2:45?

11 ATTORNEY BARHAM: The witness has  
12 indicated he can go to 2:45.

13 ATTORNEY TRYON: Okay.

14 ATTORNEY BARHAM: Exhibit 40 is an  
15 article by Carmichael, et al. 2021, Short-term Outcomes  
16 of Pubertal Suppression in a Selected Cohort of 12 to 15  
17 year old Young People. If you'll turn to page 12.

18 ---

19 (Whereupon, Exhibit 40, Article by  
20 Carmichael, et al., was marked for  
21 identification.)

22 ---

23 BY ATTORNEY BARHAM:

24 Q. Are you familiar with this paper?

1 A. I have not read through this paper, yet.

2 Q. The lead authors are associated with the  
3 Tavistock?

4 A. That is correct.

5 Q. And that's part of the National Health Services  
6 of the UK.

7 Is that correct?

8 A. That is correct?

9 Q. And it's the leading and most respected clinic  
10 in the UK.

11 Correct?

12 A. That I can't answer.

13 Q. If you'll look at page 12, the authors indicate  
14 that one young person decided to stop GnRHa and did not  
15 start cross sex hormones due to continued uncertainty  
16 and concerns about the side effects of cross sex  
17 hormones, the remaining 43 or 98 percent elected to  
18 start cross sex hormones.

19 Is that correct?

20 A. Correct.

21 Q. So the vast majority of these children who  
22 received puberty blockers went onto take cross sex  
23 hormones.

24 Correct?

1 A. That is correct.

2 Q. Would you agree that the majority of children  
3 who receive puberty blockers go on and take cross sex  
4 hormones?

5 ATTORNEY BLOCK: Objection to form.

6 THE WITNESS: That is not a question  
7 that we have an answer to based upon the literature. A  
8 majority of patients with gender dysphoria that are  
9 prescribe puberty blockers are not involved in clinical  
10 care at either the Tavistock clinic or the Amsterdam  
11 clinic.

12 BY ATTORNEY BARHAM:

13 Q. Is it --- in your practice, do the majority of  
14 children who receive puberty blockers for gender  
15 dysphoria go on to take cross sex hormones?

16 A. Based upon the demographic of the patients that  
17 I'm seeing, particularly in Chicago, yes, but I'm not  
18 seeing the younger kids as much as I did in New York.

19 Q. So as a practical and ethical matter the  
20 decision to put a child on puberty blockers must be  
21 considered as equivalent of a decision to put the  
22 children on cross sex hormones with all of the  
23 considerations and full consent obligations listed in  
24 that decision.

1 Correct?

2 ATTORNEY BLOCK: Objection to form.

3 THE WITNESS: No.

4 BY ATTORNEY BARHAM:

5 Q. Why do you say --- why do you disagree?

6 A. Inherent in the informed consent process is a  
7 specific discussion of the risk benefits and  
8 alternatives of a specific intervention. Hormones are  
9 not puberty blockers, it's a separate discussion.

10 Q. Even though the vast majority according to the  
11 research and according to your testimony go onto take  
12 cross sex hormones?

13 ATTORNEY BLOCK: Objection to form and  
14 mischaracterizes testimony.

15 THE WITNESS: A description of the  
16 potential trajectories of development is a part of the  
17 discussion in an informed consent process for the  
18 engagement with puberty suppression agents. It's not  
19 the same as informed consent process discussion around  
20 the use of hormones at that time.

21 BY ATTORNEY BARHAM:

22 Q. So when you're having an informed consent  
23 discussion surrounding the decision to start puberty  
24 blockers, do you discuss with parents and patients the

1 dangers associated with cross sex hormones?

2 A. This is going to be very individualized  
3 discussions that we have with families. It's a very  
4 momentous decision to make this kind of treatment  
5 choice. The potential trajectories are all discussed  
6 and there's risk to everything. I don't think it is  
7 useful to use the term dangers in the context of medical  
8 care but it's about weighing risks of interventions but  
9 also weighing the risks of non-intervening. And it's  
10 appropriate to have those discussions about what those  
11 potential outcomes may be with each individual kid.

12 Q. How do you get informed consent from a child?

13 A. You get assent from a child, but you get  
14 informed consent from a parent.

15 Q. How do you get --- how can a child even begin to  
16 understand the implications of starting puberty blockers  
17 and then potentially going to cross sex hormones, the  
18 effects that that may have on the fertility when the  
19 child is 12-ish?

20 ATTORNEY BLOCK: Objection to form.

21 THE WITNESS: Well, I have a skewed  
22 perspective here because of the work that I do, but  
23 there are 12-year-olds who are often much more capable  
24 of having that kind of informed decision than many

1 adults that I have encountered, which is to say it's an  
2 individualized assessment based upon multiple things,  
3 including the cognitive status of the child, their  
4 capacity to engage back and forth and have an open  
5 discussion and a realistic discussion about the  
6 potential benefits, risks and alternatives in specific  
7 intervention.

8 BY ATTORNEY BARHAM:

9 Q. Is it your position that most 12-year-olds have  
10 a better understanding or a better capability of making  
11 decisions about their long-term fertility than adults?

12 A. It is not my position and I will reflect that  
13 that was a statement meant in jest, but it does reflect  
14 some sense of reality in terms of the maturity level of  
15 12-year-olds, not speaking to the maturity level of most  
16 20-somethings in the world.

17 ATTORNEY BARHAM: I think this would be a  
18 good time to pause for your appointment and give you a  
19 few moments before that starts, so we'll go off the  
20 record.

21 VIDEOGRAPHER: Going off the record. The  
22 current time reads 3:37 p.m.

23 OFF VIDEOTAPE

24

---

1 (WHEREUPON, A SHORT BREAK WAS TAKEN.)

2 ---

3 ON VIDEOTAPE

4 VIDEOGRAPHER: Back on the record the  
5 current time reads 4:31 p.m.

6 ATTORNEY BARHAM: All right. Let's go to  
7 Tab 16, which will be Exhibit Number 41.

8 ---

9 (Whereupon Exhibit 41, Washington Post  
10 Article, was marked for identification.)

11 ---

12 BY ATTORNEY BARHAM:

13 Q. This is will be a Washington Post article from  
14 January 10, 2022. Are you aware of the 2021/2022 season  
15 swimming events surrounding the University of  
16 Pennsylvania's swimmer Lia Thomas?

17 ATTORNEY BLOCK: Objection to scope.

18 THE WITNESS: I have not been following  
19 closely, but I've heard about it.

20 BY ATTORNEY BARHAM:

21 Q. Okay.

22 On page three of Exhibit 41, the article  
23 references that Lia Thomas in her first year in the  
24 Women's Division after more than a year of testosterone

1 suppression set the Women's Division record in two  
2 events.

3 Do you see that?

4 A. I see that, yes.

5 Q. And Lia Thomas beat the best time of women's  
6 Olympian Torri Huske in the 200 freestyle.

7 Do you see that?

8 A. I see that.

9 ATTORNEY BLOCK: I just want to note an  
10 objection to foundation, that there's no URL. This  
11 appears to be cut and pasted. So I'm just noting that  
12 for the record.

13 ATTORNEY BARHAM: And I would note For  
14 the record that there is an URL at the bottom of page  
15 --- at the bottom of each page.

16 ATTORNEY BLOCK: Thanks. It's not  
17 visible from what's on the screen.

18 ATTORNEY BARHAM: Okay.

19 Just trying to be clear.

20 BY ATTORNEY BARHAM:

21 Q. Is it your position that it is fair for Lia  
22 Thomas to compete in the Women's Division of swimming?

23 ATTORNEY BLOCK: Objection to scope.

24 THE WITNESS: I don't have an opinion on



1 the fairness.

2 BY ATTORNEY BARHAM:

3 Q. Do you believe that it's beneficial to Lia  
4 Thomas' mental health to compete in the Women's  
5 Division?

6 A. I couldn't tell you that unless I had evaluated  
7 Lia Thomas herself.

8 Q. But it's your opinion as expressed in  
9 paragraph 52 of your report that no reasonable mental  
10 health professional could conclude that the Act is  
11 anything but harmful to the mental health of transgender  
12 youth.

13 Is that correct?

14 A. I would say youth as a class, yes, that is  
15 correct, but the specific details of that impact are not  
16 going to be known and I wouldn't care to surmise on it  
17 for a specific individual that is not under my care.

18 Q. Okay.

19 But it's your position that allowing a  
20 transgender --- or allowing natal males to compete in  
21 the Women's Division if they are gender dysphoric is  
22 beneficial to their mental health, in general.

23 Correct?

24 ATTORNEY BLOCK: Objection to terminology

1 and form.

2 THE WITNESS: In my report, excluding  
3 transgender youth can be harmful to their mental health.

4 BY ATTORNEY BARHAM:

5 Q. And when you say excluding them you mean  
6 excluding them from competition consistent with their  
7 gender identity.

8 Is that correct?

9 A. That is correct.

10 ATTORNEY BARHAM: All right.

11 I want to show you Tab 17 now. This will  
12 be Exhibit-42.

13 ---

14 (Whereupon, Exhibit 42, Out Sports  
15 Article, was marked for identification.)

16 ---

17 BY ATTORNEY BARHAM:

18 Q. Have you read about Iszac Henig before today?

19 A. I have not.

20 Q. This is an article from Out Sports published on  
21 January 9th, 2022, by Karleigh Webb entitled Trans  
22 swimmers Lia Thomas and Iszac Henig went head-to-head in  
23 the pool, each getting wins. Are you aware that Iszac  
24 Henig is a biological female who identifies as male?

1 A. I have not heard of Iszac Henig until today at  
2 least by name.

3 Q. Do you see on the first page of this article the  
4 article reads Henig, a trans man competing on the  
5 women's swimming team at Yale?

6 A. I see that, yes.

7 Q. So in this event a biological male identifies as  
8 female, Lia Thomas, competed against a biological female  
9 who identifies as male, Iszac Henig, in the women's  
10 competition?

11 ATTORNEY BLOCK: Objection can you give  
12 him a chance to read the article. He's never seen or  
13 heard of this before?

14 THE WITNESS: It seems that is what  
15 stipulated in the article.

16 BY ATTORNEY BARHAM:

17 Q. Okay.

18 According to the terminology you prefer, do you  
19 consider Henig to be anything other than a man?

20 ATTORNEY BLOCK: Objection to form.

21 THE WITNESS: I will typically ask the  
22 individuals that I'm working with or engaging with how  
23 they choose to define their own sense of labels. Not  
24 knowing Iszac I can't speak for him.

1 BY ATTORNEY BARHAM:

2 Q. Okay.

3 But according to the terminology that you've  
4 been using Iszac would be an individual assigned female  
5 sex at birth and identifying as male.

6 Correct?

7 A. Again, I don't see ---

8 Q. Henig a trans man?

9 A. --- a description of his words to describe his  
10 identity, so I can't say how he identifies himself, but  
11 it appears through that that's how --- that is the  
12 implication of the article at least.

13 Q. In the article it uses masculine pronouns to  
14 refer to Henig.

15 Correct?

16 A. Yes.

17 Q. Do you think it'd beneficial to Henig's mental  
18 health to compete on the women's team?

19 A. Again, I can't answer that unless I had  
20 evaluated Henig myself.

21 Q. In general, if you have a transgender individual  
22 who wants to compete on the team consistent his or her  
23 biological sex, do you think it's beneficial to his or  
24 her mental health to be allowed to do so?

1                    ATTORNEY BLOCK: Objection to form.

2                    THE WITNESS: Again, this is an  
3 individualized discussion that you have with patients.  
4 With the patients that I've had I have had patients who  
5 would be harmed by having to compete with the cohort of  
6 kids who were aligned with their sex assigned at birth.

7 BY ATTORNEY BARHAM:

8            Q.        I understand your position about kids who are  
9 forced to do something, what about kids who want to  
10 compete with that same cohort, do you think it's  
11 beneficial to allow them to compete as they see fit?

12            A.        As a mental health professional working with  
13 kids and families, it really is an individualized  
14 discussion. There is not going to be a specific answer  
15 that's universal for all kids.

16            Q.        Do you believe that if Henig were prevented from  
17 competing with the women's team as desired, that it  
18 could be harmful to Henig's mental health ---

19                    ATTORNEY BLOCK: Objection to form.

20 BY ATTORNEY BARHAM:

21            Q.        --- possibly?

22            A.        I can't speak to the specifics about a person  
23 that I've never evaluated.

24            Q.        If it is harmful to someone's mental health to

1 be prevented from participating in athletics on a team  
2 consistent with their gender identity, could it be  
3 harmful to their mental health to be prevented from  
4 competing on a team consistent with their biological sex  
5 if they so wanted to?

6 ATTORNEY BLOCK: Objection to form.

7 THE WITNESS: I think there's a whole  
8 host of hypotheticals that could potentially be  
9 possible.

10 BY ATTORNEY BARHAM:

11 Q. And that is one of them?

12 ATTORNEY BLOCK: Objection to form.

13 THE WITNESS: That's possible.

14 ATTORNEY BARHAM: Okay.

15 BY ATTORNEY BARHAM:

16 Q. In paragraph 34 of your report you write a  
17 recent study found people who reported experiencing  
18 those conversion efforts were more likely to report an  
19 attempted suicide, especially those who reported  
20 receiving such therapy in childhood.

21 Do you see that?

22 A. I see that.

23 Q. And there we are talking about conversion  
24 therapy.

1 Is that correct?

2 A. We're talking specifically about the study  
3 participants on perceptive perceptions of conversion  
4 therapy.

5 Q. But that's what's meant by those conversion  
6 efforts.

7 Correct?

8 A. Correct.

9 Q. In footnote six you cite an article by Turban  
10 published in 2020.

11 Is that correct?

12 A. That is correct.

13 ATTORNEY BARHAM: All right.

14 I'm going to show you Tab 113, which will  
15 be Exhibit 43.

16 ---

17 (Whereupon, Exhibit 43, Article by  
18 Turban, et al., was marked for  
19 identification.)

20 ---

21 BY ATTORNEY BARHAM:

22 Q. This is an article published by Turban, et al.  
23 published in 2020, it's entitled Association Between  
24 Recalled Exposure to Gender Identity Conversion Efforts

1 and Psychological Distress and Suicide Attempts Among  
2 Transgender Adults. This is the article that you cited  
3 in your report.

4 Is that correct?

5 A. That is correct.

6 Q. And this is the article cited in footnote six as  
7 support for the proposition that studies that found that  
8 people who reported conversion efforts are more likely  
9 to have reported suicide.

10 Correct?

11 A. That's correct.

12 Q. On page two of this article the authors --- and  
13 by this article I'm referring to Exhibit 43. The  
14 authors note that they rely upon data from the National  
15 Center for Transgender Quality and its 2015 transgender  
16 survey.

17 Correct?

18 A. That is correct.

19 Q. On page eight of this document, the authors  
20 admit that it is cross sectional study designed  
21 precludes determination of causation.

22 Correct?

23 A. I don't have page numbers. Which one is that?

24 Q. It's the one with strengths and limitations at



1 the heading at the bottom.

2 A. Can you repeat the question?

3 Q. On page eight, the authors admit that the  
4 studies cross-sectional study design precludes  
5 determination of causation.

6 Correct?

7 A. That is correct.

8 Q. The authors also admit that those with worse  
9 mental health or internalized transphobia may have been  
10 more likely to seek out conversion therapy rather than  
11 non GICE therapy suggesting conversion efforts itself  
12 were not causative of these poor mental health outcomes.

13 Correct?

14 A. That is what is written, correct.

15 Q. Okay.

16 So this study does not establish a causal link  
17 between conversion therapy and suicidality.

18 Correct?

19 A. That is correct.

20 Q. The authors also admit that they lack data  
21 regarding the degree to which GICE occurred.

22 Correct?

23 A. That is correct.

24 Q. And they also admit that they lacked information

1 as to what specific modalities were used.

2 Correct?

3 A. That is correct.

4 Q. Turban et al., in 2020 also admits that  
5 participants were not recruited via random sampling and  
6 thus the sample may not be nationally representative.

7 Is that correct?

8 A. That is correct.

9 Q. In paragraph 37 you go on to say that  
10 conclusions further supported by extensive evidence that  
11 rejection of a young person's gender identity by family  
12 and peers is the strongest predictor for adverse mental  
13 health outcomes.

14 Is that correct?

15 A. That is correct.

16 Q. And you cite in that article --- you cite in  
17 footnote seven an article by Ryan, et al. published in  
18 2010.

19 Is that correct?

20 A. I'm not seeing that.

21 Q. In footnote seven?

22 A. Oh, in footnote seven, yes.

23 ATTORNEY BARHAM: I'm going to show you  
24 what we will mark as Exhibit-44, which is Tab 114, an

1 article by Ryan, et al. published in 2010 entitled  
2 Family Acceptance in Adolescence and the Health of LGBT  
3 Young Adults.

4 ---

5 (Whereupon, Exhibit-44, Article by Ryan,  
6 et al., was marked for identification.)

7 ---

8 BY ATTORNEY BARHAM:

9 Q. This is the article that you cited in footnote  
10 seven of your report.

11 Correct?

12 A. That is correct.

13 Q. On page 206, in the second column, the authors  
14 note that they relied on a sample of 245 people.

15 Is that correct?

16 A. That is correct.

17 Q. Of that sample, only nine percent identified as  
18 transgender.

19 Correct? That's on page 208.

20 A. Correct.

21 Q. That means we're talking about nine people.

22 Correct? 245 times nine percent is 22.05.

23 A. I'll take your math.

24 Q. On page 210 the authors admit that they cannot

1 claim that this sample is representative of the general  
2 population of LGBT individuals.

3 Is that correct?

4 A. That is correct.

5 Q. On page 210 to 211 the authors recognize that  
6 this is a retrospective study, which, quote, allows for  
7 the potential of recall bias in describing specific  
8 family reactions to their LGBT identity.

9 Correct?

10 A. That is correct.

11 Q. And then in footnote seven of your report you  
12 also cite an article by Klein and Golub published in  
13 2016.

14 Correct?

15 A. That is correct.

16 Q. All right.

17 ATTORNEY BARHAM: I'm going to show you  
18 what we will mark as Exhibit 45, which is Tab 15.

19 ---

20 (Whereupon, Exhibit-45, Article by Klein  
21 and Golub, was marked for  
22 identification.)

23 ---

24 BY ATTORNEY BARHAM:

1 Q. This is an article by Klein and Golub entitled  
2 Family Rejection as a Predictor of Suicide Attempts.  
3 This article simply says that family rejection is a  
4 predictor of suicide attempts and substance abuse among  
5 transgender and gender non-conforming adults.

6 Correct?

7 ATTORNEY BLOCK: Objection. Can you  
8 point to where you are reading from?

9 ATTORNEY BARHAM: The title.

10 THE WITNESS: They identify as a  
11 predictor, yes.

12 BY ATTORNEY BARHAM:

13 Q. In fact, the word strongest does not even appear  
14 in this article.

15 Is that correct?

16 ATTORNEY BLOCK: Objection.

17 THE WITNESS: I would have to read the  
18 whole article.

19 ATTORNEY BLOCK: Let him read it.

20 THE WITNESS: The authors note on  
21 page 195 on a multi-variant model moderate levels of  
22 family rejection were associated with almost twice the  
23 odds of attempted suicide and high levels of family  
24 rejection were associated with almost three and a half

1 times the odds of attempted suicide. While there is not  
2 any use of the word stronger, I don't see any additional  
3 risks that were highlighted in this specific study.

4 BY ATTORNEY BARHAM:

5 Q. Okay.

6 On page 197 stemming over on to 198 the authors  
7 admit that they relied on data NTDS that use sampling  
8 techniques that were not random and included a  
9 homogenous study population that was largely white,  
10 educated and employed.

11 Correct?

12 A. That is correct.

13 Q. Do you agree with them that this limits the  
14 generalizability of the article's findings?

15 A. I do.

16 Q. The authors also admit that the cross sectional  
17 nature of the data did not allow us to determine any  
18 causal relationship between family rejection and the  
19 negative health-related outcomes.

20 Correct?

21 A. Correct.

22 Q. The authors also indicate that they did not have  
23 any information about the timeframe within which family  
24 rejection occurred, including what precipitated the

1 event, the severity of the rejection or whether this  
2 changed over time.

3 Correct?

4 A. Correct.

5 Q. Do you agree with them that these factors might  
6 have influenced their results?

7 A. Sure.

8 Q. All right.

9 Let's go to Tab 97, which is Exhibit 16. This  
10 article we discussed before, but this reviews the Turban  
11 article that you cited in footnote seven of your report.

12 Is that correct?

13 A. That is correct.

14 Q. Or footnote six of your report. Okay.

15 And in your report you are using the Turban  
16 2020 article to critique the use of what you describe as  
17 conversion therapy.

18 Is that correct?

19 ATTORNEY BLOCK: Objection to form.

20 THE WITNESS: I'm just pulling this up  
21 where I have it. As I stated in my report, the Turban  
22 article found that people who reported experiencing  
23 those conversion efforts were more likely to have  
24 reported attempting suicide.

1 BY ATTORNEY BARHAM:

2 Q. So you're using it to critique what you  
3 described as conversion therapy.

4 Is that fair?

5 A. I think that's fair.

6 Q. On page two of Dr. D'Angelo's letter to the  
7 editor he notes at the top of the first --- towards the  
8 top of the first column that Turban's analysis used data  
9 from the 2015 USTS survey of transgender identifying  
10 individuals, this survey is convenient sampling  
11 methodology which generates lower quality data.

12 Would you agree that convenient sampling  
13 generates low quality data?

14 A. Convenient sampling generates lower quality  
15 data. And then some other statistical method of study  
16 design. One of the ways that you want to counteract  
17 that potential for low quality of data is to have  
18 increased number of participants. The difference of  
19 27,000 participants in this particular survey analysis  
20 versus say 100 in another, 40 in another does add a  
21 little bit more context to the applicability of these  
22 findings.

23 Q. Right below that Dr. D'Angelo, et al. notes that  
24 the participants were recruited through transgender



1 advocacy organizations and subjects were asked to pledge  
2 to promote survey among friends and family. This  
3 recruiting method yielded a large but highly skewed  
4 sample. Would you agree that the sample for this survey  
5 was highly skewed?

6 ATTORNEY BLOCK: Objection to form.

7 THE WITNESS: I think we'd have to  
8 understand what specifically you mean by skewed and  
9 skewed in what way. It's hard to know.

10 BY ATTORNEY BARHAM:

11 Q. The authors go on in Table 1 to demonstrate what  
12 they mean by skewing of the data. Upon reviewing their  
13 information, would you agree that the sample was skewed?

14 ATTORNEY BLOCK: Objection to form.

15 THE WITNESS: Again, I'm not sure skewed  
16 in comparative --- comparison to what?

17 BY ATTORNEY BARHAM:

18 Q. The authors continue on page two by saying that  
19 a number of additional data irregularities in the USTS  
20 raise further questions about the quality of the data  
21 captured by the survey. They talk about how high number  
22 of survey participants had not transitioned medically or  
23 socially, significant number reported no intention to  
24 transition in the future. The information about

1 treatments does not appear to be accurate as a number of  
2 respondents reported the initiation of puberty blockers  
3 after the age 18, which is highly improbable. Further,  
4 the survey has developed special waiting due to  
5 unexpected high proportion of respondents who reported  
6 that they were exactly 18 years old. Do you agree that  
7 these irregularities raise serious questions about the  
8 reliability of the data?

9 A. I think these are all elements that you want to  
10 take into context as you're establishing validity of the  
11 data and the conclusions that could be drawn.

12 Q. The second column of page two, the authors note  
13 that the emphasis on the survey's goals to highlight the  
14 injustices suffered by transgender people during the  
15 recruitment stage in the introduction of the survey  
16 instrument itself made it eligible for reporting adverse  
17 experiences due to demand bias.

18 Do you agree that this demand bias likely  
19 skewed the responses?

20 A. I wouldn't agree that it likely, but that  
21 implies that we have data that we don't have. It's a  
22 possibility that these authors are raising.

23 Q. Now, the authors also note that the experience  
24 of detransitioners and the sisters were not included, as

1 they were disqualified from completing the survey. They  
2 note that this failure is a serious oversight.

3 Do you agree with them that that's a serious  
4 oversight?

5 ATTORNEY BLOCK: Objection to form.

6 THE WITNESS: I would need to look at the  
7 specific survey instructions for the survey in question  
8 to understand the validity of that. I don't see how in  
9 the context of this that folks who detransitioned were  
10 specifically excluded, but ---.

11 BY ATTORNEY BARHAM:

12 Q. Did you review ---?

13 A. Can you point to where that --- where in the  
14 original article or the study that those folks are  
15 excluded specifically. I may have missed it.

16 Q. I don't have the original survey on hand at the  
17 moment. If it proved that they were excluded, would you  
18 agree that that would be a serious oversight?

19 ATTORNEY BLOCK: Objection to form.

20 THE WITNESS: It would really depend on  
21 how that was done and what the language was used.  
22 Without seeing it I can't make a comment otherwise.

23 BY ATTORNEY BARHAM:

24 Q. What if there was no language involved, it was

1 just those who indicated that they were either desisting  
2 or detransitioning or not included in the data set?

3 A. I would need to see the context of it in order  
4 to make a judgment on the validity of that structure.

5 Q. On page four of this document. The authors note  
6 that Turban's hypothesis is further weakened by a  
7 significant flaw in their data analysis failure to  
8 control for individuals pre-GICE exposure mental health  
9 exposure status, noting that this is a potential  
10 compound and may mask reverse causation.

11 Do you have any scientific basis for disputing  
12 that concern?

13 A. Let me review this part of the paper, please.

14 ATTORNEY BLOCK: Just objection. I don't  
15 think he read the full the sentence.

16 THE WITNESS: I have not seen any  
17 literature on specific risks or predictors for  
18 individuals who would be exposed to gender identity  
19 conversion efforts, and so the supposition inherent in  
20 this paragraph that the authors are making that an  
21 individual's underlying poor mental health led to their  
22 experience of gender identity conversion efforts is not  
23 supported by my understanding of the literature.

24 BY ATTORNEY BARHAM:

1 Q. Do you have any reason to dispute a potential  
2 for a confound or the potential for masking reversed  
3 causation that the authors identify here?

4 A. As I described, I haven't seen any literature  
5 that speaks to this nor has that been my clinical  
6 experience.

7 Q. On page two of this document the authors note  
8 that Turban's conclusions rest on the assumption that  
9 they have a valid way of determining whether or not the  
10 respondent was exposed to the unethical practice of  
11 conversion therapy. Do you agree that this lack of  
12 context in detail renders the question incapable of  
13 differentiating between ethical non-affirming ---  
14 non-affirmative neutral and counters unethical  
15 conversion therapy?

16 A. I do not.

17 ATTORNEY BLOCK: Sorry, objection to  
18 form.

19 BY ATTORNEY BARHAM:

20 Q. Back on page four the authors note that the  
21 failure to control for the subjects' baseline mental  
22 health makes it impossible to determine whether the  
23 mental health or suicidality of a subject person stayed  
24 the same or potentially even improved after the

1 non-affirming encounter. Do you have any scientific  
2 basis for disputing this observation?

3 ATTORNEY BLOCK: Objection to form.

4 THE WITNESS: Again, if we wanted to go  
5 back to the Turban study itself and look more  
6 specifically at their methodology and their description  
7 that would be a more accurate way of getting a potential  
8 ups and downs side of this study other than this letter  
9 to the editor.

10 BY ATTORNEY BARHAM:

11 Q. But do you have any basis for -- any scientific  
12 basis for disputing that observation?

13 ATTORNEY BLOCK: Objection to form.

14 THE WITNESS: This question gets to a  
15 very specific type of study designed methodology. That  
16 is something that typically is done by a data scientist,  
17 which is not where my level of expertise is. There are  
18 nuances in it. What I would say is in a population as  
19 large of a survey that having a denominator as high as  
20 they had helps to reduce the chances of confounders like  
21 the authors in this letter to the editor are describing  
22 as problematic.

23 BY ATTORNEY BARHAM:

24 Q. A little bit later on page five the authors

1 highlight the cross sectional design of the USTS and  
2 indicate that presenting a highly confounded association  
3 of causation is a serious error.

4 Do you agree that presenting a confounded  
5 association as causation is a serious error?

6 ATTORNEY BLOCK: Objection to form.

7 THE WITNESS: I have not claimed nor do I  
8 understand my reading of the Turban, et al. article to  
9 claim causation when an association has been found, and  
10 in fact, they specifically called out that it was not  
11 causative or at least the analysis could not prove it  
12 was causative with a cross-sectional design.

13 BY ATTORNEY BARHAM:

14 Q. So when you wrote paragraph 34 of your report  
15 and said that a study found that people who reported  
16 experiencing these conversion efforts were more likely  
17 to have reported attempting suicide, especially those  
18 who reported receiving such therapy in childhood, were  
19 you suggesting that the conversion efforts caused the  
20 suicide attempts?

21 A. I believe in my testimony I am saying that there  
22 is a relationship between those who are exposed to  
23 conversion efforts and those who have described  
24 reporting attempting suicide.

1 Q. And how would you describe that relationship?

2 A. As an association.

3 Q. Is association a synonym for correlation?

4 ATTORNEY BLOCK: Objection to form.

5 THE WITNESS: It depends on the context,  
6 but generally in plain English association and  
7 correlation are relative synonyms for one another.

8 BY ATTORNEY BARHAM:

9 Q. In this specific context of your report, when  
10 you say that you are reporting an association, were you  
11 using association in correlation to synonyms?

12 A. As far as I know I was, yeah.

13 Q. Have you had patients impacted by not being  
14 allowed to play sports consistent with their gender  
15 identity?

16 A. On occasion, yes.

17 Q. Approximately how many such patients?

18 A. On the order of less than two or three.

19 Q. What sports were those patients participating  
20 in?

21 A. I do not recall the specific. These were ---  
22 the two or three that I had were all in the order of  
23 between five, six and seven-year-olds.

24 Q. What was your follow-up with each patient?



1 A. With those particular kids?

2 Q. Yes.

3 A. Without having their charts in front of me, it's  
4 hard to expound. My typical process would be  
5 understanding why it's happening, what they need and how  
6 to coordinate with whatever program to help make sure  
7 that the kid gets the support that is going to be most  
8 beneficial to them.

9 Q. Are you offering an opinion that the State of  
10 West Virginia does not have a strong interest in  
11 ensuring safe competition for women?

12 ATTORNEY BLOCK: Objection to form.

13 THE WITNESS: My testimony is about the  
14 mental health impacts. I don't have an opinion on the  
15 state interests of West Virginia in this regard.

16 BY ATTORNEY BARHAM:

17 Q. Are you offering an opinion that the State of  
18 West Virginia does not have a strong interest in  
19 ensuring fair competition?

20 ATTORNEY BLOCK: Objection to form.

21 THE WITNESS: Same answer.

22 BY ATTORNEY BARHAM:

23 Q. Would you agree that ensuring fairness and  
24 safety is an important state interest.

1                    ATTORNEY BLOCK: Objection to form and  
2 scope.

3                    THE WITNESS: Same answer.

4                    ATTORNEY BARHAM: All right. I believe  
5 those are all my questions for today. I will turn the  
6 floor over to Mr. Tryon.

7                    ATTORNEY TYRON: Okay.

8                    Here I am.

9                    ---

10                   EXAMINATION

11                   ---

12                   BY ATTORNEY TRYON:

13                   Q.        My name's David Tryon. I am with the West  
14 Virginia Attorney General's Office and represent the  
15 State of West Virginia. So we've got about an hour  
16 left. Do you want to just keep on going and finish up  
17 or would you like to take a break for five minutes  
18 before we finish up?

19                   A.        I think let's keep going. If I have to take a  
20 break, I'll let you know. I appreciate it.

21                   Q.        Okay.

22                              You bet. Happy to help you out that way again.  
23 I just want to follow up, first of all, on a couple of  
24 questions about the Turban study, if I may, that we were

1 just discussing. And Exhibit 16 I believe was the  
2 document that addressed that Turban study.

3 A. I see Exhibit 16 as the letter to the editor  
4 from D'Angelo, et al.

5 Q. And that's the one that we were just looking at  
6 addressing the Turban study.

7 Right?

8 A. Correct.

9 Q. So let me just ask you, you did cite the Turban  
10 study in your report.

11 Right?

12 A. Yes.

13 Q. Yeah, and that was to support your opinion.

14 Right?

15 A. That is to support my opinion, yes.

16 Q. Now, before you used it did you do something to  
17 cite check it to see if there were any articles that  
18 either challenged it or critiqued it or criticized it?

19 A. I would say that a routine review of the  
20 literature is a part of my day-to-day practice. This  
21 particular article did not come up in that review.

22 Q. Okay.

23 Is there a way to specifically search for it to  
24 see if --- to look at it and then do a search and see

1 what other articles are quoted or cited?

2 A. My guess is there probably is, I'm not aware of  
3 it.

4 Q. But I think you said you were not aware of the  
5 letter which is Exhibit 16 prior to issuing your expert  
6 report.

7 Is that right?

8 A. That is correct.

9 Q. Would it have been helpful to have seen that  
10 ahead of time?

11 A. I think it would have been helpful for me to  
12 feel more prepared in this deposition. I don't think it  
13 would have changed any of my report.

14 Q. If you had that, would you have investigated  
15 those criticisms to see if they were failed criticisms?

16 A. The authors of the Turban study had raised most  
17 of those criticisms themselves in the context of their  
18 report.

19 Q. And did you independently look at it and  
20 determine if they were --- if that caused you some  
21 concerns?

22 A. Concerns wouldn't be the right word. It's about  
23 weighing the evidence and making sure that we understand  
24 context and applicability. There's nothing in this

1 letter to the editor that changes those demands from my  
2 reading of the Turban article.

3 Q. So you are saying that this letter in the Turban  
4 article --- I'm sorry, you're saying this letter to the  
5 editor does not raise any new issues at all than what  
6 the Turban study itself raised.

7 Is that right?

8 A. I would have to read through this in a more  
9 detailed manner to say for certain that no single issue  
10 has been addressed. None of which we discussed today  
11 are elements that hadn't been addressed, either by  
12 myself reading the Turban article or by the Turban, et  
13 al. in the article itself.

14 Q. But you do not raise any of those concerns in  
15 your report, do you?

16 ATTORNEY BLOCK: Objection to form.

17 THE WITNESS: No. No, not specifically.

18 BY ATTORNEY TRYON:

19 Q. Okay. Fair enough.

20 If you can follow your report now, which I'm  
21 forgetting which exhibit that is, Exhibit 1. Thank you.

22 So first of all, you said you were retained by  
23 Counsel for the Plaintiffs as an expert. Can you tell  
24 me when you were retained, please?

1           A.       I would have to pull up my invoice to give you  
2 the specific date, and I'm guessing Mr. Block might have  
3 that information at the ready.

4           Q.       Unfortunately, I can't depose him. I would love  
5 to, but I don't think he would agree to that. So as  
6 best you can recall --- first of all, was it this year  
7 or last year?

8           A.       It was this year to the best of my recollection.

9           Q.       Okay.  
10                   Was it after the other expert reports came out  
11 or before?

12          A.       I believe I was hired or retained. I don't know  
13 what the correct terminology is so forgive me, after the  
14 development of the additional expert reports. It was  
15 the rebuttal to those reports that led to my being  
16 retained to my recollection.

17          Q.       I'm sorry?

18          A.       From my recollection. And I'm terrible with  
19 dates, so I apologize for that.

20          Q.       In paragraph four, you say --- you explain what  
21 you viewed and you mention the reports of Dr. Safer.  
22 Does that refer to Dr. Safer's original report that was  
23 filed with the Court and his rebuttal report --- strike  
24 that.

1 Does that --- so he filed something with the  
2 Court originally. Did you review that one?

3 A. It was the original report that I had reviewed.

4 Q. Okay.

5 So let me just be clear. So he filed an  
6 original report back in --- last year and then issued a  
7 new report in February of this year and then issued a  
8 rebuttal report. So a total of three. Did you see all  
9 three of those?

10 A. I would have to see them ---.

11 ATTORNEY BLOCK: Object to form.

12 THE WITNESS: I would have to see them in  
13 front of me to know if it was something that I had read.  
14 I don't know the terminology well enough to know if I  
15 was reading the original report or rebuttal report or  
16 the third type.

17 BY ATTORNEY TRYON:

18 Q. So one of them was expert report which was  
19 issued I believe in February of this year. I believe  
20 you saw that one.

21 A. Again, I would have to see the report in front  
22 of me to know if it was the one I saw.

23 Q. Okay.

24 There was another one which was labeled as

1 rebuttal. Do you remember if you saw that one?

2 A. I would have to go back through my notes. I  
3 don't have it in front of me, so I apologize for not  
4 recalling.

5 Q. Well, let me ask you this question. Do you  
6 remember how many reports you saw from Dr. Safer?

7 A. All I can say is I remember seeing at least two.

8 Q. Very good. And Dr. Adkins, how many of her  
9 reports did you see?

10 A. I can't be certain, but I think I also saw two  
11 of hers.

12 Q. And I'll represent to you that each of them  
13 issued a rebuttal report. And did you read their  
14 rebuttal reports prior to preparing your rebuttal  
15 report?

16 A. I don't have the documentation in front of me in  
17 terms of when I was spending time on what piece of this  
18 process. That's a part of my notes that are not here  
19 today.

20 Q. Do you know why you were asked to issue a  
21 rebuttal report if Dr. Safer and Dr. Adkins were both  
22 issuing rebuttal reports?

23 ATTORNEY BLOCK: Objection. Just don't  
24 discuss any of the contents of your communications with



1 the attorneys.

2 ATTORNEY TRYON: Correct.

3 THE WITNESS: My understanding was to  
4 rebut the reports of Dr. Levine and Dr. Cantor.

5 BY ATTORNEY TRYON:

6 Q. Is your rebuttal different than the rebuttals of  
7 Dr. Adkins and Dr. Safer?

8 ATTORNEY BLOCK: Objection to form.

9 THE WITNESS: Yes.

10 BY ATTORNEY TRYON:

11 Q. Pardon me?

12 A. Yes.

13 Q. Does your rebuttal report have any opinions  
14 which are different from Dr. Safer and Dr. Adkins'  
15 reports?

16 ATTORNEY BLOCK: Objection to form.

17 THE WITNESS: I think it's hard without  
18 the specific reports in front of me. I know they were  
19 long documents and I was specifically rebutting the  
20 reports of Dr. Levine and Cantor.

21 BY ATTORNEY TRYON:

22 Q. Do you have any specific reports that are not  
23 rebutting Dr. Levine and Dr. Cantor?

24 A. The process of developing this rebuttal report

1 was for that specific intent.

2 Q. So you don't believe you have any original  
3 opinions to report; would that be a fair statement?

4 ATTORNEY BLOCK: Objection to form.

5 THE WITNESS: I'm not --- I guess I'm not  
6 sure what you mean by original opinions.

7 BY ATTORNEY TRYON:

8 Q. So let's move on. Do you recall the Costa  
9 study?

10 A. Yes, we had reviewed one Costa study earlier.  
11 Can you remind me of the exhibit number?

12 Q. I believe it's Exhibit 27?

13 A. All right. Okay.

14 Q. I believe that during that discussion you  
15 referred to the standards in there as being rough or  
16 imprecise measure and --- let me get this right, and not  
17 objective criteria.

18 Do you remember that?

19 A. I had described the CGAS, the Children's Global  
20 Assessment Scale, as an imprecise measure of children's  
21 functioning.

22 Q. And you said not having any objective criteria;  
23 can you help with that?

24 A. Yes, it's a scale from zero to a hundred that is

1 very gestalt that the clinician uses to rate a child.  
2 It's not an instrument that I find clinically useful.

3 Q. Is it not clinically useful because it doesn't  
4 have objective criteria?

5 A. I wouldn't say it's fair to say that there are  
6 no objective criteria, but there are at times  
7 contradictory objective criteria within the CGAS. And  
8 again I would he have to see the CGAS in front of me to  
9 point out those specifics, but there are other  
10 functions, or other ways of measuring outcomes than the  
11 CGAS.

12 Q. What is an objective criteria? What does that  
13 term mean in other words?

14 ATTORNEY BLOCK: Objection to form.

15 THE WITNESS: I guess what would say is  
16 we would want a psychometrically valid approach for  
17 answering a question, ideally that is of clinical  
18 relevance.

19 BY ATTORNEY TRYON:

20 Q. Can you just repeat your answer for me? I  
21 didn't quite understand it.

22 A. Probably not the same language. A  
23 psychometrically valid tool that in an ideal world  
24 provides some kind of clinical relevance.

1 Q. Okay.

2 You said psychometrically valid tool.

3 Did I get that right?

4 A. Psychometrically validated tool, yes.

5 Q. Validated?

6 A. Yes.

7 Q. What is that?

8 A. Essentially you want to understand that the  
9 measure you're using is measuring what it says to  
10 measure and is reliable across multiple domains. The  
11 CGAS has been widely used in research, it's just not my  
12 favorite tool because I don't find it to have that  
13 second domain of having that clinical utility.

14 Q. Let me ask you to take a look at paragraph 19 of  
15 your opinion?

16 A. I'm looking at it now.

17 Q. You say at one point it says contrary to the  
18 portrayal. Do you see that sentence?

19 A. I see that, yes.

20 Q. Contrary to the portrayal in Dr. Levine and Dr.  
21 Cantor's reports, gender-affirming treatment also  
22 requires a careful and thorough assessment of a  
23 patient's mental health, including co-occurring  
24 conditions, history of trauma, and substance abuse among

1 many other factors. My question for you is with respect  
2 to your language, a careful and thorough assessment, and  
3 I'd like to then know are there psychometrically  
4 validated tools used to do that?

5 A. There are on occasion, and particularly when  
6 we're looking at research outcomes for transgender youth  
7 there are a number of psychometrically validated  
8 screenings or outcome measures that are used.

9 Q. What are those?

10 A. These include most importantly the Utrecht  
11 Gender Dysphoria Scale, the Body Image Scale,  
12 historically what's in the Dutch data, the Toronto data,  
13 and the Costa data and The Tavistock Clinic, all of them  
14 were participatory in kind of the informal research  
15 group that agreed to collect the same measures, so these  
16 included the Achenbach, CBCL, and they use self report.

17 Q. I'm sorry. What was the first one you said  
18 before Body Image Scale?

19 A. Utrecht Gender Dysphoria Scale.

20 Q. Utrecht Gender Dysphoria Scale?

21 A. Correct.

22 Q. What is that?

23 A. It's a measure of the degree and intensity of  
24 gender dysphoria.

1 Q. How is it --- what does it look like? Does it  
2 have a series of scale one to ten on different issues or  
3 what is it?

4 A. It's a series of questions that I'd have to have  
5 in front of me to give a better job of describing, but  
6 it provides a rating of --- I can't remember what the  
7 range is, from zero to somewhere in the low dozens, that  
8 correlates with the intensity of gender dysphoria.

9 Q. Is that something that you use in your practice  
10 to diagnose gender dysphoria?

11 A. It is an element that I have used.

12 Q. Do you use that with every patient?

13 A. It is not something that I use with every  
14 patient. The contents of the Utrecht Gender Dysphoria  
15 Scale are generally pieces that I'm getting or gathering  
16 from every clinical encounter without necessarily  
17 utilizing the specific tool.

18 Q. This statement, a careful and thorough  
19 assessment, does that have a --- is there a source for  
20 that particular standard?

21 A. There are a number of sources for this  
22 particular standard. The general practice of children's  
23 mental health from my guild in child adolescence  
24 psychiatry, there are years of training and

1 certification in order for you to have demonstrated a  
2 careful and thorough assessment. In order to get Board  
3 Certified I had to do a careful and thorough assessment  
4 in front of a board of examiners, so this is inherent to  
5 the practice of mental health.

6 Q. Is there --- but there is no requirement that  
7 these various standardized tools that you mentioned to  
8 me, these psychometrically valid tools have to be used,  
9 is there?

10 A. There isn't, and there is not a clinical  
11 verification that they be used in every instance. For  
12 the sake of these kind of studies, it's important to  
13 have these validated tools so we're all speaking the  
14 same language and that outcomes can be tracked over  
15 time, but not necessarily in every clinical event is it  
16 going to be warranted.

17 Q. If you don't use them in every clinical event,  
18 then how can how can you adequately track something  
19 across patients if you wanted to do a study?

20 ATTORNEY BLOCK: Objection to form.

21 THE WITNESS: As an example there are a  
22 number of psychometrically validated tools that cannot  
23 be administered at every clinical encounter, otherwise  
24 they would be rendered invalid. So there's a lot of

1 nuance in these specific tools and I think that level of  
2 nuance is really a clinical judgment based upon  
3 professional and prevailing standards.

4 BY ATTORNEY TRYON:

5 Q. Okay.

6 So there's no objective measure of someone  
7 other than --- well, let me back up. So different  
8 psychiatrists would come up with different conclusions.

9 Is that right?

10 ATTORNEY BLOCK: Objection to form.

11 THE WITNESS: I don't think that's  
12 related to what I was speaking about. I think different  
13 psychiatrists would utilize different instruments to  
14 provide an assessment, and that's going to change from  
15 person to person. I can't speak to diagnostic  
16 reliability for a psychiatrist that I haven't met or  
17 trained.

18 BY ATTORNEY TRYON:

19 Q. Let me ask you how long you would normally spend  
20 with a child before --- or adolescent before prescribing  
21 puberty blockers?

22 ATTORNEY BLOCK: Objection to form.

23 THE WITNESS: There is not going to be a  
24 single answer to that question. It really is dependent



1 on the requirements of the assessment, as well as the  
2 individual factors of that child and that family.

3 BY ATTORNEY TRYON:

4 Q. Could ten minutes be long enough?

5 A. Not in my opinion.

6 Q. What about 30 minutes?

7 A. Likely not.

8 Q. How about an hour?

9 A. It would be very atypical in my practice to  
10 spend that little time prior to making a recommendation  
11 for puberty suppression. I do a much more thorough  
12 assessment than an hour.

13 Q. So how long would a thorough assessment normally  
14 take?

15 ATTORNEY BLOCK: Objection to form.

16 BY ATTORNEY TRYON:

17 Q. You said more than an hour I think?

18 A. Correct. I would say more than an hour. I  
19 think maybe there's a ceiling, but not a roof. What I  
20 mean by that that is there are certain criteria required  
21 in order to make a recommendation for a treatment for  
22 gender dysphoria to be offered. Those include a  
23 diagnosis of gender dysphoria, a recognition of any  
24 co-occurring mental health issues and whether or not

1 they are adequately well controlled enough to be able to  
2 proceed with care. And a clear understanding of the  
3 risks, benefits and alternatives of that treatment.  
4 There's no specific timeframe on that as an assessment.

5 Q. How many visits would you expect to be adequate  
6 for a careful and thorough assessment?

7 ATTORNEY BLOCK: Objection to form.

8 THE WITNESS: And I apologize, it's ---  
9 I'm not trying to be evasive. It really is going to  
10 depend upon each individual child.

11 BY ATTORNEY TRYON:

12 Q. What about is one enough? Have you ever done it  
13 --- given a recommendation for puberty blocker after  
14 only one visit for an hour?

15 ATTORNEY BLOCK: Compound question.

16 THE WITNESS: I have never given a  
17 recommendation for puberty suppression after a one hour  
18 visit personally.

19 BY ATTORNEY TRYON:

20 Q. What's the minimum time that you think is  
21 adequate?

22 ATTORNEY BLOCK: Objection to form.

23 THE WITNESS: As I said, I don't think  
24 it's based on time. It's based about the content.

1 There are circumstances in which patients have been  
2 followed for several years by therapists, that can  
3 provide a tremendous amount of collateral information  
4 including information provided by parents, family  
5 members, community providers, et cetera, that can allow  
6 more abbreviated assessment for some people.

7 BY ATTORNEY TRYON:

8 Q. Is someone as consistently spending only an hour  
9 with one patient, with each patient for recommending  
10 puberty blockers, that would look kind of like a rubber  
11 stamp recommendation wouldn't it?

12 ATTORNEY BLOCK: Objection.

13 BY ATTORNEY TRYON:

14 Q. Assuming that it's happening?

15 ATTORNEY BLOCK: Objection to form.

16 THE WITNESS: I would have to see the  
17 specifics in order to make any kind of comment.

18 BY ATTORNEY TRYON:

19 Q. Isn't it fair for Dr. Levine or Cantor to  
20 express concern that in actual practice that may be  
21 happening?

22 ATTORNEY BLOCK: Objection to form.

23 THE WITNESS: I have not seen anywhere in  
24 Dr. Cantor or Dr. Levine's report or within the

1 literature that this is a pervasive thing that is  
2 happening.

3 BY ATTORNEY TRYON:

4 Q. Well, it's not tracked at all so we wouldn't  
5 know, would we, one way or the other?

6 ATTORNEY BLOCK: Objection to form.

7 THE WITNESS: It is a question that could  
8 be asked. I don't think it's for me to make  
9 suppositions, nor do I think it is for Dr. Cantor and  
10 Dr. Levine to make suppositions about the critical care  
11 of transgender youth in this context.

12 BY ATTORNEY TRYON:

13 Q. Is there any --- is there any place where you  
14 report any central location where you or your clinic  
15 report how much time and effort and what your thorough  
16 examination is so that it can be tracked?

17 A. The site where I'm at now is part of a four-site  
18 NIH trial that has published on the specific assessment  
19 processes that the kids who are involved in the study  
20 engage in.

21 Q. How many kids are in that trial?

22 A. I'm not a specific participant in the  
23 organization of that trial, so I don't have that  
24 information in front of me.

1 Q. Does your clinic report to that trial?

2 A. My gender clinic, the gender clinic within the  
3 hospital that I work in, there are many patients who are  
4 enrolled in that trial, yes.

5 Q. But it's certainly not mandated, right?

6 A. No.

7 Q. When these careful and thorough assessments are  
8 done, what type of documentation should be used for  
9 that?

10 ATTORNEY BLOCK: Objection to form.

11 THE WITNESS: That's a very contextual  
12 question. We have prevailing standards in terms of what  
13 should and shouldn't be documented through various  
14 professional organizations, but that's going to change  
15 from state to state, country to country.

16 BY ATTORNEY TRYON:

17 Q. And what about in the State of West Virginia?

18 A. I have no knowledge of documentation  
19 requirements in the State of West Virginia.

20 Q. How about in the United States in general?

21 A. As far as I'm aware, there are no universal  
22 recommendations in terms of specifics of how things are  
23 documented.

24 Q. Are there any organizations like the WPATH or

1 any other organizations that do give recommendations on  
2 what documentation to use in America?

3 A. WPATH has certainly provided some educational  
4 events in terms of best practices in documenting, but  
5 these aren't specific guidelines or recommendations. I  
6 think it is notable to say that the Dutch clinic in  
7 particular has been quite vigorous in their production  
8 of research and is quite well respected in the world in  
9 terms of how things are structured, and they actually  
10 don't even have a letter that their clinicians write  
11 and/or see initiation of puberty suppression for  
12 gender-affirming hormones.

13 ATTORNEY TRYON: Jake, if you could bring  
14 up the exhibit entitled Adolescent Medicine,  
15 Confidential Patient Questionnaire, which has been  
16 redacted?

17 VIDEOGRAPHER: Do you want that marked?

18 ATTORNEY TYRON: Yes, please, wherever we  
19 are at in the next number.

20 VIDEOGRAPHER: I believe we're at 44.

21 LAW CLERK WILKINSON: 46.

22 ATTORNEY SWAMINATHAN: 46.

23 ---

24 (Whereupon, Exhibit-46, Form, was marked

1 for identification.)

2 ---

3 ATTORNEY TRYON: If you could bring that  
4 up, Jake.

5 VIDEOGRAPHER: Yes. Give me one second.  
6 I'm just marking that right now. We might have to mark  
7 this one physically. The program won't mark it because  
8 it's a redacted document.

9 ATTORNEY TRYON: Okay. Then we'll do  
10 that to bring that up. And then, if you could, Jake,  
11 just scroll down in this. I just have a couple  
12 questions about this form.

13 THE WITNESS: Okay.

14 ATTORNEY TRYON: Go onto the next page  
15 down.

16 BY ATTORNEY TRYON:

17 Q. Have you ever seen a form like this?

18 ATTORNEY BLOCK: Objection to form. No  
19 pun intended.

20 THE WITNESS: Could you be a little more  
21 specific? I mean, I've seen --- this is kind of very  
22 typical for a lot of intake-type documents in mental  
23 health clinics or in medical clinics.

24 BY ATTORNEY TRYON:

1 Q. So you would characterize this as a typical  
2 intake form?

3 ATTORNEY BLOCK: Objection.

4 THE WITNESS: I wouldn't characterize it  
5 in that way. I have seen typical intake forms that  
6 resemble this in some ways.

7 BY ATTORNEY TRYON:

8 Q. Would this be something that you would consider  
9 adequate to document a careful and thorough assessment?

10 ATTORNEY BLOCK: Objection to form.

11 THE WITNESS: Again, without knowing the  
12 context of the individual's practice, it's impossible  
13 for me to say.

14 BY ATTORNEY TRYON:

15 Q. Is this a form that you would use for careful  
16 and thorough assessment of a patient's mental health?

17 ATTORNEY BLOCK: Objection to form.

18 THE WITNESS: I don't use this form. I  
19 can't say whether or not I was in the context this  
20 provider was practicing that I wouldn't use this form as  
21 part of my assessment.

22 BY ATTORNEY TRYON:

23 Q. Fair enough. Do you use it as a part of your  
24 careful thought thorough assessment of the patient's



1 mental health, are there any other forms that you expect  
2 to see in the caregiver's file about that patient's  
3 mental health?

4 A. Not specifically.

5 Q. This would be adequate?

6 ATTORNEY BLOCK: Objection to form.

7 THE WITNESS: Again, I can't speak to  
8 the adequacy of it without understanding the context of  
9 the rest of the treatment.

10 BY ATTORNEY TRYON:

11 Q. Is there any certification that you think is  
12 necessary or appropriate for someone to diagnose gender  
13 dysphoria?

14 A. There is no universal certification process.  
15 What we have are guidelines and recommendations for  
16 ensuring that folks for the mental health prospective,  
17 again, medical professionals are able to diagnose gender  
18 dysphoria, but from the mental health prospective, it's  
19 recommended that we are licensed clinical professionals  
20 that have some, if not an expert level of understanding  
21 of gender identity issues and having continuing  
22 education in the field. These are ongoing  
23 recommendations. I wouldn't say it was the expertise,  
24 but knowledge about standard of care that's congruent

1 with how other disorders are also treated.

2 Q. Let me ask you about paragraph 16 of your  
3 report.

4 Do you see the last sentence there?

5 A. Yes.

6 Q. It says HB-3293 does not affect elementary  
7 students --- elementary school students who are  
8 transgender boys?

9 A. Yes.

10 Q. So you previously testified that puberty is ---  
11 starts on the average about age 12 for males.

12 Right?

13 ATTORNEY BLOCK: Objection to form.

14 THE WITNESS: Again, I would defer to our  
15 --- that's an answerable question based upon national  
16 data that I don't have in front of me, but 12-ish is,  
17 yes.

18 BY ATTORNEY TRYON:

19 Q. And the range would be --- from what I read, the  
20 range is generally between 8 and 14 years old.

21 Right?

22 A. Again, I would defer to my endocrine colleagues,  
23 but yes, that's --- that's pretty typical.

24 Q. And you're aware that boys go into Middle School

1 as early as 11 years old or sometimes even earlier.

2 Right?

3 A. I can't say that I'm familiar with how each  
4 state organizes their primary and secondary education  
5 systems. I'm familiar with how it was in New York and  
6 Illinois, and that was occasionally the case.

7 Q. So if an 11-year-old who has not gone through  
8 puberty is in Middle School, then this would definitely  
9 apply to some pre-pubescent children.

10 Right?

11 ATTORNEY BLOCK: Objection to form.

12 BY ATTORNEY TRYON:

13 Q. I'm sorry, I didn't make that clear. So if  
14 there are prepubescent boys that are in middle school,  
15 then HB-3293 would affect them.

16 Right?

17 A. I would have to put HB-3293 in front of me to  
18 --- to know specifically. I'd have to refamiliarize  
19 myself with it, the specifics of it.

20 Q. I'm sorry to interrupt you.

21 A. Yeah, I wouldn't want to comment on something I  
22 don't have in front of me right now.

23 Q. Okay.

24 So just so you know I had to relocate from my

1 office to my home, and there's a poodle in here that you  
2 may hear. So forgive if you hear the interruption.

3 ATTORNEY BLOCK: Objection to the  
4 poodle.

5 ATTORNEY TRYON: Let me take one second.  
6 I will be right back.

7 THE WITNESS: Maybe now is a good time  
8 for bathroom break.

9 ATTORNEY BLOCK: Let's go off the record.

10 VIDEOGRAPHER: Going off the record the  
11 time reads 5:46 p.m.

12 OFF VIDEO

13 ---

14 (WHEREUPON, A SHORT BREAK WAS TAKEN.)

15 ---

16 ON VIDEO

17 ATTORNEY TYRON: Okay let's go back on  
18 the record.

19 VIDEOGRAPHER: Back on the record the  
20 current time reads 5:50 p.m.

21 BY ATTORNEY TRYON:

22 Q. Let me direct you to paragraph 26 of your  
23 report?

24 A. Yep.

1 Q. So there's the --- let's see, starting with the  
2 word prepubertal children who he insists are children  
3 with non-conforming gender expression who realize at the  
4 onset of puberty that their gender identity is  
5 consistent with their sex assigned at birth. Their  
6 understanding of their gender identity changes at the  
7 onset of puberty, but their gender identity does not.  
8 So that's really a circular argument unless there's some  
9 objective external way of proving what that child's  
10 gender identity actually is, wouldn't you agree?

11 ATTORNEY BLOCK: Objection to form.

12 THE WITNESS: I think that the research  
13 that we have on inherent gender identity is relatively  
14 recent and needs a little bit more robust follow-up.  
15 What we have are studies of cognition as well as some  
16 very limited brain imaging studies that point to some  
17 element of gender identity that has an objective  
18 criteria to it. These are not studies that are  
19 significant enough or have enough participants for us to  
20 draw any kind of significant conclusions, but it does  
21 speak when paired with clinical experiences of kids who  
22 have desisted that the way that they describe their  
23 identity is that it is not a fix or a change in their  
24 sense of self but more about the expression of their

1 behaviors and their understanding of how they fit into  
2 the world that has changed.

3 Q. So as you say it's too early to really know for  
4 sure which of these things it is, right?

5 ATTORNEY BLOCK: Objection to form.

6 THE WITNESS: What I would say is it's a  
7 preponderance of clinical experience and the studies  
8 that we do have point to this being much more likely.

9 BY ATTORNEY TRYON:

10 Q. Much more likely, is that your testimony?

11 A. Based on my clinical experiences, yes.

12 Q. But there's no way that anyone outside of ---  
13 there's no objective measurement to make that  
14 determination, right?

15 ATTORNEY BLOCK: Objection to form.

16 THE WITNESS: The way that I would  
17 describe it is that gender dysphoria as a diagnosis  
18 includes both identity-based criteria that are objective  
19 and are measured through the course of the scales that  
20 we talked about earlier, as well as measures of role and  
21 behavior and congruence with your body. These are  
22 things that are tracked over time in the studies that we  
23 have, and when a child desists from that diagnosis of  
24 gender dysphoria it is clear at that point that it was

1 primarily the gender role based behaviors that were  
2 leading to this diagnosis as opposed to a change in  
3 identity.

4 BY ATTORNEY TRYON:

5 Q. You were freezing up on me, so let me just see  
6 if I can understand this by looking at the  
7 transcription. If a child explains the reasons why he  
8 or she has a different gender identity, that his or her  
9 natal sex, the natal sex designation then later says the  
10 opposite, there is really no way of telling whether or  
11 not it's just the person's gender identity or the  
12 understanding of the identity has changed based on that  
13 child's or person's statements.

14 Right?

15 ATTORNEY BLOCK: Objection to form.

16 THE WITNESS: I would say to complicate  
17 matters even further, a number of the studies that are  
18 used to describe this desistance phenomenon were first  
19 carried out under the DSM-IV. On the DSM-IV the  
20 diagnosis was gender disorder in childhood. And in that  
21 nomenclature, an identity that is incongruent with sex  
22 assigned at birth was not one of the required elements.  
23 And so there are children who are described in the  
24 common parlance as transgender because they met criteria

1 for what was then gender identity disorder, who  
2 nevertheless discussed any identity incongruent with  
3 their sex at birth. So that makes it hard to draw firm  
4 conclusions about data captured under the DSM-IV.

5 BY ATTORNEY TRYON:

6 Q. And you are familiar with that diagnostic and  
7 statistical manual of mental disorders.

8 Right?

9 A. I am.

10 Q. And you cited it in your reports.

11 Right?

12 A. Correct.

13 Q. That is a manual to assist in the diagnosis of  
14 mental disorders.

15 Right?

16 A. That is correct.

17 Q. Is there a value of to classifying a condition  
18 as a mental disorders?

19 ATTORNEY BLOCK: Objection to form.

20 THE WITNESS: I don't know if I can offer  
21 an expert opinion on that. I have a biased --- talk  
22 about a selection bias as a psychiatrist and a mental  
23 health professional. I think it's important for us to  
24 destigmatize mental illness as much as possible, so



1 whatever is going to allow folks access to care, I'm  
2 relatively neutral on placing a value on whether or not  
3 something is a diagnosis or not.

4 BY ATTORNEY TRYON:

5 Q. A manual does not recommend any treatments, only  
6 tools for diagnosis.

7 Is that right?

8 ATTORNEY BLOCK: Objection to form.

9 THE WITNESS: The main goal of DSM for  
10 classifying diagnoses and ensuring stability or  
11 reliability of those diagnoses across practice  
12 locations.

13 BY ATTORNEY TRYON:

14 Q. That does not recommend or even provide any  
15 treatments.

16 Right?

17 A. The text of the DSM often recommends or  
18 describes treatments.

19 Q. Does it describe treatments for gender  
20 dysphoria?

21 A. The text was recently revised for gender  
22 dysphoria, and so I really want to see the text in front  
23 of me for me to talk about it.

24 Q. So in the DSM-V you don't know if it has any

1 recommendations for treatments in it for gender  
2 dysphoria?

3 A. I don't know in the revised text how much was  
4 changed without familiarizing myself with it. And I'm  
5 happy to look at it. It's a quick read, but primarily  
6 the DSM-V as it comes to gender dysphoria is a  
7 description of the phenomenology not a recommendation  
8 for treatments.

9 Q. And when was it revised?

10 A. It was just released about a week ago, maybe  
11 two.

12 Q. Let me ask you to take a look at your report,  
13 paragraph 51. You say to the contrary, as noted  
14 previously, stigma and discrimination have been shown to  
15 have a profoundly harmful impact on the mental health of  
16 transgender people and other minority groups. Now, when  
17 you say stigma and discrimination, you're not referring  
18 specifically to not allowing, as using your term, a  
19 transgender girl to participate on a girls sports team  
20 to be that type of stigma or discrimination, are you?

21 ATTORNEY BLOCK: Objection to the form.

22 THE WITNESS: The reference that I  
23 referred to in my report I would want to look at,  
24 because they had an operational term for stigma and

1 discrimination. However, there has been literature, I  
2 can't remember the names of the authors or the date of  
3 the study, that look at specific laws that are enacted  
4 to discriminate against LGBT people and impact on both  
5 mental health and medical health, and so those kind of  
6 discrimination laws certainly do have real felt impact  
7 for transgender folks.

8 BY ATTORNEY TRYON:

9 Q. So are you saying that this sentence is  
10 referring to a law such as HB-3293 or not?

11 A. I think, as I stated, for the sake of this  
12 expert report, the Yhuto reference from 2015 is what I'm  
13 using to craft that statement.

14 Q. I'm sorry, the what from 2015?

15 A. Footnote number 21.

16 Q. What are those profound impacts of mental health  
17 that you are referring to?

18 A. Well, as I mentioned earlier in my report are  
19 correlation between many exposures that transgender  
20 individuals have and increased rates of suicide, self  
21 harm, substance use, exposure to trauma that have  
22 certainly profound negative impacts for the folks who  
23 are experiencing them.

24 Q. And of those harms that you have just mentioned

1 are you aware of any of them caused by --- to a child or  
2 person who was not --- who was a transgender female not  
3 allowed to participate on a girls or woman's athletic  
4 team?

5 A. As I had testified to earlier, I think I said  
6 I've had two or three patients who are excluded from  
7 sports teams, one of which was a child who was assigned  
8 male at birth, who at age six was not allowed to  
9 participate in the sport. I can't remember what support  
10 it was. This was a child who was heckled and kicked out  
11 of the group of friends that were participating in that  
12 sport which led to negative mental health consequences  
13 for that individual child.

14 Q. What specific --- I presume that's thoughts of  
15 suicidality.

16 Right?

17 A. Thankfully at that age they were not.

18 Q. How did that child adapt to the situation?

19 A. Well, we worked with the child, the family and  
20 the sports team, to understand what this child may need  
21 and ended up --- I think it was T ball, I think ended up  
22 joining the T ball team.

23 Q. So how much --- how much of a delay was there  
24 between wanting to join the T ball team and being

1 allowed to join the T ball team?

2 A. This was years ago, so I don't recall the  
3 specifics.

4 Q. Would it be your testimony that any delay at all  
5 between the time of identifying for a natal male  
6 identifying as a female and participating on a female  
7 team would be profoundly harmful?

8 ATTORNEY BLOCK: Objection to form.

9 THE WITNESS: I have not seen any studies  
10 that have asked that question or could speak to the  
11 duration of time between exclusion from an activity and  
12 the mental health impacts.

13 BY ATTORNEY TRYON:

14 Q. Is it your position that as soon as the child or  
15 person who is a natal male determines or identifies as a  
16 female, that that person should be immediately allowed  
17 to play on female teams?

18 ATTORNEY BLOCK: Objection to form and  
19 scope.

20 THE WITNESS: I'm not able to answer that  
21 question. I think that's out of the scope of my  
22 expertise.

23 BY ATTORNEY TRYON:

24 Q. Let me ask it differently because I didn't ask

1 it quite as artfully as I could have. You indicated  
2 profoundly harmful or have a profoundly harmful impact.  
3 So if a child or adolescent or adult, adult meaning  
4 anyone through collegiate age, were to be a natal male  
5 and identify as a female and is not allowed to  
6 immediately participate on female teams, would that be  
7 profoundly harmful, would it have a profoundly harmful  
8 impact on their mental health?

9 A. That would require an individualized assessment  
10 of that child or young adult in order to understand the  
11 potential impacts specific to that individual.

12 Q. What if they were required to wait a full year,  
13 would that be profoundly --- have a profoundly harmful  
14 impact on the mental health of that person?

15 ATTORNEY BLOCK: Objection to form.

16 THE WITNESS: Same answer.

17 BY BY ATTORNEY TRYON:

18 Q. Well as a general rule, do you have any opinion  
19 as a general rule?

20 ATTORNEY BLOCK: Objection to form.

21 THE WITNESS: General rule of what? I'm  
22 not understanding the question.

23 BY ATTORNEY TRYON:

24 Q. Let me try again. So is there --- do you have a

1 general --- I mean you made a generalized statement here  
2 in the last sentence of paragraph 51. So my question  
3 is, as it pertains to this generalized statement, is  
4 there any delay that would not cause a profoundly  
5 harmful impact on the mental health of transgender  
6 people if they are denied the opportunity to immediately  
7 participate in the sports team of their gender identity?

8 ATTORNEY BLOCK: Objection to form and  
9 characterization.

10 THE WITNESS: It's a long sentence with a  
11 lot of clauses. I'm trying to --- I'm trying to parse  
12 them all out to make sure that I'm answering this  
13 accurately. As I testified to in my report, there's  
14 evidence of discrimination, stigma and bias leading to  
15 individual harms. The specific manifestation of those  
16 harms are highly individualized and require individual  
17 assessment of each child and family in order to know.  
18 Which is why you can't speak to the specific impacts for  
19 each individual child, but what we know are  
20 population-based data.

21 Q. Is it your view that if after a psychiatrist or  
22 psychologist or appropriate healthcare individual  
23 determines that there would be a profoundly harmful  
24 impact that healthcare professional should be the one to

1 determine whether or not the child should be allowed to  
2 participate on a girl's team?

3 A. I don't have a specific opinion about how sports  
4 administration vary from state to state. I know it's  
5 very different from state to state. What I would say is  
6 from a mental health perspective my goal is to help our  
7 kids access spaces that are going to be health promoting  
8 and build resilience. I think it's important for health  
9 professionals to be involved in the decisions that are  
10 made, but I can't speak to the legislative process  
11 within the scope of my expertise.

12 Q. Is the mental health of the cisgender females  
13 who might be at a disadvantage of the participation of a  
14 transgender female on the team, is their mental health  
15 important?

16 ATTORNEY BLOCK: Objection to form.

17 THE WITNESS: I would say first that the  
18 mental health of cisgender children who have  
19 participated in sports is certainly attestable  
20 hypothesis to explore and it's not research that I have  
21 seen, nor that I'm aware that it exists. Beyond that,  
22 you know, my expertise does not extend to this  
23 population as you have asked this question.

24 BY ATTORNEY TRYON:



1 Q. So then let me ask that specifically, have you  
2 treated any cisgender females that have been upset about  
3 transgender females participating on the girls team?

4 A. I have treated cisgender girls who have had  
5 transgender teammates. I have not treated anybody who  
6 has expressed any concern or harm from that.

7 Q. Do you acknowledge that there are those  
8 cisgender girls who are suffering from psychological  
9 harm from that?

10 ATTORNEY BLOCK: Objection to form.

11 THE WITNESS: I would not acknowledge  
12 that. That is not data that I have seen nor has been my  
13 personal experience with patients that I have seen or  
14 other colleagues who have described this.

15 BY ATTORNEY TRYON:

16 Q. Are you aware that some of Lia Thomas' cisgender  
17 teammates are very upset about Lia Thomas participating  
18 on the female swimming team?

19 ATTORNEY BLOCK: Objection to form.

20 THE WITNESS: I haven't read much about  
21 Lia Thomas or her teammates prior to today, so I'm not  
22 aware of any specifics to that.

23 BY ATTORNEY TRYON:

24 Q. Have you read anything about that incident ---

1 excuse me, that situation?

2 A. Well, I've read something today.

3 Q. Prior to today?

4 A. Which did not mention about teammates being  
5 upset. I've heard about it, but I have not read it.

6 Q. So you're aware of it?

7 A. I'm vaguely aware of it, yes. I've not done any  
8 primary research into it.

9 ATTORNEY BLOCK: Could we get a time  
10 check?

11 VIDEOGRAPHER: It looks like I got about  
12 three minutes left.

13 ATTORNEY TRYON: I speak really fast.

14 BY ATTORNEY TRYON:

15 Q. Well, is there benefits in --- for example, you  
16 said that HB --- you've read HB-3293 and you're aware  
17 that it does require --- well, first of all, are you  
18 aware that HB-3293 does not use the word transgender at  
19 all or trans woman or trans girl at all?

20 A. I would want to look at it specifically to  
21 double check that that's correct, but I would take your  
22 word for it.

23 Q. And so in HB-3293, it does require that all  
24 biological males must --- let me rephrase that, that

1 biological males may not compete on girls teams.

2 Do you understand that?

3 A. I don't, because biological male as a term is  
4 certainly up for debate.

5 Q. Which word would you like to use?

6 A. I don't know if there's going to be an answer  
7 for that in the context of this particular bill. I  
8 think ---.

9 Q. How about natal male, does that work?

10 A. Sure. We can use that. I would typically use  
11 assigned male at birth, but yes.

12 Q. Okay.

13 So natal males under this Bill are not allowed  
14 to participate on girls sports teams.

15 Do you understand that?

16 ATTORNEY BLOCK: Objection to form.

17 THE WITNESS: Yeah. And I apologize I  
18 really don't mean to be parsing, if the text of the Bill  
19 is biological males, what that just means is that that  
20 is a complex term that doesn't have a universal  
21 acceptance. But I understand that the goal of the Bill  
22 is for folks assigned male at birth, not to participate  
23 in women's sports teams, yes.

24 BY ATTORNEY TRYON:

1 Q. If a --- to use your term, a person assigned  
2 male at birth is told that that person may not  
3 participate on girls sports, and as in so many other  
4 things in life, you are told that's the rule and you  
5 have to live with it, is there value in learning coping  
6 skills to deal with rules that you don't agree with and  
7 abide by them?

8 ATTORNEY BLOCK: Objection to form.

9 THE WITNESS: I guess the way I would  
10 approach it is that if we look at the data, clinical  
11 experiences and from the testimonies of transgender  
12 individuals that they face enough on a daily basis  
13 stigma discrimination exclusion, that they all would  
14 benefit from a healthy development of coping skills.  
15 Nowhere in the field of psychiatry is it recommended  
16 that we expose people to traumatic events for them to  
17 develop coping skills to manage through.

18 BY ATTORNEY TRYON:

19 Q. Well, not to intentionally do so, but there's  
20 laws and rules that you made that said you have to live  
21 with those rules then it's your position that the rules  
22 need to be changed to comply with the wishes of that  
23 person?

24 ATTORNEY BLOCK: Objection to form.

1                   THE WITNESS: Again my expert testimony  
2 is rebutting the testimony of Dr. Levine and Cantor. I  
3 can't speak to the specific legislative processes in  
4 terms of the best way for states to approach a complex  
5 issue such as this.

6                   ATTORNEY TRYON: I have no further  
7 questions. Thank you for your time I appreciate it.

8                   THE WITNESS: Thank you. What is your  
9 poodle's name? Can I ask that off the record?

10                  ATTORNEY BLOCK: We don't have any  
11 Redirect questions. Dr. Janssen will review the  
12 transcript.

13                  ATTORNEY GREEN: This is Roberta Green on  
14 behalf of WVSSAC. No questions.

15                  ATTORNEY MORGAN: This is Kelly Morgan on  
16 behalf of the West Virginia Board of Education and  
17 Superintendant Burch. I don't have any questions.  
18 Thank you.

19                  ATTORNEY DENIKER: Dr. Janssen, thank you  
20 for your time today, this is Susan Deniker. I have no  
21 questions.

22                  THE WITNESS: Thank you, guys.

23                  VIDEOGRAPHER: Going off the record. The  
24 current time reads 6:18 p.m.

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VIDEOTAPED DEPOSITION CONCLUDED AT 6:18 P.M.  
\* \* \* \* \*

1 STATE OF WEST VIRGINIA )

2 CERTIFICATE

3 I, Nicole Montagano, a Notary Public in  
4 and for the State of West Virginia, do hereby  
5 certify:

6 That the witness whose testimony appears  
7 in the foregoing deposition, was duly sworn by me  
8 on said date, and that the transcribed deposition  
9 of said witness is a true record of the testimony  
10 given by said witness;

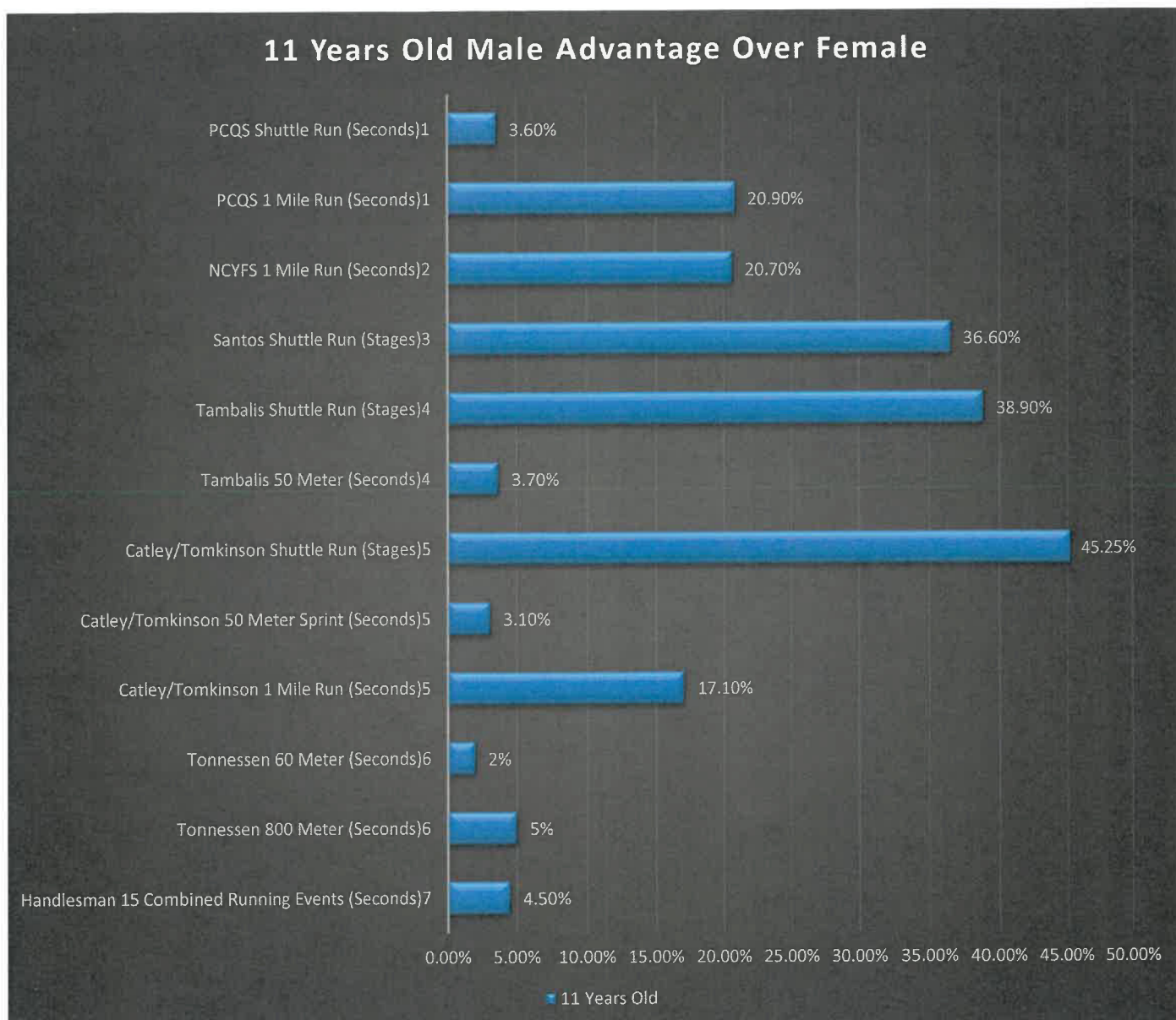
11 That the proceeding is herein recorded  
12 fully and accurately;

13 That I am neither attorney nor counsel  
14 for, nor related to any of the parties to the  
15 action in which these depositions were taken, and  
16 further that I am not a relative of any attorney  
17 or counsel employed by the parties hereto, or  
18 financially interested in this action.

19 I certify that the attached transcript  
20 meets the requirements set forth within article  
21 twenty-seven, chapter forty-seven of the West  
22 Virginia.



*Nicole Montagano*  
Nicole Montagano,  
Court Reporter



<sup>1</sup> *President's Challenge Qualifying Standards*, GRASS VALLEY SCH. DIST., <https://gilmore.gvsd.us/documents/Info/Forms/Teacher%20Forms/Presidentialchallengetest.pdf>.

<sup>2</sup> James G. Ross & Glen G. Gilbert, *National Children and Youth Fitness Study*, 56 J. OF PHYSICAL EDUC., RECREATION AND DANCE 45, \*45-50\* (1985).

<sup>3</sup> Rute Santos et al., *Physical Fitness Percentiles for Portuguese Children and Adolescents Aged 10-18 Years*, 32 J. OF SPORT SCI., 1, \*\* (2014).

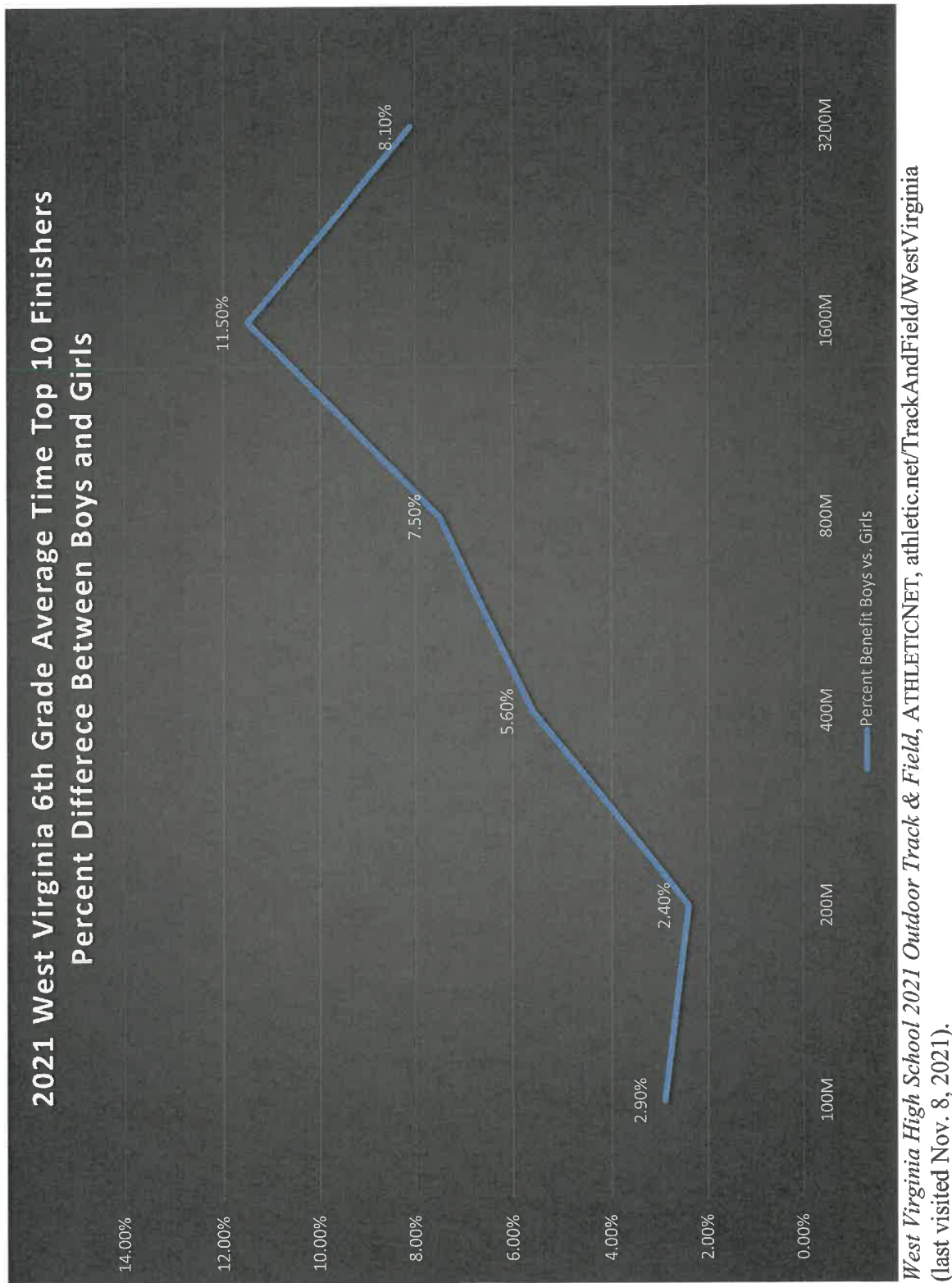
<sup>4</sup> Konstantinos D. Tambalis et al., *Physical Fitness Normative Values for 6-18-Year-Old Greek Boys and Girls, Using the Empirical Distribution and the Lambda, Mu, and Sigma Statistical Method*, 16 EUR. J. OF SPORTS SCI. 736, \*736-46\* (2015).

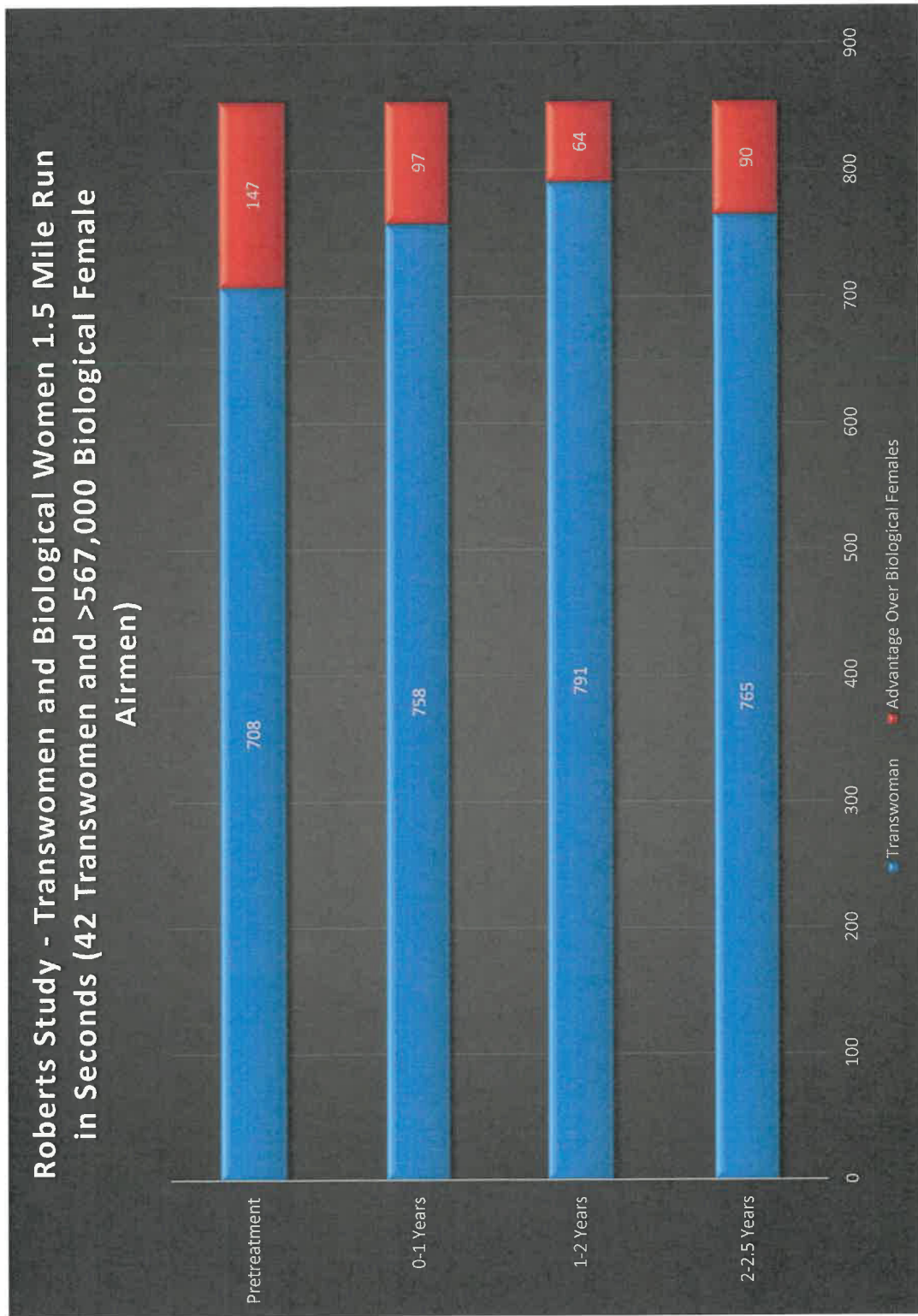
<sup>5</sup> Mark Jon Catley & Grant Tomkinson, *Normative Health-Related Fitness Values For Children: Analysis of 85347 Test Results on 9-17-Year-Old Australians since 1985*, 47 BRIT. J. OF SPORTS MED. 98, \*\* (2013).

<sup>6</sup> Espen Tonnessen et al., *Performance Development in Adolescent Track and Field Athletes According to Age, Sex and Sport Discipline*, 10 PLOS ONE 1, 1-10 (2015).

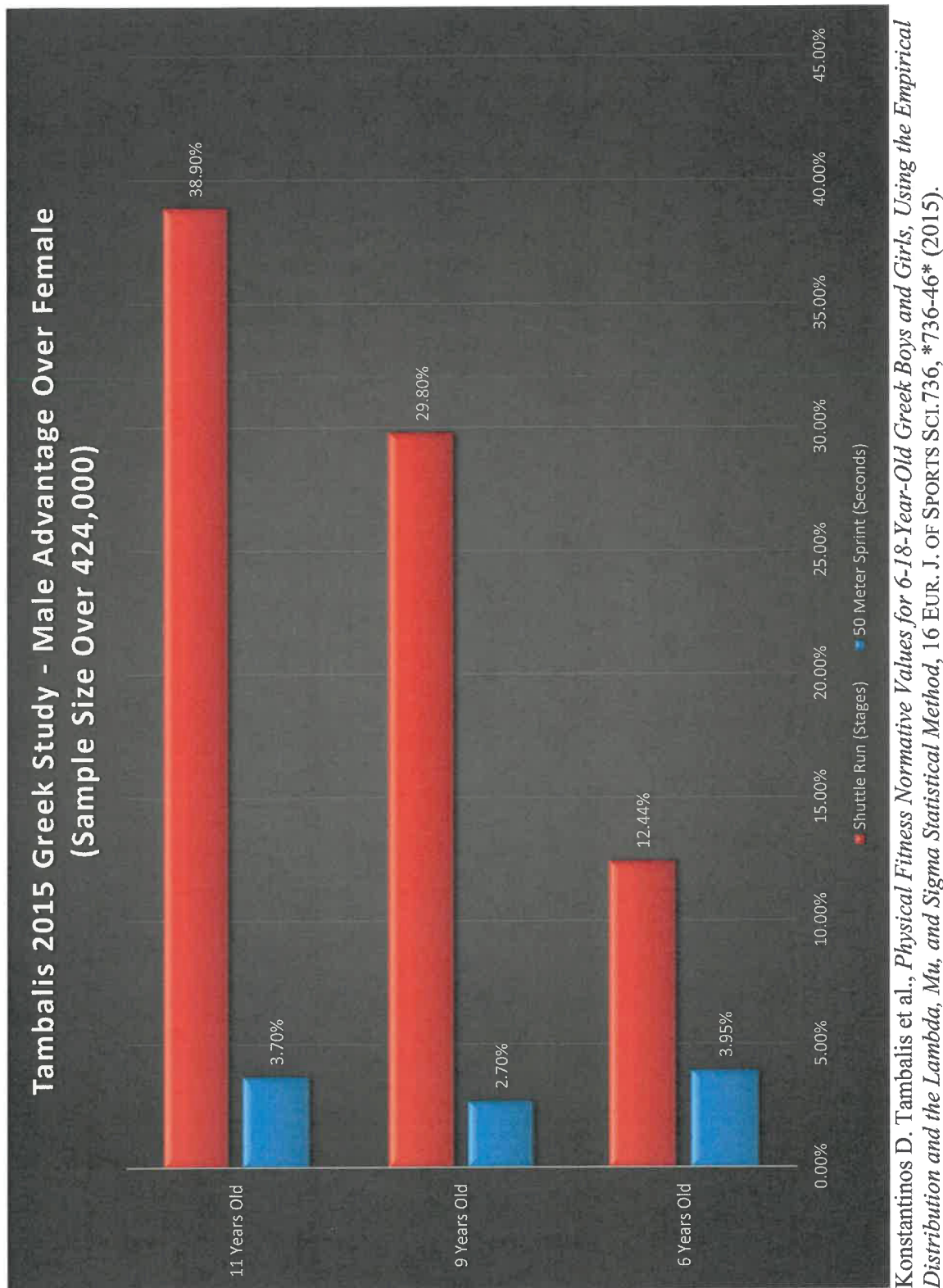
<sup>7</sup> David J. Handelsman, *Sex Differences in Athletic Performance Emerge Coinciding with the Onset of Male Puberty*, 87 CLINICAL ENDOCRINOLOGY 68, \*\* (2017)







Timothy A. Roberts et al., *Effect of Gender Affirming Hormones on Athletic Performance in Transwomen and Transmen: Implications for Sporting Organisations and Legislators*, 55 BRIT. J. OF SPORTS MEDICINE 577, \*577-83\* (2020).



IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
CHARLESTON DIVISION

B.P.J. by her next friend and mother, HEATHER JACKSON,

*Plaintiff,*

v.

WEST VIRGINIA STATE BOARD OF EDUCATION, HARRISON COUNTY BOARD OF EDUCATION, WEST VIRGINIA SECONDARY SCHOOL ACTIVITIES COMMISSION, W. CLAYTON BURCH in his official capacity as State Superintendent, DORA STUTLER in her official capacity as Harrison County Superintendent, and THE STATE OF WEST VIRGINIA,

*Defendants,*

and

LAINY ARMISTEAD,

*Defendant-Intervenor.*

Civil Action No. 2:21-cv-00316

Hon. Joseph R. Goodwin

**DECLARATION OF HEATHER JACKSON**

I, Heather Jackson, pursuant to 28 U.S.C. § 1746, declare as follows:

1. I make this declaration of my own personal knowledge, and, if called as a witness, I could and would testify competently to the matters stated herein.

2. I am 54 years old. My husband, Wesley, and I are the parents of two sons, ages 20 and 14, and an 11-year-old daughter. We have been married for 21 years. We live in Lost Creek, West Virginia.

3. Our daughter's name is B.P.J. My daughter and I have a very deep connection and I believe she knows that she can come to me for anything—I love her very much.

4. Wesley and I are fiercely protective of B.P.J. As her parents, we want to see B.P.J. happy and achieve all her goals.

5. B.P.J. is bright and studious; she makes “straight As” and loves math and science.

6. B.P.J. is also transgender.

7. B.P.J. knew from a very young age that “she didn’t want her boy parts.” She never wanted to be naked for bathing because she was deeply uncomfortable with and did not want to see certain parts of her body. B.P.J. also did not like standing up to urinate. She would often ask me a lot of questions about my own body and about why our bodies were physically different, if we were both girls.

8. As a child, B.P.J. also presented differently than my other children, both of whom are boys. At or around the age of four, B.P.J. started asking and was allowed to play dress-up in my clothes around our home. Whenever B.P.J. was provided with the opportunity to pick out her clothes or toys, she always went straight for the “girly” items. I knew this was not a “phase” for her, and that there was something different happening.

9. When B.P.J. told us that she is a girl and wants to be addressed as a girl, we were not surprised because we spend so much time with her.

10. Because B.P.J. and I have such an open and communicative relationship, we would have conversations about how she was feeling. The more we talked and the more comfortable she became with expressing how she was feeling and who she is, the more she was able to clearly communicate that she knew she was a girl.

11. By the time B.P.J. was in the third grade she had chosen her name and was living as herself at home. Towards the end of that school year, B.P.J. informed her father and me that

she did not want to continue going to school “dressed as a boy.” We agreed she could start going to school dressed as herself.

12. In 2019, when B.P.J. was heading into the fourth grade, I met with several school staff at Norwood Elementary School to discuss and create a gender support plan for B.P.J. The Gender Support Plan is a document the school uses to help guide school staff in supporting B.P.J. in navigating her educational experience as her authentic self. The plan required school staff to be informed that B.P.J.’s authentic gender is female, and instructed school staff to refer to her with her female name and female pronouns. School staff were also instructed on how to support B.P.J. if she faced problems from others at school because of her gender. A true and correct copy of this Gender Support Plan is attached as Exhibit A.

13. In 2019, we brought B.P.J. to the UPMC Children’s Hospital of Pittsburgh’s Gender and Sexuality Development Program because B.P.J. was worried about the possibility of going through endogenous puberty. B.P.J. was diagnosed with gender dysphoria by the Medical Director of the Gender and Sexuality Program, Dr. Gerald T. Montano. When B.P.J. was initially diagnosed, we were told that puberty delaying treatment was not yet appropriate because she had not begun puberty. Dr. Montano told us about the first signs of puberty to look out for at home, and we made regular follow-up appointments to monitor B.P.J.’s development.

14. Once B.P.J. reached the beginning of puberty, Dr. Montano prescribed puberty-delaying treatment on June 15, 2020. B.P.J. has continuously receive puberty delaying treatment since June 15, 2020, under the care of a multidisciplinary team of providers with expertise in treating transgender adolescents.

15. Our family enjoys participating in sports, and I am proud to see B.P.J. enjoying sports too.



16. During the 2019-20 and 2020-21 school years, B.P.J. was a member of the cheerleading team for the Bridgeport Youth Football League. All members of that team were girls. Even before B.P.J. started cheering with her team, she spent a year learning all the cheer team's routines from the stands. When B.P.J. received her girls' cheer uniform, she was glowing. B.P.J. always wanted me to be in the front row of her competitions. During the 2019-20 season, for the first time ever, B.P.J.'s cheer team placed at a cheer competition.

17. Being on the cheer team dramatically increased B.P.J.'s confidence and happiness. B.P.J. was supported and accepted by the other girls on her team and her coaches. B.P.J.'s participation on her cheer team taught her the importance of responsibility, trust, and team building. B.P.J. is especially proud to have served as part of the base for her cheer team's pyramids because it demonstrated to her that her teammates trusted and relied on her in order to complete their routine.

18. Participating in cheer was a meaningful way for B.P.J. to learn responsibility. As her mother, I can preach about the importance of responsibility, but her position on her cheer team provided her with the real-life experience of having others rely on her to attend practice and participate, and this has helped her understand responsibility in a deeply personal and meaningful way.

19. Although B.P.J. enjoyed cheerleading, she joined the cheer team in part because it was one of the only sports offered to her grade level in which she was interested. When B.P.J. began junior high, however, she was excited to try out for Bridgeport Middle School's girls' cross-country and track teams.

20. Having the opportunity to run on the girls' cross-country and track teams is important to B.P.J. because B.P.J. comes from a family of runners. When she was younger, I

would take B.P.J. on runs with me through parks and she grew up watching her brothers run on their school teams. Additionally, she wanted a continued sense of belonging and camaraderie like she had with the cheer team and hoped to gain that through joining the girls' cross-country team in the fall.

21. Wesley and I were so excited for B.P.J. to run and I was truly looking forward to attending her future cross-country and track meets. B.P.J.'s brothers were also both excited for B.P.J. and looked forward to seeing their sister compete.

22. B.P.J. has the support of her family, coaches, instructors, and peers. Our family is very supportive, and my 76-year-old mother (B.P.J.'s grandmother), and my step-father (B.P.J.'s step-grandfather) are B.P.J.'s biggest supporters.

23. On May 18, 2021, I met with B.P.J.'s new Principal at Bridgeport Middle School, David Mazza, to discuss and create B.P.J.'s Gender Support Plan for the sixth grade. Like the plan we developed for B.P.J. at her elementary school, the plan for Bridgeport Middle School emphasizes that B.P.J. is secure in her identity as a girl and well supported by her parents, school administrators, teachers, and friends. A true and correct copy of that Gender Support Plan is attached as Exhibit B.

24. During the May 18, 2021 meeting I informed Principal Mazza that B.P.J. wanted to participate on the girls' cross-country and track team. Principal Mazza communicated to me that, due to H.B. 3293, my daughter would not be permitted to participate on the girls' cross-country or track teams.

25. On July 12, 2021, conditioning and practice started for the fall 2021 season of cross-country. While my daughter and I were happy to know she was able to participate in training and conditioning due to an agreement by the Defendants in this case to not enforce H.B.



3293 against her during that period, I was concerned about whether she would be able to try-out for and participate on the girls' cross-country team.

26. On July 21, 2021, I learned that the court ruled that my daughter would be allowed to try-out for the girls' cross-country and track teams! At the beginning of August, B.P.J. participated in try-outs for the girls' cross-country team and soon thereafter our family learned that she made the team.

27. During her first cross-country season, B.P.J. participated in the Mountain Hollar MS Invitational meet and the Doddridge Invitational meet. At the Mountain Hollar Invitational, B.P.J. placed 51 out of 66 participants and at the Doddridge Invitational, she placed 123 out of 150 participants.

28. B.P.J. told me that she learned a lot about team work, and that she made many friends through participating on the cross-country team. She said that she had no problems with any of her teammates and that they had a fun season. Photos from B.P.J.'s cross-country season are attached hereto as Exhibit C.

29. It was no surprise to me that by the time track season came, B.P.J. was ready to keep on running. At the beginning of March, my daughter participated in the required two-week try-outs for the girls' team and on March 11, 2022, we learned that she made the girls' track team.

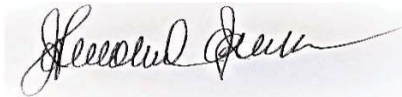
30. B.P.J. is a girl. It is wrong and senseless to try to make her participate on boys' sports teams when there are girls' teams available. Forcing B.P.J. to compete on the boys' cross-country or track teams when girls' teams are available would completely erase who she is, and it would devastate her because she is a girl. My daughter is simply saying, "Accept me for who I am."

31. B.P.J. was so happy to be able to run this school year, and she is so afraid of having that opportunity taken away from her. Prohibiting her from participating on the girls' team would also set back her medical treatment, which calls for her to be treated as the girl she is in all aspects of her life, and her mental health would suffer if she could no longer do the thing she loves because West Virginia refuses to treat her as a girl. Forcing her to run with the boys is a clear sign to her and others that the state refuses to see her and accept her for the girl that she is, and would be profoundly harmful to her.

\* \* \*

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on 04/19/2022

A handwritten signature in black ink, appearing to read "Heather Jackson", is written over a light gray rectangular background.

---

Heather Jackson



Dr. Mark A. Manchin  
Superintendent

- Confidential -

Gender Support Plan

The purpose of this document is to create shared understandings about the ways in which the student's authentic gender will be accounted for and supported at school. School staff, caregivers and the student should work together to complete this document.

School/County Norwood Elementary - Harrison Today's Date 8-23-19  
 Name Student Uses: B [redacted] Name on Birth Certificate: [redacted]  
 Student's Gender Identity female Assigned Sex at Birth Male Student Grade Level 4<sup>th</sup>  
 Student's DOB: [redacted]  
 Parent(s), Guardian(s), or Caregiver(s) /relation to student  
Heather Jackson / Wesley Pepper  
 Meeting participants: Sarah Starkey, Heather Jackson, B [redacted]  
Tara Shields, Jasmine Lowther, Nurse Tina

PARENT/GUARDIAN INVOLVEMENT

Are guardian(s) of this student aware and supportive of their child's gender status?  Yes  No

If not, what considerations must be accounted for in implementing this plan? Mom very supportive, dad has struggled but coming around. seeking outside help through church and paternal side of family's help/support

CONFIDENTIALITY, PRIVACY AND DISCLOSURE Molly Oberfechter - Leggett - WVU

How public or private will information about this student's gender be (check all that apply)?

County staff will be aware (Superintendent, Student Support Services, District Psychologist, etc.)  
Specify the adult staff members: Dr. Manchin, Sarah Starkey

Site level leadership/administration will know (Principal, counselor, etc.)  
Specify the adult staff members: Tara Shields and school counselors

Teachers and/or other school staff will know  
Specify the adult staff members: all teachers

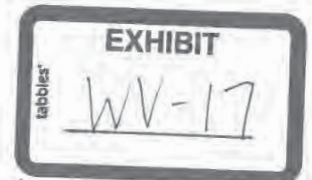
Student will not be openly "out," but some students are aware of the student's gender  
Specify the students:

Student is open with others (adults and peers) about gender

Other - describe: B [redacted] is comfortable with others knowing her Gender Identity and transition.

If the student has asserted a degree of privacy, what steps will be taken if that privacy is compromised, or is believed to have been compromised?

N/A





How will a teacher/staff member respond to any questions about the student's gender from:

Other students? Be open and honest - she is B [redacted] and that makes her happy.

Staff members? Be open and honest - she is B [redacted], and that makes her happy.

Parents/community? Be open and honest - she is B [redacted], and that makes her happy.

**STUDENT SAFETY**

Who will be the student's "Trusted Adult" at School? Feels comfortable with all teachers ->

If this person is not available, what should student do? Feels comfortable with all teachers. We showed classrooms with "Safe Space" stickers.

What are expectations in the event the student is feeling unsafe and how will student signal their need for help:

During class Raise hand / Get up and walk to teacher - yell help

Field Trips - find closest trusted adult yell help

In the halls " "

Other \_\_\_\_\_

Other safety concerns/questions: B [redacted] feels safe and comfortable and very much supported.

What should the student's parents do if they are concerned about how others are treating their child at school?

Mom and/or Dad will contact Tara Shields.

**NAMES, PRONOUNS AND STUDENT RECORDS**

What name and gender marker are listed on the student's identity documents? [redacted] H [redacted] J [redacted]

Name/gender marker entered into the Student Information System male male but B [redacted] in ( )

Name to be used when referring to the student B [redacted] Pronouns her, she hers

Can the student's name/gender marker be reflected in the SIS? Yes If so, how? If not, why not?

Gender will be male but B [redacted] will be in ( ) next to birth name.

If not, what adjustments can be made to protect this student's privacy (see below)? \_\_\_\_\_

Who will be the point person at school for ensuring these adjustments are made and communicated as needed?

Tara Shields

How will instances be handled in which the incorrect name or pronoun are used by staff members?

if intentional - will be addressed by Principal and/or CO

By students? " "

B [redacted] will report to teacher, Mrs. Shields, Counselor if continues to be intentional.



If unable to change the student's profile in the student information system, how will the student's privacy be accounted for and maintained in the following situations or contexts:

- During registration \_\_\_\_\_
- Completing enrollment \_\_\_\_\_
- With substitute teachers - Jasmine will leave info in plans for sub teacher.
- Standardized tests Populated in Wevis
- School photos NAME B [redacted] will be used
- IEPs/Other Services \_\_\_\_\_
- Student cumulative file Populated in Wevis
- After-school programs \_\_\_\_\_
- Lunch lines \_\_\_\_\_
- Taking attendance B [redacted] will be in ( )
- Teacher grade book(s) Live Grades populated from Wevis
- Official school-home communication \_\_\_\_\_
- Unofficial school-home communication (PTA/other) \_\_\_\_\_
- Outside district personnel or providers \_\_\_\_\_
- Summons to office Staff will use name B [redacted]
- Yearbook B [redacted] P [redacted] - J [redacted]
- Student ID/library cards What parents fill out on picture form
- Posted lists \_\_\_\_\_
- Distribution of texts or other school supplies \_\_\_\_\_
- Assignment of IT accounts/email address \_\_\_\_\_
- PA announcements \_\_\_\_\_

If the student's guardians are not aware and/or supportive of the student's gender status, how will school-home communications be handled?

Parents are supportive

What are some other ways the school needs to anticipate the student's privacy being compromised? How will these be handled?

maintain confidentiality and handle as needed.

**USE OF FACILITIES**

Student will use the following bathroom(s) at school: In teacher lounge, first on on (R)

Student will change clothes in the following place(s) " " "

If student/parent have questions/concerns about facilities, who should they contact? Tara Shields

What are the expectations regarding the use of facilities for any class trips? Use family/gender

natural Bathroom. Go to teacher & teacher make sure bathroom empty (female) if no gender natural Bathroom.

Are there any questions or concerns about the student's access to facilities?

No



**EXTRA CURRICULAR ACTIVITIES**

In what extra-curricular programs or activities will the student be participating (sports, theater, clubs, etc)?

B [redacted] is on a cheerleading team outside of school. Strings or choir are optional.

What steps will be necessary for supporting the student there?

N/A

Does the student participate in an after-school program?

N/A

What steps will be necessary for supporting the student there?

N/A

Questions/Notes:

**OTHER CONSIDERATIONS**

Does the student have any sibling(s) at school?

Factors to be considered regarding sibling's needs?

Not at Norwood - brother is in middle school BMS

Does the school have a dress code? Yes

How will this be handled?

→ Not gender specific - No short shorts, or spaghetti straps common sense.

Are there lessons, units, content or other activities coming up this year to consider (growth and development, swim unit, social justice units, name projects, dance instruction, Pride events, school dances etc.)?

N/A Plan will be reviewed at least yearly. Health education will be discussed next year.

Are there any specific social dynamics with other students, families or staff members that need to be discussed or accounted for?

No

What training(s) will the school engage in to build capacity for working with gender-expansive students? How will the school work to create more gender inclusive conditions for all students?

Norwood Staff Received training on tolerance and cultural diversity and LGBTQ+IA on 8/21 and provided protocol and multiple resource sources.

Does the student use school- or district-provided transportation services? If so, how will the student's gender be accounted for?

Bus Driver Randy # 234 will be educated that B [redacted] is name to be used and of chosen pronouns.

Are there any other questions, concerns or issues to discuss? \_\_\_\_\_

\_\_\_\_\_  
N/A  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_







# HARRISON COUNTY SCHOOLS

445 WEST MAIN STREET  
POST OFFICE BOX 1370  
CLARKSBURG, WEST VIRGINIA 26302-1370  
(304) 326-7300  
FAX (304) 326-7382

Dora L. Stutler  
Superintendent

## Preferred Name Request Form

The Harrison County Board of Education is committed to inclusion and recognizes that students may need to use a preferred name to identify themselves comfortably. Please note that although the HCBOE recognizes the importance, in many instances, of using preferred name, your legal name may continue to be necessary for Board of Education business where the legal name is required. Students who use a preferred name should always be prepared to provide legal name identification when needed. Only the first name is permitted to be updated with the Preferred Name Request Form.

Please fill out this form clearly and completely and return it to the Principal of your school. Please note, a parent signature is required. If you have any questions or concerns, please contact the Principal of your school prior to the submission of this form. The preferred name will remain in use until and student requests that it be deactivated. This process for using a preferred name does not impact students who officially change their legal name.

### Legal Name:

<b>Legal first Name:</b> [Redacted]	<b>Legal Middle Name:</b> [Redacted]	<b>Legal Last Name:</b> [Redacted]
<b>WVEIS #</b> 330049261	<b>School:</b> BMS	<b>Grade:</b> 6

### Preferred Name:

**Preferred First Name:**  
B [Redacted]

Signature B [Redacted] Date \_\_\_\_\_

Parent Signature [Handwritten Signature] Date 5-18-2021

### For Office Use Only:

**Principal Signature:** [Handwritten Signature]

**Date Received:** \_\_\_\_\_



Dora L. Stutler  
Superintendent

- Confidential -

**Gender Support Plan**

The purpose of this document is to create shared understandings about the ways in which the student's authentic gender will be accounted for and supported at school. School staff, caregivers and the student should work together to complete this document.

School/County	Bridgeport Middle - Harrison		Today's Date	5/18/21
Name Student Uses:	Becky	Name on Birth Certificate:	Pepper-Jackson	
Student's Gender Identity	Female	Assigned Sex at Birth	male	Student Grade Level
Student's DOB:	5/11/10			
Parent(s), Guardian(s), or Caregiver(s) /relation to student	Heather Jackson, Wesley Pepper			
Meeting participants:	Tarra Shields, Amber Davis, David Mazza, Lauren Merrill, Heather Jackson, Becky Pepper-Jackson			

**PARENT/GUARDIAN INVOLVEMENT**

Are guardian(s) of this student aware and supportive of their child's gender status?  Yes  No

If not, what considerations must be accounted for in implementing this plan? \_\_\_\_\_

**CONFIDENTIALITY, PRIVACY AND DISCLOSURE**

How public or private will information about this student's gender be (check all that apply)?

County staff will be aware (Superintendent, Student Support Services, District Psychologist, etc.)  
Specify the adult staff members: Dora Stutler, Sarah Starkey

Site level leadership/administration will know (Principal, counselor, etc.)  
Specify the adult staff members: Mr. Mazza, Mr. Oldaker, and Lauren Merrill

Teachers and/or other school staff will know  
Specify the adult staff members: All teachers

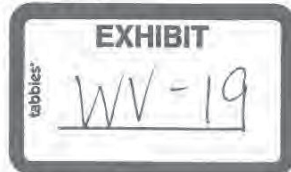
Student will not be openly "out," but some students are aware of the student's gender  
Specify the students: \_\_\_\_\_

Student is open with others (adults and peers) about gender

Other - describe: Becky is comfortable with others knowing her Gender Identity and transition.

If the student has asserted a degree of privacy, what steps will be taken if that privacy is compromised, or is believed to have been compromised?

N/A





How will a teacher/staff member respond to any questions about the student's gender from:

Other students? Be open and honest - she is Becky; and that makes her happy.

Staff members? Be open and honest - she is Becky; and that makes her happy

Parents/community? Be open and honest - she is Becky; and that makes her happy

**STUDENT SAFETY**

Who will be the student's "Trusted Adult" at School? Mr. Mazza & Mrs. Merrill

If this person is not available, what should student do? find teacher(s) that Becky feels comfortable speaking with.

What are expectations in the event the student is feeling unsafe and how will student signal their need for help:

During class Raise hand / Get up and walk to teacher - yell help

Field Trips find closest trusted adult; yell help

In the halls "

Other \_\_\_\_\_

Other safety concerns/questions: Becky feels safe and comfortable and very much supported.

What should the student's parents do if they are concerned about how others are treating their child at school?

Mom and/or Dad will contact Mr. Mazza.

**NAMES, PRONOUNS AND STUDENT RECORDS**

What name and gender marker are listed on the student's identity documents? [redacted] Pepper-

Name/gender marker entered into the Student Information System Jackson; male Becky in ( ) male

Name to be used when referring to the student Becky Pronouns her, she, hers

Can the student's name/gender marker be reflected in the SIS? \_\_\_\_\_ If so, how? If not, why not?  
Gender will be male but Becky will be in ( ) next to birth name

If not, what adjustments can be made to protect this student's privacy (see below)? \_\_\_\_\_

Who will be the point person at school for ensuring these adjustments are made and communicated as needed?

David Mazza

How will instances be handled in which the incorrect name or pronoun are used by staff members? If intentional - will be addressed by Principal and/or Counselor

By students? "  
Becky will report to teacher, Mr. Mazza, Counselor if it continues to be intentional



If unable to change the student's profile in the student information system, how will the student's privacy be accounted for and maintained in the following situations or contexts:

- During registration \_\_\_\_\_
- Completing enrollment \_\_\_\_\_
- With substitute teachers Teachers will leave info in plans for sub teacher
- Standardized tests Populated in WVELS
- School photos Name Becky will be used
- IEPs/Other Services \_\_\_\_\_
- Student cumulative file Populated in WVELS
- After-school programs \_\_\_\_\_
- Lunch lines populated in WVELS
- Taking attendance Becky will be in ( )
- Teacher grade book(s) Live Grades populated from WVELS
- Official school-home communication \_\_\_\_\_
- Unofficial school-home communication (PTA/other) \_\_\_\_\_
- Outside district personnel or providers \_\_\_\_\_
- Summons to office Staff will use name Becky
- Yearbook Becky Pepper-Jackson
- Student ID/library cards What parents fill out on picture form.
- Posted lists \_\_\_\_\_
- Distribution of texts or other school supplies \_\_\_\_\_
- Assignment of IT accounts/email address \_\_\_\_\_
- PA announcements \_\_\_\_\_

If the student's guardians are not aware and/or supportive of the student's gender status, how will school-home communications be handled?

Parents are supportive

What are some other ways the school needs to anticipate the student's privacy being compromised? How will these be handled?

Maintain confidentiality and handle as needed.

**USE OF FACILITIES**

Student will use the following bathroom(s) at school: In Counselor's/Nurse's Suite

Student will change clothes in the following place(s) " "

If student/parent have questions/concerns about facilities, who should they contact? David Mazza

What are the expectations regarding the use of facilities for any class trips? Use family/Gender neutral bathroom. Go to teacher & teacher make sure female bathroom is empty if no gender/neutral bathroom option.

Are there any questions or concerns about the student's access to facilities? NO



**EXTRA CURRICULAR ACTIVITIES**

In what extra-curricular programs or activities will the student be participating (sports, theater, clubs, etc)?

Cross Country and Track

What steps will be necessary for supporting the student there? ~~###~~ Coaches would need to be aware of Becky's transition. If teammates have questions, they could approach the coach or administration.

Does the student participate in an after-school program? ~~###~~ Cross Country, Track, Band.

What steps will be necessary for supporting the student there? Teacher would need to be aware of transition and also feel comfortable with answering any student questions. If not, students can ask administration or counselor.

Questions/Notes:

**OTHER CONSIDERATIONS**

Does the student have any sibling(s) at school? Factors to be considered regarding sibling's needs?

Brother at Bridgeport Middle School.

Does the school have a dress code? Yes How will this be handled?

Not gender specific - no short shorts or spaghetti straps; common sense

Are there lessons, units, content or other activities coming up this year to consider (growth and development, swim unit, social justice units, name projects, dance instruction, Pride events, school dances etc.)? Plan will be reviewed at least yearly.

Are there any specific social dynamics with other students, families or staff members that need to be discussed or accounted for?

NO

What training(s) will the school engage in to build capacity for working with gender-expansive students? How will the school work to create more gender inclusive conditions for all students?

BMS will receive training on tolerance and cultural diversity and LGBTQ as arranged by Mr. Mazza during upcoming ~~###~~ school year.

Does the student use school- or district-provided transportation services? If so, how will the student's gender be accounted for?

Bus # 281 Mr. Hollansworth and #294 Mr. Lantz will be informed of name being Becky and preferred pronouns.



Are there any other questions, concerns or issues to discuss? \_\_\_\_\_

N/A

**SUPPORT PLAN REVIEW AND REVISION**

How will this plan be monitored over time? Plan will be reviewed yearly but can be revisited at any time per request.

What will be the process should the student, family, or school wish to revisit any aspects of the plan (or seek additions to the plan)? Contact Mr. Mazza

What are specific follow-ups or action items emerging from this meeting and who is responsible for them?

Action Item	Who?	When?
N/A		

Date/Time of next meeting or check-in \_\_\_\_\_ Location \_\_\_\_\_

Meeting will be scheduled at end of school year for next school year.

Lauren Merrill, BMS Counselor

*[Signature]* 5-18-2021

Becky Pepper Jackson

Mr. Mazza

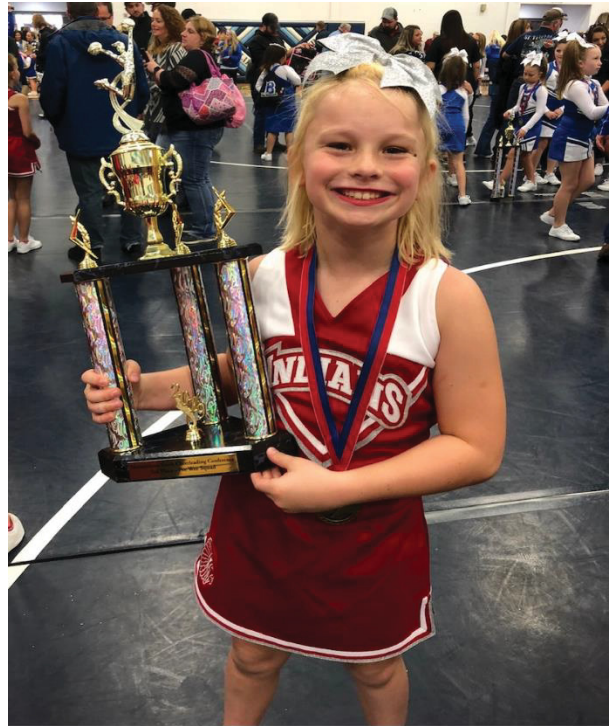
Jess Shild

Amber Davis



JA0894









JA0896

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
CHARLESTON DIVISION

B.P.J. by her next friend and mother, HEATHER JACKSON,

*Plaintiff,*

v.

WEST VIRGINIA STATE BOARD OF EDUCATION, HARRISON COUNTY BOARD OF EDUCATION, WEST VIRGINIA SECONDARY SCHOOL ACTIVITIES COMMISSION, W. CLAYTON BURCH in his official capacity as State Superintendent, DORA STUTLER in her official capacity as Harrison County Superintendent, and THE STATE OF WEST VIRGINIA,

*Defendants,*

and

LAINY ARMISTEAD,

*Defendant-Intervenor.*

Civil Action No. 2:21-cv-00316

Hon. Joseph R. Goodwin

**DECLARATION OF J**

I, B.P.J., pursuant to 28 U.S.C. § 1746, declare as follows:

1. I make this declaration of my own personal knowledge, and, if called as a witness, I could and would testify competently to the matters stated herein.

2. I am a girl who is also transgender. I am 11 years old, and I am in the sixth grade at Bridgeport Middle School. I have two older brothers, ages 14 and 20. I live with my brothers; my mom, Heather; and my dad, Wesley in Lost Creek, West Virginia.

3. Some of my favorite things to do include playing outside with our family's dogs, riding my bike, running with my friends and family, and jumping on the trampoline. I am very

passionate about math and science and make straight As in school. Also, I like to play videogames like Apex Legends, Minecraft, and Overwatch. I also got an Oculus this year, and I love playing the Beat Saber game.

4. I knew from when I was very little that I am a girl. When I was younger, I remember always feeling like I wasn't in the right body and wanting to play in my mom's clothing.

5. My mom has always been supportive of me, so it felt normal for me to talk to her about how I was feeling about being a girl and that I wanted to go by the name B.P.J. While talking to my dad was a little bit harder in the beginning, he supported me in wanting to be referred to as B.P.J. and in the fact that I am a girl.

6. During my fourth-grade year, I went to school dressed in clothes that girls wear, and teachers and staff were using my chosen name. My mom and I met with my principal, teacher, and others at my school to make a plan for how my school could best support me as a girl. I was happy with the plan we developed together, and I really felt supported by my classmates and by my school.

7. One of the ways my parents supported me in being the girl that I am is that they took me to see a team of healthcare professionals who work with transgender people. I was diagnosed with gender dysphoria in 2019.

8. I am currently on puberty-delaying medication and have been for almost two years.

9. In fourth grade, I joined a cheerleading team with other girls. I first got into cheering because my mom encouraged me to try a sport. Since I had spent time learning cheer

routines while in the stands at football games and my friends were also on the cheer team, I decided to pursue cheer.

10. I really liked being a cheerleader. It was fun. I liked having the chance to be on a team with my friends and learning how to do all the cheers. I never had any problems with the other girls on the team.

11. During my first year on the cheer team, our team placed at a cheer competition for the first time ever. It made me feel proud and good about myself to work hard and improve as a team.

12. Heading into junior high school, I was excited to try out for the girls' cross-country and track teams. Although I really enjoyed my time on the cheer team, I sometimes got "stage fright" and preferred to take up a new sport.

13. Since I was young, I have always enjoyed running and everyone in my family runs. My older brothers run cross-country, and my mom runs too. Seeing my family run has motivated me to want to try out and participate.

14. Last spring, my mom told me about a law called H.B. 3293 that prevents transgender girls like me from playing on girls' sports teams. Knowing that I could not try out for the girls' cross-country and track teams just because I am a transgender girl was horrible and made me feel angry and sad. It hurt to know that I would not be able to have the chance to run on the girls' team like my friends can because of who I am.

15. I am not a boy. I do not want to run with the boys when there is a girls' team and I should not have to run with the boys when there is a girls' team.

16. Running with the girls means a lot to me because I am a girl, and I should be treated like a girl, just like all my friends who are girls. If I did not get to participate in cross-



country or track, I would have missed out on the opportunity to spend time with my friends and grow with a new team.

17. In July 2021, I participated in training and conditioning before the August try-outs for the girls' cross-country team. Participating in training and conditioning was a positive experience—I had fun getting to know the coaches and teammates, and challenging myself to run as well as I could.

18. Following try-outs at the beginning of August, I learned that I made the girls' cross-country team. My first cross-country season was awesome, and I felt supported by my coaches and the other girls on the team. I made so many new friends and loved competing with and supporting my teammates. We learned about teamwork, having a positive attitude, and how to have fun while being competitive.

19. Since I was also interested in participating on the girls' track team, I looked forward to spring try-outs.

20. In early March, I participated in two weeks of try-outs for the girls' track team and on March 11, 2022, I learned that I made the girls' track team. I was ecstatic.

21. Ultimately, I just want to have the opportunity to participate in school sports like any other girl. Sports are an important part of my experience at school, and I was so happy to be able to have the chance to participate in cross-country and track this year with the other girls in my school. I look forward to many more years of running with my peers. It is so upsetting and hurtful that some people want to take that chance away from me and treat me differently from everyone else just because I am transgender.

\* \* \*

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on 04/19/2022

Handwritten signature in black ink, appearing to read "B. P. J.", written over a light blue rectangular highlight.

\_\_\_\_\_  
B.P.J.

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
AT CHARLESTON**

B.P.J., by her next friend and mother,  
HEATHER JACKSON,

*Plaintiff,*

vs.

Civil Action No. 2:21-cv-00316  
Hon. Joseph R. Goodwin

WEST VIRGINIA STATE BOARD OF  
EDUCATION; HARRISON COUNTY BOARD  
OF EDUCATION; WEST VIRGINIA  
SECONDARY SCHOOL ACTIVITIES  
COMMISSION; W. CLAYTON BURCH in his  
official capacity as State Superintendent;  
DORA STUTLER in her official capacity as  
Harrison County Superintendent;  
PATRICK MORRISEY in his official  
capacity as Attorney General; and THE  
STATE OF WEST VIRGINIA,

*Defendants.*

**RESPONSES TO PLAINTIFF’S FIRST SET OF INTERROGATORIES  
TO DEFENDANT, STATE OF WEST VIRGINIA**

Pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure and the applicable Local Rules of the District of West Virginia and this Court, Defendant the State of West Virginia provides the following in response to Plaintiff’s First Set of Interrogatories to Defendant, State of West Virginia (“First Set of Interrogatories”).

**GENERAL OBJECTIONS**

1) The State of West Virginia objects to the following definition as stated in Plaintiff’s First Set of Interrogatories:

**“YOU, YOUR, or YOURS means the State of West Virginia and its governors, attorneys general, agencies, legislators, officials, affiliates, attorneys, accountants, consultants, representatives, and agents.”**

**INTERROGATORY NO. 6: Identify all governmental interests that YOU believe are advanced by H.B. 3293.**

**RESPONSE:** The State objects to the word “believe” as used in this interrogatory; the State is not a natural person capable of belief or non-belief. Further objecting, the government interests advanced by the Protection of Women’s Sports Act, also known as H.B 3293, are a subject of legal determination. Without waiver of any objections, the State asserts the following interests, primarily and in general, which are advanced by the Protection of Women’s Sports Act:

1. To Protect Women’s Sports
2. To follow Title IX
3. To protect women’s safety in female athletic sports.

The State reserves the right to further address this issue as this matter progresses, either in its discovery responses, its expert witness disclosures, or its legal briefing.

**INTERROGATORY NO. 7: Identify all ways that YOU believe the governmental interests identified in Interrogatory No. 6 are advanced by H.B. 3293.**

**RESPONSE:** Defendant State of West Virginia incorporates the specific objections to Interrogatory 6 above into this response. The State also objects to the extent that this interrogatory seeks to preview legal arguments relative to governmental interests, which are a subject of legal determination, and is therefore inappropriate. Without waiver of any objections, Defendant State of West Virginia notes its Brief in Opposition to Motion for Preliminary Injunction and its attached materials and other documents. In addition, the State may provide further materials and documents through additional expert witness



**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
CHARLESTON DIVISION**

B.P.J. by her next friend and mother, HEATHER JACKSON,

*Plaintiff,*

v.

WEST VIRGINIA STATE BOARD OF EDUCATION, HARRISON COUNTY BOARD OF EDUCATION, WEST VIRGINIA SECONDARY SCHOOL ACTIVITIES COMMISSION, W. CLAYTON BURCH in his official capacity as State Superintendent, DORA STUTLER in her official capacity as Harrison County Superintendent, and THE STATE OF WEST VIRGINIA,

*Defendants,*

and

LAINIEY ARMISTEAD,

*Defendant-Intervenor.*

Civil Action No. 2:21-cv-00316

Hon. Joseph R. Goodwin

**RESPONSES TO PLAINTIFF'S SECOND SET OF REQUESTS FOR ADMISSION  
TO DEFENDANT, STATE OF WEST VIRGINIA**

Pursuant to Federal Rules of Civil Procedure 33 and 36 and the applicable Local Rules of the Southern District of West Virginia and this Court, the Defendant, State of West Virginia (the "State"), provides these responses to Plaintiff's Second Set of Requests for Admission to Defendant, State of West Virginia ("Second Set of RFAs").

**GENERAL OBJECTIONS**

The State objects to the definitions of the terms "Cisgender," "Gender Identity," "Transgender," and "Transgender Girl" in the Second Set of RFAs' instructions. Those terms have no definitive legally recognized definition, and those terms do not have an agreed or stipulated meaning in this matter. Any requests for admissions based on these disputed and unproven definitions would necessarily be admissions as to Plaintiff's definitions, which the State declines to do at this point in the litigation.

Objecting further, Plaintiff's instructions state: "3. GENDER IDENTITY is synonymous with the meaning used in Plaintiff's First Amended Complaint, paragraphs 19-23." Yet those paragraphs do not contain any definition of the term "gender identity." Accordingly, the instructions for the Second Set of RFAs, even if otherwise acceptable, are vague and unclear.

Further objecting, the Defendant State objects to the definition of "YOU," "YOUR," and "YOURS." As previously discussed in this case, the State of West Virginia alone intervened and was then added as a named defendant via the Amended Complaint, and the Attorney General represents only the State of West Virginia. The Attorney General does not represent any of the other entities or individuals listed in the definition of "YOU, YOUR or YOURS" in these requests and cannot speak on behalf of those entities and individuals here. Accordingly—and consistent with other discovery responses in this matter—any responses are on behalf of the State only.

Further objecting, to the extent that the RFAs ask that the Defendant State admit to its awareness, it is unclear how "awareness" is meant to be applied to the State of West Virginia as (i) "awareness" is distinct from "knowledge" and (ii) the State is an entity which does not have "awareness" as that term is typically understood. Any RFAs seeking such an admission are unclear and consequently seem inappropriate.

Further objecting, the Defendant State objects to any instructions which go beyond Federal Rule 36 and will follow that rule in the event the instructions conflict or go beyond that rule.

### **RESPONSES TO REQUESTS FOR ADMISSION**

Defendant State of West Virginia incorporates by reference all of the foregoing objections into each of the responses below. Any admission in the responses below are made without waiver of the foregoing objections.

#### **REQUEST NO. 5: Admit that Plaintiff B.P.J. has been diagnosed with gender dysphoria.**

**RESPONSE:** The State objects to this request as it is vague in the sense that the term "diagnosed" suggests a medical diagnosis. The assertion of a diagnosis of gender dysphoria relates to a subjective psychological diagnosis, and it is the State's understanding that the standards for such diagnosis vary and that different medical providers reach such a diagnosis differently. Further responding, the State denies for lack of knowledge. The State acknowledges and admits that there are medical records that record and reflect a diagnosis of gender dysphoria for BPJ that was provided by Dr. Montano and that there has been deposition testimony consistent with these records, but denies all other requests included within this Request.

#### **REQUEST NO. 6: Admit that in 2021 Plaintiff B.P.J. was a member of Bridgeport Middle School's girls' cross-country team.**

**RESPONSE:** The State admits this Request.

#### **REQUEST NO. 7: Admit that Plaintiff B.P.J. placed 51 out of 66 competitors in the girls' middle school cross country Mountain Hollar MS Invitational meet in 2021.**

**RESPONSE:** The State denies this Request for lack of knowledge. The State has no knowledge of the source of this information or the validity of such information.

**REQUEST NO. 8:** Admit that Plaintiff B.P.J. placed 123 out of 150 competitors in the girls' middle school cross country Doddridge Invitational meet in 2021.

**RESPONSE:** The State denies this Request for lack of knowledge. The State has no knowledge of the source of this information or the validity of such information.

**REQUEST NO. 9:** Admit that you have not received any complaints associated with Plaintiff B.P.J.'s membership on Bridgeport Middle School's girls' cross country team.

**RESPONSE:** The State objects to this request as it would not be the recipient of such complaints. Without waiver of the foregoing, the State admits this Request.

**REQUEST NO. 10:** Admit that no middle school girl was harmed as a result of B.P.J.'s participation on Bridgeport Middle School's girls' cross country team in 2021.

**RESPONSE:** The State objects to this request as the term "harmed" is vague and has multiple meanings. Without waiver of the foregoing, the State denies for lack of knowledge and further states that it is perhaps unknowable what effect B.P.J.'s participation on Bridgeport Middle School's girls' cross country team in 2021 has had on other participants on that team, participants on other teams, or on others who wanted to participate in this or other events but were dissuaded from such participation or otherwise felt harmed in some way, psychologically or otherwise. Further responding, the State has no knowledge of any physical harm to any middle school girl as a result of Plaintiff B.P.J.'s participation on Bridgeport Middle School's girls' cross country team in 2021.

**REQUEST NO. 11:** Admit that no middle school girl was injured as a result of Plaintiff B.P.J.'s participation on Bridgeport Middle School's girls' cross country team in 2021.

**RESPONSE:** The State objects to this request as the term "injured" is vague and has multiple meanings. Without waiver of the foregoing, the State denies for lack of knowledge and further states that it is perhaps unknowable what effect B.P.J.'s participation on Bridgeport Middle School's girls' cross country team in 2021 has had on other participants on that team, participants on other teams, or on others who wanted to participate in this or other events but were dissuaded from such participation or otherwise felt injured in some way, psychologically or otherwise. Further responding, the State has no knowledge of any physical injury to any middle school girl as a result of Plaintiff B.P.J.'s participation on Bridgeport Middle School's girls' cross country team in 2021.

**REQUEST NO. 12:** Admit that no Bridgeport Middle School girl student was prohibited from joining Bridgeport Middle School's girls' cross-country team in 2021.

**RESPONSE:** The State denies this Request for lack of knowledge. This type of information is not within the knowledge of the State.

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
CHARLESTON DIVISION

B.P.J., by her next friend and mother,  
HEATHER JACKSON,

*Plaintiff,*

v.

Civil Action No. 2:21-cv-00316  
Hon. Joseph R. Goodwin, District Judge

WEST VIRGINIA STATE BOARD OF  
EDUCATION, HARRISON COUNTY BOARD  
OF EDUCATION, WEST VIRGINIA  
SECONDARY SCHOOL ACTIVITIES  
COMMISSION, W. CLAYTON BURCH in his  
official capacity as State Superintendent,  
DORA STUTLER in her official capacity as  
Harrison County Superintendent, PATRICK  
MORRISEY in his official capacity as Attorney  
General, and THE STATE OF WEST VIRGINIA,

*Defendants,*

and

LAINEY ARMISTEAD,

*Defendant-Intervenor.*

**DEFENDANT SUPERINTENDENT DORA STUTLER'S RESPONSES AND  
OBJECTIONS TO PLAINTIFF'S SECOND SET OF REQUESTS FOR ADMISSION**

Pursuant to Rule 36 of the Federal Rules of Civil Procedure, Defendant Superintendent Dora Stutler ("Superintendent Stutler") hereby responds and objects to "Plaintiff's Second Set of Requests for Admission to Defendant Harrison County Superintendent Dora Stutler" as follows:

**GENERAL OBJECTION:** Superintendent Stutler objects to the definitions of "County Board" and "County Superintendent" as set forth in Plaintiff's requests for admission.

**REQUEST NO. 25:** Admit that the Harrison County Board of Education and the Harrison County School Superintendent must comply with H.B. 3293 unless enjoined from doing so by a court.

**RESPONSE:**           **OBJECTION.** Superintendent Stutler objects to the extent this request is seeking a legal conclusion. Subject to and without waiving the objection, Superintendent Stutler states as follows: Because H.B. 3293 is a West Virginia State law that applies to County Boards of Education, including the Harrison County Board of Education (“County Board”) and its County Superintendent, because H.B. 3293 provides for private causes of action, and thus imposes liability against County Boards of Education, like the County Board, and while the County Board and its County Superintendent did not devise and have not adopted H.B. Bill 3293 as their own policy, Superintendent Stutler admits this request because, absent an injunction by a court, the County Board and the County Superintendent would be compelled and required to enforce H.B. Bill 3293 because it is a mandatory State law that affords the County Board and the County Superintendent no discretion.

**REQUEST NO. 26:** Admit that H.B. 3293 prohibits the Harrison County Board of Education and the Harrison County Superintendent from adopting or enforcing a policy that would allow B.P.J. to participate on girls’ athletic teams at Bridgeport Middle School.

**RESPONSE:**           **OBJECTION.** Superintendent Stutler objects to the extent this request is seeking a legal conclusion. Subject to and without waiving the objection, Superintendent Stutler states as follows: Because H.B. 3293 is a West Virginia State law that applies to County Boards of Education, including the County Board and its County Superintendent, because H.B. 3293 provides for private causes of action, and thus imposes liability against County Boards of Education, like the County Board, and while the County Board and its County

Superintendent did not devise and have not adopted H.B. Bill 3293 as their own policy, Superintendent Stutler admits this request because, absent an injunction by a court, the County Board and the County Superintendent would be compelled and required to enforce H.B. Bill 3293 because it is a mandatory State law that affords the County Board and the County Superintendent no discretion.

**REQUEST NO. 27:** Admit that the West Virginia Secondary School Athletic Commission must comply with H.B. 3293 unless enjoined from doing so by a court.

**RESPONSE:**           **OBJECTION.** Superintendent Stutler objects to the extent this request is seeking a legal conclusion. Subject to and without waiving the objection, Superintendent Stutler is not in a position to admit or deny this request because it concerns the West Virginia Secondary School Athletic Commission's obligations under H.B. 3293.

**REQUEST NO. 28:** Admit that H.B. 3293 prohibits the West Virginia Secondary School Athletic Commission from adopting or enforcing a policy that would allow B.P.J. to participate on girls' athletic teams at Bridgeport Middle School

**RESPONSE:**           **OBJECTION.** Superintendent Stutler objects to the extent this request is seeking a legal conclusion. Subject to and without waiving the objection, Superintendent Stutler is not in a position to admit or deny this request because it concerns the West Virginia Secondary School Athletic Commission's obligations under H.B. 3293.

**REQUEST NO. 29:** Admit that there are no athletic teams designated as "coed or mixed," as that phrase is used in H.B. 3293 (codified at Code of West Virginia §18-2-25d(c)(1)(C)), offered at Bridgeport Middle School.

**RESPONSE:**           Denied.

**REQUEST NO. 48:** Admit that when enforcing West Virginia State law you act on behalf of the State of West Virginia.

**RESPONSE:**        **OBJECTION.** Superintendent Stutler objects to the extent this request is seeking a legal conclusion. Subject to and without waiving the objection, Superintendent Stutler admits this request.

**REQUEST NO. 49:** Admit that when enforcing West Virginia State law you are a State Actor for purposes of 42 U.S.C. § 1983.

**RESPONSE:**        **OBJECTION.** Superintendent Stutler objects to the extent this request is seeking a legal conclusion. Subject to and without waiving the objection, Superintendent Stutler admits this request.

**REQUEST NO. 50:** Admit that you are required to enforce H.B. 3293 assuming the Court has not enjoined you from doing so.

**RESPONSE:**        **OBJECTION.** Superintendent Stutler objects to the extent this request is seeking a legal conclusion. Subject to and without waiving the objection, Superintendent Stutler states as follows: Because H.B. 3293 is a West Virginia State law that applies to County Boards of Education, including the County Board and its County Superintendent, because H.B. 3293 provides for private causes of action, and thus imposes liability against County Boards of Education, like the County Board, and while the County Board and its County Superintendent did not devise and have not adopted H.B. Bill 3293 as their own policy, Superintendent Stutler admits this request because, absent an injunction by a court, the County Board and the County Superintendent would be compelled and required to enforce H.B. Bill 3293 because it is a mandatory State law that affords the County Board and the County Superintendent no discretion.



IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
CHARLESTON DIVISION

B.P.J., by her next friend and mother,  
HEATHER JACKSON,

*Plaintiff,*

v.

Civil Action No. 2:21-cv-00316  
Hon. Joseph R. Goodwin, District Judge

WEST VIRGINIA STATE BOARD OF  
EDUCATION, HARRISON COUNTY BOARD  
OF EDUCATION, WEST VIRGINIA  
SECONDARY SCHOOL ACTIVITIES  
COMMISSION, W. CLAYTON BURCH in his  
official capacity as State Superintendent,  
DORA STUTLER in her official capacity as  
Harrison County Superintendent, PATRICK  
MORRISEY in his official capacity as Attorney  
General, and THE STATE OF WEST VIRGINIA,

*Defendants,*

and

LAINY ARMISTEAD,

*Defendant-Intervenor.*

**DEFENDANT HARRISON COUNTY BOARD OF EDUCATION'S RESPONSES AND  
OBJECTIONS TO PLAINTIFF'S SECOND SET OF REQUESTS FOR ADMISSION**

Pursuant to Rule 36 of the Federal Rules of Civil Procedure, Defendant Harrison County Board of Education ("County Board") hereby responds and objects to "Plaintiff's Second Set of Requests for Admission to Defendant Harrison County Board of Education" as follows:

**GENERAL OBJECTION:** The County Board objects to the definitions of "County Board" and "County Superintendent" as set forth in Plaintiff's requests for admission. Those definitions are overly broad and outside the permissible scope of discovery under the



**REQUEST NO. 25:** Admit that the Harrison County Board of Education and the Harrison County School Superintendent must comply with H.B. 3293 unless enjoined from doing so by a court.

**RESPONSE:**           **OBJECTION.** The County Board objects to the extent this request is seeking a legal conclusion. Subject to and without waiving the objection, the County Board states as follows: Because H.B. 3293 is a West Virginia State law that applies to County Boards of Education, including the County Board and its County Superintendent, because H.B. 3293 provides for private causes of action, and thus imposes liability against County Boards of Education, like the County Board, and while the County Board and its County Superintendent did not devise and have not adopted H.B. Bill 3293 as their own policy, the County Board admits this request because, absent an injunction by a court, the County Board would be compelled and required to enforce H.B. Bill 3293 because it is a mandatory State law that affords the County Board no discretion.

**REQUEST NO. 26:** Admit that H.B. 3293 prohibits the Harrison County Board of Education and the Harrison County Superintendent from adopting or enforcing a policy that would allow B.P.J. to participate on girls' athletic teams at Bridgeport Middle School.

**RESPONSE:**           **OBJECTION.** The County Board objects to the extent this request is seeking a legal conclusion. Subject to and without waiving the objection, the County Board states as follows: Because H.B. 3293 is a West Virginia State law that applies to County Boards of Education, including the County Board and its County Superintendent, because H.B. 3293 provides for private causes of action, and thus imposes liability against County Boards of Education, like the County Board, and while the County Board and its County Superintendent did not devise and have not adopted H.B. Bill 3293 as their own policy, the County Board admits this

request because, absent an injunction by a court, the County Board would be compelled and required to enforce H.B. Bill 3293 because it is a mandatory State law that affords the County Board no discretion.

**REQUEST NO. 27:** Admit that the West Virginia Secondary School Athletic Commission must comply with H.B. 3293 unless enjoined from doing so by a court.

**RESPONSE:**           **OBJECTION.** The County Board objects to the extent this request is seeking a legal conclusion. Subject to and without waiving the objection, the County Board is not in a position to admit or deny this request because it concerns the West Virginia Secondary School Athletic Commission's obligations under H.B. 3293.

**REQUEST NO. 28:** Admit that H.B. 3293 prohibits the West Virginia Secondary School Athletic Commission from adopting or enforcing a policy that would allow B.P.J. to participate on girls' athletic teams at Bridgeport Middle School

**RESPONSE:**           **OBJECTION.** The County Board objects to the extent this request is seeking a legal conclusion. Subject to and without waiving the objection, the County Board is not in a position to admit or deny this request because it concerns the West Virginia Secondary School Athletic Commission's obligations under H.B. 3293.

**REQUEST NO. 29:** Admit that there are no athletic teams designated as "coed or mixed," as that phrase is used in H.B. 3293 (codified at Code of West Virginia §18-2-25d(c)(1)(C)), offered at Bridgeport Middle School.

**RESPONSE:**           Denied.

**REQUEST NO. 30:** Admit that there are no athletic teams designated as "coed or mixed," as that phrase is used in H.B. 3293 (codified at Code of West Virginia §18-2-

Board states as follows: Because H.B. 3293 is a West Virginia State law that applies to County Boards of Education, including the County Board and its County Superintendent, because H.B. 3293 provides for private causes of action, and thus imposes liability against County Boards of Education, like the County Board, and while the County Board and its County Superintendent did not devise and have not adopted H.B. Bill 3293 as their own policy, the County Board admits this request because, absent an injunction by a court, the County Board would be compelled and required to enforce H.B. Bill 3293 because it is a mandatory State law that affords the County Board no discretion.

**REQUEST NO. 49:** Admit that but for the injunction in this case (Dkt. 67) the Harrison County School Board and schools within the Harrison County School District would not take any actions that violated H.B. 3293.

**RESPONSE:**           **OBJECTION.** The County Board objects to the extent this request is seeking a legal conclusion. Subject to and without waiving the objection, the County Board states as follows: Because H.B. 3293 is a West Virginia State law that applies to County Boards of Education, including the County Board and its County Superintendent, because H.B. 3293 provides for private causes of action, and thus imposes liability against County Boards of Education, like the County Board, and while the County Board and its County Superintendent did not devise and have not adopted H.B. Bill 3293 as their own policy, the County Board admits this request because, absent an injunction by a court, the County Board would be compelled and required to enforce H.B. Bill 3293 because it is a mandatory State law that affords the County Board no discretion.

**REQUEST NO. 50:** Admit that, but for the injunction in this case (Dkt. 67), the Harrison County School Board and Bridgeport Middle School would not have permitted Plaintiff

Board admits that it has delegated some, but not all, regulation of interscholastic athletic events to the West Virginia Secondary School Activities Commission.

**REQUEST NO. 65:** Admit that the State Board of Education controls you. See Code of West Virginia §18-2-5.

**RESPONSE:** **OBJECTION.** The County Board objects to the extent this request is seeking a legal conclusion. Subject to and without waiving the objection, the County Board denies this request because West Virginia Code §18-2-5 states that “the State Board of Education shall exercise general supervision of the public schools of the state, and shall promulgate rules[.]”

**REQUEST NO. 66:** Admit that you receive federal financial assistance.

**RESPONSE:** Admitted.

**REQUEST NO. 67:** Admit that you must comply with Title IX of the Education Amendments of 1972, 20 U.S.C. §1681 *et seq.*

**RESPONSE:** **OBJECTION.** The County Board objects to the extent this request is seeking a legal conclusion. Subject to and without waiving the objection, the County Board admits this request.

Dated this the 10<sup>th</sup> day of March, 2022.

STEPTOE & JOHNSON PLLC  
OF COUNSEL

/s/ Susan L. Deniker  
Susan L. Deniker (WV ID #7992)  
Jeffrey M. Cropp (WV ID #8030)  
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*Counsel for Defendants Harrison County Board of  
Education and Dora Stutler*

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**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
CHARLESTON DIVISION**

**B.P.J., by her next friend and mother, HEATHER  
JACKSON,**

**Plaintiff,**

**v.**

**Civil Action No. 2:21-cv-00316  
Honorable Joseph R. Goodwin**

**WEST VIRGINIA STATE BOARD OF  
EDUCATION, HARRISON COUNTY BOARD OF  
EDUCATION, WEST VIRGINIA SECONDARY  
SCHOOL ACTIVITIES COMMISSION, W.  
CLAYTON BURCH in his official capacity as State  
Superintendent, DORA STUTLER, in her official  
capacity as Harrison County Superintendent, and  
THE STATE OF WEST VIRGINIA,**

**Defendants,**

**and**

**LAINY ARMISTEAD,**

**Defendant-Intervenor.**

**DEFENDANT WEST VIRGINIA STATE BOARD OF EDUCATION'S RESPONSES  
TO PLAINTIFF'S SECOND SET OF REQUESTS FOR ADMISSION**

**NOW COMES** Defendant West Virginia State Board of Education (hereinafter "WVBOE"), by and through counsel, Kelly C. Morgan, Kristen V. Hammond, Michael W. Taylor, and the law firm of Bailey & Wyant, P.L.L.C., and, pursuant to Rule 33 of the *Federal Rules of Civil Procedure*, hereby responds and objects to "*Plaintiff's Second Set of Requests for Admissions to Defendant West Virginia State Board of Education*" as follows:

**GENERAL OBJECTIONS AND PRELIMINARY STATEMENT**

A. WVBOE objects to the definitions as stated in Plaintiff's Second Set of Requests for

**RESPONSE: Objection.** The phrase “derive social benefits” is vague, undefined, and subject to multiple interpretations. Without waiving this objection, WVBOE admits that there are certain benefits to students from participation on athletic teams offered by public secondary schools in West Virginia.

**REQUEST NO. 45:**

Admit that students derive psychological benefits from participation on athletic teams offered by public secondary schools in West Virginia.

**RESPONSE: Objection.** The phrase “derive psychological benefits” is vague, undefined, and subject to multiple interpretations. Without waiving this objection, WVBOE admits that there are certain benefits to students from participation on athletic teams offered by public secondary schools in West Virginia.

**REQUEST NO. 46:**

Admit that interscholastic athletic competition benefits middle school students.

**RESPONSE: Objection.** The phrase “benefits” is vague, undefined, and subject to multiple interpretations. Without waiving this objection, WVBOE admits that there are certain benefits to middle school students who participate in interscholastic sports.

**REQUEST NO. 47:**

Admit that middle school students who participate in interscholastic athletics receive benefits regardless whether they win or lose.

**RESPONSE: Objection.** The phrase “benefits” is vague, undefined, and subject to multiple

**interpretations. Without waiving this objection, WVBOE admits that there are certain benefits to middle school students who participate in interscholastic sports.**

**REQUEST NO. 48:**

Admit that Plaintiff B.P.J.'s gender is identified as "male" in the West Virginia Education Information System ("WVEIS").

**RESPONSE: WVBOE admits this Request.**

**REQUEST NO. 49:**

Admit that you have the ability to change Plaintiff B.P.J.'s gender in WVEIS to "female."

**RESPONSE: WVBOE denies this Request as it does not have this ability.**

**REQUEST NO. 50:**

Admit that you are required to supervise public secondary schools in West Virginia.

**RESPONSE: WVBOE admits that it has general supervision and oversight over the free schools of the state of West Virginia, not including private schools.**

**REQUEST NO. 51:**

Admit that you have control over the county boards of education in West Virginia.

**RESPONSE: WVBOE admits that it can only exercise such "control" as it possesses by West Virginia Constitution or statute. WVBOE denies this request to the extent that W.Va. Code §18-2-25 speaks for itself.**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
CHARLESTON DIVISION**

**B.P.J., by her next friend and mother,  
HEATHER JACKSON,  
Plaintiff,**

**v.**

**Civil Action No. 2:21-cv-00316  
Honorable Joseph R. Goodwin, Judge**

**WEST VIRGINIA STATE BOARD OF EDUCATION,  
HARRISON COUNTY BOARD OF EDUCATION,  
WEST VIRGINIA SECONDARY SCHOOL  
ACTIVITIES COMMISSION, W. CLAYTON BURCH  
in his official capacity as State Superintendent,  
DORA STUTLER in her official capacity as  
Harrison County Superintendent, and  
THE STATE OF WEST VIRGINIA,  
Defendants,**

**and**

**LAINIEY ARMISTEAD,  
Intervenor Defendant.**

**WVSSAC'S RESPONSES TO SECOND SET  
OF REQUESTS FOR ADMISSION**

Now comes West Virginia Secondary School Activities Commission (WVSSAC), by counsel, and responds to Plaintiff's Second Set of Requests for Admission, as follows. Defendant West Virginia Secondary School Activities Commission has not completed discovery in this civil action and has not completed its preparation for trial. For these reasons, the Defendant's responses are based upon only such information and documents as are presently available and known to WVSSAC. Further discovery and independent investigation may lead to other responsive information and/or documents. The following responses are given in good faith but without prejudice to the Defendant's right to produce evidence of subsequently discovered facts or documents.



REQUEST NO. 27: Admit that the West Virginia Secondary School Athletic Commission must comply with H.B. 3293 unless enjoined from doing so by a court.

**RESPONSE:**

**Admitted and denied. WVSSAC denies that H.B. 3293 includes express provisions, prescriptions, duties or other relative to WVSSAC. However, WVSSAC admits that it must follow all laws that include a duty for it.**

REQUEST NO. 28: Admit that H.B. 3293 prohibits the West Virginia Secondary School Athletic Commission from adopting or enforcing a policy that would allow B.P.J. to participate on girls' athletic teams at Bridgeport Middle School.

**RESPONSE:**

**Objection; calls for a legal conclusion; incomplete hypothetical. Further, WVSSAC denies that H.B. 3293 includes express provisions, prescriptions, duties or other relative to WVSSAC, including, by example only, adopting or enforcing related policies. For these reasons and based upon the fact that WVSSAC has insufficient first-hand information on these issues and the underlying variables as relates to this student, WVSSAC admits only that it cannot adopt or enforce any policy that conflicts with state law.**

REQUEST NO. 29: Admit that there are no athletic teams designated as "coed or mixed," as that phrase is used in H.B. 3293 (codified at Code of West Virginia §18-2-25d(c)(1)(C)), offered at Bridgeport Middle School.

**RESPONSE:**

**Denied. On information and belief as to the use of the phrase in HB 3293, football, cheer, wrestling, baseball.**

REQUEST NO. 30: Admit that there are no athletic teams designated as "coed or mixed," as that phrase is used in H.B. 3293 (codified at Code of West Virginia §18-2-25d(c)(1)(C)), that compete interscholastically offered at any public secondary school located in West Virginia.

**RESPONSE:**

**Denied. On information and belief as to the use of the phrase in HB 3293, football, cheer, wrestling, baseball.**

REQUEST NO. 31: Admit that there are no cross-country teams designated as “coed or mixed,” as that phrase is used in H.B. 3293 (codified at Code of West Virginia §18-2-25d(c)(1)(C)), that compete interscholastically offered by any member school of the West Virginia Secondary School Activities Commission.

**RESPONSE:**

**Admitted.**

REQUEST NO. 32: Admit that there are no athletic leagues designated as “coed or mixed,” as that phrase is used in H.B. 3293 (codified at Code of West Virginia §18-2-25d(c)(1)(C)), that comprise teams from more than one school supervised by the West Virginia Secondary School Activities Commission.

**RESPONSE:**

**Objection; form of the question (which WVSSAC does not understand). In a good faith effort to respond and reserving all rights to amend, revise, retract or other upon clarification, WVSSAC asserts that the coed or mixed sports of football, cheer, wrestling, baseball allow for competition between schools.**

REQUEST NO. 33: Admit that there are no athletic teams designated as “coed or mixed,” as that phrase is used in H.B. 3293 (codified at Code of West Virginia §18-2-25d(c)(1)(C)), that compete interscholastically offered by any public secondary school under the supervision of the West Virginia State Board of Education.

**RESPONSE:**

**Denied. On information and belief as to the use of the phrase in HB 3293, football, cheer, wrestling, baseball.**

REQUEST NO. 34: Admit that H.B. 3293 does not prohibit a cisgender girl student at Bridgeport Middle School from joining a girls’ athletic team offered at Bridgeport Middle School.

**RESPONSE:**

**Objection; calls for a legal conclusion. Without waiving that objection, on information and belief, admitted.**

REQUEST NO. 47: Admit that middle school students who participate in interscholastic athletics receive benefits regardless whether they win or lose.

**RESPONSE:**

**Objection; form of the question – overly broad, vague ('benefits'). However, on information and belief only, WVSSAC admits that, in general, participation in interscholastic athletics 'benefits' middle school students, win or lose, by providing provides an opportunity for leadership, personal health, camaraderie and cooperation.**

REQUEST NO. 48: Admit that after H.B. 3293 was signed into law you decided that, for athletic eligibility purposes, a student athlete's gender would be determined by referring to the gender identified in West Virginia Education Information System ("WVEIS").

**RESPONSE:**

**Denied. The extent to which WVSSAC relied upon WVEIS was not changed by H.B. 3293. However, of note, WVSSAC has no access to and therefore no direct reliance upon WVEIS.**

REQUEST NO. 49: Admit that Plaintiff B.P.J.'s gender is identified in WVEIS as "male."

**RESPONSE:**

**WVSSAC has no independent knowledge of this assertion that would allow it to admit or deny same. Therefore, based upon that lack of knowledge, WVSSAC denies the assertion.**

REQUEST NO. 50: Admit that, as long as H.B. 3293 is in effect, you will not permit a student designated as "male" in WVEIS to participate on Bridgeport Middle School's girls' cross-country team unless ordered to permit that student to participate by a court.

**RESPONSE:**

**WVSSAC denies that H.B. 3293 includes express provisions, prescriptions, duties or other relative to WVSSAC, including, by example only, adopting or enforcing related policies. For these reasons and based upon the fact that WVSSAC has insufficient first-hand information on these issues and the underlying variables in WVEIS as relates to the referenced student, WVSSAC admits that it cannot adopt or enforce any policy that conflicts with state law.**

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
CHARLESTON DIVISION

B.P.J, by her next friend and mother, HEATHER JACKSON

*Plaintiff,*

v.

WEST VIRGINIA STATE BOARD OF EDUCATION, HARRISON COUNTY BOARD OF EDUCATION, WEST VIRGINIA SECONDARY SCHOOL ACTIVITIES COMMISSION, W. CLAYTON BURCH in his official capacity as State Superintendent, DORA STUTLER in her official capacity as Harrison County Superintendent, and THE STATE OF WEST VIRGINIA

*Defendants,*

and

LAINY ARMISTEAD,

*Defendant-Intervenor.*

Case No. 2:21-cv-00316

Hon. Joseph R. Goodwin

**DEFENDANT-INTERVENOR  
LAINY ARMISTEAD'S  
RESPONSES AND OBJECTIONS TO  
PLAINTIFF'S SECOND SET OF  
REQUESTS FOR ADMISSION**

Pursuant to Rules 33 and 34 of the Federal Rules of Civil Procedure and the applicable Local Rules of the District West Virginia and this Court, Defendant-Intervenor Lainey Armistead provides the following answers to Plaintiff's Second Set of Requests for Admission to Defendant-Intervenor.

**GENERAL OBJECTIONS**

1. Ms. Armistead objects to the following Definitions presented in Plaintiff's First Set of Requests for Admission to Defendant-Intervenor:

**CISGENDER means a person whose gender identity aligns with the sex they were assigned at birth.**

which, as noted above, is not defined, and finally, Ms. Armistead denies that sex is “assigned at birth.”

Subject to these objections, Ms. Armistead admits that other than Plaintiff B.P.J., she is currently not aware of and has no personal or independent knowledge of the current internal sense of self of members of the athletic teams at Bridgeport Middle School, nor does she have any reason to know or possess that information.

**REQUEST NO. 43:**

Admit that other than Plaintiff B.P.J., you are not aware of a transgender student athlete participating on an athletic team offered by a public secondary school in West Virginia.

**ANSWER:** Ms. Armistead objects to the definition of “transgender” as provided in Plaintiff’s First Amended Complaint paragraph 23: “A transgender person is someone who has a gender identity that does not align with their sex assigned at birth.” There is no definitive, legally recognized definition of “transgender”, Plaintiff’s definition relies on the term “gender identity” which, as noted above, is not defined, and finally, Ms. Armistead denies that sex is “assigned at birth.”

Subject to these objections, Ms. Armistead admits that she is currently not aware of, and she has no personal or independent knowledge of the internal sense of self of members of the athletic team offered by a public secondary school in West Virginia, nor would she have any reason to know or possess that information.

**REQUEST NO. 44:**

Admit that students derive social benefits from participation on athletic teams offered by public secondary schools in West Virginia.

**ANSWER:** Ms. Armistead objects to the term “social benefits” as overbroad, vague, and ambiguous because it is not clear how, why, or what kind of social benefits different individuals

experience and Ms. Armistead has no personal or independent knowledge of the social benefits that students other than herself may or may not derive from participating on athletic teams. Moreover, she objects to this Request because this topic is the subject of expert discovery and facts about the subjective state of the mind of the opposing party are an improper basis for a Request for Admission.

Subject to these objections, Ms. Armistead admits that she has personally derived social benefits as a student from playing soccer when the competition was safe and fair such as mental and physical toughness, perseverance, good sportsmanship, the value of hard work and discipline, the importance of teamwork, and leadership. Ms. Armistead further admits that she has observed other fellow athletes similarly benefiting from participation on athletic teams and believes that students generally benefit from participation when the competition is safe and fair. But Ms. Armistead never participated in sports in secondary schools in West Virginia and therefore cannot speak to the personal experience of every student.

**REQUEST NO. 45:**

Admit that students derive psychological benefits from participation on athletic teams offered by public secondary schools in West Virginia.

**ANSWER:** Ms. Armistead objects to the term “psychological benefits” as overbroad, vague, and ambiguous because it is not clear how, why, or what kind of psychological benefits different students may or may not experience from participating on athletic teams offered by public secondary schools in West Virginia. And Ms. Armistead has no personal or independent knowledge of the psychological benefits that students other than herself may or may not derive from participating on athletic teams. Moreover, she objects to this Request because this topic is the subject of expert discovery and facts about the subjective state of the mind of the opposing party are an improper basis for a Request for Admission.

Subject to these objections, Ms. Armistead admits that she has personally derived psychological benefits from playing soccer when the competition was safe and fair such as mental and physical toughness, perseverance, good sportsmanship, the value of hard work and discipline, the importance of teamwork, and leadership. Ms. Armistead further admits that she has observed fellow athletes similarly benefitting from participation on athletic teams when the competition is safe and fair. But Ms. Armistead never participated in sports in secondary schools in West Virginia and therefore cannot speak to the personal experience of every student.

**REQUEST NO. 46:**

Admit that interscholastic athletic competition benefits middle school students.

**ANSWER:** Ms. Armistead objects to the term “benefits” as overbroad, vague, and ambiguous because it is not clear how, why, or what kind of benefits different students may or may not experience from interscholastic athletic competition. And Ms. Armistead has no personal or independent knowledge of the all the benefits that middle school students may or may not derive from interscholastic athletic competition. Ms. Armistead also objects to the term “middle school students” as overbroad, vague, and ambiguous. It is not clear whether Plaintiff refers to middle school students in West Virginia, the United States of America, or the entire world. Moreover, she objects to this Request because this topic is the subject of expert discovery and facts about the subjective state of the mind of the opposing party are an improper basis for a Request for Admission.

Subject to these objections, Ms. Armistead lacks personal and independent knowledge of how and if interscholastic competition benefits each and every middle school student, but she admits that interscholastic competition—when fair and safe—generally benefits students and she has personally benefitted from such fair and safe competition.

**REQUEST NO. 47:**

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IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
CHARLESTON DIVISION

\* \* \* \* \*

B.P.J., by her next friend and \*  
Mother, HEATHER JACKSON, \*  
Plaintiff \* Case No.  
vs. \* 2:21-CV-00316  
WEST VIRGINIA STATE BOARD OF \*  
EDUCATION, HARRISON COUNTY \*  
BOARD OF EDUCATION, WEST \*  
VIRGINIA SECONDARY SCHOOL \*  
ACTIVITIES COMMISSION, W. \*  
CLAYTON BURCH in his official \*  
Capacity as State Superintendent, \* VIDEOTAPED  
DORA STUTLER in her official \* VIDEOCONFERENCE  
Capacity as Harrison County \* DEPOSITION  
Superintendent, PATRICK MORRISEY \* OF  
In his official capacity as \* BPJ  
Attorney General, and THE STATE \* January 21, 2022  
OF WEST VIRGINIA, \*  
Defendants \*

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by the certifying agency.



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VIDEOTAPED VIDEOCONFERENCE DEPOSITION  
  
OF  
  
BPJ, taken on behalf of the Defendant, State of West  
Virginia herein, pursuant to the Rules of Civil  
Procedure, taken before me, the undersigned, Nicole  
Montagano, a Court Reporter and Notary Public in and for  
the State of West Virginia, on Friday, January 21, 2022,  
beginning at 10:09 a.m.

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A P P E A R A N C E S

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\* CONFIDENTIAL EXHIBITS



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OBJECTION PAGE

ATTORNEY

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S T I P U L A T I O N

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(It is hereby stipulated and agreed by and between  
counsel for the respective parties that reading,  
signing, sealing, certification and filing are not  
waived.)  
-----

VIDEOGRAPHER: We're now on the record.  
My name is Jacob Stock. I'm a Certified Legal Video  
Specialist employed by Sargent's Court Reporting  
Services, which is located at 210 Main Street,  
Johnstown, PA 15901. The date today is January 21st,  
2022. The current time reads 10:09 a.m., Eastern  
Standard Time. This deposition is being taken remotely  
by Zoom conference. The caption of the case is in the  
United States District Court for the Southern District  
of West Virginia, Charleston Division, BPJ, by her Next  
Friend and Mother, Heather Jackson versus West Virginia  
State Board of Education, et al. Civil Action Number  
2:21-CV-00316. The name of the witness is BPJ.

Will the attorneys present state their  
names and the parties they represent?

ATTORNEY CAPEHART: This is Curtis  
Capehart for the State of West Virginia. And with me is

1 my colleague, David Tryon.

2 ATTORNEY HARTNETT: Good morning. This  
3 is Kathleen Hartnett from Cooley, LLP, for Plaintiff  
4 BPJ, who is the witness today. And the other  
5 Plaintiff's Counsel could introduce themselves, first  
6 with the others from Cooley and then we could go to  
7 ACLU, ACLU of West Virginia and Lambda.

8 ATTORNEY BARR: Good morning. This is  
9 Andrew Barr from Cooley, LLP, on behalf of the  
10 Plaintiff.

11 ATTORNEY VEROFF: Good morning. This is  
12 Julie Veroff from Cooley, LLP, on behalf of the  
13 Plaintiff.

14 ATTORNEY HELSTROM: Good morning. This  
15 is Zoe Helstrom from Cooley, LLP, on behalf of the  
16 Plaintiff.

17 ATTORNEY BLOCK: Good morning. This is  
18 Josh Block from ACLU on behalf of Plaintiff.

19 ATTORNEY STARK: Good morning. This is  
20 Loree Stark with the ACLU of West Virginia on behalf of  
21 the Plaintiff.

22 ATTORNEY SWAMINATHAN: Good morning.  
23 This is Sruti Swaminathan from Lambda Legal on behalf of  
24 Plaintiff.

1                    ATTORNEY DENIKER: Good morning. I'm  
2 Susan Deniker with Steptoe and Johnson, counsel for  
3 Defendants Harrison County Board of Education and  
4 Harrison County Superintendant Dora Stutler.

5                    ATTORNEY GREEN: Good morning. This is  
6 Roberta Green on behalf of West Virginia Secondary  
7 School Activities Commission, and I will let me  
8 colleagues introduce.

9                    ATTORNEY BANDY: Hello. This is Kimberly  
10 Bandy also on behalf of West Virginia Secondary School  
11 Activities Commission.

12                   ATTORNEY HAMMOND: Good morning. This is  
13 Kristen Hammond. And Kelly Morgan is also on here with  
14 Bailey and Wyant and we represent the West Virginia  
15 State Board of Education and Superintendant Burch.

16                   ATTORNEY DUCAR: Good morning. Timothy  
17 Ducar here on behalf of the Intervenor, Lainey  
18 Armistead.

19                   ATTORNEY HOLCOMB: Good morning.  
20 Christiana Holcomb with Alliance Defending Freedom on  
21 behalf of the Intervenor.

22                   ATTORNEY CSUTOROS: Good morning. This  
23 Rachel Csutoros on behalf of Alliance Defending Freedom  
24 on behalf of the Intervenor.

1                    ATTORNEY BROWN: And good morning. Josh  
2 Brown on behalf of the Intervenor.

3                    VIDEOGRAPHER: And if that's everybody,  
4 the court reporter can swear in the witness so we can  
5 begin the deposition.

6                    COURT REPORTER: Can you please raise  
7 your hand, BPJ?

8                    ---

9                    BPJ,

10 CALLED AS A WITNESS IN THE FOLLOWING PROCEEDING, AND  
11 HAVING FIRST BEEN DULY SWORN, TESTIFIED AND SAID AS  
12 FOLLOWS:

13                    ---

14                    COURT REPORTER: Thank you.

15                    ATTORNEY HARTNETT: Before we begin this  
16 morning, if it's okay with Mr. Capehart, the parties  
17 were going to put on the record a couple of stipulations  
18 about objections that they had reached for today's  
19 proceedings. I would just direct the record in this  
20 case to the record of the deposition yesterday of  
21 Heather Jackson held on January 20th, and the same  
22 stipulations with respect to objections for  
23 legal/medical and expert testimony with respect to  
24 terminology and with respect to potentially

1 mischaracterization of the evidence. Those same  
2 stipulations would hold today. And so for the record,  
3 the Plaintiff agrees to that. And it would be helpful I  
4 think if the other Defendants could just assent to those  
5 stipulations for today on the record.

6 ATTORNEY DENIKER: This is Susan Deniker.  
7 I stipulate to that.

8 ATTORNEY GREEN: This is Roberta Green on  
9 behalf of WVSSAC. We stipulate to that.

10 ATTORNEY HAMMOND: This is Kristen  
11 Hammond, and we also stipulate to that.

12 ATTORNEY DUCAR: This is Tim Ducar. We  
13 also stipulate to that.

14 ATTORNEY CAPEHART: And the State does as  
15 well.

16 ATTORNEY CAPEHART: Anything else,  
17 Kathleen, or should I go ahead?

18 ATTORNEY HARTNETT: Nothing here.

19 ATTORNEY CAPEHART: All right. Thanks  
20 very much.

21 ---

22 EXAMINATION

23 ---

24 BY ATTORNEY CAPEHART:

1 Q. Well, good morning. Nice to finally get to meet  
2 you. My name is Curtis Capehart, as I said just a  
3 minute ago. I represent the State of West Virginia in  
4 this. Now up to this point we've been referring to you  
5 by the initials as BPJ because that is the way you have  
6 been identified in the Complaint that started this  
7 lawsuit. Now, is that okay or would you prefer that I  
8 call you something else while we're talking here today?  
9 Because initials can be a little awkward. So if you  
10 feel more comfortable with me calling you something  
11 else, that's perfectly fine. You just let me know what  
12 that could be.

13 A. You can call me B [REDACTED].

14 Q. Okay.

15 ATTORNEY HARTNETT: If I could just say  
16 for the record, not to interrupt, that we filed with the  
17 BPJ initials in light of the Rules of Court, but the  
18 Plaintiff Counsel has no objection to you referring to  
19 her as B [REDACTED] in this deposition.

20 ATTORNEY CAPEHART: Okay.

21 BY ATTORNEY CAPEHART:

22 Q. You are represented by counsel here today and is  
23 that Kathleen, Ms. Hartnett, that was speaking just now?

24 A. Yes.

1 Q. Have you ever been involved in a lawsuit before?

2 A. No.

3 Q. So you've probably never been deposed before,  
4 have you?

5 A. Can you repeat the question?

6 Q. Sure. You haven't been deposed before then,  
7 have you?

8 A. No.

9 Q. Okay.

10 Also if there is a time where you have trouble  
11 understanding me or hearing me, just do what you just  
12 did there, let me know and I'll try and speak up a  
13 little bit. We don't have the best microphone  
14 placements in here, so that might be a thing as we go  
15 through today.

16 So as I go through and answer --- I'm sorry, if  
17 I go through and ask you questions today, I just need  
18 you to try to remember to answer verbally, not just nod  
19 your head or shake your head because there is a video,  
20 but we need to have those verbal responses so we can  
21 truly understand what your answer is. And if you do not  
22 understand a question, that's fine. You just need to  
23 say so so that I can try and put together a better  
24 question or try to explain more of what I'm trying to



1 learn. Okay?

2 Now, if you answer one of questions that I ask  
3 you today, we are going to assume that you understand  
4 it. So if there is any kind of confusion, we don't want  
5 to deal with any of that. It's better you just ask me  
6 and I'll try and improve my question for you.

7 Does that all make sense?

8 A. Yes.

9 Q. Okay.

10 Also, I want to kind of touch on a couple of  
11 other things here before I get started with some  
12 questioning. Just understand that we are not here to  
13 judge you. We're just trying to learn some of the facts  
14 here, things we don't know. This lawsuit was filed  
15 trying to have a West Virginia State Law declared  
16 invalid under the U.S. Constitution and another Federal  
17 Law referred to as Title 9. And that's --- that's  
18 pretty serious. So we, as the lawyers for the State,  
19 have an obligation to defend that law. That means I  
20 have to ask you some questions that might make all of us  
21 uncomfortable a little bit, but I have an obligation to  
22 try and get through these. That's not my goal. I'm  
23 just trying to find out information. Okay?

24 Now, also if I ask you a question that makes

1 you very uncomfortable, tell me, and I can try, if I  
2 can, to rephrase it in a way to make you not  
3 uncomfortable. I can't say that I won't ask those kinds  
4 of questions because there's some things that we have to  
5 ask questions about, some things that we need to get  
6 your testimony on, but I'm not trying to make you feel  
7 bad or upset you in any way.

8 Okay?

9 A. Okay.

10 ATTORNEY HARTNETT: I would just object  
11 to the extent you're seeking the witness to agree with  
12 your description of your role. But on the other hand, I  
13 appreciate you letting her know that she can let you  
14 know if she has an upsetting question.

15 BY ATTORNEY CAPEHART:

16 Q. Also, I'm just going to --- a word about  
17 objections. Sometimes when we go through these, your  
18 lawyer might make an objection. I may ask a question,  
19 Kathleen may same objection, something else. Now, if  
20 that happens, the lawyers may have to have a  
21 conversation. It's unlikely, but the lawyers may have  
22 to talk about something, at which point you wouldn't be  
23 able to hear us or see us. We don't think that's going  
24 to happen, but we at least want to let you know.

1           Also, generally, if your lawyer says objection,  
2 you can go ahead and answer the question unless your  
3 lawyer directs you not to.

4           A.     Okay.

5           Q.     Oh, and one last thing. If you need to take a  
6 break for any reason, go to the bathroom, get more  
7 water, something of that nature, just let me know and we  
8 will take a break as soon as we can. We just can't take  
9 a break if I've asked a question and we are waiting for  
10 you to finish your answer.

11                  Does that make sense?

12           A.     Yes.

13           Q.     Okay. Great.

14                  We will try and get through this as quickly as  
15 we can. I'm sure you have a lot of other things that  
16 you would rather do on a Friday. So with that, let me  
17 ask you, if you can, to please state your name for the  
18 record.

19           A.     First and last?

20           Q.     Yes, please.

21           A.     B [REDACTED] P [REDACTED] J [REDACTED].

22           Q.     Great. What is your address?

23           A.     Could you repeat the question?

24           Q.     Sure. What is your home address?

1 A. I'm not sure.

2 Q. Okay.

3 And where do you go to school?

4 A. Bridgeport Middle School.

5 Q. Do you remember signing a document called a  
6 Declaration back when this lawsuit was first getting  
7 started?

8 A. I can't remember.

9 Q. Okay.

10 If you could look at --- it's marked Exhibit  
11 31.

12 ATTORNEY CAPEHART: Court Reporter, if  
13 you could pull up that exhibit also.

14 BY ATTORNEY CAPEHART:

15 Q. So do you have Exhibit 31 in front of you?

16 A. Yes.

17 Q. It's also up on the screen, just to make sure  
18 that we're all looking at this document here?

19 MS. JACKSON: This is this.

20 BY ATTORNEY CAPEHART:

21 Q. There's on the screen electronic version of it,  
22 too.

23 ATTORNEY HARTNETT: For the record, we  
24 have copies of the exhibits face down in the room with

1 the witness, and the witness may feel free to pick up  
2 the exhibit once it's referred to by the questioning  
3 counsel and look at the hard copy.

4 BY ATTORNEY CAPEHART:

5 Q. Okay.

6 Looking at this, now if you look at the last  
7 page, I believe it is number page four, it has the  
8 initials BPJ there and then some handwritten  
9 signature-like initials of BPJ. Looking at those, do  
10 you recognize those?

11 A. Yes.

12 Q. And that's your handwriting, I guess?

13 A. Yes.

14 Q. Okay. Thanks very much.

15 Looking at this, does it jog your memory a  
16 little bit that this is something you had to deal with  
17 back when the lawsuit was started?

18 A. Not really.

19 Q. Okay.

20 And do you remember signing it?

21 A. A little bit.

22 Q. I know it's been a while, so I thought you might  
23 want to go and look at a couple of these things to  
24 remember what was in here.

1                    MS. JACKSON: Do you want to read through  
2 it?

3                    THE WITNESS: No.

4 BY ATTORNEY CAPEHART:

5            Q.        If you want to take a minute, you can kind of  
6 read all through it. You just go ahead and let us know  
7 when you've had a chance to do that.

8                    MS. JACKSON: You need to tell them when  
9 you're done.

10                   THE WITNESS: Oh, I'm done.

11 BY ATTORNEY CAPEHART:

12            Q.        Thank you.

13                    Now, since you signed this back in May of last  
14 year, obviously it's been quite a while since May. And  
15 is anything --- well, let me rephrase. Back at that  
16 time, if you look on page two, this was --- in  
17 paragraph 11 you were talking about trying out for  
18 cross-country and track. And obviously, with the  
19 passage of time, you tried out for the track team,  
20 right, cross-country track team.

21                    ATTORNEY HARTNETT: Objection, form.

22                    THE WITNESS: I tried out cross-country.  
23 Track is not a sport that was available at that time.

24 BY ATTORNEY CAPEHART:

1 Q. Is track a spring sport?

2 A. Yes.

3 Q. Okay.

4 So you tried out for cross-country. Did you  
5 make the cross-country team?

6 A. Yes.

7 Q. Back on the bottom of the first page, under the  
8 paragraph number four, it describes that you when you  
9 were younger would play with your mom's clothes, liked  
10 paint and girly items. Whenever you said girly items  
11 there with the quotations around it, what kind of items  
12 are those?

13 A. Items that had maybe unicorns on it, sparkles,  
14 anything that would stick out in general that was maybe  
15 a mystical creature that was like a unicorn maybe. I  
16 had some stuff that was pandas because I really like  
17 pandas, and they were always multi-colored. And that's  
18 about it.

19 Q. Okay.

20 I'm going to set that off to the side for a  
21 minute and just ask you a few other questions. Your  
22 mother told us that you are comfortable explaining your  
23 gender identity. Are you?

24 ATTORNEY HARTNETT: Objection to form.

1                                    THE WITNESS:    Yes.

2    BY ATTORNEY CAPEHART:

3            Q.        Can you explain to me what is your gender  
4    identity?

5            A.        I am female and I go by the pronoun she or her.

6            Q.        Do you also refer to yourself as a transgender  
7    girl?

8            A.        No.    I refer myself as a girl because I am a  
9    girl, and that's it.

10          Q.        Okay.

11                    Does it bother you if someone does refer to you  
12    as a transgender girl?

13          A.        No, because that's still calling me a girl, but  
14    I prefer to be called as just a girl.

15          Q.        Okay.

16                    Did you have a problem with --- looking back at  
17    your Declaration, at Exhibit 31, in paragraph 12 it  
18    says, the second line, I am a transgender girl.    Is that  
19    okay with you that that's written that way?

20          A.        Yes, that is fine because that is --- that's  
21    still showing that I am a girl and that is on a ---  
22    that's on my Declaration.

23          Q.        And transgender female or transgender girl, are  
24    both of those terms accurate?



1                    ATTORNEY HARTNETT: Objection to form.

2                    THE WITNESS: Yes, because I am a

3 transgender female and a transgender girl.

4 BY ATTORNEY CAPEHART:

5            Q.        Okay.

6                    I just want to make sure I got the terminology  
7 down. Do you remember the first time you heard the term  
8 transgender?

9            A.        I can't remember.

10           Q.        Okay.

11                    As long as you remember, you just --- have you  
12 always had an understanding of what transgender means?

13           A.        I don't know, I don't think so.

14           Q.        So --- and I'm not trying to put words in your  
15 mouth. I'm just trying to understand. So do you think  
16 there was a time that you didn't, but at some point you  
17 learned it, you just don't remember when that was?

18           A.        Yes.

19           Q.        All right.

20                    Do you have any recollection of a time when you  
21 were not a transgender girl?

22                    ATTORNEY HARTNETT: Objection to form.

23                    THE WITNESS: A little bit of a memory,  
24 but not much.

1 BY ATTORNEY CAPEHART:

2 Q. What kind of a memory do you have --- let me  
3 back up. How old is that memory?

4 A. Four or five years.

5 Q. Okay.

6 Was that memory --- what were you doing that  
7 you can remember, I guess, maybe not being a transgender  
8 girl at that time?

9 ATTORNEY HARTNETT: Objection to form.

10 THE WITNESS: I think I was learning  
11 something in school and I found it really interesting.

12 BY ATTORNEY CAPEHART:

13 Q. Okay.

14 You don't remember what that was that you were  
15 learning, do you?

16 A. No.

17 Q. Your mother also told us that at some point when  
18 you were younger you told her that you were a girl. Do  
19 you remember the first time you told your mother that?

20 A. I can't remember.

21 Q. Okay.

22 Do you remember the first time you told someone  
23 other than your mother that you were a transgender girl?

24 ATTORNEY HARTNETT: Objection to form.

1                   THE WITNESS: I --- can you say it again?

2                   BY ATTORNEY CAPEHART:

3           Q.       Sure. I will try to make it a little bit  
4 better, too. Do you remember the time that you first  
5 told someone other than your mother that you were a  
6 girl?

7           A.       Yes.

8           Q.       Okay.

9                   Can you tell me about that?

10          A.       It was in school. It was new, whenever I just  
11 came out, and it was the year of 4th grade.

12          Q.       Okay.

13                   Do you remember who you were talking to?

14          A.       I don't remember.

15          Q.       Now, you said that was 4th grade, that that was  
16 the year that you came out. Do you use terminology like  
17 socially transition when you talk about that time?

18          A.       Could you repeat the question?

19          Q.       Sure. Let me ask a different one. Are you  
20 familiar with the term social transition or to socially  
21 transition?

22          A.       No.

23          Q.       Okay.

24                   When you --- and I'm going to use your term,

1     okay.  When you said you came out in 4th grade and that  
2     was the time when you maybe started talking to other  
3     people about being a girl, you don't really remember who  
4     that was, but generally how was that time for you?

5                     ATTORNEY HARTNETT:  Objection to form.

6                     THE WITNESS:  It was good because I made  
7     a lot of new friends.  A lot of people were really nice  
8     to me.

9     BY ATTORNEY CAPEHART:

10        Q.     Were your old friends nice to you, too?

11        A.     Yes.

12        Q.     How was everybody at your school, teachers and  
13     other folks that worked there?

14                     ATTORNEY HARTNETT:  Objection to form.

15                     THE WITNESS:  They were very good about  
16     it.

17     BY ATTORNEY CAPEHART:

18        Q.     Did you have any bad experiences that year?

19        A.     No.

20        Q.     Okay.

21                     B [REDACTED], for you what does it mean to be female  
22     or to be a girl?

23        A.     Could you repeat the question?

24        Q.     Sure.  I'm trying to understand your perspective

1 on things, and so that's why I'm just asking, to you,  
2 what does it mean to be a girl or to be female?

3 ATTORNEY HARTNETT: Objection to form.

4 THE WITNESS: It means --- it means  
5 everything. I've always wanted to be a girl.

6 BY ATTORNEY CAPEHART:

7 Q. Okay.

8 And what is it about a girl or female that  
9 makes them different from boys or males?

10 ATTORNEY HARTNETT: Objection to form.

11 THE WITNESS: How they act and how they  
12 dress their selves.

13 BY ATTORNEY CAPEHART:

14 Q. Okay.

15 Anything else other than how they act or how  
16 they dress?

17 A. Not that I can think of right now.

18 Q. Okay.

19 How do girls or females dress differently than  
20 boys or males?

21 ATTORNEY HARTNETT: Objection to form.

22 THE WITNESS: Females would wear ---  
23 normally wear dresses and males would normally wear  
24 tuxedos and suits. And their casual clothes are most of

1 the time different but sometimes can be the same.

2 BY ATTORNEY CAPEHART:

3 Q. Okay.

4 So do I look like I'm dressed like a male  
5 because I'm wearing a suit jacket and tie?

6 ATTORNEY HARTNETT: Objection to form.

7 THE WITNESS: Yes.

8 BY ATTORNEY CAPEHART:

9 Q. Okay.

10 A. Because that is also how you present yourself.

11 Q. Okay.

12 Is presenting one's self, when you say that, is  
13 that different than how one dresses and how one acts or  
14 is it both of those together?

15 ATTORNEY HARTNETT: Objection to form.

16 Sorry.

17 THE WITNESS: It's kind of a mix of all  
18 of it.

19 BY ATTORNEY CAPEHART:

20 Q. Now, when you say that how someone acts is  
21 different regarding girls to boys, what do you mean by  
22 that?

23 A. Normally ---.

24 ATTORNEY HARTNETT: Objection to form.

1                   THE WITNESS: Most of the time males will  
2 look very big and buff and females most of the time do  
3 not like that look, but some can.

4 BY ATTORNEY CAPEHART:

5           Q.       Okay.

6                   What else about how a person acts puts them in  
7 a more of a female category than a male category?

8                   ATTORNEY HARTNETT: Objection to form.

9                   THE WITNESS: They would maybe --- they  
10 wouldn't want to look like a guy. A guy wouldn't want  
11 to look like a girl and a girl wouldn't want to look  
12 like a guy unless --- unless you do, which sometimes  
13 people do do that.

14 BY ATTORNEY CAPEHART:

15           Q.       Okay.

16                   So if someone is trying to look like a guy,  
17 then they are going to wear more what I'll call  
18 traditional attire, like you said, maybe like a tuxedo  
19 or a suit with a coat and a tie and they may want to  
20 look bigger and buff and in an overall way present  
21 themselves as male.

22                   Is that right?

23                   ATTORNEY HARTNETT: Objection to form.

24                   THE WITNESS: Most of the time but not

1 all the time.

2 BY ATTORNEY CAPEHART:

3 Q. Okay.

4 Are there actions or things that people do that  
5 make you think this person is acting more like a male or  
6 someone is acting more like a female?

7 ATTORNEY HARTNETT: Objection to form.

8 THE WITNESS: Sometimes.

9 BY ATTORNEY CAPEHART:

10 Q. Okay.

11 When you say sometimes what are you thinking  
12 about?

13 A. Maybe people are walking around because  
14 sometimes it's how they walk that you can tell and their  
15 hair sometimes.

16 Q. What kind of hair is more male as compared with  
17 hair that is more female to you?

18 ATTORNEY HARTNETT: Objection to form.

19 THE WITNESS: I think longer hair is more  
20 ladylike and short hair is more manly, but sometimes  
21 people do like an option of that where people --- where  
22 guys will like long hair and girls will like short hair.

23 BY ATTORNEY CAPEHART:

24 Q. I think my father would agree with you on what



1 you said there. Are there other kind of behaviors that  
2 people exhibit that are more male or more female besides  
3 walking and maybe kind of their physical posture?

4 ATTORNEY HARTNETT: Objection to form.

5 THE WITNESS: Not really, no.

6 BY ATTORNEY CAPEHART:

7 Q. Okay.

8 Besides, as you said, males would be more big  
9 and buff and females not really liking that look as  
10 much, although some of them do, are there other physical  
11 attributes that makes you think someone is more male or  
12 more female?

13 ATTORNEY HARTNETT: Objection to form.

14 THE WITNESS: Not really.

15 BY ATTORNEY CAPEHART:

16 Q. Does height have anything to do with it?

17 ATTORNEY HARTNETT: Objection to form.

18 THE WITNESS: No, because that can go  
19 either way. That's genetics if you're tall or not.

20 BY ATTORNEY CAPEHART:

21 Q. As you have been growing up, from what I  
22 understand, you talk with your mom a lot.

23 Right?

24 A. Yes.

1 Q. Have you ever talked with your mother about what  
2 it means to be female?

3 A. Yes.

4 Q. Okay.

5 What did your mother --- strike that.

6 Did your mother try to help you as you were  
7 going through this process to kind of understand this a  
8 little bit more what is male and female?

9 ATTORNEY HARTNETT: Objection to form.

10 THE WITNESS: Could you repeat the  
11 question?

12 BY ATTORNEY CAPEHART:

13 Q. Sure. As you've been growing up and as you've  
14 been talking with your mother over the years as you  
15 realized, as you said, you're a girl and as we were just  
16 talking about, that there are certain things in your  
17 mind that go more with being female rather than being  
18 male, did you and your mom have conversations about that  
19 same kind of thing we were just discussing?

20 ATTORNEY HARTNETT: Objection to form.

21 THE WITNESS: Yes.

22 BY ATTORNEY CAPEHART:

23 Q. Okay.

24 What did you all talk about?

1 A. We talked about looks and --- mainly looks and  
2 that was about it.

3 Q. Okay.

4 Did you talk about makeup?

5 A. Yes.

6 Q. Okay.

7 Is that something to you that is more female or  
8 more male?

9 A. More female, but some males do wear them ---  
10 wear it.

11 Q. Did you and your mom talk about jewelry?

12 A. Ish, not really because jewelry can be worn by  
13 males and females.

14 Q. That's fair. I'm wearing some myself right now.  
15 Did you all talk about anything else other than those  
16 few things that you just provided to me and also the  
17 makeup?

18 ATTORNEY HARTNETT: Objection to form.

19 THE WITNESS: Not really.

20 BY ATTORNEY CAPEHART:

21 Q. Okay.

22 Have you ever had any of those kinds of  
23 conversations with your father?

24 ATTORNEY HARTNETT: Objection to form.

1                   THE WITNESS: Not really because I don't  
2 think he would understand it because he is a guy that is  
3 --- he really --- he likes doing manly stuff and I don't  
4 think he'd understand makeup.

5 BY ATTORNEY CAPEHART:

6           Q.       So with all that in mind, I'm just trying to  
7 understand how you think about some of these things.  
8 How do you define girls and boys?

9                   ATTORNEY HARTNETT: Objection to form.

10                  THE WITNESS: Males try to look muscular  
11 and they do --- they lift weights and have short hair,  
12 but girls can also do that, but it's most commonly found  
13 with guys. With girls, they usually have long hair, but  
14 guys can have that, too. They wear makeup and have  
15 different clothing than males.

16 BY ATTORNEY CAPEHART:

17           Q.       Okay.

18                   Are there activities that girls or females like  
19 to do that men don't like to do or that males don't like  
20 to do?

21                  ATTORNEY HARTNETT: Objection to form.

22                  THE WITNESS: Not really because sports  
23 are for everyone and they should --- and every --- and  
24 any person should be able to play.

1 BY ATTORNEY CAPEHART:

2 Q. I thank you for that. I was making it a little  
3 bit more broad than that even though. Are there other  
4 things outside of sports that may be girls and females  
5 like to do that typically, from your experience, boys  
6 and males don't like to do?

7 ATTORNEY HARTNETT: Objection to form.

8 THE WITNESS: Not really because anything  
9 that a female could do a male could do, and anything a  
10 male could do a female could do.

11 BY ATTORNEY CAPEHART:

12 Q. And among all of your friends, are they mostly  
13 girls, mostly boys or all across both boys and girls?

14 A. They are mostly girls, but I do have some guy  
15 friends.

16 Q. What do you like to do with your friends that  
17 are girls?

18 A. We hang out, sometimes we play video games.

19 Q. Do you go --- do you like going to the mall or  
20 shopping? I know that has been harder recently since  
21 COVID?

22 ATTORNEY HARTNETT: Objection to form.

23 THE WITNESS: Sometimes, but not really  
24 because of COVID.

1 BY ATTORNEY CAPEHART:

2 Q. Do you do the same kind of things with your  
3 friends that are boys?

4 A. We also hang out. We talk about video games, we  
5 play video games, so, yes, about the same.

6 Q. Okay.

7 At some point you decided to change your name.  
8 Do you remember when you decided to do that?

9 A. When I came out.

10 Q. So in 4th grade, as you mentioned earlier?

11 A. I came out in the third --- the summer of third  
12 grade. But when I was like actually talking to people  
13 and stuff about it, it was 4th grade. So yes, when I  
14 came out.

15 Q. Okay.

16 And so when did you start going by B [REDACTED]?

17 A. The summer of third grade.

18 Q. Did you go by B [REDACTED] at school at that time, too,  
19 or did you wait until fourth grade for that?

20 ATTORNEY HARTNETT: Objection to form.

21 THE WITNESS: It was the summer of third  
22 grade and I was kind of presenting through third grade,  
23 but I didn't go by B [REDACTED], just --- at that point I  
24 waited until fourth grade.

1 BY ATTORNEY CAPEHART:

2 Q. Okay.

3 How did you select your new name?

4 A. I've always liked the name, so that's what I  
5 liked.

6 Q. Okay.

7 And why did you decide at that time that you  
8 needed a new name?

9 A. Because I didn't think my name fit for me.

10 Q. Okay.

11 And you're familiar with the term dead name.

12 Right?

13 A. Yes.

14 Q. Okay.

15 Do you remember the first time that you  
16 encountered that word --- or I'm sorry, that term?

17 A. That term? When I came out, I was told that I  
18 could be dead named and they told me what that was. And  
19 then later I looked it up and figured out what it was  
20 more in depth.

21 Q. Okay.

22 Do you remember who it was that had told you  
23 that you could be dead named?

24 A. I can't remember.

1 Q. Was it your mom?

2 A. It may have been, but I can't remember.

3 Q. From what your mother and your father told us,  
4 it sounds like your mother has been the parent that has  
5 taken you to all but maybe one of your appointments to  
6 talk to people about being a transgender girl. Is that  
7 about right from your recollection?

8 ATTORNEY HARTNETT: Objection to form.

9 THE WITNESS: Yes, that is about right.

10 BY ATTORNEY CAPEHART:

11 Q. Have you had a lot of appointments to talk with  
12 doctors or other healthcare providers about being a  
13 transgender girl?

14 ATTORNEY HARTNETT: Objection to form.

15 THE WITNESS: I wouldn't say it was a  
16 lot, but I also wouldn't say it was like a little. It  
17 was a good amount of appointments.

18 BY ATTORNEY CAPEHART:

19 Q. Okay.

20 After one of those appointments you received a  
21 diagnosis of gender dysphoria. Have you been told that  
22 before?

23 A. Yes.

24 Q. Okay.



1           When was the first time you remember  
2 encountering that term gender dysphoria?

3           A.     I don't know the date, but I think my mom told  
4 me that I had it.

5           Q.     Okay.

6                   Do you remember generally when that was?

7           A.     I can't remember. It may have been 2021 or  
8 2022.

9           Q.     Also, when you're remembering something, if you  
10 remember it by year, I know that is how I remember a lot  
11 of things growing up, if something happened at a  
12 particular year of school rather than a calendar year.  
13 You know, if that's a frame of remembering for you, too,  
14 that is fine also. Calendar years aren't as important.

15                   Do you know what gender dysphoria is?

16           A.     A little bit about it, but I don't know the  
17 actual definition.

18           Q.     Okay.

19                   Did you look it up and research it like you did  
20 dead name after you heard it?

21                           ATTORNEY HARTNETT: Objection to form.

22                           THE WITNESS: I don't think so because if  
23 I did I'd probably know more about it.

24 BY ATTORNEY CAPEHART:

1 Q. And you said --- do you remember the doctor  
2 visit where you first heard one of your doctors use that  
3 term?

4 A. I can't remember.

5 Q. Do you remember an appointment with Dr. Montano?

6 A. Yes, I remember some of the appointments with  
7 him.

8 Q. Okay.

9 There is some medical records that show that  
10 you had an appointment with Dr. Montano where he did a  
11 full assessment of you in the summer of 2019. Do you  
12 remember that by any chance?

13 ATTORNEY HARTNETT: Objection to form.

14 THE WITNESS: Not really because that was  
15 a long time ago.

16 BY ATTORNEY CAPEHART:

17 Q. Do you remember any appointment with Dr. Montano  
18 that was a longer appointment where you talked about a  
19 lot of things?

20 ATTORNEY HARTNETT: Objection to form.

21 THE WITNESS: Not really because they all  
22 felt like they went by so fast because during the things  
23 I usually had to miss a day of school, and I was always  
24 thinking about what I missed.

1 BY ATTORNEY CAPEHART:

2 Q. I did the same thing at your age.

3 Whenever you had those appointments with Dr.  
4 Montano or at Dr. Montano's office, I know oftentimes at  
5 those appointments it's not just the doctor, that there  
6 are sometimes other people that work there that will  
7 come in and see a patient during the appointment time.  
8 What do you recall about those appointments and who you  
9 met with?

10 ATTORNEY HARTNETT: Objection to form.

11 THE WITNESS: I can't remember, but I ---  
12 I don't remember their name, but I remember a time where  
13 someone else went in there.

14 BY ATTORNEY CAPEHART:

15 Q. Do you remember the kinds of things that you  
16 would talk about with Dr. Montano or any of the other  
17 people at those appointments?

18 A. Maybe --- I don't know. I can't remember.

19 Q. When you were at appointments at Dr. Montano's  
20 office, do you recall him or any of his staff running  
21 tests on you?

22 ATTORNEY HARTNETT: Objection to form.

23 THE WITNESS: I can't recall.

24 BY ATTORNEY CAPEHART:

1 Q. Okay.

2 At those appointments do you remember hearing  
3 people talking about how to treat gender dysphoria?

4 A. I can't remember.

5 Q. Has your mother discussed with you how your  
6 gender dysphoria is being treated now?

7 A. Maybe back whenever I --- whenever I was  
8 diagnosed with it, but I can't remember.

9 Q. Whenever there's any decisions that have to get  
10 made about your treatment for your gender dysphoria,  
11 does your mother talk with you about that and explain  
12 everything that's happening?

13 A. Yes.

14 Q. Okay.

15 When you all are having those conversations and  
16 a decision has to be made, does your mother let you make  
17 those decisions?

18 ATTORNEY HARTNETT: Objection to form.

19 THE WITNESS: Yes, I am part of the  
20 making of the decisions what happens to me.

21 BY ATTORNEY CAPEHART:

22 Q. Okay.

23 Do you and your mother ever disagree about what  
24 should be done?

1                    ATTORNEY HARTNETT: Objection to form.

2                    THE WITNESS: Not --- not --- I don't  
3 think we have, but there is a possibility that could  
4 happen or could have happened and I don't recall.

5 BY ATTORNEY CAPEHART:

6            Q.        Okay.

7                    Give me just a second.

8                    ATTORNEY HARTNETT: Also, I think it  
9 might be a good time to take a quick break just given  
10 the youth and amount of water consumption. So maybe we  
11 can take a five to ten-minute bathroom break when it's  
12 good for you, Curtis.

13                    ATTORNEY CAPEHART: Oh, yeah, that's  
14 actually perfectly fine.

15                    ATTORNEY HARTNETT: Can we take a  
16 ten-minute break? Yeah, let's just take a ten-minute  
17 break so we're are not all back too early.

18                    ATTORNEY CAPEHART: Sounds great.

19                    VIDEOGRAPHER: Going off the record. The  
20 current time reads 11:01 a.m.

21 OFF VIDEOTAPE

22                    ---

23 (WHEREUPON, A SHORT BREAK WAS TAKEN.)

24                    ---

1 ON VIDEOTAPE

2 VIDEOGRAPHER: We are back on the record.

3 The current time reads 11:13 a.m.

4 BY ATTORNEY CAPEHART:

5 Q. Okay.

6 Well, during the break I was going back over  
7 some notes and just have a couple of questions that kind  
8 of relate to some things we already talked about and  
9 then I'm going to move on.

10 Okay?

11 A. That Declaration that we had looked at earlier,  
12 I recall that you had mentioned when you first looked at  
13 it you didn't recall seeing it, you didn't recall  
14 signing it, you then looked at your initial signatures  
15 and then you had read the rest of the document. After  
16 we went through all of that, did that jog your memory  
17 any. Do you remember signing it?

18 A. I do remember signing it, but I kind of have a  
19 little bit of memory seeing it, but I do have a memory  
20 signing it.

21 Q. Okay.

22 Also, when you recalled learning and hearing  
23 the term about dead name and that someone might do that  
24 to you at school, did anyone actually do that to you at

1 school?

2 A. Not that I can remember.

3 Q. Okay.

4 I think you had also said you kind of did some  
5 research. What kind of research did you do looking into  
6 that term?

7 A. Just looking what it meant, looking up what it  
8 meant.

9 Q. Did you look it up in a book or on the internet?

10 A. The internet.

11 Q. Okay.

12 Do you recall where on the internet you found  
13 it?

14 A. I think I looked it up on Google and I did  
15 another one, but I can't remember what it was. It was  
16 one of the unpopular ones.

17 Q. Okay.

18 Also, when you were --- or when we were talking  
19 about the characteristics or things that make a person  
20 more female or more male you had said that height really  
21 didn't make a difference, that that was really more  
22 genetic. Do genetics have something more to do with  
23 being a girl or a boy?

24 ATTORNEY HARTNETT: Objection to form.

1                   THE WITNESS: I wouldn't know.

2           BY ATTORNEY CAPEHART:

3           Q.       Also, is there anything that definitively makes  
4 a person a girl or a female versus a boy or a male?

5                   ATTORNEY HARTNETT: Objection to form.

6                   THE WITNESS: Could you repeat the  
7 question?

8           BY ATTORNEY CAPEHART:

9           Q.       Sure. And I will preface it with kind of what  
10 we were kind of talking about before. You were  
11 describing how there were a lot of things that are  
12 typically --- and I don't think you used that word but  
13 I'm going to use it, more typically associated with  
14 males like tuxedos or suits, short hair, being buff,  
15 working out, that sort of thing, and other things that  
16 were more typically associated with being female,  
17 wearing dresses, longer hair, not preferring to have  
18 that maybe over muscled physique, wearing makeup, that  
19 sort of thing, and that there were even some other  
20 things you said are maybe more associated with males,  
21 but that doesn't mean that females don't do it or vice  
22 versa. I think that's what you said.

23                   So I'm wondering is there anything in your mind  
24 that if you see a person doing that or wearing that or



1 whatever that thing might be, is there something that  
2 you, if you see it associated with a person, you think  
3 only boys do that or only girls do that?

4 ATTORNEY HARTNETT: Objection to form.

5 THE WITNESS: No, because if I see  
6 someone like that and I don't --- I don't immediately  
7 go, oh, that's a guy, oh, that's a girl. I ask them,  
8 oh, what are your pronouns, what is your gender  
9 identity. And that's --- that's the better way to  
10 figure out what they --- what they are and if they're  
11 male or female or what --- if they're nonbinary or  
12 whatever they are.

13 BY ATTORNEY CAPEHART:

14 Q. You mentioned a term nonbinary. Can you explain  
15 what nonbinary means?

16 A. It is a person that doesn't identify as a male  
17 or female and they go by they/them pronouns.

18 Q. Do you know anyone that is nonbinary?

19 A. One of my lawyers is.

20 Q. Do you know anybody at your school or your  
21 hometown that is nonbinary?

22 A. I don't think so.

23 Q. Okay.

24 ATTORNEY HARTNETT: Heather, do you want

1 a minute for a break?

2 MS. JACKSON: Just to get a sip of water.

3 ATTORNEY HARTNETT: Can you give her a  
4 mute to, the court reporter, just to let her work  
5 through that? It's happened to all of us. No worries.

6 MS. JACKSON: It went down the wrong  
7 pipe.

8 ATTORNEY CAPEHART: And again, if you  
9 need to take another break, that's fine, too. All okay  
10 on your end?

11 MS. JACKSON: We're good.

12 ATTORNEY CAPEHART: Okay.

13 BY ATTORNEY CAPEHART:

14 Q. I don't want to upset you, but I need to ask a  
15 couple of questions about some comments that, according  
16 to what we learned, your father had made in the past.

17 ATTORNEY HARTNETT: Objection to form.

18 ATTORNEY CAPEHART: That wasn't a  
19 question, but okay.

20 BY ATTORNEY CAPEHART:

21 Q. We understand that ---.

22 ATTORNEY HARTNETT: Sorry. Just to make  
23 clear my objection was that you were stating that  
24 certain statements had been made, and I'm objecting to

1 the foundation.

2 ATTORNEY CAPEHART: Okay.

3 ATTORNEY HARTNETT: Go ahead.

4 BY ATTORNEY CAPEHART:

5 Q. I've looked at some records and there are some  
6 notations and [REDACTED]

7 [REDACTED] When we were talking with  
8 your mother she had said she did not know what had  
9 happened there. Can you tell me what had happened when  
10 that occurred?

11 ATTORNEY HARTNETT: Objection to form.

12 THE WITNESS: Could you repeat the  
13 question?

14 BY ATTORNEY CAPEHART:

15 Q. Sure. We've seen in some records a notation

16 [REDACTED]  
17 [REDACTED] Your mother did not  
18 know what had happened on that occasion. She recalled  
19 that when this happened, but she didn't know what had  
20 actually occurred [REDACTED]

21 Do you remember that?

22 ATTORNEY HARTNETT: Objection to form.

23 Go ahead.

24 THE WITNESS: I can't remember, but I'm

1 pretty sure it was --- I was scared of something that  
2 was --- honestly I shouldn't have been scared of. It  
3 was nowhere near me. It was probably a spider or  
4 something. But just the phrase [REDACTED]  
5 [REDACTED] it is like don't be  
6 scared of that, there's no reason to. It's just another  
7 use of don't be scared of that.

8 BY ATTORNEY CAPEHART:

9 Q. Okay.

10 We were --- we were just wondering what had  
11 happened there because, as I recall, when this was being  
12 discussed yesterday, that your mother indicated you were  
13 very upset when you had [REDACTED]

14 [REDACTED]  
15 [REDACTED] Does that help you  
16 remember anything more?

17 ATTORNEY HARTNETT: Objection, form.

18 THE WITNESS: Not really.

19 BY ATTORNEY CAPEHART:

20 Q. Also, we seen a note in one of the medical  
21 records that was, again, discussed yesterday and your  
22 mother said we would need to ask you about it. [REDACTED]

23 [REDACTED]

24 [REDACTED]

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[REDACTED]

ATTORNEY HARTNETT: Objection to form.

THE WITNESS: Could you restate the question?

BY ATTORNEY CAPEHART:

Q. Sure. We were looking at some records and there was some notation [REDACTED]

[REDACTED] Your mother wasn't familiar with that and said we should ask you about it. So I'm asking you if you recall ever discussing that with one of your treaters?

ATTORNEY HARTNETT: Objection to form.

THE WITNESS: I don't remember discussing that with anyone besides my mom really. But it was a long time ago, so I --- I can't remember if I did or not.

BY ATTORNEY CAPEHART:

Q. Okay.  
Do you know what that would relate to, that reference [REDACTED]

A. He probably got mad at me, like really mad in the situation, and he was probably threatening [REDACTED]  
[REDACTED]

Q. Has that happened sometimes?

1 A. A long time ago. It doesn't happen anymore now.

2 Q. Did it happen on multiple occasions or just  
3 once?

4 A. It was --- well, it was a couple of times maybe  
5 in like the same three days or something like that, but  
6 after those three days it stopped.

7 Q. Did you talk with your mom about it when that  
8 happened?

9 A. Yes.

10 Q. Okay.

11 Did she tell you that she was going to talk to  
12 your father for you?

13 ATTORNEY HARTNETT: Objection. Go ahead.

14 THE WITNESS: She --- I think she did.  
15 She talked to him, and that's why he stopped doing it.

16 BY ATTORNEY CAPEHART:

17 Q. [REDACTED] ?

18 A. Could you restate it?

19 Q. Sure. Do you have appointments from time to  
20 time to [REDACTED]

21 [REDACTED]

22 [REDACTED] [REDACTED]

23 [REDACTED] [REDACTED]

24 [REDACTED]



1 Thanks.

2 ATTORNEY CAPEHART: Okay.

3 Now that we are through our building  
4 emergency, if I could ask the court reporter to go back  
5 to the last line of actual testimony. I don't recall  
6 what point during that event we broke off the record,  
7 but if you could go back and tell us where we were  
8 whenever loud noises started happening.

9 COURT REPORTER: The question, sure. Do  
10 you have any appointments from time to [REDACTED]

11 [REDACTED]  
12 [REDACTED] Answer, yes. Question, okay. Who do  
13 you meet with? And then that's when the fire drill  
14 happened.

15 ATTORNEY CAPEHART: Thank you.

16 BY ATTORNEY CAPEHART:

17 Q. Becky, let's just pick up there. Who do you  
18 meet with?

19 A. I meet with [REDACTED] His name is [REDACTED]

20 Q. Okay.

21 Do you know what office or group [REDACTED] is  
22 with?

23 ATTORNEY HARTNETT: Objection to form.

24 THE WITNESS: Could you repeat the



1 question?

2 BY ATTORNEY CAPEHART:

3 Q. Sure. Is [REDACTED] or is  
4 [REDACTED] part of a [REDACTED]?

5 A. I don't know.

6 Q. Do you know the name --- I'm sorry. I cut you  
7 off. Go ahead.

8 A. I just go to him for [REDACTED] That's ---.

9 Q. Okay.

10 How often do you meet with [REDACTED]

11 A. It just depends because sometimes maybe it's  
12 once a month, but it can be anytime. If we call him and  
13 we need to go, he usually has a spot open.

14 Q. Okay.

15 And just generally speaking, what kind of  
16 things do you discuss with [REDACTED]

17 A. [REDACTED]

18 [REDACTED]

19 Q. Okay.

20 Whenever you meet with [REDACTED] do you go in  
21 alone or does your mother go in with you?

22 A. It depends. It usually starts with me and my  
23 mom in there, then she waits out in the lobby and we  
24 talk. And sometimes I go out and my mother talks to him

1 and then we get back --- we both go in the room at the  
2 end and then we say bye and then we leave.

3 Q. Okay.

4 And how do you like that process, going to talk  
5 to [REDACTED]

6 A. I love it because I can talk about [REDACTED]

7 [REDACTED]

8 Q. Does that help you to feel better?

9 A. Uh-huh (yes).

10 Q. Do you know --- excuse me, do you know whether  
11 you have had any [REDACTED] ?

12 ATTORNEY HARTNETT: Objection to form.

13 THE WITNESS: Could you rephrase that?

14 BY ATTORNEY CAPEHART:

15 Q. Yes. And let me back up and ask another  
16 question I had forgotten to ask earlier. Do you know  
17 what [REDACTED] profession is?

18 A. I don't know.

19 Q. Okay.

20 A. All I know is that he is a [REDACTED] That's  
21 what I know.

22 Q. Okay.

23 And do you know whether [REDACTED] is a [REDACTED] of  
24 some sort or just a [REDACTED]

1                    ATTORNEY HARTNETT:    Objection to form.

2                    THE WITNESS:    I do not know.

3                    BY ATTORNEY CAPEHART:

4                    Q.        Okay.    Okay.

5                    Now, if you could look at Exhibit 34.    Do you  
6                    have the document marked as Exhibit 34 in front of you?  
7                    It says West Virginia Legislature at the top and then in  
8                    the middle of the page there's a line that says House  
9                    Bill 3293.

10                  A.        Yes, we have that.

11                  Q.        Okay.    Great.

12                  Have you ever seen this before?

13                  A.        I don't think so.

14                  Q.        Okay.

15                  So if you --- this is just of kind of a cover  
16                  page for what was House Bill 3293 that passed the  
17                  legislature and was signed the Governor last year.    This  
18                  is the --- this is the bill, the law that your lawsuit  
19                  is challenging.

20                  Now, if you look --- start looking at page two  
21                  you'll see there is a lot of text here.    Have you seen  
22                  any of this before?    You don't have to read it all, just  
23                  kind of glance over it.    And if you think you may have  
24                  seen parts before, you can say so, but ---.

1 A. I don't think I've seen this before.

2 Q. Okay. Okay. All right.

3 Well, I'm not going to ask you to read the  
4 whole thing right now. I'm just going to ask you about  
5 a couple of parts of it.

6 Okay?

7 A. Uh-huh (yes).

8 Q. Because there's a lot to read here.

9 ATTORNEY HARTNETT: I'll just refer to  
10 our standing objection. Thank you.

11 ATTORNEY CAPEHART: Sure. Sure.

12 BY ATTORNEY CAPEHART:

13 Q. On what's marked at the bottom of the page as  
14 page two you'll see that there are kind of a column of  
15 numbers that run down the left-hand side of the page  
16 there. The top number on page two should be a ten?

17 A. Uh-huh (yes).

18 Q. Okay.

19 And I'll just refer to those lines to direct  
20 you to a couple of spots. Okay. And just so you know,  
21 that's a standard part of what a bill looks like so that  
22 whenever they're looking at legislation people can refer  
23 to a procedure or line. That way they can follow it  
24 more easy.

1           So the lines I'm going to direct you to are 25  
2 and 26. This is a definition that is set forth in this  
3 bill and it is down in West Virginia Code. So just read  
4 that and let me know when you've read that definition in  
5 this bill.

6           A.     I've read it.

7           Q.     Okay.

8           Do you think that's a proper definition of  
9 biological sex?

10                    ATTORNEY HARTNETT:  Objection to  
11 terminology.  Make that a standing objection.

12                    THE WITNESS:  I would not know that if I  
13 --- if that would be ---.

14 BY ATTORNEY CAPEHART:

15           Q.     Okay.

16           Have you ever heard people use language like  
17 biological sex or biological female?

18                    ATTORNEY HARTNETT:  Objection to form.

19                    THE WITNESS:  Yes, I've heard people use  
20 that.

21 BY ATTORNEY CAPEHART:

22           Q.     Okay.

23           Has anyone ever explained what they mean when  
24 they have used that terminology around you?

1 A. I don't think so or I just can't remember.

2 Q. Okay.

3 This definition, at lines 25 and 26, does this,  
4 based on the way that you have heard people use the term  
5 in the past, is this about what you think they meant?

6 ATTORNEY HARTNETT: Objection to form.

7 THE WITNESS: Yes.

8 BY ATTORNEY CAPEHART:

9 Q. Okay.

10 So now that you've read that in this bill  
11 that's what that term means, look up at lines 21 and 22  
12 and let me know when you've read those two lines.

13 A. Okay.

14 Q. Do you agree with that statement at lines 21 and  
15 22?

16 ATTORNEY HARTNETT: Objection to form.

17 THE WITNESS: I don't because I think if  
18 someone wants to play on the girls team, like me, they  
19 should be able to even though they are --- they're not  
20 following that requirement.

21 BY ATTORNEY CAPEHART:

22 Q. Okay.

23 Before I move on to ask some questions about  
24 cheerleading and track, I just want to talk about a

1 couple of other words that we were just touching on.  
2 But I just want to make sure that we understand each  
3 other or at least you understand me. You have heard  
4 people use the term biological female or the term  
5 biological male before.

6 Is that correct?

7 A. Yes.

8 Q. Okay.

9 And just so we're clear, if I use the term  
10 biological female or biological girl, I'm describing  
11 people who were determined to be female at the time of  
12 birth. Okay? I'm not looking at the statute. I'm just  
13 saying like if I use that term, that's what I'm talking  
14 about. Just so that if I use a word and you're not sure  
15 what I mean, I'm trying to explain in advance so there's  
16 no confusion. Does that make sense?

17 A. Yes.

18 Q. Okay.

19 And also, if I say biological male or  
20 biological boy I mean someone who was determined to be  
21 male at the time of birth.

22 A. Yes.

23 Q. So if I use that --- if I use that kind of  
24 terminology that is what I'm talking about, people who

1 were determined to be that at the time of birth. Okay?

2 When did you first get interested in sports?

3 A. I've always liked running. And I think  
4 running's a sport, so since I could walk and run.

5 Q. What kind of sports, in addition to running,  
6 have you been interested in?

7 A. Cheering was one. I was a little bit interested  
8 in volleyball, but not anymore.

9 Q. Why not?

10 A. I just never --- I just didn't --- I just lost  
11 liking of it.

12 Q. Whenever I say interested in --- let me  
13 rephrase. Whenever you say that you are interested in  
14 running, you were interested in cheer and been part of a  
15 team and for a short time you are interested in  
16 volleyball but aren't really interested anymore, do you  
17 mean interested in participating and playing those  
18 sports?

19 A. Yes.

20 Q. Okay.

21 Are there other sports that you have been  
22 interested in from the perspective of being a viewer but  
23 maybe not a participant?

24 A. Could you repeat the question?



1 Q. Sure. Besides the three that you just talked  
2 about, running, cheer, volleyball, are there other  
3 sports that you have an interest in as a viewer, as a  
4 person that's in the stand watching it, or watching it  
5 on television, but you don't have an interest in playing  
6 or taking part?

7 A. I like watching football.

8 Q. Okay.

9 Anything else?

10 A. That's about it.

11 Q. Does your mom watch football?

12 A. Yeah. We like the same team.

13 Q. What team?

14 A. The Cleveland Browns.

15 Q. Do you like any other football teams?

16 A. Not really, no.

17 Q. Do you just watch professional football or do  
18 you watch college, too?

19 A. Just professional.

20 Q. Now, have your parents encouraged you to be  
21 involved in sports?

22 ATTORNEY HARTNETT: Objection to form.

23 THE WITNESS: I'd say so that they  
24 encouraged me.

1 BY ATTORNEY CAPEHART:

2 Q. Okay.

3 Now that you've been on a couple of different  
4 kind of teams, girls cross-country and also cheer when  
5 you were younger, do you enjoy getting to compete as  
6 part of a team?

7 A. Yes, I do.

8 Q. If you were in a sport where you weren't on a  
9 team, that you were just an individual on a team, would  
10 you enjoy that also?

11 A. No, because that's not --- that's not on ---  
12 you're not on a team, you're not doing teamwork, that's  
13 just by yourself.

14 Q. So is the bigger appeal to you in sports being  
15 part of a team, being part of a group, working towards a  
16 common goal?

17 ATTORNEY HARTNETT: Objection to form.

18 THE WITNESS: Could you repeat the  
19 question?

20 BY ATTORNEY CAPEHART:

21 Q. Sure. You said you wouldn't really like being  
22 in an individual sport, maybe something like, I don't  
23 know, figure skating maybe, because you wouldn't be part  
24 of a team, you would be --- that you like being part of

1 a team?

2 A. Yes.

3 Q. So is that what draws you to some of the sports  
4 that you are interested in, the team aspect?

5 A. Yeah, the team aspect and I can make new  
6 friends.

7 Q. Do you consider yourself competitive whenever  
8 you're playing sports or when you're playing games with  
9 your friends?

10 ATTORNEY HARTNETT: Objection to form.

11 THE WITNESS: I want to call myself  
12 competitive. I'm just a person that likes playing  
13 games. I'm not like, oh, I got to win. I just like  
14 playing them, doing sports.

15 BY ATTORNEY CAPEHART:

16 Q. Okay.

17 Do you have some friends that are like that?

18 A. Yeah, I have a couple of friends.

19 Q. I think we all have a couple of friends that are  
20 like that.

21 So in those sports that you're interested in,  
22 including football, do you think rules are really  
23 important in sports?

24 ATTORNEY HARTNETT: Objection to form.

1                    THE WITNESS: Yes, I think rules are  
2 important because you wouldn't want someone having an  
3 unfair advantage, like cheating.

4 BY ATTORNEY CAPEHART:

5        Q.        Right.

6        A.        And like ---.

7        Q.        Sorry. Go ahead.

8        A.        Like in baseball, I don't know what it's called,  
9 but getting a better grip on the ball, that's cheating.  
10 That's not fair.

11        Q.        So do you think rules are a big part of or an  
12 important part of making sure that sports are fair?

13        A.        Yes.

14                    ATTORNEY HARTNETT: Objection to form.  
15 Sorry, B [REDACTED] Just make sure you give me a chance to  
16 object, but you should then give your answer. So let's  
17 try that one again.

18                    ATTORNEY CAPEHART: Court Reporter, can  
19 you repeat the last question?

20                    THE WITNESS: Could you repeat the last  
21 question?

22                    COURT REPORTER: Question, so do you  
23 think rules are a big part of or an important part of  
24 making sure that sports are fair?

1                    ATTORNEY HARTNETT: Objection to form.

2                    THE WITNESS: I think they are a big part  
3 of making sports fair.

4 BY ATTORNEY CAPEHART:

5            Q.        What does it mean for sports, for competition to  
6 be fair?

7                    ATTORNEY HARTNETT: Objection to form.

8                    THE WITNESS: Well, sometimes it can mean  
9 losing --- maybe winning unfair and winning things  
10 because if people are cheating then they could get --- I  
11 don't know if there's a cash prize. So if they cheat,  
12 they're going to get that. That's not fair because they  
13 get something out of cheating.

14 BY ATTORNEY CAPEHART:

15            Q.        So it sounds like that you're saying that if  
16 somebody breaks a rule like the one that you were  
17 talking about in baseball, and by breaking that rule  
18 that helps them to win or beat someone else, that that  
19 wouldn't be fair. Is that what you're ---?

20                    ATTORNEY HARTNETT: Objection.

21                    THE WITNESS: Yes.

22 BY ATTORNEY CAPEHART:

23            Q.        I'm sorry. I think I lost part of your answer  
24 there.

1 A. Yes, that's what I'm saying.

2 Q. Who do you think should make up the rules for  
3 sports?

4 ATTORNEY HARTNETT: Objection to form.

5 THE WITNESS: I don't know.

6 BY ATTORNEY CAPEHART:

7 Q. I'm going to ask you a couple of questions about  
8 your time on cheerleading. How many years were you on  
9 the cheer team?

10 A. I was on the cheer team for two years.

11 Q. Okay.

12 And if I recall from what your mother had told  
13 us, it was part of the Bridgeport Youth --- is it  
14 Bridgeport Youth Football League? Is that what it was?

15 MS. JACKSON: Yes.

16 COURT REPORTER: I'm sorry. Ms. Jackson,  
17 did you say yes or was it the witness. I'm sorry.

18 MS. JACKSON: I said yes.

19 BY ATTORNEY CAPEHART:

20 Q. My understanding is that that's not affiliated  
21 with the schools in any way, that's an independent, what  
22 a lot of people would maybe call midget football league  
23 and that that league has cheerleading teams also.

24 Is that right?

1                    ATTORNEY HARTNETT:    Objection to form.

2                    THE WITNESS:    Yes.    Sorry.

3    BY ATTORNEY CAPEHART:

4            Q.        Okay.

5                    I just want to make sure I understood that.

6    That's how things were when my daughter did midget cheer

7    --- midget league cheer, also.

8                    What team were you on like B, C D?    Do you  
9    recall?

10                   ATTORNEY HARTNETT:    Objection to form.

11                   THE WITNESS:    I was on Bridgeport Pee Wee  
12    Red.

13    BY ATTORNEY CAPEHART:

14            Q.        Okay.

15                    And were the members of that team all within  
16    --- all the same age or within a year of each other?

17            A.        They were within a year of each other.

18            Q.        So was that third and fourth or fourth and  
19    fifth?

20            A.        I think it was fourth and fifth.

21            Q.        Did you enjoy being on the cheerleading team?

22            A.        Yeah, it was really fun.

23            Q.        Did you like cheering at sidelines at games more  
24    than competition cheer?

1                    ATTORNEY HARTNETT: Objection to form.

2                    THE WITNESS: I did like cheering on  
3 sidelines better because I had stage fright and I feel  
4 whenever I was cheering on the sidelines most of the  
5 people were paying attention to the game, so I didn't  
6 have as much stage fright. But at competition, that was  
7 the main thing that everyone was focusing on.

8                    BY ATTORNEY CAPEHART:

9                    Q. When you would be part of the team and working  
10 on your competition cheer, you all did stunts.

11                    Is that correct?

12                    A. Yes, that is correct.

13                    Q. Did you get to be a flyer or were you a base?

14                    A. I was a base.

15                    Q. Did you enjoy that more than going up in the  
16 air?

17                    A. Definitely, because I have a fear of heights.

18                    Q. Understandable. So now that you're in Middle  
19 School you were on the cross-country track team this  
20 fall and you're also interested in running track.

21                    Is that correct?

22                    A. Yes.

23                    Q. Okay.

24                    I know I've seen in some reports and maybe in



1 your Declaration, too, you mentioned that there were  
2 other people in your family that had run. Is that the  
3 basis for your interest in being on cross-country and  
4 also doing track this spring?

5 A. Yes.

6 Q. Bridgeport Middle doesn't have coed teams, does  
7 it?

8 ATTORNEY HARTNETT: Objection to form.

9 THE WITNESS: Could you repeat the  
10 question?

11 BY ATTORNEY CAPEHART:

12 Q. Sure. Do you know what a coed team is? Have  
13 you heard that term before?

14 A. No.

15 Q. Okay.

16 I realize I'm probably dating myself a little  
17 bit there. That term is not really used all that  
18 frequently maybe nowadays, but that just essentially  
19 means that coed would be, you know, boys and girls all  
20 on the same team together. And I guess you don't. You  
21 just have a boys team and a girl teams.

22 Right?

23 A. Yes.

24 ATTORNEY HARTNETT: Objection to form.

1                   THE WITNESS: Sorry.

2           BY ATTORNEY CAPEHART:

3           Q.       Now, in this --- for spring track you're going  
4 to try out for the girls team.

5                   Correct?

6           A.       Yes.

7           Q.       Now, that tryout and also the one for  
8 cross-country track, are those competitive tryouts where  
9 everybody has to run and be timed?

10                   ATTORNEY HARTNETT: Objection to form.

11                   THE WITNESS: Kind of because when we did  
12 cross-country, all of us made it. But I was told that  
13 the year before, when I was in 5th grade, that they had  
14 to cut people because there was too many. So I think  
15 that they only cut people if there's not --- if there is  
16 too many.

17           BY ATTORNEY CAPEHART:

18           Q.       Do you know how many there were on cross-country  
19 this fall?

20           A.       I don't know.

21           Q.       Okay.

22                   If there is some upper limit, though, your team  
23 didn't reach that limit in terms of participants?

24           A.       I think it may have been exactly the limit or

1 less, but I don't know.

2 Q. You don't remember anyone that tried out not  
3 making the team, though?

4 A. Nope. Everyone made it if they didn't quit.

5 Q. Okay.

6 Do you remember how many meets or events you  
7 went to this past fall?

8 A. I don't know for a fact, but it was around seven  
9 to eight.

10 Q. And were all of those competitive team events  
11 where they were tracking everyone's times with a team  
12 placing at the end?

13 ATTORNEY HARTNETT: Objection to form.

14 THE WITNESS: Yes, there was.

15 BY ATTORNEY CAPEHART:

16 Q. Okay.

17 How did you all do this fall?

18 A. We did very good.

19 Q. Great. Did you place at most of the events that  
20 the team went to?

21 ATTORNEY HARTNETT: Objection to form.

22 BY ATTORNEY CAPEHART:

23 Q. And by team I mean did the team place at the  
24 event that your team participated in?

1 A. Most of the time, yes. Some of them weren't,  
2 but we always got close.

3 Q. Did your team get first place at any of the  
4 events?

5 A. Yes.

6 Q. How did that feel to be part of a team that got  
7 first place at one of these events?

8 A. It felt awesome. It felt great.

9 Q. Okay.

10 So just because I don't know a tremendous  
11 amount about cross-country or track and field, for  
12 cross-country do you understand how the scoring works or  
13 how the timing ends up with a team being first place or  
14 second place or last place?

15 A. I do not know.

16 Q. But you would like to win, right? You would  
17 like your team to win.

18 Right?

19 A. Yes.

20 Q. What track sports do you want to run in this  
21 spring, track events I should say?

22 A. I'm thinking about doing long distance.

23 Q. And by long distance what does that mean in  
24 terms of the actual distance?

1           A.       There is a mile, two miles, and I think there  
2 may be a three-mile one.

3           Q.       So are you training to build up your stamina to  
4 those right now?

5           A.       Not currently just because it is really cold  
6 out.

7           Q.       That's fair. Just like I was asking you to help  
8 me understand a little bit about how cross-country does  
9 its scoring and placing, I think I know a little bit  
10 more about track and field. In events like the distance  
11 runs, the one, two or even --- one mile, two mile or  
12 even longer distances, there are individual places in  
13 each of those events.

14                   Correct?

15           A.       Uh-huh (yes).

16           Q.       So do the first, second, third place finishers  
17 get metals in those?

18                   ATTORNEY HARTNETT: Objection to form.

19                   THE WITNESS: I'm not sure because this  
20 would be my first year doing track.

21           BY ATTORNEY CAPEHART:

22           Q.       And do you know whether the outcome of those  
23 individual races are then factored into some overall  
24 team standing?

1 A. I do not know.

2 Q. Okay.

3 Now, at all of these events that you have  
4 participated in this past fall with the girls track team  
5 and then the ones that you would like to be part of this  
6 spring for track and field, those are just girls teams  
7 against girls teams.

8 Is that correct?

9 ATTORNEY HARTNETT: Objection to form.

10 THE WITNESS: I do not know because,  
11 again, this is my first year.

12 BY ATTORNEY CAPEHART:

13 Q. Okay.

14 Now, at the cross-country events you went to  
15 this past fall, when your team got first place, that was  
16 just competing against a girls team.

17 Correct?

18 A. Yes.

19 Q. Okay.

20 At those same events or meets are there also  
21 boys teams present?

22 A. Yes.

23 Q. Okay.

24 But your team only competed against the girls

1 teams.

2 Correct?

3 A. Yes.

4 Q. Would you have liked for your teams to have  
5 competed against boys teams and girls teams?

6 A. At a couple of meets they did. But when they  
7 do, they only tallied the girls points and the guys  
8 teams differently and then they did the teams' totals.

9 Q. Okay.

10 Did anyone explain to you why they did that  
11 that way?

12 A. I don't know.

13 Q. Okay.

14 Do you think that they may have done those  
15 tallies differently because someone thought that boys  
16 could run faster than girls?

17 ATTORNEY HARTNETT: Objection to form.

18 THE WITNESS: I don't know. I don't know  
19 that.

20 BY ATTORNEY CAPEHART:

21 Q. Okay.

22 A. But whenever we started the --- a different ---  
23 like the guys would go five minutes before and then five  
24 minutes later the girls would go, so it was easier to

1 tally up all the points.

2 Q. Okay.

3 Do you think that the boys can run faster than  
4 the girls?

5 ATTORNEY HARTNETT: Objection to form.

6 THE WITNESS: I do not believe so because  
7 I also think that is a genetic thing, if you are fast or  
8 not.

9 BY ATTORNEY CAPEHART:

10 Q. Okay.

11 From what I remember reading somewhere you're  
12 pretty good with math.

13 Is that fair to say?

14 A. Yes.

15 ATTORNEY HARTNETT: Objection to form.

16 THE WITNESS: Sorry.

17 ATTORNEY HARTNETT: That is okay.

18 BY ATTORNEY CAPEHART:

19 Q. Do you know what statistics are?

20 A. I am familiar with the word, but I don't know  
21 what it means.

22 Q. Okay.

23 Would you and your teammates sometimes compare  
24 times after meets?



1 A. Sometimes.

2 Q. Okay.

3 And at the cross-country events, was the course  
4 that you would run a different length every time?

5 A. It was always around 2 miles to 2.3, so --- so  
6 not really.

7 Q. Okay.

8 I was just curious because I have a number of  
9 friends that are athletes and they really seem to enjoy  
10 talking about statistics, you know, how fast they run or  
11 in baseball a batting average or in football a  
12 quarterback's completion percentage or something, that  
13 those are, it seems for folks in and around sports, ways  
14 that you can try to evaluate or to get a sense of  
15 something about a person or group of people. Have you  
16 heard and seen statistics talked about when you watch  
17 those football broadcasts with your mom?

18 ATTORNEY HARTNETT: Objection to the  
19 narrative and to the question form.

20 THE WITNESS: Could you repeat the  
21 question?

22 ATTORNEY CAPEHART: Sure.

23 BY ATTORNEY CAPEHART:

24 Q. Have you seen or heard statistics talked about

1 on those football broadcasts that you watch with your  
2 mom?

3 A. Sometimes, but I don't really pay attention to  
4 those because I mainly like watching the game.

5 Q. That's fair.

6 MS. JACKSON: Excuse me. She needs to  
7 use the restroom.

8 ATTORNEY CAPEHART: Absolutely. Take a  
9 break.

10 MS. JACKSON: Can you get through?

11 VIDEOGRAPHER: Going off the record.

12 The current time reads 12:18 p.m.

13 OFF VIDEOTAPE

14 ---

15 (WHEREUPON, A SHORT BREAK WAS TAKEN.)

16 ---

17 ON VIDEOTAPE

18 VIDEOGRAPHER: We are back on the record.

19 The current time reads 12:25 p.m.

20 BY ATTORNEY CAPEHART:

21 Q. All right.

22 Well, let's see. When we left off I was just  
23 asking you about things about statistics. Have you ever  
24 looked up any statistical data about cross-country for

1 people your age?

2 A. No, I have not looked up the statistics for  
3 people my age.

4 Q. And I think I framed that question as for  
5 cross-country. Have you ever done that with track and  
6 field, for example, the one mile or the two mile?

7 A. No, I have not.

8 Q. If you were to see statistics that show that, on  
9 average, 11-year-old biological boys were 20 percent  
10 faster than 11-year-old biological females in the mile  
11 run, would that surprise you?

12 ATTORNEY HARTNETT: Objection to form.

13 THE WITNESS: Yes, because I think  
14 biological --- it's all about genetics, if you're fast  
15 or not.

16 BY ATTORNEY CAPEHART:

17 Q. So if you're fast or not is about genetics?

18 A. I think it is, but it could be not.

19 Q. Okay.

20 If that were true, that there is a statistic  
21 somewhere that shows that 11-year-old biological boys  
22 are 20 percent faster than biological girls of the same  
23 age, would it be fair to have the biological boys  
24 running in the mile race with biological girls?

1                    ATTORNEY HARTNETT: Objection to form.

2                    THE WITNESS: Can you say the question  
3 again?

4 BY ATTORNEY CAPEHART:

5            Q.        Sure. If there were statistics that did show  
6 that difference of 20 percent between biological boys at  
7 a certain age and biological girls at that same age,  
8 would it be fair to allow biological boys to run that  
9 same race as the biological girls?

10                   ATTORNEY HARTNETT: Objection to form.

11                   THE WITNESS: If they identify as a  
12 female, then I think, yes. But if not, then I don't  
13 think that it should.

14 BY ATTORNEY CAPEHART:

15            Q.        Okay.

16                   So you said if they identify as a female, then  
17 they should be able to run with the biological girls?

18            A.        Yes.

19            Q.        Did I hear you right?

20            A.        Yes.

21            Q.        Okay.

22                   So then could any biological boy be on the  
23 girls team so long as they identify as female?

24                   ATTORNEY HARTNETT: Objection to form.

1                   THE WITNESS: I think so. Sorry.

2                   ATTORNEY HARTNETT: Sorry.

3 BY ATTORNEY CAPEHART:

4           Q.       And when you say they identify as female, just  
5 explain that to me so I make sure I understand it.

6           A.       When people are transgender from male to female,  
7 like me, that's what I think is identifying as a female.

8           Q.       Okay.

9                   Is it enough for someone in your mind to  
10 identify as female for them to just say that they  
11 believe they're female or do they need to do something  
12 more than that?

13                   ATTORNEY HARTNETT: Objection to form.

14                   THE WITNESS: I think they need to have  
15 an appearance and there has to be a reason. Like ---  
16 well, not a reason, but they have to --- they have to  
17 not just say, oh, I identify as female, I should run.  
18 They should have already been transitioned. It can't  
19 just be out of nowhere. Like, oh, all of the sudden,  
20 now that I started, I just realize that I can do this,  
21 oh, I'm transgender. That's --- I don't think that ---  
22 I think maybe --- I don't know, a year into the  
23 transition that you should be able to.

24 BY ATTORNEY CAPEHART:

1 Q. Okay.

2 So when you say a year into their transition  
3 do, you mean like just their social transition, the way  
4 they are presenting themselves?

5 A. Yes.

6 Q. Okay.

7 For that kind of hypothetical person that you  
8 were describing there, if they had gone a year into  
9 their transition, as I think you've described it, then  
10 in your mind that's what they need to do so that they  
11 could be on the girls team?

12 ATTORNEY HARTNETT: Objection to form.

13 THE WITNESS: Yes.

14 BY ATTORNEY CAPEHART:

15 Q. Okay.

16 Do they --- do they need to be doing something  
17 else like taking puberty blockers or something of that  
18 nature?

19 ATTORNEY HARTNETT: Objection to form.

20 THE WITNESS: I think they should be on  
21 puberty blockers to do it because if they have hit  
22 puberty, then that's a different story because they hit  
23 puberty and that's not changeable.

24 BY ATTORNEY CAPEHART:

1 Q. Okay.

2 When they hit puberty and that's not  
3 changeable, explain that to me a little if you can.

4 ATTORNEY HARTNETT: Objection to form.  
5 Go ahead.

6 THE WITNESS: If they've hit puberty,  
7 then they are maturing and they are going to get a  
8 deeper voice. A girl would get a bigger Adam's apple  
9 and then that's really it. And I think that gives them  
10 more of an unfair advantage. I could be wrong, but I  
11 think after they hit puberty, I don't know, I think  
12 something happens, but I'm not sure.

13 BY ATTORNEY CAPEHART:

14 Q. Do you think there is something else that  
15 happens besides the depth of voice and the Adam's apple?

16 A. I think they may get faster because their  
17 testosterone levels will rise.

18 Q. Okay.

19 And do you think that's not an issue for  
20 someone that hasn't gone through puberty yet?

21 ATTORNEY HARTNETT: Objection to form.

22 THE WITNESS: Sorry. Yes, because their  
23 testosterone levels, if they are on puberty blockers,  
24 won't be as high and they won't be --- it won't be high

1 and it won't give them any advantage.

2 BY ATTORNEY CAPEHART:

3 Q. If there was someone in that situation that  
4 wasn't on puberty blockers, do you think that would be  
5 unfair for that person to be on a girls team?

6 ATTORNEY HARTNETT: Objection to form.

7 THE WITNESS: As long as they haven't hit  
8 puberty, then I think it's fine. But if they have hit  
9 puberty, then I think they should maybe go on hormone  
10 blockers and then maybe then, because I --- I could be  
11 wrong, but I think their testosterone levels will drop  
12 if they go on hormone blockers after puberty.

13 BY ATTORNEY CAPEHART:

14 Q. Okay.

15 Do you think that they also need to be getting  
16 treated for gender dysphoria?

17 ATTORNEY HARTNETT: Objection to form.

18 THE WITNESS: I don't think that matters  
19 because if they don't have gender dysphoria, why should  
20 they be getting treated for it.

21 BY ATTORNEY CAPEHART:

22 Q. So if there was a person that went through that,  
23 a biological boy who had done all the things that you  
24 say needed to be done and they could be on the girls



1 team, but at some point in the future that person  
2 decided they wanted to, I don't know, revert back to  
3 being on the boys team for sports, should that be  
4 allowed?

5 ATTORNEY HARTNETT: Objection to form.

6 THE WITNESS: If they want to, then yes,  
7 go ahead, because they will --- if they are --- if they  
8 still have the requirements to be on the girls team,  
9 then they will be on puberty blockers and then the  
10 testosterone levels will still be low. So --- but if  
11 they get off, then they'll just raise back, and they  
12 could still run on the boys team, but they can't run on  
13 the girls.

14 BY ATTORNEY CAPEHART:

15 Q. Okay.

16 You've been talking about puberty blockers like  
17 a person that knows about them, which I think you do.  
18 What do you know about puberty blockers?

19 ATTORNEY HARTNETT: Objection to the  
20 preamble and to the form.

21 THE WITNESS: Okay.

22 Could you repeat the question?

23 BY ATTORNEY CAPEHART:

24 Q. Sure. What do you know about puberty blockers?

1           A.       They stop hormone levels from rising and they  
2 have --- they have a chance for --- they have side  
3 effects, but if you are transgender they can help ---  
4 they can help with the process of a transition because  
5 it will stop you from hitting puberty and you won't grow  
6 an Adam's apple, you won't grow facial hair and your  
7 voice won't get deeper.

8           Q.       Okay.

9                    You're receiving puberty blocking medications  
10 now.

11                   Is that correct?

12           A.       Yes, that's correct.

13           Q.       Okay.

14                   Did you want to start that medication to delay  
15 or prevent puberty?

16           A.       Yes, that is correct.

17           Q.       Okay.

18                   We had talked some about your doctors'  
19 appointments before. You had some appointments before  
20 receiving the puberty blockers.

21                   Correct?

22           A.       Yes, that is correct.

23           Q.       Okay.

24                   Do you remember an appointment where you talked

1 with a doctor about getting puberty blocking meds?

2 A. Yes.

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

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9 [REDACTED]

10 [REDACTED]

11 [REDACTED] [REDACTED]

12 [REDACTED]

13 [REDACTED] [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED] [REDACTED]

17 [REDACTED] [REDACTED]

18 ATTORNEY CAPEHART: I think this is a

19 good spot to take a break. The next part that I'm going

20 to get into I think is going to take a little more time

21 than we have. I see it's 12:41, so if it's all right

22 with everyone, I suggest we go off the record and talk

23 about when we come back.

24 ATTORNEY HARTNETT: That's fine with us.



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[REDACTED]

BY ATTORNEY CAPEHART:

Q. Okay.

You had mentioned before in relation to a biological boy running on a girls team and that they would need to, I think you had said --- I'm not trying to put words in your mouth, but I think you had said something along the lines that they would need to be taking some kind of medication relative to the testosterone if they were either going through puberty or had gone through puberty.

ATTORNEY HARTNETT: Objection to form.

BY ATTORNEY CAPEHART:

Q. Do you remember that when we were talking earlier?

A. Yes.



1 Q. Okay.

2 Why did you mention testosterone relative to  
3 how a biological boy might be performing in running?

4 A. Because I think that --- that after --- whenever  
5 you half an increase of testosterone, that --- I think  
6 that increases your athletic ability, but I could be  
7 wrong there.

8 Q. Okay. Fair enough.

9 Do you know that because of what the doctors  
10 had talked to you about?

11 ATTORNEY HARTNETT: Objection to form.

12 THE WITNESS: I am pretty sure, yeah.

13 BY ATTORNEY CAPEHART:

14 Q. Okay.

15 Have you had done any independent research  
16 yourself to learn more about testosterone?

17 A. I don't recall. I may have, but I don't  
18 remember.

19 Q. Okay.

20 Do you recall reading the Complaint in this  
21 lawsuit?

22 A. I do not.

23 Q. Okay.

24 If you could look at Exhibit 32 for just a

1 minute. Okay. It says Exhibit WV-32 at the bottom  
2 right corner and has a lot of other words, but in  
3 boldface in the upper right center are the words First  
4 Amended Complaint. Okay. This is as it says is the  
5 First Amended Complaint, means there was an original  
6 Complaint that had been amended once in its first  
7 Amended Complaint. Do you recall ever having seen this  
8 before now that you are getting a chance to look at it?

9 A. Yes, I think so.

10 Q. Okay.

11 Do you remember reading over it yourself?

12 A. I don't think so.

13 Q. Okay.

14 Do you remember anyone discussing with you what  
15 was in the Complaint?

16 A. I think I discussed it with my mom.

17 Q. But you don't know everything that's in here  
18 because you haven't read it yourself.

19 Is that correct?

20 A. I don't.

21 ATTORNEY HARTNETT: Objection.

22 THE WITNESS: I don't remember if I have  
23 or haven't.

24 BY ATTORNEY CAPEHART:

1 Q. Okay.

2 You don't remember if you have or have not.

3 Okay.

4 Now, I think we had talked before about the  
5 fact that your lawsuit is challenging the HB 3293. You  
6 may have remembered we had looked at that very briefly  
7 and I had directed you to a couple of parts of it and  
8 you had said you hadn't read the whole thing. And I  
9 will also represent to you that it also had some other  
10 definitions in there for biological male and female. Do  
11 you believe there is a difference between biological  
12 males and biological females?

13 ATTORNEY HARTNETT: Objection to form and  
14 the preamble.

15 THE WITNESS: I don't know.

16 BY ATTORNEY CAPEHART:

17 Q. Okay.

18 You don't know if there is any difference  
19 between a biological boy and a biological girl?

20 ATTORNEY HARTNETT: Objection to form.

21 THE WITNESS: I don't know. I don't know  
22 if there is a difference.

23 BY ATTORNEY CAPEHART:

24 Q. Okay.

1 Do you think there are physical differences  
2 between a biological boy and a biological girl?

3 ATTORNEY HARTNETT: Objection.

4 THE WITNESS: Could you repeat the  
5 question?

6 BY ATTORNEY CAPEHART:

7 Q. Sure. Do you think there are physical  
8 differences between a biological boy and a biological  
9 girl?

10 A. Yes.

11 Q. Okay.

12 ATTORNEY HARTNETT: And I just have a  
13 standing objection in terminology, but I will not  
14 continue to make that objection.

15 ATTORNEY CAPEHART: Noted. Thank you.

16 BY ATTORNEY CAPEHART:

17 Q. What do you understand the physical differences  
18 are between a biological boy and a biological girl?

19 A. A biological boy has a penis and a biological  
20 girl has a vagina.

21 Q. Okay.

22 Do you believe there are any other physical  
23 differences between a biological boy and a biological  
24 girl?

1           A.       There --- yes, but that part could be with  
2 either one, because long hair could also be with a guy  
3 or like that's --- like if a girl, a biological girl,  
4 would probably have long hair, but a guy could also have  
5 long hair. And then a guy could have --- a guy could  
6 have short hair and a girl could also have that. And a  
7 biological guy would probably want to look muscular, but  
8 a biological girl would probably --- could probably want  
9 to look like that.

10          Q.       So apart from a superficial difference like hair  
11 length or how much someone works out and also the  
12 difference in genitalia, are you aware of any other  
13 differences?

14                           ATTORNEY HARTNETT:   Objection to form.

15                           THE WITNESS:   Not that I can think of  
16 right now.

17           BY ATTORNEY CAPEHART:

18          Q.       Okay.   Okay.

19                           Can you all look at Exhibit 26? Do you have  
20 Exhibit 26?

21          A.       Yes.

22          Q.       This looks like it is an article from the  
23 Gazette Mail. If you flip to the second page of the  
24 exhibit, the fourth block of text up from the bottom it

1 reads, quote, I just want to run, I come from a family  
2 of runners, close quoted, P [REDACTED] J [REDACTED] said in a news  
3 release. Quote, I know how hurtful a law like this is  
4 to all kids like me who just want to play sports with  
5 their classmates, and I'm doing this for them. Trans  
6 kids deserve better, closed quote. B [REDACTED], do you  
7 remember talking to a reporter before this article got  
8 written?

9 A. Yes.

10 Q. Okay.

11 And the quoted language that I was just reading  
12 there that's also in the exhibit, do you remember saying  
13 that?

14 A. Yes.

15 Q. Okay.

16 So those are your words, no one was  
17 paraphrasing something you were trying to tell them  
18 then?

19 A. No.

20 Q. Okay.

21 Is a trans kid an appropriate term to use?

22 ATTORNEY HARTNETT: Objection, form.

23 THE WITNESS: Could you repeat the  
24 question?

1 BY ATTORNEY CAPEHART:

2 Q. Sure. In the quote it says trans kids deserve  
3 better. I'm just curious, is trans kids a normal term  
4 that is used and is acceptable to use?

5 ATTORNEY HARTNETT: Objection, form.

6 THE WITNESS: Could you repeat the  
7 question one more time?

8 BY ATTORNEY CAPEHART:

9 Q. Sure. And I'm not trying to trick you. I'm  
10 just trying to understand because you used the term  
11 trans kids, and I think I've seen it in maybe another  
12 article, too, and I just thought I encountered it  
13 another experience. So I'm asking the question is that  
14 an acceptable term to use to refer to transgender boys  
15 or transgender girls?

16 ATTORNEY HARTNETT: Same objection.

17 THE WITNESS: Yes.

18 BY ATTORNEY CAPEHART:

19 Q. Is it okay to call you a trans kid?

20 A. If you don't know that I don't know my name and  
21 you know I'm trans, then yes, that's acceptable. But if  
22 you know my name and you're purposely calling me that,  
23 then not really, but it's still fine.

24 Q. Yeah. And I don't intend to. I was just

1 curious ---

2 A. Yes.

3 Q. --- from the nuances and the acceptable use of  
4 the term. So thank you. Excuse me. If you can look  
5 at Exhibit 27.

6 ATTORNEY HARTNETT: And just for the  
7 record and the witness's knowledge, B [REDACTED], you should  
8 feel free to review the full exhibit before you answer  
9 questions if you want to.

10 THE WITNESS: Okay.

11 MS. JACKSON: So that's the first page.

12 ATTORNEY CAPEHART: You all just let me  
13 know whenever you're ready to proceed.

14 Okay?

15 ATTORNEY HARTNETT: I'm sorry. I think  
16 B [REDACTED] is ready.

17 THE WITNESS: Yeah.

18 ATTORNEY CAPEHART: Okay. Thank you.

19 BY ATTORNEY CAPEHART:

20 Q. I'm going to try to make sure I direct you to  
21 the proper page. It looks like it's the last page of  
22 the text, which looks like it's about the fourth to the  
23 last page of the exhibit. At the top of the page the  
24 text begins with the word when Justice. Right there.



1 Have you all found that on your hard copy?

2 A. Yes.

3 Q. Okay. All right.

4 So let's see, this first block here that reads  
5 when Justice signed the Bill banning transgender girls  
6 from sports teams, B [REDACTED] was devastated she said. Then  
7 another quote, I felt horrible because I knew then I  
8 couldn't run with the other girls. Do you remember  
9 talking to the author of this piece before it came out?

10 A. Yes.

11 Q. Okay.

12 And does that quote seem right? Do you  
13 remember saying that?

14 A. Yes.

15 Q. Okay.

16 Now, I recall earlier you mentioned that you  
17 hadn't read the bill, the new law yourself, but here you  
18 said you couldn't run with the other girls after the  
19 Governor signed it. How did you know that since you  
20 hadn't read through the bill?

21 A. I was told by my mom.

22 Q. Okay.

23 Do you remember when you and your mother had  
24 that discussion?

1 A. I don't remember.

2 Q. All right.

3 Were you aware of this bill before your mom  
4 told you that it was now a law?

5 A. I was aware of it, but I didn't know that it was  
6 going to get signed.

7 Q. Okay.

8 What did you know about it before your mom told  
9 you it was signed and was now a law?

10 A. That I wouldn't be able to run with the girls  
11 once it got signed.

12 Q. Okay. All right.

13 If you move down to and look at the fourth  
14 block of text there on the page it says as hard as it is  
15 to be a trans kid and a mother of a trans kid, suddenly  
16 thrust into the public eye in a conservative state,  
17 B [REDACTED] and Jackson agree that the potential payoff makes  
18 it all worth it. You don't have a problem with the  
19 author using trans kid there, do you?

20 A. No.

21 Q. Okay.

22 How hard has it been in Bridgeport and Lost  
23 Creek to be a trans kid, as the author says?

24 ATTORNEY HARTNETT: Objection to form.

1                   THE WITNESS:    Could you --- could you  
2 repeat the question?

3 BY ATTORNEY CAPEHART:

4           Q.        Sure.    This little bit of language here is  
5 talking about it being hard to be a trans kid and the  
6 mother of a trans kid, so my question is how hard has  
7 that been on you in Bridgeport and Lost Creek?

8                   ATTORNEY HARTNETT:    Objection to form.

9                   THE WITNESS:    Well, a lot of the people  
10 don't support it and don't agree with it, so that's what  
11 makes it hard.

12 BY ATTORNEY CAPEHART:

13           Q.        Okay.

14                    You had said that school had gone really well  
15 with your transition.

16                    Correct?

17           A.        Uh-huh (yes).

18           Q.        Okay.

19                    So are these people you're describing now, are  
20 these all people outside of school?

21                   ATTORNEY HARTNETT:    Objection to form.

22                   THE WITNESS:    Yes.

23 BY ATTORNEY CAPEHART:

24           Q.        Okay.

1           What kind of people are these?

2                       ATTORNEY HARTNETT:   Objection to form.

3                       THE WITNESS:   Usually adults.

4   BY ATTORNEY CAPEHART:

5       Q.       Okay.

6               Are these people you know or strangers?

7       A.       Strangers.

8       Q.       Well, what have they done?

9       A.       Just not --- just be mean in general.

10      Q.       Well, how are they being mean?

11      A.       They don't support it.  Sometimes people call me  
12 names, just be mean.

13      Q.       Okay.

14              Does this happen often?

15      A.       Not as much now, but it used to happen a lot.

16      Q.       When you say used to happen a lot, do you mean  
17 back at the time that you transitioned or before that or  
18 after that?

19      A.       Well ---.

20                       ATTORNEY HARTNETT:   Objection to form.

21                       THE WITNESS:   Well, at the time and a  
22 little bit after because I was so --- I was new to it  
23 and I didn't know how to handle people like being  
24 meaning about it.

1 BY ATTORNEY CAPEHART:

2 Q. Okay.

3 Would people be mean to you when your parents  
4 were around?

5 A. They wouldn't do it like directly to my face  
6 usually. They would say it to my mom or my dad and then  
7 my parents would tell me. So it wasn't usually directly  
8 to me.

9 Q. So when they would say these things, you weren't  
10 in the presence of these people when they were saying  
11 them?

12 A. Most of the time, yes.

13 Q. Oh, okay.

14 But then your mom and your dad would have  
15 people say things to them and then your mom and dad  
16 would tell you about what other people had said?

17 ATTORNEY HARTNETT: Objection to form.

18 BY ATTORNEY CAPEHART:

19 Q. Is that correct?

20 A. Yes, but sometimes they wouldn't tell me just  
21 I'm assuming to try not to make me sad.

22 Q. Have any other kids ever said the kind of things  
23 to you that your parents said adults had told them?

24 ATTORNEY HARTNETT: Objection to form.

1                                    THE WITNESS: No.

2                    BY ATTORNEY CAPEHART:

3            Q.        No? Do you and your family attend a church?

4            A.        Not anymore.

5            Q.        Okay.

6                                    Did you before?

7            A.        For a short period of time, yes.

8            Q.        Okay.

9                                    Did you ever have any issues or problems there?

10          A.        No.

11          Q.        So there weren't any adults at that church that  
12 were mean to you or that said mean things to your  
13 parents that you know of?

14          A.        At that time I was not transitioned yet, so  
15 there was no comments like that.

16          Q.        Okay.

17                                    Do you remember when you had said your mom had  
18 explained to you because the bill was now signed you  
19 wouldn't be able to run, did she explain what part of  
20 the new law would stop you from running?

21                                    ATTORNEY HARTNETT: Objection to form.

22                                    THE WITNESS: No, she just told me that  
23 because of this I couldn't run.

24                    BY ATTORNEY CAPEHART:

1 Q. Okay.

2 And because you haven't read the bill yourself,  
3 you don't have any knowledge of what part of the bill  
4 prevents you from running.

5 Is that correct?

6 A. Yes.

7 ATTORNEY HARTNETT: Objection to form.

8 BY ATTORNEY CAPEHART:

9 Q. Thank you. All right. Let's see Exhibit 28.  
10 I just was going to interject that you are free to read  
11 the entirety if you would like to, the 20 pages. It's a  
12 lot, but I have no problem telling you the only thing  
13 I'm going to ask you about is the portion on the last  
14 page, the part under the subtitle B [REDACTED]'s trials.

15 MS. JACKSON: Thank you.

16 ATTORNEY CAPEHART: You're welcome.

17 THE WITNESS: I'm ready.

18 BY ATTORNEY CAPEHART:

19 Q. Okay. Great.

20 Do you remember talking to this author from  
21 ESPN?

22 A. I can't remember.

23 Q. It sounds like your tryouts were pretty  
24 challenging.

1           Is that true?

2           A.     Yes.

3           Q.     Okay.

4           Do you recall expressing anything to this  
5 reporter that's quoted here or otherwise described?

6                     ATTORNEY HARTNETT:  Objection to the  
7 form.

8                     THE WITNESS:  Could you repeat the  
9 question?

10          BY ATTORNEY CAPEHART:

11           Q.     Sure.  Do you recall saying this part that's  
12 quoted here about your friends or discussing any of the  
13 rest of it with the reporter?

14           A.     I don't remember, but I think I remember saying  
15 maybe some of this, but I can't remember.  I can't  
16 remember.

17           Q.     Okay.  Okay.

18                     And it seems like you were understandably  
19 excited to have made the team.

20                     Is that right?

21           A.     Yes.

22           Q.     Okay.

23                     How many girls were on the team this past fall?

24                     ATTORNEY HARTNETT:  Objection.  I'm



1 sorry.

2 THE WITNESS: I don't know.

3 BY ATTORNEY CAPEHART:

4 Q. Okay.

5 And you were the only transgender girl on the  
6 team.

7 Is that correct?

8 ATTORNEY HARTNETT: Objection to form.

9 THE WITNESS: As I knew of, there may  
10 have been people that haven't come yet, but of what I  
11 knew I was the only one.

12 BY ATTORNEY CAPEHART:

13 Q. So far as you know, you're the only transgender  
14 girl on the team.

15 Is that correct?

16 A. Yes.

17 Q. Okay. Okay.

18 Exhibit 29, which is much shorter. Okay. Take  
19 a look at that, however much you would like to, and then  
20 let me know whenever you'd like to proceed.

21 A. I'm done reading.

22 Q. Okay.

23 Let's see. Just below kind of the mid point of  
24 the page, about the third block of real text it starts

1 off with a quote there and it says, quote, I just want  
2 to run and the State wants to stop me from running as  
3 part of a team at my school, end quote, said B [REDACTED], an  
4 11-year0old Middle School student. Quote, I love  
5 running and being part of the team and the State of West  
6 Virginia should explain in court why they won't let me,  
7 end quote. Do you remember saying or writing that?

8 A. I remember saying that.

9 Q. Okay.

10 Who did you say that to?

11 A. I can't remember.

12 Q. Okay.

13 But those are all your words.

14 Correct?

15 A. Uh-huh (yes).

16 Q. Okay.

17 A. Yes.

18 Q. In what ways --- strike that.

19 When you say that the State of West Virginia  
20 should explain in court why they won't let you be part  
21 of the team, are you referring to HB-3293?

22 A. Yes.

23 Q. But as you said earlier, you're not sure what  
24 part of that prevents you from running, you just know

1 that it does because you have been told that.

2 Correct?

3 ATTORNEY HARTNETT: Objection to form.

4 THE WITNESS: Yes.

5 BY ATTORNEY CAPEHART:

6 Q. Okay.

7 Sorry for that. B [REDACTED], are you aware of or  
8 have you read anything that the State has filed with the  
9 Court in this case?

10 A. I think I've skimmed through a couple of things,  
11 but not really read them.

12 Q. Okay.

13 Those couple of things that you think you have  
14 skimmed through, do you recall what those were?

15 A. One of them was the one thing we just read ---  
16 the thing that we went through just a little bit, I  
17 skimmed through that. And there was another one, but I  
18 don't remember which one it was.

19 Q. Okay.

20 The thing that we went just went through, I  
21 apologize, we have gone through a few things.

22 A. Just now, the one just now I skimmed through,  
23 couple of paragraphs. I'm pretty sure at least.

24 Q. Do you mean Exhibit 29?

1                   MS. JACKSON:    This?

2                   THE WITNESS:    Yes.

3                   BY ATTORNEY CAPEHART:

4           Q.       Exhibit 29 is not anything that the State has  
5 written. I'm just explaining what this is. And my  
6 understanding is that this is a news release from Lambda  
7 Legal. So you think there may have been something else,  
8 though, that you looked at, you're just not really sure?

9           A.       Yeah.

10          Q.       Okay. Okay.

11                   Give me just a second to check a couple of  
12 things. Okay. There's a couple of things to just run  
13 through real quick and then I think I might be done.  
14 One, just following back up on the thought of why the  
15 State won't let you run, why do you think, to use your  
16 words from this press release, that the State won't let  
17 you run?

18          A.       Could you repeat the question?

19          Q.       Sure. In the release here there is, as you  
20 said, your language saying that you want the State to  
21 explain in court why they won't let you, referring back  
22 to being part of a team and running. Why do you --- why  
23 do you think that is?

24                   ATTORNEY HARTNETT:    Objection. Form.

1                   THE WITNESS: Because I don't think there  
2 is a good enough reason for me to not be able to run.

3 BY ATTORNEY CAPEHART:

4           Q.       Okay.

5                   When you say there's not a good enough reason,  
6 has someone spoken to you or explained some reason why  
7 they think that the State wouldn't let you run?

8                   ATTORNEY HARTNETT: Objection to form.

9                   THE WITNESS: Could you repeat the  
10 question?

11                   ATTORNEY CAPEHART: Court Reporter, can  
12 read that question back for us?

13                   COURT REPORTER: When you say there is  
14 not a good enough reason, has someone --- has someone  
15 --- I'm sorry. When you say there's not a good enough  
16 reason, has someone spoken to you or explained some  
17 reason why they think that the State wouldn't let you  
18 run?

19                   ATTORNEY HARTNETT: Objection.

20                   THE WITNESS: No one has explained the  
21 reason, but that's why I think there's not a good enough  
22 reason for me to not run.

23 BY ATTORNEY CAPEHART:

24           Q.       So you have not had any conversations with

1 anyone who could explain what reasons the State may have  
2 presented as to why they passed this bill?

3 ATTORNEY HARTNETT: I would just object  
4 to the extent this would entail any conversations with  
5 your lawyers, B [REDACTED], and you should not testify about  
6 those conversations. If there are conversations other  
7 than ones with your lawyer, you can testify about that.

8 THE WITNESS: What was --- can you repeat  
9 the question?

10 BY ATTORNEY CAPEHART:

11 Q. Sure. And to pick up on Kathleen's comment, I'm  
12 not trying to get you to divulge any confidential  
13 communications that you had with your lawyers, but I'm  
14 just trying to understand your comment where you said  
15 that there is not a good enough reason and that no one  
16 has explained a reason why the State passed this bill.  
17 So I'm asking you what kind of conversations have you  
18 had, if any, with anyone other than your lawyers about  
19 the reason why this bill may have been passed?

20 A. I haven't had any conversations with any of my  
21 lawyers.

22 Q. Okay.

23 Have you talked with your mom about why this  
24 law may have been passed?

1 A. I don't think I have, no.

2 Q. And you already said you have not looked at any  
3 of the State's filings or documents that it has put in  
4 before the Court in this case?

5 ATTORNEY HARTNETT: Objection, MT.

6 THE WITNESS: I don't think so.

7 BY ATTORNEY CAPEHART:

8 Q. Okay.

9 You don't recall whether you have seen those,  
10 but you don't believe so, is that what you said  
11 previously?

12 ATTORNEY HARTNETT: Objection, MT.

13 THE WITNESS: Yes.

14 BY ATTORNEY CAPEHART:

15 Q. Okay.

16 Real briefly, look back at Exhibit 31, which is  
17 the Declaration that you looked at when we started.  
18 Just let me know when you have it.

19 A. We have the Declaration.

20 Q. Okay.

21 Look at page three, if you would. Got it?

22 A. Uh-huh (yes), yes.

23 Q. Okay.

24 There at paragraph number 13 it says, I do not

1 want to run with the boys and I should not have to run  
2 with the boys. What's wrong with running with the boys?

3 A. I'm not a boy. I'm a girl. I should be able to  
4 run with the girls.

5 Q. Okay.

6 Are there any competitive concerns if you did  
7 run with the boys?

8 ATTORNEY HARTNETT: Objection. Form.

9 THE WITNESS: No. I just think I'm a  
10 girl and I shouldn't have to run with the boys. I  
11 should be able to run with the girls because I am a  
12 girl.

13 BY ATTORNEY CAPEHART:

14 Q. Okay.

15 One other --- one other quick question for you.  
16 Do you know that under the law you could run with the  
17 boys if you wanted to.

18 Right?

19 ATTORNEY HARTNETT: Objection to form.

20 THE WITNESS: That I could if I wanted  
21 to, but that's not --- I'm not running with the boys  
22 because I am a girl.

23 BY ATTORNEY CAPEHART:

24 Q. Okay.



1 I just wanted to make sure that someone had  
2 apprised you that the law does not prevent that, that  
3 new law. Fair enough. And I believe that's everything  
4 I have for you right now. Thank you very much for your  
5 patience.

6 ATTORNEY CAPEHART: And whoever the next  
7 person in line wants to take over the questioning, go  
8 right ahead.

9 ATTORNEY HARNETT: And I know we haven't  
10 gone for an hour yet, but I just wanted to check to see,  
11 B [REDACTED], do you need a bathroom break before we do more  
12 questions?

13 THE WITNESS: I'm good.

14 ATTORNEY ROGERS: I think I'm next if I'm  
15 understanding the order that was established earlier  
16 this week.

17 Is that right?

18 ATTORNEY HARTNETT: I believe Roberta  
19 went next.

20 ATTORNEY ROGERS: All right.

21 ---

22 EXAMINATION

23 ---

24 BY ATTORNEY ROGERS:

1 Q. Hi, B [REDACTED]. My name is Shannon Rogers. I am one  
2 of the attorneys that represents the West Virginia  
3 Secondary School Activities Commission, which is  
4 sometimes referred to as the WVSSAC. And so when I'm  
5 saying WVSSAC that's what I'm referring to.

6 Does that make sense?

7 A. Yes.

8 Q. Okay.

9 Had you ever had heard of the WVSSAC before?

10 A. I don't think so.

11 Q. Okay.

12 Do you know if you have ever spoken to anybody  
13 who is with the WVSSAC?

14 A. I don't know.

15 Q. You don't know? Okay.

16 Do you know if anybody --- well, strike that.

17 So you don't think you've ever communicated or  
18 you just don't remember?

19 A. I don't think I've ever communicated.

20 ATTORNEY ROGERS: Okay.

21 I don't have any other questions. Thank  
22 you, B [REDACTED].

23 ---

24 EXAMINATION

1

---

2 BY ATTORNEY DENIKER:

3 Q. Hi, B[REDACTED]. My name is Susan Deniker. I'm an  
4 attorney who works at a law firm called Steptoe and  
5 Johnson, and I represent the Harrison Board of Education  
6 and the Superintendant Dora Stutler. Thank you for your  
7 time today. I know it has been a long day and I know  
8 it's hard to sit in front of a computer screen, so thank  
9 you. You've done a really great job.

10 I'm going to ask you a few questions about your  
11 experience in school and in cross-country. If I ask you  
12 anything that doesn't make sense or that you don't  
13 understand, please let me know. You've done a really  
14 great job with that today, but will you let me know if I  
15 ask you something that you don't understand?

16 A. Yes.

17 Q. Very good.

18 And then also, if you need to take a break at  
19 any time, just let me know and we'll be glad to take a  
20 break.

21 Okay?

22 A. Okay.

23 Q. So yesterday I got to ask some questions of your  
24 mom and she told me that you went to elementary school

1 at Norwood Elementary.

2 Is that correct?

3 A. Yes.

4 Q. And did you go to Norwood Elementary School from  
5 kindergarten through the fifth grade?

6 A. Yes.

7 Q. How did you like Norwood?

8 A. It was a nice school. I really enjoyed it.

9 Q. Did you have a good experience there?

10 A. Yeah.

11 Q. Was Mrs. Stutler your principal for a period of  
12 the time that you were at Norwood Elementary School?

13 A. Yes.

14 Q. Did you know her then?

15 A. Like know her --- could you repeat the question?

16 Q. Sure. No. It probably wasn't a very good  
17 question. Did you sometimes have interactions with Mrs.  
18 Stutler when she was your principal?

19 A. Yes.

20 Q. And how was that? Was she nice with you when  
21 you dealt with her?

22 A. Yes.

23 Q. Did you think she was a good principal?

24 A. Yes.

1 Q. Who was the principal after Mrs. Stutler?

2 A. Mrs. Shields.

3 Q. And did you like Mrs. Shields?

4 A. Yeah.

5 Q. Was she nice to you when you were at school?

6 A. Yes.

7 Q. Now, I know you said earlier that you came out  
8 in the fourth grade.

9 Is that right?

10 A. I came out in the summer of third grade, but in  
11 school it was in the fourth grade.

12 Q. Okay.

13 And something else I should have said to you at  
14 the beginning is that I want to use terms that you're  
15 comfortable with. And so if I don't use the right  
16 terms, you correct me.

17 Okay?

18 A. Okay.

19 Q. So when you started school in the fourth grade  
20 it is my understanding then you came to school  
21 presenting as a girl, as a female.

22 Is that correct?

23 A. Yes.

24 Q. And did you have any discussions with your

1 teachers or the principal or anyone else at Norwood  
2 about making that change?

3 A. Yes.

4 Q. Tell me about those communications that you  
5 would have had.

6 A. I think it was the day before school started we  
7 went to the school to establish where --- everything  
8 about what the teacher should be calling me, where my  
9 bathroom would be and everything like that.

10 Q. Were you part of that meeting, B [REDACTED] ?

11 A. Yes.

12 Q. Do you recall who else was in that meeting?

13 A. There was Mrs. Louder, it was the principal. I  
14 don't know if it at the time it was Mrs. Stutler or Mrs.  
15 Shields and someone else. I can't remember their name.

16 Q. Was the school counselor maybe part of that  
17 meeting?

18 A. I think so.

19 Q. Was Mrs. Louder your teacher that year?

20 A. Yes.

21 Q. And was your mom also in that meeting?

22 A. Yes.

23 Q. Anyone else that you remember?

24 A. Not really, no.

1 Q. Were you happy with what came out of that  
2 meeting?

3 A. Yes.

4 Q. You were comfortable with the agreements that  
5 was reached with regard to the name that would be used  
6 and the bathroom facilities and any other accommodations  
7 that would be made for you?

8 ATTORNEY HARTNETT: Objection.

9 THE WITNESS: Yes.

10 BY ATTORNEY DENIKER:

11 Q. And then how did fourth grade go? Was it a good  
12 --- was it a good year for you?

13 A. Yeah.

14 Q. Did you feel that the teachers and the principal  
15 and the other employees of the school were supportive of  
16 you?

17 A. Yes, very.

18 Q. Good. And did you feel that they treated you  
19 kindly and fairly?

20 A. Yes.

21 Q. And it sounds like from your earlier testimony  
22 that you also had a good experience with the students in  
23 the school.

24 Is that correct?

1 A. Yes.

2 Q. Tell me about your fifth grade year at Norwood  
3 Elementary School. Did you have a good experience that  
4 year?

5 A. Yes. There was brand new teachers and my  
6 teacher was Ms. Watson. She was a very nice teacher.

7 Q. And do you feel that everyone at the school was  
8 supportive of you?

9 A. Yes.

10 Q. Did you feel that everybody treated you in a  
11 fair and kind manner?

12 A. Yes.

13 Q. And so you had a good school year in fifth grade  
14 as well?

15 A. Yes.

16 Q. Do you recall having any other meetings in  
17 fourth or fifth grade to discuss your transitioning to  
18 being --- to presenting as a girl at school?

19 A. Not that I can remember. Beginning of fourth  
20 grade was the only one I think.

21 Q. And then it's my understanding that this year  
22 you started at Bridgeport Middle School.

23 Is that right?

24 A. Yes.



1 Q. And are you in the sixth grade this year, B [REDACTED] ?

2 A. Yes.

3 Q. Do you remember when you were in Norwood  
4 Elementary School having a meeting and filling out a  
5 document that was called a Gender Support Plan?

6 A. Yes, I remember that.

7 Q. And did you participate in the meeting where  
8 that plan was discussed?

9 A. Yes.

10 Q. And did you think that that was a good meeting?

11 A. Yes.

12 Q. Were you happy with the outcome of what was  
13 agreed upon at that meeting?

14 A. Yes.

15 Q. And then you had another one of those meetings  
16 with school officials before you started at the Middle  
17 School.

18 Is that right?

19 A. Yes.

20 Q. And I think that that meeting happened in May of  
21 2021, which would have been the end of your fifth grade  
22 year.

23 Is that --- does that sound right?

24 A. Yes.

1 Q. And were you a part of that meeting?

2 A. Yes.

3 Q. Do you remember who else was a part of that  
4 meeting?

5 A. We had my new principal, Mr. Mazza, the  
6 counselor there, Mrs. Shields and my mom.

7 Q. And were you comfortable with what was discussed  
8 and agreed upon at that meeting?

9 A. Yes.

10 Q. And how has sixth grade been so far?

11 A. It's been good.

12 Q. Do you like Mr. Mazza?

13 A. Yes.

14 Q. He is your principal this year.

15 Is that right?

16 A. Yes.

17 Q. Do you feel like Mr. Mazza is supportive of you?

18 A. Yes, very.

19 Q. Good. And do you think that he treats you in a  
20 kind and fair manner?

21 A. Yes.

22 Q. How are your classes this year? Do you like  
23 them?

24 A. Yeah, I like my classes. I have really nice

1 teachers.

2 Q. I think I saw that you are a straight A student.

3 Maybe I saw that in something that your mom wrote.

4 Is that right?

5 A. Yes.

6 Q. Congratulations. Good for you. Do you feel

7 that your teachers are fair and supportive of you?

8 A. Yes.

9 Q. And are you comfortable with the arrangements  
10 that the school has made for you this year in terms of  
11 addressing how you want to present at school as being a  
12 girl?

13 A. Yes.

14 Q. I know that we have discussed today sports and  
15 your participation in sports, and I heard you say that  
16 you love running.

17 Is that right?

18 A. Yes.

19 Q. And I understand that you tried out for the  
20 girls cross-country team.

21 Is that correct?

22 A. Yes.

23 Q. So I want to talk to you a little bit about that  
24 process. The cross-country team, did they do some

1 training and conditioning over the summer before the  
2 year started?

3 A. Yes. There was a week of conditioning before  
4 the season started.

5 Q. And did that happen over the summer?

6 A. Yes.

7 Q. Did you participate in that conditioning?

8 A. Yes.

9 Q. And how was that experience? Was that a  
10 positive experience for you?

11 A. Yes.

12 Q. And then tryouts I think were in August for  
13 cross-country.

14 Is that right?

15 A. Yes.

16 Q. And were you permitted to try out for the girls  
17 cross-country team?

18 A. Could you ---?

19 Q. Let me rephrase that. Were you allowed to try  
20 out for the girls cross-country team?

21 ATTORNEY HARTNETT: Objection to form.

22 THE WITNESS: Yes.

23 BY ATTORNEY DENIKER:

24 Q. And was that the team you wanted to try out for?

1 A. Yes.

2 Q. And did you make the team?

3 A. Yes.

4 Q. And I think you said this year they didn't have  
5 any cuts.

6 Is that right?

7 A. Yes.

8 Q. Who were your coaches for cross-country this  
9 year?

10 A. I had Ms. Schoonmaker, Ms. --- Coach Flesher and  
11 Coach McBrayer.

12 Q. And did they coach both the girls and the boys  
13 cross-country teams?

14 A. Yes.

15 Q. How was your season?

16 A. It was good.

17 Q. Did you like cross-country?

18 A. Yes.

19 Q. Did you believe that your coaches treated your  
20 fairly and kindly this season?

21 A. Yes.

22 Q. Did you feel that they were supportive of you?

23 A. Yes.

24 Q. So you think it's fun to run up hills and

1 through water and mud, B [REDACTED]?

2 A. Yes.

3 Q. Because that's what cross-country is about,  
4 isn't it?

5 A. Yes.

6 Q. It's a hard sport I think. Do you think it's  
7 hard?

8 A. It depends if you've done it before and how much  
9 you run normally.

10 Q. Do you think you would like to do it again?

11 A. Yes.

12 Q. And I heard you talk a little bit about track.  
13 Are there other --- is track something that you're  
14 interested in doing?

15 A. Yes.

16 Q. And I heard you said you might want to be --- do  
17 the distance running in track.

18 Is that right?

19 A. Yes.

20 Q. You're a tough girl. Cross-country and distance  
21 running and track, those are the hard once, aren't they?

22 ATTORNEY HARTNETT: Objection to form.

23 THE WITNESS: It just depends if you've  
24 ran before or whatever you've done.

1 BY ATTORNEY DENIKER:

2 Q. I think that you're right. I think it depends  
3 how good of shape you're in. Are you planning to  
4 condition in the off season?

5 A. If it's not freezing, then yes.

6 Q. I understand. We were talking about what a cold  
7 day it is here in West Virginia, isn't it?

8 A. Yes.

9 Q. B [REDACTED], has anybody in the school system ever  
10 told you that Harrison County Schools wouldn't let you  
11 participate on a girls sports team for any reason?

12 ATTORNEY HARTNETT: Objection to form.

13 THE WITNESS: After a bill was passed,  
14 not --- I don't think there was because when the bill  
15 was passed, I already went trying out and then we ---  
16 then the whatever it was called where I could do ---  
17 where I could play in the sports team from the Judge  
18 came out.

19 BY ATTORNEY DENIKER:

20 Q. And I just want to make clear, did any of your  
21 coaches ever tell you that you couldn't run on the girls  
22 team?

23 A. No.

24 Q. Did Mr. Mazza ever tell you that you couldn't

1 run on the girls team?

2 A. No.

3 Q. Did any of your teachers tell you that you  
4 couldn't run on the girls team?

5 A. No.

6 Q. And did Mrs. Stutler ever tell you that you  
7 couldn't run on the girls team?

8 A. There was not a cross-country back then, so I  
9 couldn't run whenever she was my principal, so ---.

10 Q. And that was when you were in elementary school.  
11 Is that right?

12 A. Yes.

13 Q. And that's a good point that you brought up,  
14 B [REDACTED]. There aren't any school sports in elementary  
15 school in Harrison County, are there?

16 ATTORNEY HARTNETT: Objection to form.

17 THE WITNESS: No, you're very limited to  
18 them and most of them aren't even in the school. You  
19 have to do them outside of school.

20 BY ATTORNEY DENIKER:

21 Q. Did you have any school-sponsored sports at  
22 Norwood Elementary School?

23 A. I don't know. I don't --- yeah, I don't know.

24 Q. Okay.



1 Did you try out or participate in any sports  
2 that were run by the school while you were at Norwood?

3 A. I --- no.

4 Q. And so let me go back and ask you about Mrs.  
5 Stutler. So it's kind of funny. You had Mrs. Stutler  
6 as your principal at Norwood for a little bit.

7 Is that right?

8 A. Yes.

9 Q. And do you know where she went after she left  
10 Norwood?

11 A. The Board of Education.

12 Q. She did. She went to the Central Board Office.  
13 And did you know that she's now the Superintendant of  
14 Schools?

15 A. I did not know that. I just knew she went to  
16 the Board of Education.

17 Q. Well, she's actually your school superintendant  
18 now. And have you had any communications with her since  
19 she became superintendant?

20 A. No.

21 Q. Well, now you know who your superintendant is.  
22 So if you see her at school you can call her  
23 Superintendant Stutler now.

24 B [REDACTED], let me check my notes and see if I have

1 any other questions. I think I'm just about done.

2 B [REDACTED], did you have any conversations with  
3 anybody that works for the Harrison County Board of  
4 Education, teachers, principals, anybody like that,  
5 coaches, regarding this House Bill 3293?

6 ATTORNEY HARTNETT: Objection to form.

7 THE WITNESS: Could you repeat the  
8 question?

9 BY ATTORNEY DENIKER:

10 Q. Sure. Did you talk with anybody who works for  
11 the Harrison County Board of Education or is somehow  
12 connected with the Board of Education about House Bill  
13 3293?

14 A. I think I did. I think I may have. I'm not  
15 sure. I can't remember her name. It started with an S,  
16 I know that.

17 Q. Do you know what that --- what the woman you're  
18 referring to, do you know what her job was?

19 A. I do not know.

20 Q. Was it a teacher or a principal?

21 A. I don't know that. I just --- she was at one of  
22 our meetings, and I think we may have talked a little  
23 bit about that.

24 Q. And was that one of your Gender Support Plan

1 meetings?

2 A. Yes.

3 Q. Okay.

4 And was that the one before you were going into  
5 Middle School?

6 A. I think. I can't remember. I just --- I can't  
7 remember, but I think she either talked about that or  
8 the Gender Support Plan.

9 Q. Okay.

10 Do you remember what she said about House Bill  
11 3293?

12 A. I do not. Because she may have not talked about  
13 it. She --- because she was there at one of our  
14 meetings, so she could have not, but I think she did.

15 Q. But you don't remember what was said?

16 A. I don't.

17 Q. Okay.

18 Do you remember any conversations with anybody  
19 at school or anybody affiliated with the school about  
20 House Bill 3293?

21 ATTORNEY HARTNETT: Objection, form.

22 THE WITNESS: Not that I can think of off  
23 the top of my head.

24 BY ATTORNEY DENIKER:

1 Q. And B [REDACTED], I should have clarified. Do you know  
2 what I'm talking about when I say House Bill 3293?

3 A. Yeah, HB-3293. Yes.

4 Q. Okay.

5 I just wanted to make sure that you knew what I  
6 was talking about. I thought that you did.

7 B [REDACTED], if you had any concerns about how you  
8 were being treated at school, would you feel comfortable  
9 going to talk to Mr. Mazza about that?

10 A. Yes. If I was being treated bad, then I would  
11 talk to Mr. Mazza.

12 Q. Would you also feel comfortable going to some of  
13 your teachers about that?

14 A. Yes.

15 Q. But do you feel that overall all of the teachers  
16 and administrators, including your principals at  
17 Bridgeport Middle School, have been supportive of your  
18 status as a transgender student?

19 A. Could you repeat the question?

20 Q. Sure. And I apologize, it was a long one. Do  
21 you believe that the teachers and administrators, and  
22 that would include the principals and the other  
23 employees at Bridgeport Middle School, have been  
24 supportive of your transgender status?

1 A. Yes, I think they have been supportive.

2 Q. When you were on the cross-country team did you  
3 believe your teammates were supportive of you?

4 A. Yes.

5 Q. And how about in school, have you had any issues  
6 with other students or problems with students related to  
7 your transgender status?

8 ATTORNEY HARTNETT: Objection to form.

9 THE WITNESS: No. No.

10 ATTORNEY DENIKER: B [REDACTED], those are all  
11 the questions I have for you now. Thanks so much for  
12 your time today.

13 ATTORNEY HARTNETT: We can take a break.  
14 I think this might be a good time to take a break and  
15 then we can come back for questions.

16 VIDEOGRAPHER: Okay. Going off the  
17 record. The current time reads 2:28 p.m.

18 OFF VIDEOTAPE

19 ---

20 (WHEREUPON, A SHORT BREAK WAS TAKEN.)

21 ---

22 ON VIDEOTAPE

23 VIDEOGRAPHER: We are back on the record.

24 The current time reads 2:42 p.m.

1

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2

EXAMINATION

3

---

4 BY ATTORNEY HAMMOND:

5

Q. Hi, B [REDACTED]. My name is Kristen Hammond. And I'm an attorney with the law firm of Bailey and Wyant. And I represent the West Virginia State Board of Education and the State Superintendant Clayton Burch. And I just have I think a few questions for you today. Do you know what the State Board of Education is?

11

A. I don't know.

12

Q. Okay.

13

And do you know or have you ever heard of the West Virginia State Superintendant Clayton Burch?

15

A. No.

16

Q. Okay.

17

So I guess since you do not know them, do you have any memory or any recall of maybe talking to anybody at the State level or at the Board of Education level regarding this lawsuit or regarding the House Bill or your sports? How about we limit it to that?

22

A. I don't remember if I have or not.

23

Q. Okay.

24

So you just don't recall. Could you possibly

1 have talked to somebody?

2 ATTORNEY HARTNETT: Objection to form.

3 THE WITNESS: Could you repeat the  
4 question?

5 BY ATTORNEY HAMMOND:

6 Q. Yes. I just want to see --- you say you don't  
7 recall talking to anybody. Do you think that it's a  
8 possibility that you did talk to somebody or you don't  
9 believe that you've talked to anybody?

10 A. I don't believe I've talked to anybody.

11 ATTORNEY HAMMOND: Okay. Thank you for  
12 your time. I just had a couple of questions, and that's  
13 all I have for you today. Thank you.

14 ---

15 EXAMINATION

16 ---

17 BY ATTORNEY DUCAR:

18 Q. Good afternoon, B [REDACTED]. I'm Timothy Ducar. I  
19 represent the Intervenor in this case. I wanted to ask  
20 you a question about Exhibit 29. Do you have that  
21 available?

22 MS. JACKSON: Give me a second to find  
23 it.

24 ATTORNEY DUCAR: Yes, that's it. Can you

1 scroll down just four paragraphs? Thank you.

2 BY ATTORNEY DUCAR:

3 Q. B [REDACTED], you had testified earlier that paragraph  
4 that starts with I just want to run, that you had ---  
5 that's a quote from you.

6 Correct?

7 A. Yes.

8 Q. I just wanted to know, is that a quote that you  
9 wrote on paper and provided to somebody or wrote on a  
10 computer and provided to somebody or did you actually  
11 say that with your --- verbally?

12 A. I said that.

13 Q. Verbally?

14 A. Yeah, I said that verbally.

15 Q. Thank you. When did you decide you liked  
16 running?

17 A. I've always liked running. It's from when I  
18 could walk, I liked running.

19 ATTORNEY DUCAR: We're done with this  
20 exhibit, Mr. Court Reporter. Thank you.

21 BY ATTORNEY DUCAR:

22 Q. When did you decide you wanted to try out for  
23 the girls cross-country team?

24 A. I've always wanted to do cross-country, so when



1 I had the chance I decided I wanted to.

2 Q. And did you know about it because your brothers  
3 ran?

4 A. Yes.

5 Q. Did your mom encourage you to try out for the  
6 girls team?

7 ATTORNEY HARTNETT: Objection to form.

8 THE WITNESS: Yes. Yes, she encouraged  
9 me.

10 BY ATTORNEY DUCAR:

11 Q. And these try-outs were last summer.

12 Correct?

13 A. Yes.

14 Q. Going into sixth grade?

15 A. Yes.

16 Q. Did your dad encourage you to try out for the  
17 girls team?

18 A. Yes.

19 Q. Earlier you testified that you did well in  
20 cross-country. Did you have any rankings?

21 ATTORNEY HARTNETT: Object to the form.

22 THE WITNESS: I --- could you rephrase  
23 the question?

24 BY ATTORNEY DUCAR:

1 Q. Do you have any idea how well you did on your  
2 team as an individual?

3 A. I don't know.

4 Q. Do they keep track of individual times and ---?

5 A. I think they put it on a website.

6 Q. Is that something you have ever seen?

7 A. My mom looks at it, but I don't.

8 Q. Do you have any indication whether or not you  
9 were one of the better runners or not one of the better  
10 runners on the team?

11 ATTORNEY HARTNETT: Objection to form.

12 THE WITNESS: I don't know. I think I  
13 was good.

14 BY ATTORNEY DUCAR:

15 Q. Do you want to run cross-country again next  
16 year?

17 A. Yes.

18 Q. Track tryouts are coming up in the spring.

19 Correct?

20 A. Yes.

21 Q. And you intend to try out for track?

22 A. Yes.

23 Q. Do you want to compete in any other sports  
24 besides track and cross-country?

1 A. Not really.

2 Q. Why not?

3 A. I don't find any other sport really interesting  
4 besides running.

5 Q. You said trusting?

6 A. Interesting.

7 Q. What does that mean?

8 A. What is interesting?

9 Q. Oh, interesting. I misheard you. Thank you.  
10 And I think I misheard you on something else, so I'm  
11 going to re-ask the question. Do you like to compete?

12 ATTORNEY HARTNETT: Objection to the  
13 form.

14 THE WITNESS: I'm not a really  
15 competitive person. I just play a sport because I think  
16 it's fun.

17 BY ATTORNEY DUCAR:

18 Q. Do you consider yourself a good athlete?

19 A. Yes.

20 Q. What makes you a good athlete?

21 A. I'm good at running, good at the sports I do.

22 Q. Do you try hard to win?

23 A. Yes. Well --- yes.

24 Q. Have you talked to anybody else about playing

1 other sports other than cross-country and track?

2 A. I've talked to my mom about playing other  
3 sports.

4 Q. What sports have you talked to her about?

5 A. Volleyball and maybe basketball.

6 Q. And describe for me what you guys talked about  
7 as far as volleyball and basketball?

8 A. We talked about trying new sports.

9 Q. When did you two talk about those subjects?

10 A. I can't remember.

11 Q. Was it in the last six months or ---?

12 A. I don't --- I can't remember.

13 Q. Did you bring up the idea of playing volleyball  
14 to her?

15 A. Yes.

16 Q. And what did she say?

17 A. That's a good idea.

18 Q. Did she say that about basketball as well?

19 A. I think she may have brought up basketball, but  
20 I can't remember. It may have been me or her.

21 Q. Did you feel like she was encouraging you to  
22 play volleyball?

23 A. She liked the idea. So I wouldn't say  
24 encouraged, but she thought it was a good idea.

1 Q. Did she think playing basketball was a good  
2 idea?

3 ATTORNEY HARTNETT: Objection to form.

4 THE WITNESS: I think so, yes.

5 BY ATTORNEY DUCAR:

6 Q. And as you sit here right now, you don't have  
7 any plans to go out for a volleyball or a basketball  
8 team.

9 Correct?

10 A. No, not right now. No.

11 Q. Do you foresee yourself running on the  
12 cross-country team or on the track team later in high  
13 school?

14 ATTORNEY HARTNETT: Objection to form.

15 THE WITNESS: Yes, yes.

16 BY ATTORNEY DUCAR:

17 Q. Do you see yourself running on the cross-country  
18 team or track team if you ever go to college on a  
19 college team?

20 ATTORNEY HARTNETT: Same objection.

21 Objection to form.

22 THE WITNESS: Maybe, but I haven't  
23 thought that far ahead.

24 BY ATTORNEY DUCAR:

1 Q. Sure. When was the first time you remember  
2 thinking that you wanted to be a girl?

3 ATTORNEY HARTNETT: Objection to form.

4 THE WITNESS: I can't remember.

5 BY ATTORNEY DUCAR:

6 Q. Do you remember the first time you talked to  
7 somebody about the fact that you wanted to become a  
8 girl?

9 ATTORNEY HARTNETT: Objection.

10 THE WITNESS: I also can't --- I don't  
11 remember.

12 BY ATTORNEY DUCAR:

13 Q. There's a statement in the record that indicates  
14 you feel like a girl. What does feeling like a girl  
15 mean?

16 ATTORNEY HARTNETT: Objection to form.

17 THE WITNESS: I just know that I want to  
18 be a girl and I feel like a girl inside.

19 BY ATTORNEY DUCAR:

20 Q. You picked out the name B [REDACTED] for yourself.

21 Correct?

22 A. Yes.

23 Q. When did you do that?

24 A. Whenever I transitioned.

1 Q. Going into fourth grade?

2 A. Yes.

3 Q. How did you pick that name?

4 A. I've always liked it.

5 Q. Me, too. I have a daughter named B [REDACTED]

6 Did anyone else help you pick that name?

7 A. I think my friends liked that name, too.

8 Q. When did you start wearing girl's clothing at  
9 home?

10 A. I mean, I've always wanted my mom's clothes, so  
11 I really started dressing like that maybe at home, third  
12 grade, the year of third grade.

13 Q. Did you ask your parents if you could do it or  
14 did you just do it?

15 A. I just did it.

16 Q. What was their reaction?

17 A. Positive.

18 Q. When did you first ask your parents to refer to  
19 you as she or her?

20 A. When I transitioned.

21 Q. Going into fourth grade?

22 A. Yes.

23 Q. When did you start presenting as a girl in other  
24 ways at home? I guess that would be makeup, other ways

1 besides clothing.

2 ATTORNEY HARTNETT: Objection to form.

3 THE WITNESS: Could you restate the  
4 question, please?

5 BY ATTORNEY DUCAR:

6 Q. Yeah. I'll withdraw that question.

7 When did you start presenting as a girl at  
8 home?

9 A. It started when I was really young.

10 ATTORNEY HARTNETT: Objection.

11 THE WITNESS: But I fully started wearing  
12 clothes on my own, not wearing my mother's, around the  
13 third-grade year.

14 BY ATTORNEY DUCAR:

15 Q. Do you wear jewelry?

16 A. Not a lot. I used to wear earrings but not  
17 anymore.

18 Q. Do you wear makeup?

19 A. No.

20 Q. Are there other ways you presented at home as a  
21 girl besides dressing as a girl?

22 A. Well, I always wanted girly --- a girly room and  
23 girly items.

24 Q. And you started wearing girls clothing in fourth



1 grade.

2 Correct?

3 A. Yes.

4 Q. Do you recall the first time you saw a doctor or  
5 a therapist about your desire to be a girl?

6 A. I can't remember.

7 Q. How did you first learn about puberty blocking  
8 treatment?

9 A. Could you repeat the question, please?

10 Q. How did you first learn about puberty blocking  
11 treatment?

12 A. My mom. My mom told me about it whenever I  
13 transitioned.

14 Q. And is that something that you wanted to do?

15 A. Yes.

16 Q. At some point you wanted to start hormone  
17 therapy?

18 A. Yes.

19 Q. Do you know what that means?

20 A. Getting female hormones.

21 Q. B [REDACTED], do you ever feel anxious?

22 ATTORNEY HARTNETT: Objection to form.

23 ATTORNEY DUCAR: Let me restate that.

24 That's fair.

1 BY ATTORNEY DUCAR:

2 Q. Does the fact that you are transitioning make  
3 you feel anxious?

4 A. No.

5 Q. Does the fact that you're part of this lawsuit  
6 make you feel anxious?

7 ATTORNEY HARTNETT: Objection to form.

8 THE WITNESS: No.

9 BY ATTORNEY DUCAR:

10 Q. Do you know what the word anxious means?

11 A. Nervous.

12 Q. Do you know what gender dysphoria is?

13 A. Yes.

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 ATTORNEY DUCAR: Thank you, B [REDACTED]. I  
20 have no further questions for you today.

21 ATTORNEY CAPEHART: We have no further  
22 questions at this time. We're just going to note as we  
23 have in the last two depositions the possibility of  
24 having to revisit something. If for some reason some

1 medical records would could to light, although I  
2 understand that's unlikely, we're still noting that, but  
3 you would object to that?

4 ATTORNEY HARTNETT: Yes, we object, but  
5 we appreciate you making the record you want to make.

6 ATTORNEY CAPEHART: Thank you.

7 ATTORNEY HARTNETT: I'm sorry. Just on  
8 that point, though, I mean, is there any specific item  
9 that you lack today that you need to make a record?

10 ATTORNEY CAPEHART: I think our concern  
11 has been the possibility of new records that might be  
12 produced following the depositions.

13 ATTORNEY HARTNETT: Okay. Thank you.

14 ATTORNEY CAPEHART: Thank you.

15 ATTORNEY HARTNETT: I mean, is anyone  
16 else going to have any further questioning? Sorry.  
17 Just for the witness's awareness, we're confirming  
18 whether or not there will be additional questioning from  
19 any Defendant.

20 ATTORNEY ROGERS: I don't have any  
21 further questions.

22 ATTORNEY DENIKER: I have no further  
23 questions. Thank you again for your time today, B [REDACTED].

24 ATTORNEY HAMMOND: I have no further

1 questions. Thank you.

2 ATTORNEY DUCAR: I have nothing further.

3 Thank you.

4 ATTORNEY HARTNETT: And we also have no  
5 questions for the witness today.

6 VIDEOGRAPHER: Okay. If there are no  
7 further questions, that concludes today's deposition.  
8 And the current time reads 3:01 p.m.

9 COURT REPORTER: Is it reading and  
10 signing for your client?

11 ATTORNEY HARTNETT: Yes. I'm sorry. I  
12 meant to say that on the record.

13 \* \* \* \* \*

14 VIDEOTAPED VIDEOCONFERENCE DEPOSITION

15 CONCLUDED AT 3:01 P.M.

16 \* \* \* \* \*

17

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22

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24

1 STATE OF WEST VIRGINIA )

2 CERTIFICATE

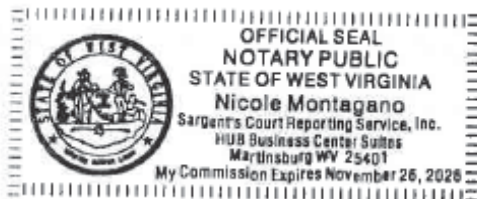
3 I, Nicole Montagano, a Notary Public in  
4 and for the State of West Virginia, do hereby  
5 certify:

6 That the witness whose testimony appears  
7 in the foregoing deposition, was duly sworn by me  
8 on said date, and that the transcribed deposition  
9 of said witness is a true record of the testimony  
10 given by said witness;

11 That the proceeding is herein recorded  
12 fully and accurately;

13 That I am neither attorney nor counsel  
14 for, nor related to any of the parties to the  
15 action in which these depositions were taken, and  
16 further that I am not a relative of any attorney  
17 or counsel employed by the parties hereto, or  
18 financially interested in this action.

19 I certify that the attached transcript  
20 meets the requirements set forth within article  
21 twenty-seven, chapter forty-seven of the West  
22 Virginia.



*Nicole Montagano*  
Nicole Montagano,  
Court Reporter