

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
TERRE HAUTE DIVISION

B.E., <i>et al.</i> ,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	No. 2:21-cv-00415-JRS-MG
	)	
VIGO COUNTY SCHOOL	)	
CORPORATION, <i>et al.</i> ,	)	
	)	
Defendants.	)	

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**Appendix of Exhibits in Support of  
Plaintiffs' Reply Memorandum in Support of Motion for Preliminary Injunction**

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<b>Attachment</b>	<b>Description</b>
<b>1</b>	Rule 30(b)(6) Deposition of Stacy Mason, Vigo County School Corporation Director of Secondary Education
<b>2</b>	Exhibits 6 and 9 to Mason Deposition (VCSC_000084-85, VCSC_000071)
<b>3</b>	Deposition of L.E.
<b>4</b>	Deposition of B.E.
<b>5</b>	Deposition of S.E.
<b>6</b>	Supplemental Declaration of James D. Fortenberry, M.D., M.S.
<b>7</b>	Supplemental Declaration of B.E.
<b>8</b>	Supplemental Declaration of S.E.
<b>9</b>	Supplemental Declaration of L.E. with exhibits

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
TERRE HAUTE DIVISION

B.E., et al, )  
 ) No. :  
 Plaintiff, ) 2:21-cv-415-JRS-MG  
 )  
 -vs- )  
 )  
 VIGO COUNTY SCHOOL CORPORATION, )  
 et al, )  
 )  
 Defendant. )

THE 30(b)(6) DEPOSITION OF  
VIGO COUNTY SCHOOL CORPORATION/  
PRINCIPAL OF TERRE HAUTE NORTH VIGO HIGH SCHOOL  
UPON ORAL EXAMINATION OF  
STACY MASON

The 30(b)(6) deposition of VIGO COUNTY SCHOOL CORPORATION/PRINCIPAL OF TERRE HAUTE NORTH VIGO HIGH SCHOOL, STACY MASON, a witness produced and sworn before Wendi Kramer Sulkoske, Notary Public in and for the County of Boone, State of Indiana, taken on behalf of the Plaintiff via Zoom teleconference, on December 8, 2021 at 9:00 a.m., pursuant to the Federal Rules of Trial Procedure.

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EXAMINATION INDEX

EXAMINATION  
QUESTIONS BY MR. FALK

Page

4

EXHIBIT INDEX

Number	Description	Page
Exhibit 1	Notice of Deposition	6
Exhibit 2	Order on Verified Petition for Change of Name and Gender Marker	11
Exhibit 3	Order on Verified Petition for Change of Name and Gender Marker (Confidential)	11
Exhibit 4	N. Sherwin Letter 10/7/2021 N. Sherwin Letter 10/7/2021 Redacted	12
Exhibit 5	N. Sherwin Letter 10/7/21 N. Sherwin Letter 10/7/21 Redacted	12
Exhibit 6	VCSC Administrative Guideline Regarding Accommodations for Transgender Students	13
Exhibit 7	Email Chain	23
Exhibit 8	Skyward File	20
Exhibit 9	THNVHS Map	36
Exhibit 10	Memorandum of Agreement	45

4

1 STACY MASON  
2 the witness herein, having been first duly sworn to  
3 tell the truth, the whole truth, and nothing but the  
4 truth, was examined and testified as follows:  
5 EXAMINATION,  
6 QUESTIONS BY MR. FALK:  
7 Q Good morning, Ms. Mason. I'm Ken Falk. I  
8 represent the plaintiff in this case along with my  
9 co-counsel who are on the line.  
10 Before we begin I did have a conversation off  
11 the record with your attorney which I indicated  
12 that I was going to attempt today to restrict my  
13 questions to the issues that I think are relevant  
14 for the pending preliminary injunction. I will  
15 reserve my right to at a later time schedule  
16 another deposition under 30(b)(6) or another  
17 deposition of particular persons if necessary to  
18 proceed with the merits. Today we are going to  
19 focus on the preliminary injunction.  
20 MR. FALK: Is that your understanding,  
21 Counsel?  
22 MR. ZIMMERLY: It is, yes.  
23 Q Could you state your name and business address?  
24 A Stacy Mason. 501 West Olive Street, West  
25 Terre Haute, Indiana, 47885.

5

1 Q What is at 501 West Olive Street?

2 A The Vigo County School Corporation administration

3 building.

4 Q What is your position with the Vigo County School

5 Corporation?

6 A I'm the director of secondary education.

7 Q Have you been deposed before? Have you ever been

8 in a deposition before?

9 A One time.

10 Q You were probably told back then, and you realized

11 fairly quickly, that a deposition is just an

12 asking and answering of questions under oath.

13 Do you understand that?

14 A Yes.

15 Q There is no judge here, but there is a court

16 reporter taking down everything that you say.

17 Do you understand that?

18 A Yes.

19 Q Because the court reporter is taking everything

20 down, we need to respond audibly and I will

21 endeavor not to talk over you so that we have a

22 clean record. Is that okay?

23 A Yes.

24 Q If at any point you don't understand my question,

25 I talk too quickly, I guarantee you the court

6

1 reporter can confirm that I will not talk too

2 slowly, but if I talk too quickly or you don't

3 understand, let me know. Otherwise, I will assume

4 you understand. Is that fair?

5 A Yes.

6 Q I hope we will not go very long today. Lawyers

7 always say that. If at any point you want to take

8 a break, that is perfectly fine. If you want to

9 talk to your attorney you can do so privately.

10 The only thing I would ask is that you respond to

11 the question that is pending before we take a

12 break. Okay?

13 A Yes.

14 Q I'm showing you what has been marked as Exhibit 1,

15 the Notice of Deposition.

16 Do you have a copy of the exhibits or have

17 they been provided to you in some form?

18 A They have, yes.

19 Q Do you recognize this as the Deposition Notice

20 today for the defendants in this case?

21 A Yes.

22 Q The defendants were asked to produce one or more

23 people to testify on their behalf as their

24 designate. You were the person that drew the

25 short straw. You are the designate?

7

1 A Yes.

2 Q You are speaking for the Vigo County School

3 Corporation and the principal of Terre Haute North

4 Vigo High School in his official capacity, is that

5 fair?

6 A Yes.

7 Q What is your current position as the director of

8 secondary education? What does it entail?

9 A I oversee the middle school and high school

10 principals.

11 Q How long have you had this position?

12 A This is my tenth year in this position.

13 Q I will say the School Corporation for the Vigo

14 County School Corporation, is that fair?

15 A Yes.

16 Q I will probably just say the High School for

17 Terre Haute North Vigo High School because I

18 always say it wrong. Is that okay?

19 A Yes.

20 Q How long have you been employed by the School

21 Corporation?

22 A Twenty-six years.

23 Q So prior to your current position what was your

24 position or positions with the School Corporation?

25 A I have been a special education teacher. I have

8

1 been a dean. I have been an assistant principal

2 and a principal.

3 Q Where did you go to college?

4 A Indiana University.

5 Q I have heard of that. When did you graduate?

6 A 1995.

7 Q Anything post-graduate?

8 A Yes. Post-graduate work, there's a lot.

9 Q Do you have a master's or doctorate?

10 A Master's and doctorate.

11 Q What is your master's in?

12 A School supervision and leadership.

13 Q Where is that from?

14 A Indiana State University.

15 Q Your Ph.D.?

16 A Also Indiana State University.

17 Q In school supervision and leadership?

18 A Yes.

19 Q Prior to this litigation were you familiar at all

20 with the plaintiffs in this case?

21 A No.

22 MR. FALK: Let's go off the record.

23 (AT THIS TIME A SHORT RECESS WAS HELD OFF

24 THE RECORD AFTER WHICH THE FOLLOWING PROCEEDINGS

25 WERE HAD:)

1 BY MR. FALK:  
 2 Q Have you met the plaintiffs in this case  
 3 subsequent to the filing?  
 4 A No.  
 5 Q In the deposition notice in this deposition, and I  
 6 noticed in some of your documents you use the term  
 7 transgender.  
 8 Are you aware of that term?  
 9 A Yes.  
 10 Q Is it a fair understanding of the term that the  
 11 word transgender or transgender person is someone  
 12 who has a gender identity that differs from the  
 13 sex that was assigned at birth?  
 14 Is that your understanding of the term?  
 15 MR. ZIMMERLY: I will object that  
 16 transgender can mean many things to many people.  
 17 It is undefined, vague, and ambiguous.  
 18 The witness can answer.  
 19 A Yes.  
 20 Q That is your understanding?  
 21 A Yes.  
 22 Q Do you know the term gender dysphoria?  
 23 A Yes.  
 24 Q Is it your understanding that this is a condition  
 25 that is marked by a conflict between a person's

1 gender identity and their sex assigned at birth?  
 2 MR. ZIMMERLY: I will object to the extent  
 3 that you are asking for a legal or medical  
 4 conclusion.  
 5 The witness can answer.  
 6 A Yes.  
 7 Q That is your understanding?  
 8 A Yes.  
 9 Q You are aware the plaintiffs in this case, B.E.  
 10 and S.E., are freshman at the high school,  
 11 Terre Haute North Vigo High School, who are  
 12 transgender male students?  
 13 Do you understand that?  
 14 MR. ZIMMERLY: Objection. Compound  
 15 question. The term transgender is undefined,  
 16 vague, and ambiguous.  
 17 You can answer.  
 18 A Yes.  
 19 Q That is your understanding?  
 20 A Yes.  
 21 Q In this litigation do you understand that they  
 22 asked in their papers for three main things. One,  
 23 their ability to use the male restrooms.  
 24 Do you understand that is the request they  
 25 have made?

1 A Yes.  
 2 Q Their being referred to by their male first names  
 3 and their gender.  
 4 Do you understand that is a request they  
 5 made?  
 6 A Yes.  
 7 Q And their ability to use male locker rooms.  
 8 Do you understand that is a request they have  
 9 made?  
 10 A Yes.  
 11 Q They have also indicated that they would like to  
 12 be treated as male for purposes of the ROTC  
 13 program that is operated at the high school.  
 14 Do you understand that as well?  
 15 A Yes.  
 16 Q I want to see where we are in the case because  
 17 there have been some changes since we filed.  
 18 I'm showing you what has been marked as  
 19 Exhibits 2 and 3. What I did was I prepared both  
 20 exhibits that were redacted as well as exhibits  
 21 that we agreed to keep confidential, but have the  
 22 actual names on them.  
 23 Have you seen these before?  
 24 A Yes.  
 25 Q Is it fair to say that these are orders from the

1 Vigo Circuit Court dated December 2 which changed  
 2 the plaintiff's gender markers to male and changed  
 3 their legal names to male names?  
 4 Is that your understanding?  
 5 A Yes.  
 6 Q You are aware that in this order the Vigo Circuit  
 7 Court ordered that their birth certificates be  
 8 changed consistent with the order, is that fair?  
 9 A Yes.  
 10 Q I'm showing you what has been marked as Exhibits 4  
 11 and 5. I prepared a redacted exhibit and one with  
 12 the actual names.  
 13 Have you seen these before?  
 14 A Yes.  
 15 Q Are you currently aware then that both boys are  
 16 under the care through Indiana University and  
 17 Riley and have been deemed male by their doctor?  
 18 A Yes.  
 19 Q Are you aware since this litigation has started  
 20 that the two plaintiffs have been diagnosed with  
 21 gender dysphoria and are receiving testosterone?  
 22 A Yes.  
 23 Q You were made aware of that after the case was  
 24 filed, is that correct?  
 25 A Yes.

13

1 Q Prior to the case being filed you were aware that  
2 they were under treatment at Riley and that they  
3 were deemed to be male by their physicians, is  
4 that correct?  
5 A Correct.  
6 Q I'm showing you what has been marked as Exhibit 6.  
7 This is what I have as the Vigo County School  
8 Corporation Administrative Guideline regarding  
9 Accommodations for Transgender Students.  
10 Is that what you have?  
11 A Yes.  
12 Q When was this policy created? It is not dated.  
13 A I'm not aware. It has been in use for several  
14 years. I'm not aware of the exact date.  
15 Q How was this policy created?  
16 A It is an administrative guideline. It is not an  
17 actual policy, but the board had to accept it, I  
18 believe.  
19 Q What does that mean that it is not a policy but it  
20 is a guideline?  
21 A It means that you would not find this under our  
22 board policies. If you were to go to the website  
23 and pull up actual board policies, you would not  
24 find this document there. Administrative  
25 guidelines are not found in those same, in that

14

1 same format.  
2 Q But the board is aware of this and has approved  
3 it, is that fair?  
4 A Our current board is aware of this document. The  
5 board in which the document was created would have  
6 been the board that approved it.  
7 Q Is it still in effect?  
8 A Yes.  
9 Q Did it replace any other policy or policies  
10 concerning transgender students?  
11 A No.  
12 Q Is this the only policy that you are aware of that  
13 specifically addressed transgender students for  
14 the corporation?  
15 A Yes.  
16 Q Exhibit 6 specifically indicates that it only  
17 applies to access to bathrooms. Is that correct?  
18 A Yes.  
19 Q It does not apply to access to locker rooms?  
20 A Correct.  
21 Q It says that locker rooms are to be decided and  
22 determined on a case by case basis.  
23 A Correct.  
24 MR. ZIMMERLY: Object that the document  
25 speaks for itself.

15

1 You can answer.  
2 Q What does it mean "case by case basis"?  
3 MR. ZIMMERLY: Objection. The document  
4 speaks for itself.  
5 You can answer if you know.  
6 Q If you know.  
7 A My assumption would be that we are looking at each  
8 individual situation with each individual student  
9 and working through what those, as things present  
10 what we need to do.  
11 Q Exhibit 6 refers to school administrator making a  
12 determination as to a number of factors.  
13 The school administrator in our case here  
14 would be the principal of the high school, is that  
15 correct?  
16 A Correct.  
17 Q This policy applies to any student requesting  
18 accommodations to bathrooms that do not correspond  
19 to the student's sex at birth, is that fair?  
20 A Correct.  
21 Q Were the plaintiffs or the plaintiffs' mother ever  
22 advised of this policy or given a copy of it, if  
23 you know?  
24 A I do not know. I don't know if they were  
25 physically given an actual print-off of this copy.

16

1 Q You don't know if they were even told about the  
2 policy, is that correct?  
3 A They were told of the policy.  
4 Q What were they told?  
5 A They were, I believe they were walked through the  
6 policy, the guidelines. As it is listed where it  
7 says Number 1, make your request with the  
8 administrator. Number 2, consideration of the  
9 accommodation by the administrator.  
10 So we walked down through what those things  
11 are that are listed on that document.  
12 Q Who would have walked them through that?  
13 A It would have either been the assistant principal  
14 or the principal. I believe initially it was  
15 probably the assistant principal, but I'm not  
16 positive of that fact.  
17 Q Has the policy been applied in this case that you  
18 know of?  
19 A Yes.  
20 Q What does that mean to you?  
21 A It means as you read down through those guidelines  
22 I believe that we have met every one of the  
23 requests or talked through each one of those  
24 factors.  
25 Q Talked through with the mother?

17

1 A Correct.

2 Q Now, the policy allows the principal to take into

3 account concerns or objections raised by students

4 or parents to the transgender student using

5 bathrooms associated with their gender identity,

6 is that correct?

7 MR. ZIMMERLY: I just object that you

8 referred to it as a policy. It is a guideline.

9 MR. FALK: Thank you.

10 A Can you repeat that question, please?

11 Q Probably not, but I will do my best. The

12 guideline allows the principal to take into

13 account concerns or objections raised by students

14 or parents with respect to a transgender student

15 wanting to use the bathroom associated with, in

16 this case, his gender identity, is that correct?

17 A Correct.

18 Q Aside from the two plaintiffs in this case, has

19 this policy been applied to other transgender

20 students within the school corporation who wanted

21 to use bathrooms associated with their gender

22 identity?

23 MR. ZIMMERLY: Objection to the form.

24 Transgender is undefined, vague, and ambiguous.

25 You can answer.

18

1 A To my knowledge, this is our only situation that

2 has arisen to this level.

3 Q Have there been situations that occurred that did

4 not rise to this level?

5 A Yes.

6 Q I don't want to know anyone's names, but can you

7 briefly describe those situations to me?

8 A We have had a couple of times where students have

9 made the request for a private restroom. That has

10 been granted.

11 Q But not a situation where they were allowed to use

12 the general restrooms associated with their gender

13 identity, is that correct?

14 A That is correct.

15 Q Given Exhibit 2 and 3, the court order from the

16 Vigo Circuit Court, what is the position today of

17 the Corporation concerning referring to the

18 plaintiffs by their legal, now legal male names

19 and by the gender marker of male as ordered by the

20 court?

21 A The School Corporation will not allow access by

22 transgender students to restrooms and locker rooms

23 associated with their gender identity without

24 surgical or anatomical change.

25 Q That is great. We will get there. We just

19

1 short-circuited that one. I'm asking right now

2 just about names.

3 You acknowledged Exhibit 2 and 3. Our client

4 asked if she should drop the orders off to you. I

5 indicated that I would wait until I talked to your

6 attorney in this deposition. I don't know if you

7 have physically received the court order that is

8 Exhibit 2 and 3.

9 Once you do, will you allow the boys to be

10 referred to, the plaintiffs, to be referred to by

11 their now male names and with the gender identity

12 of male, gender marker of male?

13 A Yes.

14 Q Does anything more have to happen or have we done

15 enough?

16 A We simply need the legal documentation.

17 Q I should instruct Mom to drop this off to the

18 principal?

19 A Yes. Please.

20 MR. ZIMMERLY: I don't know if you need to

21 do that. Sorry to interrupt. I believe the

22 school, they are already referring to them using

23 the male pronouns and their chosen names. We were

24 doing that prior to the order. Certainly they are

25 doing that now. Mom does not need to drop that

20

1 off.

2 MR. FALK: Thank you.

3 Q I know from some of the emails that I received

4 that we now do not have to go through, life is

5 getting better and better for both of us, that

6 there have been in the past instructions given

7 that the boys, that the plaintiffs preferred their

8 names, male names and using male identities.

9 Will there be instructions given to staff

10 that that is how they have to be referred to?

11 A Once given, because we have received that legal

12 documentation, we can do that. That allows us to

13 change that information in our student information

14 system. That means that the teachers will have

15 their legal names and gender markers as directed

16 by the court.

17 Q And will the teachers be instructed that that is

18 how they have to be referred to?

19 A Correct.

20 Q Great. And you mentioned your formal document in

21 your system where your legal name is. I'm showing

22 you what has been marked as Exhibit 8. I'm sorry

23 for jumping around, but numbers have never been my

24 thing.

25 A Okay. Yes.

1 Q This is just a screen shot of that information 21  
 2 system, is that correct?  
 3 A Yes. I'm trying to find it. Yes.  
 4 Q If it has not already happened, looking at the top  
 5 screen shot, the name will be changed from the  
 6 female name to the name found by the Vigo Circuit  
 7 Court to be the child's name and the gender marker  
 8 will be changed from F to M?  
 9 A Yes.  
 10 Q What is the NY status?  
 11 MR. ZIMMERLY: Where do you see that?  
 12 MR. FALK: Right next to gender.  
 13 MR. ZIMMERLY: I see. Thank you.  
 14 A Let me see.  
 15 Q I assume it has nothing to do with this.  
 16 A It is Next Year status.  
 17 Q Thank you. I used to live in New York. So I  
 18 thought that should be former. That would not be  
 19 the same thing.  
 20 We have established then that the name  
 21 problem from our perspective is being taken care  
 22 of.  
 23 Let me just confirm, given the court order,  
 24 the computer will be changed and you will be  
 25 instructed to refer to the plaintiffs by their

1 male names and as male gender, correct? 22  
 2 A Correct.  
 3 Q However, we have also established that it is the  
 4 position of the school that absent surgery, the  
 5 plaintiffs will not be allowed access to male  
 6 restrooms, is that fair?  
 7 A Correct.  
 8 Q I assume the male locker rooms as well?  
 9 A Yes.  
 10 Q Okay. Going back to Exhibit 6, the guideline,  
 11 that seems to contemplate a situation where if the  
 12 various steps are met, the student may be able to  
 13 access restrooms consistent with their gender  
 14 identity.  
 15 But you are telling me no matter what, the  
 16 plaintiffs in this case will not be able to use  
 17 male restrooms absent surgery, correct?  
 18 A Yes.  
 19 Q What is the point of Exhibit 6? What is the point  
 20 of the guideline? What is it telling the  
 21 transgender student and/or their parent to do to  
 22 access male restrooms?  
 23 Why don't you just have a policy that says  
 24 you have to have surgery?  
 25 MR. ZIMMERLY: Object to the form.

1 Compound. The document speaks for itself. 23  
 2 You can answer.  
 3 A I believe that the guideline does indicate that  
 4 there is a request for medical treatment. At the  
 5 front side of that, it references the need for all  
 6 students to have privacy. So I think that is what  
 7 this guideline is trying to do. It is trying to  
 8 put together all of those pieces.  
 9 Q We asked for documents that referenced plaintiffs'  
 10 status as transgender males, their desire to use  
 11 male restrooms and locker rooms and documents  
 12 referencing referring to them by male names or  
 13 male pronouns.  
 14 I just want to ask you to take a look at  
 15 Exhibit 7. Are these all of the documents that  
 16 you have that specifically concern the plaintiffs  
 17 that are responsive to that request?  
 18 A I believe so as far as I'm aware.  
 19 Q It appears looking at Exhibit 7, the first page,  
 20 that there were issues or questions or topics that  
 21 Mom raised back in February of 2021 about gender  
 22 issues and the two plaintiffs, is that correct?  
 23 A Yes.  
 24 Q That was raised to Stacey Cavins. Who is  
 25 Ms. Cavins? I assume that is Ms.

1 A She is the school counselor. Their guidance 24  
 2 counselor.  
 3 Q At the school they were in?  
 4 A She is the North High School student guidance  
 5 counselor. These emails took place while they  
 6 were at Woodrow Wilson Middle School.  
 7 Q Is this the first time that the school was aware  
 8 that the plaintiffs had gender issues, or were you  
 9 aware of that beforehand?  
 10 A This would be the first time North High School  
 11 would have been made aware.  
 12 Q Was Wilson aware of it, if you know?  
 13 A I do not know. I'm not sure.  
 14 MR. ZIMMERLY: I want to point out that  
 15 may have been unclear. You may have indicated  
 16 that these emails were with the mom. I believe  
 17 they are with the aunt just so the record is  
 18 clear. Michelle Eldred.  
 19 MR. FALK: Thank you.  
 20 Q Look at Page 7 of Exhibit 7.  
 21 A I'm here.  
 22 Q I just have a question. There is an email from  
 23 Ann Marie French to Kathy Mahalek and Melinda  
 24 Schultz. Ms. French apparently is a district  
 25 supervisor for the special education district that

25

1 covers Vigo County, is that fair?  
 2 A Yes.  
 3 Q The two boys are special ed, is that correct?  
 4 A Correct.  
 5 Q Do you know why they are in special education?  
 6 A I do not.  
 7 Q Are they mainstreamed in their classes, if you  
 8 know?  
 9 A It looks like the majority of their classes, yes,  
 10 they are mainstreamed.  
 11 Q Who are Ms. Mahalek and Ms. Schultz?  
 12 A Ms. Schultz is an IEP writer or special education  
 13 teacher at Terre Haute North High School. She was  
 14 at this time.  
 15 Ms. Mahalek and Ms. French were both district  
 16 supervisors. Ms. Mahalek is currently retired.  
 17 That is why they were sort of working together at  
 18 that point in time. Ms. French has taken over  
 19 that position.  
 20 Q You mentioned an IEP. That is an individualized  
 21 education plan that is required under federal law  
 22 to be drawn up for all students who are in special  
 23 education, is that correct?  
 24 A Yes.  
 25 Q Just looking real quickly now at Page 12 of the

26

1 exhibit, there is an email from Janet Voll, who is  
 2 the registrar of the high school, is that correct?  
 3 A Yes.  
 4 Q Among other things, she maintains the official  
 5 documents that we have a screen shot of for  
 6 Exhibit 8, is that correct?  
 7 A Correct.  
 8 Q This is an email that was sent out to refer to the  
 9 plaintiffs by male names.  
 10 Who are all of the people on this email list  
 11 that this message was sent to?  
 12 A Do you want me to walk through each name?  
 13 Q No. No. Thank you. Just generally.  
 14 A In general, there are teachers on that list.  
 15 There are administrators. There is our cafeteria  
 16 manager. So it looks to be those who might be  
 17 directly involved with the students.  
 18 Q At the High School?  
 19 A Correct.  
 20 Q But at this time the staff would not be required  
 21 to refer to them by their male names because their  
 22 legal name had not yet been changed, is that fair?  
 23 A Yes.  
 24 Q Take a look at Page 17 of Exhibit 7, please. At  
 25 the bottom is an email from Debra Haskell to

27

1 Leslie Smith.  
 2 Do you see that?  
 3 A Yes.  
 4 Q Who are those two people?  
 5 A Debra Haskell is a special education teacher at  
 6 North High School. Leslie Smith I don't, I'm not  
 7 sure who Leslie Smith is.  
 8 Q In this they mention the fact that there is an  
 9 issue as far as the gym locker room goes with the  
 10 two plaintiffs, is that correct?  
 11 A Correct.  
 12 Q In fact, on the next page there is an email from  
 13 Mom that discusses locker room issues as well, is  
 14 that correct?  
 15 A Yes.  
 16 Q At some point subsequent to school starting in  
 17 August the school became aware that the plaintiffs  
 18 wanted to use the male restrooms, is that correct?  
 19 A Yes.  
 20 Q That they did not want to use female locker rooms  
 21 to change in, is that correct?  
 22 A Yes.  
 23 Q They would prefer to be in the male locker room as  
 24 well, correct?  
 25 A Yes.

28

1 Q I'm showing you Bates Number 29 in Exhibit 7.  
 2 Do you have that?  
 3 A Yes.  
 4 Q That is a "To Whom It May Concern" from Ashley  
 5 Luken. She is the vice principal at the High  
 6 School, is that correct?  
 7 A Yes.  
 8 Q This says "To Whom It May Concern." Who did this  
 9 go to, if you know?  
 10 A I believe she sent this letter to Mr. Matt  
 11 McClendon, who is our diversity director here at  
 12 the central office.  
 13 Q His full title is Director of Diversity, Stability  
 14 and International Exchange Program, correct?  
 15 A Correct.  
 16 Q This was sort of to apprise Mr. McClendon to the  
 17 fact that these two students want to dress in male  
 18 locker rooms, want to dress for ROTC in male  
 19 restrooms. And, I guess, use male restrooms  
 20 generally, is that correct?  
 21 A Yes.  
 22 MR. ZIMMERLY: I will just object. The  
 23 document speaks for itself.  
 24 Q This says that the students were noticed dressing  
 25 for ROTC -- I assume that is to wear the uniform

1 that they are required to wear for ROTC? Is that 29  
 2 your understanding?  
 3 MR. ZIMMERLY: Same objection.  
 4 A Yes.  
 5 Q They were dressing in the male locker room and  
 6 were noticed using the male restrooms, correct?  
 7 A Yes.  
 8 Q The passing period or at lunch -- I assume passing  
 9 period is the time between classes?  
 10 A Yes.  
 11 Q How long is the passing period at the High School,  
 12 if you know?  
 13 A Six minutes.  
 14 Q I guess you know. Did other students complain  
 15 about this? Was there a problem with this? Or  
 16 was this just a comment that I saw that the two  
 17 plaintiffs were doing this?  
 18 A I'm not aware of how that was brought to  
 19 administration.  
 20 Q Have you ever been informed that the plaintiffs  
 21 using male restrooms has caused any problems with  
 22 other students?  
 23 A I'm not aware.  
 24 Q Has anyone ever complained about it, any parents  
 25 or anyone that you are aware of?

1 A Not that I'm aware of. 30  
 2 Q On Page 30, the next page of Exhibit 7,  
 3 Mr. McClendon asks about "what happened last week  
 4 with the situation about the two sisters in the  
 5 locker room."  
 6 Do you see that? It is on the very bottom of  
 7 the page.  
 8 A Yes.  
 9 Q Even though these are transgender males, the two  
 10 sisters he is talking about are the plaintiffs in  
 11 this case, correct?  
 12 A Yes.  
 13 MR. ZIMMERLY: Objection.  
 14 Go ahead.  
 15 Q Was this, if you know, this email from  
 16 Mr. McClendon a response to the "To Whom It May  
 17 Concern" September 10 memo on Page 29?  
 18 A I'm not certain.  
 19 Q The complaint alleges that the mother of the  
 20 plaintiffs, L.E., had some in person meetings with  
 21 the vice principal and principal of the high  
 22 school to discuss their transgender status and  
 23 bathroom and locker room usage.  
 24 Is that your understanding of the allegations  
 25 of the complaint?

1 MR. ZIMMERLY: Objection to the form 31  
 2 transgender status. That is undefined, vague, and  
 3 ambiguous.  
 4 The witness can answer.  
 5 Q Is that your understanding that the mom has stated  
 6 that she had these meetings?  
 7 A There were meetings, but I'm not sure they were in  
 8 person necessarily. I'm not sure of that. I know  
 9 there were some phone calls. I can't clarify  
 10 that.  
 11 Q Are you aware of what meetings, whether in person  
 12 or telephonic, were had and with whom at the  
 13 school?  
 14 A I'm aware of, I'm aware there were two. One on or  
 15 about September 27. There was a conversation  
 16 between Ashley Luken and Mom. Then on or about  
 17 October 6 there was one between Ashley Luken and  
 18 Mom.  
 19 Q Was the principal ever involved in any of these  
 20 meetings?  
 21 A The principal was actually on medical leave during  
 22 some of this time. So I am not certain at what  
 23 point he was involved, you know, for sure, just  
 24 due to his health situation.  
 25 Q So it looks like then at Page 33 of these emails

1 in the middle of the page there is a "Hi, Matt" 32  
 2 from Ashley.  
 3 Do you see that?  
 4 A Yes.  
 5 Q That is to Mr. McClendon from the vice principal,  
 6 correct?  
 7 A Yes.  
 8 Q It says, I did meet with the plaintiffs, the boys,  
 9 and Mom. It is listing their male names.  
 10 Do you see that?  
 11 A Yes.  
 12 Q "They were very disappointed" is what the email  
 13 says.  
 14 Do you know what they were disappointed  
 15 about?  
 16 MR. ZIMMERLY: Objection to the extent you  
 17 are asking her for something that she may not  
 18 know.  
 19 Q If you don't know, you don't know.  
 20 Do you know what they were disappointed  
 21 about?  
 22 A I don't know. I can make an assumption based on  
 23 reading the email.  
 24 Q The assumption would be that they were discussing  
 25 access to male restrooms, correct?

33

1 A Correct.

2 Q If you go to Page 41 there is an email that the

3 subject is "trans information" from Mom to

4 esj@vigoschools.org.

5 Do you see that?

6 A Yes.

7 Q ESJ is Steve Joseph, the principal, correct?

8 A Yes.

9 Q Following that there is information at Bates 43

10 through 46 and then Bates 49 through 51.

11 Do you see that?

12 A Yes.

13 Q That is information that was forwarded by Mom, I

14 assume.

15 Is that your understanding?

16 A Yes.

17 Q To the best of your knowledge, is this all of the

18 information that you got from the mom?

19 MR. ZIMMERLY: Object to the form.

20 MR. FALK: I will withdraw the question.

21 Q Are you aware of any further information you

22 received from the mom concerning the boys'

23 transgender status as a result of the conversation

24 that she was having with at least Ms. Luken?

25 A If you look at page, it looks like Page 51 there

34

1 is a screen shot, which is essentially some of the

2 same information in the document we just looked

3 at. That is the only other piece that I am aware

4 of that would be, that would fall in line with

5 what you are asking.

6 Q Great. Then on Page 56 in the middle of the page

7 there is an email from Ashley Luken at 3:15 p.m.

8 saying "When you have a moment please reach out to

9 Steve and I."

10 Do you see that?

11 A Yes.

12 Q Steve is the principal, correct?

13 A Correct.

14 Q This was feedback from the lawyer as to the issue

15 of both bathroom access and names, is that correct

16 if you know?

17 MR. ZIMMERLY: Could you ask that question

18 again, Ken?

19 MR. FALK: Sure.

20 Q Let me ask you a different way. I will withdraw

21 the question.

22 Do you know what the feedback that this

23 refers to was?

24 A I do not.

25 Q At some point the mom indicates that she was told

35

1 that it was the position of the School Corporation

2 that the boys would not be able to use the male

3 facilities and that their names would not be

4 officially changed until they were changed in

5 court, is that correct?

6 MR. ZIMMERLY: Object to the form.

7 Q You can answer.

8 A Yes.

9 Q At this point as far as bathrooms are concerned,

10 the only accommodation that has been offered in

11 the past and will continue to be offered is that

12 if the plaintiffs do not want to use the girls'

13 restrooms they can use the one person unisex

14 restroom in the nurse's office, is that correct?

15 A Yes.

16 Q Today could the plaintiffs go and use the female

17 restrooms at the school?

18 A Yes.

19 Q Is there going to come a time when they are on

20 testosterone and have not yet had surgery that the

21 school's position will be they can no longer even

22 use the female restrooms?

23 A They are permitted to use the restrooms that

24 correspond with their anatomy.

25 Q Do other students have permission to use the

36

1 restroom in the nurse's office?

2 A Students who might be in the nurse's office for a

3 health reason would have access to that restroom.

4 There is a chance there might be other students

5 who have some extenuating circumstances where that

6 would be allowed. I'm not aware of any particular

7 instances right now.

8 Q So it has to be allowed where the person has to be

9 in the nurse's office itself, is that correct?

10 A Correct.

11 Q Okay. Looking at Exhibit 9. I assume that is the

12 map of the school.

13 A Yes.

14 Q I assume that because it says it is, by the way.

15 A Yes.

16 Q That is what three years of law school will get

17 you. I assume the nurse's office is in the health

18 suite at the corner of Congressional and

19 Constitutional Halls?

20 A Yes.

21 Q This is the office that the school nurse uses, I

22 assume?

23 A Yes.

24 Q I assume the office can be locked because of stuff

25 that might be in the office, is that correct?

1 A Yes.  
 2 Q I assume the room will be locked when the nurse is  
 3 not there, is that correct?  
 4 A Yes.  
 5 Q Looking at the map, I assume that the symbols at  
 6 either end of Lexington Hall next to Room 124 on  
 7 one end and 114 on the other, I assume those are  
 8 normal restrooms for students, correct?  
 9 A Yes.  
 10 Q There are some at the end of Parliament Hall and  
 11 also next to the book store, Norman Rockwell Hall.  
 12 Those are all regular restrooms, correct?  
 13 A Yes.  
 14 Q I assume that all of these rooms with numbers on  
 15 them that I just mentioned, those are classrooms?  
 16 A Yes.  
 17 Q I assume the bathrooms are designed to be close to  
 18 where the students will be in classes, correct?  
 19 A Yes.  
 20 Q Looking at the restrooms there, the ones we just  
 21 mentioned, there are two next to each other. I  
 22 assume one of those is for male students and one  
 23 for female students?  
 24 A Correct.  
 25 Q I assume that they are designed for use by more

1 than one student at a time, there are multiple  
 2 stalls or multiple urinals in the boys' restroom,  
 3 correct?  
 4 A Yes.  
 5 Q I assume the stalls are private in the sense that  
 6 they have doors that close?  
 7 A Yes.  
 8 Q The urinals have screens between them?  
 9 A There are no screens between urinals.  
 10 Q The bathroom in the nurse's office, is that the  
 11 only unisex restroom that is at the school that is  
 12 potentially available to students?  
 13 A Yes, we do have a couple restrooms. If you look  
 14 on the map where the gym, the main gym is, the  
 15 auditorium, there are two restrooms right there,  
 16 one male and one female.  
 17 In general, those are locked throughout the  
 18 course of the day. However, those restrooms are  
 19 also used from time to time depending on  
 20 circumstances that students may have. Just to  
 21 point that out, that would be the only other  
 22 opportunity that I'm aware of.  
 23 Q Those are locked because they are generally going  
 24 to be used when the gym is being used for sporting  
 25 events, is that correct?

1 A Correct.  
 2 Q Because you don't want people wandering through  
 3 the body of the school to use the restrooms,  
 4 correct?  
 5 A Correct.  
 6 Q As a general rule, if a male student intentionally  
 7 uses the female restroom or the other way around,  
 8 I assume that can be disciplined, correct?  
 9 A Yes.  
 10 Q I looked through the disciplinary policy. Is that  
 11 being out of an assigned area, is that the  
 12 discipline?  
 13 A More than likely, depending on the circumstances  
 14 of what occurred in the restroom.  
 15 Q That is something for progressive discipline even  
 16 if it was just out of the assigned area, correct?  
 17 A Yes.  
 18 Q That could lead to something very serious if it  
 19 continued, correct?  
 20 A Yes.  
 21 Q At this point if the plaintiffs use the male  
 22 restrooms they are potentially subject to  
 23 discipline, is that correct?  
 24 A Yes.  
 25 Q How are you doing? Are you okay? I'm more than

1 halfway done if you are keeping track. Do you  
 2 need a break?  
 3 A No, I'm fine.  
 4 Q The plaintiffs are required to use either the  
 5 restroom in the health suite, the nurse's office,  
 6 or the girls' restrooms, correct?  
 7 A Yes.  
 8 Q It is fair to say that the health suite, that  
 9 bathroom there is not as close to where the  
 10 plaintiffs are in class as the regular boys'  
 11 restroom and girls' restrooms, is that fair?  
 12 A That would depend on what your schedule looks  
 13 like. What the students' schedule is for the day.  
 14 Q It could be true, correct?  
 15 A It could be true.  
 16 Q Were you aware prior to receiving Exhibits 4 and  
 17 5, the letters from the doctor, that the  
 18 plaintiffs had a medical condition requiring  
 19 frequent restroom use?  
 20 MR. ZIMMERLY: If you know.  
 21 A I personally do not know the answer to that. I  
 22 don't know if that was discussed at the building  
 23 level or not.  
 24 Q Are you aware there are times that the boys, the  
 25 plaintiffs, went to use the nurse's restroom and

41

1 it was locked?

2 MR. ZIMMERLY: Objection.

3 A I am not aware.

4 Q You are aware the plaintiffs are now receiving

5 testosterone, correct?

6 A Yes.

7 Q This will continue to masculinize them and their

8 physical appearance?

9 A Yes.

10 Q Unless they have an operation which removes their

11 male genitalia, it is the school's position they

12 must continue to use either the restroom in the

13 nurse's office or in the female restrooms, is that

14 correct?

15 MR. ZIMMERLY: Object to the form.

16 Ken, I think you asked whether or not they

17 had an operation to remove their male genitalia.

18 MR. FALK: Thank you. Good objection.

19 Q Let me rephrase the question. Unless they have an

20 operation that fully masculinizes them, they will

21 be required to use the female restrooms or the

22 restroom in the nurse's office, is that correct?

23 A Yes.

24 Q Do you know what that operation would be?

25 A I'm not a medical professional so I cannot answer

42

1 that.

2 Q Sure. I guess my question is what would the

3 school accept from a doctor at this point to allow

4 that bathroom access?

5 A I don't know the answer to that question.

6 Q But you are going to require some proof of some

7 sort of some surgery, is that fair?

8 A That is fair.

9 Q Why is that? What is the basis for that policy of

10 the school and the corporation?

11 A It is for the privacy interest of all of the

12 students, both the students that we are

13 referencing and our students within the building.

14 We want to provide a safe space and we are

15 attempting to follow guidance that is set forth by

16 courts already in this particular area.

17 Q Do all classes, freshman through senior -- that is

18 the high school, right, freshman through senior?

19 A Yes.

20 Q Do they all take gym?

21 A Our freshman and sophomores potentially. PE-1 and

22 PE-2 is required by the state of Indiana. Most

23 students take that PE-1 in their freshman year and

24 take PE-2 in their sophomore year. It could be

25 that a student would take both in the freshman

43

1 year or both in the sophomore year.

2 Then we have elective PE courses which

3 students can take at any point in their high

4 school career.

5 Q I note from Exhibit 9, the map, that you have a

6 boys' locker room and girls' locker room, correct?

7 A Yes.

8 Q There is also a teams rooms. What is that?

9 A That would be our men's wrestling room, boys

10 basketball, football. On the other side would be

11 basketball, volleyball. Various team locker

12 rooms.

13 Q For the student who is just taking PE-1 or PE-2 or

14 electively, they would change for gym in the boys'

15 or girls' locker rooms, correct?

16 A Yes.

17 Q You do change for gym, correct?

18 A Yes.

19 Q Are there common showers in the locker room or

20 individual stalls?

21 A There are common showers.

22 Q Is there a common locker room where there are

23 individual lockers separated by dividers of some

24 sort?

25 A In general on the boys' PE side of the hallway it

44

1 is all one space. There is what I would call,

2 refer to as a garage door that can close and

3 separate spaces. That just separates various

4 parts of the locker room. I believe that stays

5 open.

6 Q Is the girls' locker room open as well?

7 A Yes.

8 Q The plaintiffs would like to use the boys' locker

9 room. I assume the position of the school is they

10 cannot do that until they have the surgery that

11 would allow them to use male restrooms, is that

12 correct?

13 A Correct.

14 Q The reason for that is the same reason you gave

15 for the bathrooms, is that correct?

16 A Yes.

17 Q In talking about the reason for the bathroom

18 decision, you talked about your understanding of

19 the case law, I believe you said, that governs

20 this area.

21 What is that understanding, if you have it?

22 MR. ZIMMERLY: Objection to the extent you

23 are asking her for a legal conclusion.

24 Q I'm just asking you because you said that.

25 A In general, as I understand it, I don't believe

1 there is any case law that is relative to our  
 2 particular area, if that makes sense.  
 3 Q Yes.  
 4 A I think as I understand it, we would be looking  
 5 for something that speaks more directly to the  
 6 state of Indiana and how we should proceed as a  
 7 school in Indiana.  
 8 Q By "our particular area" you meant the geographic  
 9 area that the school is in, is that correct?  
 10 A Yes.  
 11 Q There is an ROTC program at Terre Haute Vigo North  
 12 High School, correct?  
 13 A Yes.  
 14 Q I'm showing you what has been marked as  
 15 Exhibit 10.  
 16 Do you have that?  
 17 A Is that the Memorandum of Understanding?  
 18 Q Yes.  
 19 A Yes.  
 20 Q This is between the Air Force Junior Reserve  
 21 Officer Training Corps Unit and the School  
 22 Corporation; is that correct?  
 23 A Yes.  
 24 Q This is the document that allows the Junior ROTC  
 25 Reserve Officer Training Corp Unit to exist at the

1 high school, correct?  
 2 A Yes.  
 3 Q This document, although entered into in 2019, is  
 4 still in effect today, is that correct?  
 5 A Yes.  
 6 Q The plaintiffs in this case are in the Junior ROTC  
 7 program, is that correct?  
 8 A Yes.  
 9 Q The plaintiffs have noted that they have been  
 10 required to wear female uniforms during the time  
 11 that uniforms are required in this program.  
 12 Were you aware of that?  
 13 A Yes.  
 14 Q Whose decision is it whether they wear female or  
 15 male uniforms?  
 16 A That decision is the Air Force's decision that  
 17 oversees the Air Force ROTC program.  
 18 Q Are you aware of any requests being made to them  
 19 as to what their position is concerning allowing  
 20 the plaintiffs to wear male uniforms?  
 21 A As I understand it, one of those ROTC instructors  
 22 reached out to someone from the Air Force and they  
 23 were told no.  
 24 That is the extent of my knowledge. I don't  
 25 know if that was pursued any further.

1 Q The Corporation has not opposed the plaintiffs  
 2 being able to wear male uniforms, is that what you  
 3 are testifying to?  
 4 A Correct.  
 5 Q That decision is solely that of the United States  
 6 Air Force?  
 7 A Yes.  
 8 Q Is the Air Force aware of the fact that gender  
 9 markers have been changed pursuant to court order,  
 10 if you know?  
 11 A I do not know.  
 12 Q Do you know who the person was that reached out to  
 13 the Air Force? You said one of the instructors.  
 14 A Yes. I would have to get you that name. We could  
 15 provide that.  
 16 Q Thank you. Is that someone who is employed by the  
 17 school or employed by the Air Force?  
 18 A Employed by the Air Force. We actually, according  
 19 to the memorandum, we pay half that salary.  
 20 Q But they are sent to you by the Air Force?  
 21 A Correct.  
 22 Q Is the Corporation aware of cases around the  
 23 country that transgender public school students  
 24 have successfully sued to get access to restrooms  
 25 associated with their gender identity?

1 A Yes.  
 2 Q Are you aware of a case in Indiana to that effect?  
 3 A I am not.  
 4 Q You testified at the beginning of the deposition  
 5 or earlier that there were some instances of  
 6 students being allowed access to the nurse's  
 7 office who indicated that they were transgender or  
 8 at least were treated as such pursuant to your  
 9 guidelines, is that correct?  
 10 MR. ZIMMERLY: Objection. Misstates her  
 11 testimony.  
 12 Q I do not mean to misstate your testimony.  
 13 A Can you repeat that question, please?  
 14 Q Sure. I asked you when we talked about Exhibit 6,  
 15 which is the guideline, if the guideline had been  
 16 used before.  
 17 I believe you testified that the plaintiffs  
 18 are the first people who wanted to use restrooms  
 19 associated with their gender identity. But before  
 20 the guidelines had been used to allow students to  
 21 use the nurse's restroom. Is that fair?  
 22 A Yes.  
 23 Q How many times has that come up before?  
 24 A I can't tell you. I mean, I could not speak to  
 25 that.

1 Q Okay.

2 A I just know that it has.

3 Q It is fairly rare, obviously, is that fair?

4 A Yes.

5 Q But no other students have ever requested the

6 ability to use the restrooms associated with their

7 gender identity, is that correct?

8 A Correct, not to my knowledge.

9 Q Since January 1 of this year have you received any

10 communications from the federal government, any

11 agency, concerning this issue of bathroom access

12 for transgender students?

13 MR. ZIMMERLY: If you know.

14 A Not to my knowledge.

15 Q Any written communications from the state of

16 Indiana or the Department of Education of the

17 state that you are aware of?

18 A Not that I'm aware of. That does not mean

19 somebody else didn't receive something.

20 Q Is the Corporation aware that there are other

21 school corporations in Indiana that allow

22 transgender students to use bathrooms associated

23 with their gender identity without surgery?

24 MR. ZIMMERLY: Objection as to the term of

25 transgender being undefined, vague, and ambiguous.

1 You can answer if you know.

2 A I don't know.

3 Q The Vigo School Corporation does receive federal

4 funding, correct?

5 A Yes.

6 MR. FALK: I would like to go off the

7 record and talk to my co-counsel.

8 (AT THIS TIME A SHORT RECESS WAS HELD OFF

9 THE RECORD AFTER WHICH THE FOLLOWING PROCEEDINGS

10 WERE HAD:)

11 MR. FALK: I have no further questions.

12 Thank you.

13 MR. ZIMMERLY: Thanks. We have no

14 questions. We will review and sign.

15

16

17 AND FURTHER DEPONENT SAITH NOT

18

19

20 STACY MASON \_\_\_\_\_

21

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24

25

1 STATE OF INDIANA )

2 COUNTY OF BOONE ) SS:

3

4 I, Wendi Kramer Sulkoske, Notary Public in and

5 for said county and state, do hereby certify that

6 the deponent herein was by me first duly sworn to

7 tell the truth in the aforementioned matter;

8 That the deposition was taken on behalf of

9 the Plaintiff at the time and place

10 heretofore mentioned with counsel present as

11 noted.

12 That the deposition was taken down in

13 Stenograph notes, reduced to typewriting under

14 my direction, is a true record of the testimony

15 given by said deponent, and was thereafter

16 presented to the deponent for signature.

17 That this certificate does not purport to

18 acknowledge or verify the signature hereto of

19 the deponent.

20 I do further certify that I am a

21 disinterested person in this cause of action;

22 that I am not a relative or attorney of any of

23 the parties or otherwise interested in the event

24 of this action, and am not in the employ of the

25 attorneys for the respective parties.

1 IN WITNESS WHEREOF, I have hereunto set my

2 hand and affixed my notarial seal this \_\_\_ day

3 of December 2021.

4

5

6 \_\_\_\_\_

7 Wendi Kramer Sulkoske, Notary Public

8

9 My commission expires December 1, 2022.

10 My County of residence is Boone.

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<p><b>MR. FALK: [11]</b> 4/20 8/22 17/9 20/2 21/12 24/19 33/20 34/19 41/18 50/6 50/11</p> <p><b>MR. ZIMMERLY: [29]</b> 4/22 9/15 10/2 10/14 14/24 15/3 17/7 17/23 19/20 21/11 21/13 22/25 24/14 28/22 29/3 30/13 31/1 32/16 33/19 34/17 35/6 40/20 41/2 41/15 44/22 48/10 49/13 49/24 50/13</p> <p>-</p> <p><b>-vs [1]</b> 1/7</p>	<p><b>3:15 p.m [1]</b> 34/7</p> <p><b>4</b></p> <p><b>41 [1]</b> 33/2 <b>43 [1]</b> 33/9 <b>45 [1]</b> 3/17 <b>46 [1]</b> 33/10 <b>46202 [1]</b> 2/7 <b>46204 [2]</b> 1/22 2/17 <b>46225 [1]</b> 2/9 <b>47404 [1]</b> 2/12 <b>47885 [1]</b> 4/25 <b>49 [1]</b> 33/10</p> <p><b>5</b></p> <p><b>501 [2]</b> 4/24 5/1 <b>51 [2]</b> 33/10 33/25 <b>56 [1]</b> 34/6</p>	<p><b>actually [2]</b> 31/21 47/18</p> <p><b>address [1]</b> 4/23 <b>addressed [1]</b> 14/13 <b>administration [2]</b> 5/2 29/19 <b>administrative [4]</b> 3/12 13/8 13/16 13/24 <b>administrator [4]</b> 15/11 15/13 16/8 16/9 <b>administrators [1]</b> 26/15 <b>advised [1]</b> 15/22 <b>affixed [1]</b> 52/2 <b>after [3]</b> 8/24 12/23 50/9 <b>again [1]</b> 34/18 <b>agency [1]</b> 49/11 <b>agreed [1]</b> 11/21 <b>Agreement [1]</b> 3/17 <b>ahead [1]</b> 30/14 <b>Air [10]</b> 45/20 46/16 46/17 46/22 47/6 47/8 47/13 47/17 47/18 47/20 <b>Air Force [8]</b> 45/20 46/17 46/22 47/6 47/13 47/17 47/18 47/20 <b>Air Force's [1]</b> 46/16 <b>al [2]</b> 1/5 1/8 <b>all [13]</b> 8/19 23/5 23/8 23/15 25/22 26/10 33/17 37/12 37/14 42/11 42/17 42/20 44/1 <b>allegations [1]</b> 30/24 <b>alleges [1]</b> 30/19 <b>allow [6]</b> 18/21 19/9 42/3 44/11 48/20 49/21 <b>allowed [5]</b> 18/11 22/5 36/6 36/8 48/6 <b>allowing [1]</b> 46/19 <b>allows [4]</b> 17/2 17/12 20/12 45/24 <b>along [1]</b> 4/8 <b>already [3]</b> 19/22 21/4 42/16 <b>also [6]</b> 8/16 11/11 22/3 37/11 38/19 43/8 <b>although [1]</b> 46/3 <b>always [2]</b> 6/7 7/18 <b>am [7]</b> 31/22 34/3 41/3 48/3 51/20 51/22 51/24 <b>ambiguous [5]</b> 9/17 10/16 17/24 31/3</p>	<p><b>49/25</b> <b>Among [1]</b> 26/4 <b>anatomical [1]</b> 18/24 <b>anatomy [1]</b> 35/24 <b>Ann [1]</b> 24/23 <b>another [2]</b> 4/16 4/16 <b>answer [13]</b> 9/18 10/5 10/17 15/1 15/5 17/25 23/2 31/4 35/7 40/21 41/25 42/5 50/1 <b>answering [1]</b> 5/12 <b>any [17]</b> 5/24 6/7 14/9 15/17 29/21 29/24 31/19 33/21 36/6 43/3 45/1 46/18 46/25 49/9 49/10 49/15 51/22 <b>anyone [2]</b> 29/24 29/25 <b>anyone's [1]</b> 18/6 <b>anything [2]</b> 8/7 19/14 <b>apparently [1]</b> 24/24 <b>appearance [1]</b> 41/8 <b>APPEARANCES [1]</b> 2/2 <b>appears [1]</b> 23/19 <b>applied [2]</b> 16/17 17/19 <b>applies [2]</b> 14/17 15/17 <b>apply [1]</b> 14/19 <b>apprise [1]</b> 28/16 <b>approved [2]</b> 14/2 14/6 <b>are [92]</b> <b>area [7]</b> 39/11 39/16 42/16 44/20 45/2 45/8 45/9 <b>arisen [1]</b> 18/2 <b>around [3]</b> 20/23 39/7 47/22 <b>as [48]</b> 4/4 6/14 6/19 6/23 7/7 11/12 11/14 11/18 11/20 11/20 12/10 13/6 13/7 15/9 15/12 16/6 16/21 17/8 18/19 20/15 20/22 22/1 22/8 23/10 23/18 23/18 27/9 27/9 27/13 27/23 33/23 34/14 35/9 35/9 39/6 40/9 40/10 44/2 44/6 44/25 45/4 45/6 45/14 46/19 46/21 48/8 49/24 51/10 <b>Ashley [5]</b> 28/4 31/16 31/17 32/2</p>	<p><b>34/7</b> <b>Aside [1]</b> 17/18 <b>ask [4]</b> 6/10 23/14 34/17 34/20 <b>asked [6]</b> 6/22 10/22 19/4 23/9 41/16 48/14 <b>asking [7]</b> 5/12 10/3 19/1 32/17 34/5 44/23 44/24 <b>asks [1]</b> 30/3 <b>assigned [4]</b> 9/13 10/1 39/11 39/16 <b>assistant [3]</b> 8/1 16/13 16/15 <b>associated [10]</b> 1/21 17/5 17/15 17/21 18/12 18/23 47/25 48/19 49/6 49/22 <b>assume [22]</b> 6/3 21/15 22/8 23/25 28/25 29/8 33/14 36/11 36/14 36/17 36/22 36/24 37/2 37/5 37/7 37/14 37/17 37/22 37/25 38/5 39/8 44/9 <b>assumption [3]</b> 15/7 32/22 32/24 <b>attempt [1]</b> 4/12 <b>attempting [1]</b> 42/15 <b>attorney [4]</b> 4/11 6/9 19/6 51/22 <b>attorneys [1]</b> 51/25 <b>audibly [1]</b> 5/20 <b>auditorium [1]</b> 38/15 <b>August [1]</b> 27/17 <b>aunt [1]</b> 24/17 <b>available [1]</b> 38/12 <b>Avenue [2]</b> 2/9 2/11 <b>aware [41]</b> 9/8 10/9 12/6 12/15 12/19 12/23 13/1 13/13 13/14 14/2 14/4 14/12 23/18 24/7 24/9 24/11 24/12 27/17 29/18 29/23 29/25 30/1 31/11 31/14 31/14 33/21 34/3 36/6 38/22 40/16 40/24 41/3 41/4 46/12 46/18 47/8 47/22 48/2 49/17 49/18 49/20</p>
<p><b>0</b></p> <p><b>0940 [1]</b> 1/22</p>	<p><b>6</b></p> <p><b>631-0940 [1]</b> 1/22</p>	<p><b>advised [1]</b> 15/22 <b>affixed [1]</b> 52/2 <b>after [3]</b> 8/24 12/23 50/9 <b>again [1]</b> 34/18 <b>agency [1]</b> 49/11 <b>agreed [1]</b> 11/21 <b>Agreement [1]</b> 3/17 <b>ahead [1]</b> 30/14 <b>Air [10]</b> 45/20 46/16 46/17 46/22 47/6 47/8 47/13 47/17 47/18 47/20 <b>Air Force [8]</b> 45/20 46/17 46/22 47/6 47/13 47/17 47/18 47/20 <b>Air Force's [1]</b> 46/16 <b>al [2]</b> 1/5 1/8 <b>all [13]</b> 8/19 23/5 23/8 23/15 25/22 26/10 33/17 37/12 37/14 42/11 42/17 42/20 44/1 <b>allegations [1]</b> 30/24 <b>alleges [1]</b> 30/19 <b>allow [6]</b> 18/21 19/9 42/3 44/11 48/20 49/21 <b>allowed [5]</b> 18/11 22/5 36/6 36/8 48/6 <b>allowing [1]</b> 46/19 <b>allows [4]</b> 17/2 17/12 20/12 45/24 <b>along [1]</b> 4/8 <b>already [3]</b> 19/22 21/4 42/16 <b>also [6]</b> 8/16 11/11 22/3 37/11 38/19 43/8 <b>although [1]</b> 46/3 <b>always [2]</b> 6/7 7/18 <b>am [7]</b> 31/22 34/3 41/3 48/3 51/20 51/22 51/24 <b>ambiguous [5]</b> 9/17 10/16 17/24 31/3</p>	<p><b>apparent [1]</b> 29/24 29/25 <b>anyone's [1]</b> 18/6 <b>anything [2]</b> 8/7 19/14 <b>apparently [1]</b> 24/24 <b>appearance [1]</b> 41/8 <b>APPEARANCES [1]</b> 2/2 <b>appears [1]</b> 23/19 <b>applied [2]</b> 16/17 17/19 <b>applies [2]</b> 14/17 15/17 <b>apply [1]</b> 14/19 <b>apprise [1]</b> 28/16 <b>approved [2]</b> 14/2 14/6 <b>are [92]</b> <b>area [7]</b> 39/11 39/16 42/16 44/20 45/2 45/8 45/9 <b>arisen [1]</b> 18/2 <b>around [3]</b> 20/23 39/7 47/22 <b>as [48]</b> 4/4 6/14 6/19 6/23 7/7 11/12 11/14 11/18 11/20 11/20 12/10 13/6 13/7 15/9 15/12 16/6 16/21 17/8 18/19 20/15 20/22 22/1 22/8 23/10 23/18 23/18 27/9 27/9 27/13 27/23 33/23 34/14 35/9 35/9 39/6 40/9 40/10 44/2 44/6 44/25 45/4 45/6 45/14 46/19 46/21 48/8 49/24 51/10 <b>Ashley [5]</b> 28/4 31/16 31/17 32/2</p>	<p><b>7</b></p> <p><b>940 [1]</b> 1/21 <b>9:00 [1]</b> 1/18</p>
<p><b>1</b></p> <p><b>10 [3]</b> 3/17 30/17 45/15 <b>10/7/2021 [2]</b> 3/9 3/10 <b>10/7/21 [2]</b> 3/11 3/11 <b>1031 [1]</b> 2/6 <b>11 [2]</b> 3/6 3/8 <b>111 [1]</b> 2/16 <b>114 [1]</b> 37/7 <b>12 [3]</b> 3/9 3/11 25/25 <b>1200 [1]</b> 2/9 <b>124 [1]</b> 37/6 <b>13 [1]</b> 3/12 <b>17 [1]</b> 26/24 <b>1995 [1]</b> 8/6</p>	<p><b>8</b></p> <p><b>20 [1]</b> 3/15 <b>2019 [1]</b> 46/3 <b>2021 [5]</b> 1/18 3/9 3/10 23/21 52/3 <b>2022 [1]</b> 52/8 <b>21 [2]</b> 3/11 3/11 <b>214 [1]</b> 2/11 <b>23 [1]</b> 3/14 <b>251 [1]</b> 1/21 <b>27 [1]</b> 31/15 <b>2700 [1]</b> 2/16 <b>29 [2]</b> 28/1 30/17 <b>2:21-cv-415-JRS-MG [1]</b> 1/6</p>	<p><b>A</b></p> <p><b>a.m [1]</b> 1/18 <b>ability [3]</b> 10/23 11/7 49/6 <b>able [4]</b> 22/12 22/16 35/2 47/2 <b>about [15]</b> 16/1 19/2 23/21 29/15 29/24 30/3 30/4 30/10 31/15 31/16 32/15 32/21 44/17 44/18 48/14 <b>absent [2]</b> 22/4 22/17 <b>accept [2]</b> 13/17 42/3 <b>access [13]</b> 14/17 14/19 18/21 22/5 22/13 22/22 32/25 34/15 36/3 42/4 47/24 48/6 49/11 <b>accommodation [2]</b> 16/9 35/10 <b>accommodations [3]</b> 3/13 13/9 15/18 <b>according [1]</b> 47/18 <b>account [2]</b> 17/3 17/13 <b>acknowledge [1]</b> 51/18 <b>acknowledged [1]</b> 19/3 <b>ACLU [1]</b> 2/5 <b>action [2]</b> 51/21 51/24 <b>actual [5]</b> 11/22 12/12 13/17 13/23 15/25</p>	<p><b>8</b></p> <p><b>20 [1]</b> 3/15 <b>2019 [1]</b> 46/3 <b>2021 [5]</b> 1/18 3/9 3/10 23/21 52/3 <b>2022 [1]</b> 52/8 <b>21 [2]</b> 3/11 3/11 <b>214 [1]</b> 2/11 <b>23 [1]</b> 3/14 <b>251 [1]</b> 1/21 <b>27 [1]</b> 31/15 <b>2700 [1]</b> 2/16 <b>29 [2]</b> 28/1 30/17 <b>2:21-cv-415-JRS-MG [1]</b> 1/6</p>	<p><b>8</b></p> <p><b>20 [1]</b> 3/15 <b>2019 [1]</b> 46/3 <b>2021 [5]</b> 1/18 3/9 3/10 23/21 52/3 <b>2022 [1]</b> 52/8 <b>21 [2]</b> 3/11 3/11 <b>214 [1]</b> 2/11 <b>23 [1]</b> 3/14 <b>251 [1]</b> 1/21 <b>27 [1]</b> 31/15 <b>2700 [1]</b> 2/16 <b>29 [2]</b> 28/1 30/17 <b>2:21-cv-415-JRS-MG [1]</b> 1/6</p>
<p><b>2</b></p> <p><b>20 [1]</b> 3/15 <b>2019 [1]</b> 46/3 <b>2021 [5]</b> 1/18 3/9 3/10 23/21 52/3 <b>2022 [1]</b> 52/8 <b>21 [2]</b> 3/11 3/11 <b>214 [1]</b> 2/11 <b>23 [1]</b> 3/14 <b>251 [1]</b> 1/21 <b>27 [1]</b> 31/15 <b>2700 [1]</b> 2/16 <b>29 [2]</b> 28/1 30/17 <b>2:21-cv-415-JRS-MG [1]</b> 1/6</p>	<p><b>9</b></p> <p><b>940 [1]</b> 1/21 <b>9:00 [1]</b> 1/18</p>	<p><b>9</b></p> <p><b>940 [1]</b> 1/21 <b>9:00 [1]</b> 1/18</p>	<p><b>9</b></p> <p><b>940 [1]</b> 1/21 <b>9:00 [1]</b> 1/18</p>	<p><b>9</b></p> <p><b>940 [1]</b> 1/21 <b>9:00 [1]</b> 1/18</p>
<p><b>3</b></p> <p><b>30 [4]</b> 1/12 1/15 4/16 30/2 <b>317 [1]</b> 1/22 <b>33 [1]</b> 31/25 <b>36 [1]</b> 3/16</p>	<p><b>3</b></p> <p><b>30 [4]</b> 1/12 1/15 4/16 30/2 <b>317 [1]</b> 1/22 <b>33 [1]</b> 31/25 <b>36 [1]</b> 3/16</p>	<p><b>3</b></p> <p><b>30 [4]</b> 1/12 1/15 4/16 30/2 <b>317 [1]</b> 1/22 <b>33 [1]</b> 31/25 <b>36 [1]</b> 3/16</p>	<p><b>3</b></p> <p><b>30 [4]</b> 1/12 1/15 4/16 30/2 <b>317 [1]</b> 1/22 <b>33 [1]</b> 31/25 <b>36 [1]</b> 3/16</p>	<p><b>3</b></p> <p><b>30 [4]</b> 1/12 1/15 4/16 30/2 <b>317 [1]</b> 1/22 <b>33 [1]</b> 31/25 <b>36 [1]</b> 3/16</p>
<p><b>3</b></p> <p><b>30 [4]</b> 1/12 1/15 4/16 30/2 <b>317 [1]</b> 1/22 <b>33 [1]</b> 31/25 <b>36 [1]</b> 3/16</p>	<p><b>3</b></p> <p><b>30 [4]</b> 1/12 1/15 4/16 30/2 <b>317 [1]</b> 1/22 <b>33 [1]</b> 31/25 <b>36 [1]</b> 3/16</p>	<p><b>3</b></p> <p><b>30 [4]</b> 1/12 1/15 4/16 30/2 <b>317 [1]</b> 1/22 <b>33 [1]</b> 31/25 <b>36 [1]</b> 3/16</p>	<p><b>3</b></p> <p><b>30 [4]</b> 1/12 1/15 4/16 30/2 <b>317 [1]</b> 1/22 <b>33 [1]</b> 31/25 <b>36 [1]</b> 3/16</p>	<p><b>3</b></p> <p><b>30 [4]</b> 1/12 1/15 4/16 30/2 <b>317 [1]</b> 1/22 <b>33 [1]</b> 31/25 <b>36 [1]</b> 3/16</p>
<p><b>3</b></p> <p><b>30 [4]</b> 1/12 1/15 4/16 30/2 <b>317 [1]</b> 1/22 <b>33 [1]</b> 31/25 <b>36 [1]</b> 3/16</p>	<p><b>3</b></p> <p><b>30 [4]</b> 1/12 1/15 4/16 30/2 <b>317 [1]</b> 1/22 <b>33 [1]</b> 31/25 <b>36 [1]</b> 3/16</p>	<p><b>3</b></p> <p><b>30 [4]</b> 1/12 1/15 4/16 30/2 <b>317 [1]</b> 1/22 <b>33 [1]</b> 31/25 <b>36 [1]</b> 3/16</p>	<p><b>3</b></p> <p><b>30 [4]</b> 1/12 1/15 4/16 30/2 <b>317 [1]</b> 1/22 <b>33 [1]</b> 31/25 <b>36 [1]</b> 3/16</p>	<p><b>3</b></p> <p><b>30 [4]</b> 1/12 1/15 4/16 30/2 <b>317 [1]</b> 1/22 <b>33 [1]</b> 31/25 <b>36 [1]</b> 3/16</p>
<p><b>3</b></p> <p><b>30 [4]</b> 1/12 1/15 4/16 30/2 <b>317 [1]</b> 1/22 <b>33 [1]</b> 31/25 <b>36 [1]</b> 3/16</p>	<p><b>3</b></p> <p><b>30 [4]</b> 1/12 1/15 4/16 30/2 <b>317 [1]</b> 1/22 <b>33 [1]</b> 31/25 <b>36 [1]</b> 3/16</p>	<p><b>3</b></p> <p><b>30 [4]</b> 1/12 1/15 4/16 30/2 <b>317 [1]</b> 1/22 <b>33 [1]</b> 31/25 <b>36 [1]</b> 3/16</p>	<p><b>3</b></p> <p><b>30 [4]</b> 1/12 1/15 4/16 30/2 <b>317 [1]</b> 1/22 <b>33 [1]</b> 31/25 <b>36 [1]</b> 3/16</p>	<p><b>3</b></p> <p><b>30 [4]</b> 1/12 1/15 4/16 30/2 <b>317 [1]</b> 1/22 <b>33 [1]</b> 31/25 <b>36 [1]</b> 3/16</p>
<p><b>3</b></p> <p><b>30 [4]</b> 1/12 1/15 4/16 30/2 <b>317 [1]</b> 1/22 <b>33 [1]</b> 31/25 <b>36 [1]</b> 3/16</p>	<p><b>3</b></p> <p><b>30 [4]</b> 1/12 1/15 4/16 30/2 <b>317 [1]</b> 1/22 <b>33 [1]</b> 31/25 <b>36 [1]</b> 3/16</p>	<p><b>3</b></p> <p><b>30 [4]</b> 1/12 1/15 4/16 30/2 <b>317 [1]</b> 1/22 <b>33 [1]</b> 31/25 <b>36 [1]</b> 3/16</p>	<p><b>3</b></p> <p><b>30 [4]</b> 1/12 1/15 4/16 30/2 <b>317 [1]</b> 1/22 <b>33 [1]</b> 31/25 <b>36 [1]</b> 3/16</p>	<p><b>3</b></p> <p><b>30 [4]</b> 1/12 1/15 4/16 30/2 <b>317 [1]</b> 1/22 <b>33 [1]</b> 31/25 <b>36 [1]</b> 3/16</p>
<p><b>3</b></p> <p><b>30 [4]</b> 1/12 1/15 4/16 30/2 <b>317 [1]</b> 1/22 <b>33 [1]</b> 31/25 <b>36 [1]</b> 3/16</p>	<p><b>3</b></p> <p><b>30 [4]</b> 1/12 1/15 4/16 30/2 <b>317 [1]</b> 1/22 <b>33 [1]</b> 31/25 <b>36 [1]</b> 3/16</p>	<p><b>3</b></p> <p><b>30 [4]</b> 1/12 1/15 4/16 30/2 <b>317 [1]</b> 1/22 <b>33 [1]</b> 31/25 <b>36 [1]</b> 3/16</p>	<p><b>3</b></p> <p><b>30 [4]</b> 1/12 1/15 4/16 30/2 <b>317 [1]</b> 1/22 <b>33 [1]</b> 31/25 <b>36 [1]</b> 3/16</p>	<p><b>3</b></p> <p><b>30 [4]</b> 1/12 1/15 4/16 30/2 <b>317 [1]</b> 1/22 <b>33 [1]</b> 31/25 <b>36 [1]</b> 3/16</p>
<p><b>3</b></p> <p><b>30 [4]</b> 1/12 1/15 4/16 30/2 <b>317 [1]</b> 1/22 <b>33 [1]</b> 31/25 <b>36 [1]</b> 3/16</p>	<p><b>3</b></p> <p><b>30 [4]</b> 1/12 1/15 4/16 30/2 <b>317 [1]</b> 1/22 <b>33 [1]</b> 31/25 <b>36 [1]</b> 3/16</p>	<p><b>3</b></p> <p><b>30 [4]</b> 1/12 1/15 4/16 30/2 <b>317 [1]</b> 1/22 <b>33 [1]</b> 31/25 <b>36 [1]</b> 3/16</p>	<p><b>3</b></p> <p><b>30 [4]</b> 1/12 1/15 4/16 30/2 <b>317 [1]</b> 1/22 <b>33 [1]</b> 31/25 <b>36 [1]</b> 3/16</p>	<p><b>3</b></p> <p><b>30 [4]</b> 1/12 1/15 4/16 30/2 <b>317 [1]</b> 1/22 <b>33 [1]</b> 31/25 <b>36 [1]</b> 3/16</p>
<p><b>3</b></p> <p><b>30 [4]</b> 1/12 1/15 4/16 30/2 <b>317 [1]</b> 1/22 <b>33 [1]</b> 31/25 <b>36 [1]</b> 3/16</p>	<p><b>3</b></p> <p><b>30 [4]</b> 1/12 1/15 4/16 30/2 <b>317 [1]</b> 1/22 <b>33 [1]</b> 31/25 <b>36 [1]</b> 3/16</p>	<p><b>3</b></p> <p><b>30 [4]</b> 1/12 1/15 4/16 30/2 <b>317 [1]</b> 1/22</p>		

**B**  
**basketball** [2] 43/10  
 43/11  
**Bates** [3] 28/1 33/9  
 33/10  
**bathroom** [8] 17/15  
 30/23 34/15 38/10  
 40/9 42/4 44/17  
 49/11  
**bathrooms** [8]  
 14/17 15/18 17/5  
 17/21 35/9 37/17  
 44/15 49/22  
**be** [55]  
**became** [1] 27/17  
**because** [10] 5/19  
 7/17 11/16 20/11  
 26/21 36/14 36/24  
 38/23 39/2 44/24  
**been** [35] 4/2 5/7  
 5/7 6/14 6/17 7/20  
 7/25 8/1 8/1 11/17  
 11/18 12/10 12/17  
 12/20 13/6 13/13  
 14/6 16/13 16/17  
 17/19 18/3 18/10  
 20/6 20/22 20/23  
 24/11 24/15 26/22  
 29/20 35/10 45/14  
 46/9 47/9 48/15  
 48/20  
**before** [10] 1/16  
 4/10 5/7 5/8 6/11  
 11/23 12/13 48/16  
 48/19 48/23  
**beforehand** [1] 24/9  
**begin** [1] 4/10  
**beginning** [1] 48/4  
**behalf** [3] 1/17 6/23  
 51/8  
**being** [9] 11/2 13/1  
 21/21 38/24 39/11  
 46/18 47/2 48/6  
 49/25  
**believe** [13] 13/18  
 16/5 16/14 16/22  
 19/21 23/3 23/18  
 24/16 28/10 44/4  
 44/19 44/25 48/17  
**Bensberg** [1] 2/8  
**best** [2] 17/11  
 33/17  
**better** [2] 20/5 20/5  
**between** [7] 9/25  
 29/9 31/16 31/17  
 38/8 38/9 45/20  
**birth** [4] 9/13 10/1  
 12/7 15/19  
**Bloomington** [1]  
 2/12  
**board** [7] 13/17  
 13/22 13/23 14/2  
 14/4 14/5 14/6  
**body** [1] 39/3

**book** [1] 37/11  
**Boone** [3] 1/17 51/2  
 52/9  
**BOSE** [1] 2/15  
**both** [8] 11/19  
 12/15 20/5 25/15  
 34/15 42/12 42/25  
 43/1  
**bottom** [2] 26/25  
 30/6  
**boys** [8] 12/15 19/9  
 20/7 25/3 32/8  
 35/2 40/24 43/9  
**boys'** [7] 33/22  
 38/2 40/10 43/6  
 43/14 43/25 44/8  
**break** [3] 6/8 6/12  
 40/2  
**briefly** [1] 18/7  
**brought** [1] 29/18  
**building** [3] 5/3  
 40/22 42/13  
**business** [1] 4/23

**C**  
**cafeteria** [1] 26/15  
**call** [1] 44/1  
**calls** [1] 31/9  
**can** [24] 6/1 6/9  
 9/16 9/18 10/5  
 10/17 15/1 15/5  
 17/10 17/25 18/6  
 20/12 23/2 31/4  
 32/22 35/7 35/13  
 35/21 36/24 39/8  
 43/3 44/2 48/13  
 50/1  
**can't** [2] 31/9 48/24  
**cannot** [2] 41/25  
 44/10  
**capacity** [1] 7/4  
**care** [2] 12/16  
 21/21  
**career** [1] 43/4  
**case** [22] 4/8 6/20  
 8/20 9/2 10/9  
 11/16 12/23 13/1  
 14/22 14/22 15/2  
 15/2 15/13 16/17  
 17/16 17/18 22/16  
 30/11 44/19 45/1  
 46/6 48/2  
**cases** [1] 47/22  
**cause** [1] 51/21  
**caused** [1] 29/21  
**Cavins** [2] 23/24  
 23/25  
**central** [1] 28/12  
**certain** [2] 30/18  
 31/22  
**Certainly** [1] 19/24  
**certificate** [1] 51/17  
**certificates** [1] 12/7  
**certify** [2] 51/5  
 51/20

**Chain** [1] 3/14  
**chance** [1] 36/4  
**change** [7] 3/6 3/8  
 18/24 20/13 27/21  
 43/14 43/17  
**changed** [10] 12/1  
 12/2 12/8 21/5  
 21/8 21/24 26/22  
 35/4 35/4 47/9  
**changes** [1] 11/17  
**child's** [1] 21/7  
**chosen** [1] 19/23  
**Circle** [1] 2/16  
**Circuit** [4] 12/1  
 12/6 18/16 21/6  
**circuited** [1] 19/1  
**circumstances** [3]  
 36/5 38/20 39/13  
**clarify** [1] 31/9  
**class** [1] 40/10  
**classes** [5] 25/7  
 25/9 29/9 37/18  
 42/17  
**classrooms** [1]  
 37/15  
**clean** [1] 5/22  
**clear** [1] 24/18  
**client** [1] 19/3  
**close** [4] 37/17 38/6  
 40/9 44/2  
**co** [2] 4/9 50/7  
**co-counsel** [2] 4/9  
 50/7  
**college** [2] 2/11 8/3  
**come** [2] 35/19  
 48/23  
**comment** [1] 29/16  
**commission** [1]  
 52/8  
**common** [3] 43/19  
 43/21 43/22  
**communications** [2]  
 49/10 49/15  
**complain** [1] 29/14  
**complained** [1]  
 29/24  
**complaint** [2] 30/19  
 30/25  
**Compound** [2]  
 10/14 23/1  
**computer** [1] 21/24  
**concern** [4] 23/16  
 28/4 28/8 30/17  
**concerned** [1] 35/9  
**concerning** [5]  
 14/10 18/17 33/22  
 46/19 49/11  
**concerns** [2] 17/3  
 17/13  
**conclusion** [2] 10/4  
 44/23  
**condition** [2] 9/24  
 40/18  
**confidential** [2] 3/8  
 11/21

**confirm** [2] 6/1  
 21/23  
**conflict** [1] 9/25  
**Congressional** [1]  
 36/18  
**consideration** [1]  
 16/8  
**consistent** [2] 12/8  
 22/13  
**Constitutional** [1]  
 36/19  
**contemplate** [1]  
 22/11  
**continue** [3] 35/11  
 41/7 41/12  
**continued** [1] 39/19  
**conversation** [3]  
 4/10 31/15 33/23  
**copy** [3] 6/16 15/22  
 15/25  
**corner** [1] 36/18  
**Corp** [1] 45/25  
**corporation** [22] 1/8  
 1/12 1/15 5/2 5/5  
 7/3 7/13 7/14 7/21  
 7/24 13/8 14/14  
 17/20 18/17 18/21  
 35/1 42/10 45/22  
 47/1 47/22 49/20  
 50/3  
**CORPORATION/PRIN  
 CIPAL** [1] 1/15  
**corporations** [1]  
 49/21  
**Corps** [1] 45/21  
**correct** [91]  
**correspond** [2]  
 15/18 35/24  
**could** [9] 4/23  
 34/17 35/16 39/18  
 40/14 40/15 42/24  
 47/14 48/24  
**counsel** [4] 4/9 4/21  
 50/7 51/10  
**counselor** [3] 24/1  
 24/2 24/5  
**country** [1] 47/23  
**county** [13] 1/8  
 1/12 1/15 1/17 5/2  
 5/4 7/2 7/14 13/7  
 25/1 51/2 51/5  
 52/9  
**couple** [2] 18/8  
 38/13  
**course** [1] 38/18  
**courses** [1] 43/2  
**court** [15] 1/2 5/15  
 5/19 5/25 12/1  
 12/7 18/15 18/16  
 18/20 19/7 20/16  
 21/7 21/23 35/5  
 47/9  
**courts** [1] 42/16  
**covers** [1] 25/1  
**created** [3] 13/12

13/15 14/5  
**current** [3] 7/7 7/23  
 14/4  
**currently** [2] 12/15  
 25/16  
**cv** [1] 1/6

**D**  
**date** [1] 13/14  
**dated** [2] 12/1  
 13/12  
**day** [3] 38/18 40/13  
 52/2  
**dean** [1] 8/1  
**Debra** [2] 26/25  
 27/5  
**December** [4] 1/17  
 12/1 52/3 52/8  
**December 2** [1]  
 12/1  
**decided** [1] 14/21  
**decision** [5] 44/18  
 46/14 46/16 46/16  
 47/5  
**deemed** [2] 12/17  
 13/3  
**Defendant** [2] 1/9  
 2/14  
**defendants** [2] 6/20  
 6/22  
**Department** [1]  
 49/16  
**depend** [1] 40/12  
**depending** [2]  
 38/19 39/13  
**deponent** [5] 50/17  
 51/6 51/15 51/16  
 51/19  
**deposed** [1] 5/7  
**deposition** [15]  
 1/12 1/15 3/5 4/16  
 4/17 5/8 5/11 6/15  
 6/19 9/5 9/5 19/6  
 48/4 51/8 51/12  
**describe** [1] 18/7  
**Description** [1] 3/4  
**designate** [2] 6/24  
 6/25  
**designed** [2] 37/17  
 37/25  
**desire** [1] 23/10  
**determination** [1]  
 15/12  
**determined** [1]  
 14/22  
**diagnosed** [1] 12/20  
**did** [10] 4/10 8/3  
 8/5 11/19 14/9  
 18/3 27/20 28/8  
 29/14 32/8  
**didn't** [1] 49/19  
**different** [1] 34/20  
**differs** [1] 9/12  
**directed** [1] 20/15  
**direction** [1] 51/14

**D**  
**directly** [2] 26/17  
45/5  
**director** [4] 5/6 7/7  
28/11 28/13  
**disappointed** [3]  
32/12 32/14 32/20  
**disciplinary** [1]  
39/10  
**discipline** [3] 39/12  
39/15 39/23  
**disciplined** [1] 39/8  
**discuss** [1] 30/22  
**discussed** [1] 40/22  
**discusses** [1] 27/13  
**discussing** [1] 32/24  
**disinterested** [1]  
51/21  
**district** [5] 1/2 1/2  
24/24 24/25 25/15  
**diversity** [2] 28/11  
28/13  
**dividers** [1] 43/23  
**DIVISION** [1] 1/3  
**do** [57]  
**doctor** [3] 12/17  
40/17 42/3  
**doctorate** [2] 8/9  
8/10  
**document** [12]  
13/24 14/4 14/5  
14/24 15/3 16/11  
20/20 23/1 28/23  
34/2 45/24 46/3  
**documentation** [2]  
19/16 20/12  
**documents** [5] 9/6  
23/9 23/11 23/15  
26/5  
**does** [11] 7/8 13/19  
14/19 15/2 16/20  
19/14 19/25 23/3  
49/18 50/3 51/17  
**doing** [4] 19/24  
19/25 29/17 39/25  
**don't** [18] 5/24 6/2  
15/24 16/1 18/6  
19/6 19/20 22/23  
27/6 32/19 32/19  
32/22 39/2 40/22  
42/5 44/25 46/24  
50/2  
**done** [2] 19/14 40/1  
**door** [1] 44/2  
**doors** [1] 38/6  
**down** [5] 5/16 5/20  
16/10 16/21 51/12  
**drawn** [1] 25/22  
**dress** [2] 28/17  
28/18  
**dressings** [2] 28/24  
29/5  
**drew** [1] 6/24  
**drop** [3] 19/4 19/17

19/25  
**due** [1] 31/24  
**duly** [2] 4/2 51/6  
**during** [2] 31/21  
46/10  
**dysphoria** [2] 9/22  
12/21  


---

**E**  
**each** [5] 15/7 15/8  
16/23 26/12 37/21  
**earlier** [1] 48/5  
**EAST** [2] 1/21 2/6  
**ed** [1] 25/3  
**education** [10] 5/6  
7/8 7/25 24/25  
25/5 25/12 25/21  
25/23 27/5 49/16  
**effect** [3] 14/7 46/4  
48/2  
**either** [4] 16/13  
37/6 40/4 41/12  
**Eldred** [1] 24/18  
**elective** [1] 43/2  
**electively** [1] 43/14  
**else** [1] 49/19  
**email** [12] 3/14  
24/22 26/1 26/8  
26/10 26/25 27/12  
30/15 32/12 32/23  
33/2 34/7  
**emails** [4] 20/3  
24/5 24/16 31/25  
**employ** [1] 51/24  
**employed** [4] 7/20  
47/16 47/17 47/18  
**end** [3] 37/6 37/7  
37/10  
**endeavor** [1] 5/21  
**enough** [1] 19/15  
**entail** [1] 7/8  
**entered** [1] 46/3  
**esj** [2] 33/4 33/7  
**essentially** [1] 34/1  
**established** [2]  
21/20 22/3  
**et** [2] 1/5 1/8  
**EVANS** [1] 2/15  
**even** [4] 16/1 30/9  
35/21 39/15  
**event** [1] 51/23  
**events** [1] 38/25  
**ever** [6] 5/7 15/21  
29/20 29/24 31/19  
49/5  
**every** [1] 16/22  
**everything** [2] 5/16  
5/19  
**exact** [1] 13/14  
**EXAMINATION** [4]  
1/13 2/19 2/21 4/5  
**examined** [1] 4/4  
**Exchange** [1] 28/14  
**exhibit** [34] 3/2 3/5  
3/6 3/8 3/9 3/11

3/12 3/14 3/15  
3/16 3/17 6/14  
12/11 13/6 14/16  
15/11 18/15 19/3  
19/8 20/22 22/10  
22/19 23/15 23/19  
24/20 26/1 26/6  
26/24 28/1 30/2  
36/11 43/5 45/15  
48/14  
**Exhibit 10** [1] 45/15  
**Exhibit 2** [3] 18/15  
19/3 19/8  
**Exhibit 6** [6] 13/6  
14/16 15/11 22/10  
22/19 48/14  
**Exhibit 7** [6] 23/15  
23/19 24/20 26/24  
28/1 30/2  
**Exhibit 8** [2] 20/22  
26/6  
**exhibits** [6] 6/16  
11/19 11/20 11/20  
12/10 40/16  
**Exhibits 4** [2] 12/10  
40/16  
**exist** [1] 45/25  
**expires** [1] 52/8  
**extent** [4] 10/2  
32/16 44/22 46/24  
**extenuating** [1]  
36/5  


---

**F**  
**facilities** [1] 35/3  
**fact** [5] 16/16 27/8  
27/12 28/17 47/8  
**factors** [2] 15/12  
16/24  
**fair** [17] 6/4 7/5  
7/14 9/10 11/25  
12/8 14/3 15/19  
22/6 25/1 26/22  
40/8 40/11 42/7  
42/8 48/21 49/3  
**fairly** [2] 5/11 49/3  
**Falk** [5] 2/5 2/21  
4/6 4/7 9/1  
**fall** [1] 34/4  
**familiar** [1] 8/19  
**far** [3] 23/18 27/9  
35/9  
**February** [1] 23/21  
**federal** [4] 1/18  
25/21 49/10 50/3  
**feedback** [2] 34/14  
34/22  
**female** [11] 21/6  
27/20 35/16 35/22  
37/23 38/16 39/7  
41/13 41/21 46/10  
46/14  
**File** [1] 3/15  
**filed** [3] 11/17  
12/24 13/1

**filing** [1] 9/3  
**find** [3] 13/21  
13/24 21/3  
**fine** [2] 6/8 40/3  
**first** [7] 4/2 11/2  
23/19 24/7 24/10  
48/18 51/6  
**Floor** [1] 2/11  
**focus** [1] 4/19  
**follow** [1] 42/15  
**FOLLOWING** [3] 8/24  
33/9 50/9  
**follows** [1] 4/4  
**football** [1] 43/10  
**Force** [9] 45/20  
46/17 46/22 47/6  
47/8 47/13 47/17  
47/18 47/20  
**Force's** [1] 46/16  
**form** [7] 6/17 17/23  
22/25 31/1 33/19  
35/6 41/15  
**formal** [1] 20/20  
**format** [1] 14/1  
**former** [1] 21/18  
**forth** [1] 42/15  
**forwarded** [1] 33/13  
**found** [2] 13/25  
21/6  
**French** [4] 24/23  
24/24 25/15 25/18  
**frequent** [1] 40/19  
**freshman** [6] 10/10  
42/17 42/18 42/21  
42/23 42/25  
**front** [1] 23/5  
**full** [1] 28/13  
**fully** [1] 41/20  
**funding** [1] 50/4  
**further** [5] 33/21  
46/25 50/11 50/17  
51/20  


---

**G**  
**garage** [1] 44/2  
**gave** [1] 44/14  
**gender** [28] 3/6 3/8  
9/12 9/22 10/1  
11/3 12/2 12/21  
17/5 17/16 17/21  
18/12 18/19 18/23  
19/11 19/12 20/15  
21/7 21/12 22/1  
22/13 23/21 24/8  
47/8 47/25 48/19  
49/7 49/23  
**general** [6] 18/12  
26/14 38/17 39/6  
43/25 44/25  
**generally** [3] 26/13  
28/20 38/23  
**genitalia** [2] 41/11  
41/17  
**geographic** [1] 45/8  
**get** [4] 18/25 36/16

47/14 47/24  
**getting** [1] 20/5  
**girls'** [6] 35/12 40/6  
40/11 43/6 43/15  
44/6  
**given** [8] 15/22  
15/25 18/15 20/6  
20/9 20/11 21/23  
51/15  
**go** [10] 6/6 8/3  
8/22 13/22 20/4  
28/9 30/14 33/2  
35/16 50/6  
**goes** [1] 27/9  
**going** [6] 4/12 4/18  
22/10 35/19 38/23  
42/6  
**Good** [2] 4/7 41/18  
**got** [1] 33/18  
**government** [1]  
49/10  
**govern** [1] 44/19  
**graduate** [3] 8/5  
8/7 8/8  
**granted** [1] 18/10  
**great** [3] 18/25  
20/20 34/6  
**guarantee** [1] 5/25  
**guess** [3] 28/19  
29/14 42/2  
**guidance** [3] 24/1  
24/4 42/15  
**guideline** [12] 3/12  
13/8 13/16 13/20  
17/8 17/12 22/10  
22/20 23/3 23/7  
48/15 48/15  
**guidelines** [5] 13/25  
16/6 16/21 48/9  
48/20  
**gym** [7] 27/9 38/14  
38/14 38/24 42/20  
43/14 43/17  


---

**H**  
**had** [15] 7/11 8/25  
13/17 18/8 24/8  
26/22 30/20 31/6  
31/12 35/20 40/18  
41/17 48/15 48/20  
50/10  
**half** [1] 47/19  
**halfway** [1] 40/1  
**Hall** [3] 37/6 37/10  
37/11  
**Halls** [1] 36/19  
**hallway** [1] 43/25  
**hand** [1] 52/2  
**happen** [1] 19/14  
**happened** [2] 21/4  
30/3  
**has** [26] 6/14 9/12  
11/18 12/10 12/19  
13/6 13/13 14/2  
16/17 17/18 18/2

**H**  
 has... [15] 18/9  
 20/22 21/4 21/15  
 25/18 29/21 29/24  
 31/5 35/10 36/8  
 36/8 45/14 47/1  
 48/23 49/2  
**Haskell** [2] 26/25  
 27/5  
**HAUTE** [9] 1/3 1/13  
 1/15 4/25 7/3 7/17  
 10/11 25/13 45/11  
**have** [83]  
**having** [2] 4/2  
 33/24  
**he** [2] 30/10 31/23  
**health** [5] 31/24  
 36/3 36/17 40/5  
 40/8  
**heard** [1] 8/5  
**HELD** [2] 8/23 50/8  
**her** [3] 32/17 44/23  
 48/10  
**here** [4] 5/15 15/13  
 24/21 28/11  
**hereby** [1] 51/5  
**herein** [2] 4/2 51/6  
**hereto** [1] 51/18  
**heretofore** [1] 51/10  
**hereunto** [1] 52/1  
**Hi** [1] 32/1  
**high** [23] 1/13 1/15  
 7/4 7/9 7/16 7/17  
 10/10 10/11 11/13  
 15/14 24/4 24/10  
 25/13 26/2 26/18  
 27/6 28/5 29/11  
 30/21 42/18 43/3  
 45/12 46/1  
**his** [4] 7/4 17/16  
 28/13 31/24  
**hope** [1] 6/6  
**how** [10] 7/11 7/20  
 13/15 20/10 20/18  
 29/11 29/18 39/25  
 45/6 48/23  
**However** [2] 22/3  
 38/18

**I**  
**I'm** [34] 4/7 5/6  
 6/14 11/18 12/10  
 13/6 13/13 13/14  
 16/15 19/1 20/21  
 20/22 21/3 23/18  
 24/13 24/21 27/6  
 28/1 29/18 29/23  
 30/1 30/18 31/7  
 31/8 31/14 31/14  
 36/6 38/22 39/25  
 40/3 41/25 44/24  
 45/14 49/18  
**identities** [1] 20/8  
**identity** [13] 9/12

10/1 17/5 17/16  
 17/22 18/13 18/23  
 19/11 22/14 47/25  
 48/19 49/7 49/23  
**IEP** [2] 25/12 25/20  
**INC** [1] 1/21  
**INDEX** [2] 2/19 3/2  
**INDIANA** [22] 1/2  
 1/17 1/22 2/5 2/7  
 2/8 2/9 2/10 2/12  
 2/17 4/25 8/4 8/14  
 8/16 12/16 42/22  
 45/6 45/7 48/2  
 49/16 49/21 51/1  
**INDIANAPOLIS** [4]  
 1/22 2/7 2/9 2/17  
**indicate** [1] 23/3  
**indicated** [5] 4/11  
 11/11 19/5 24/15  
 48/7  
**indicates** [2] 14/16  
 34/25  
**individual** [4] 15/8  
 15/8 43/20 43/23  
**individualized** [1]  
 25/20  
**information** [9]  
 20/13 20/13 21/1  
 33/3 33/9 33/13  
 33/18 33/21 34/2  
**informed** [1] 29/20  
**initially** [1] 16/14  
**injunction** [2] 4/14  
 4/19  
**instances** [2] 36/7  
 48/5  
**instruct** [1] 19/17  
**instructed** [2] 20/17  
 21/25  
**instructions** [2]  
 20/6 20/9  
**instructors** [2]  
 46/21 47/13  
**intentionally** [1]  
 39/6  
**interest** [1] 42/11  
**interested** [1] 51/23  
**International** [1]  
 28/14  
**interrupt** [1] 19/21  
**involved** [3] 26/17  
 31/19 31/23  
**is** [234]  
**issue** [3] 27/9 34/14  
 49/11  
**issues** [5] 4/13  
 23/20 23/22 24/8  
 27/13  
**it** [73]  
**itself** [5] 14/25 15/4  
 23/1 28/23 36/9

**J**  
**Janet** [1] 26/1  
**January** [1] 49/9

**January** [1] 49/9  
**Joseph** [1] 33/7  
**JRS** [1] 1/6  
**judge** [1] 5/15  
**jumping** [1] 20/23  
**Junior** [3] 45/20  
 45/24 46/6  
**just** [25] 5/11 7/16  
 17/7 18/25 19/2  
 21/1 21/23 22/23  
 23/14 24/17 24/22  
 25/25 26/13 28/22  
 29/16 31/23 34/2  
 37/15 37/20 38/20  
 39/16 43/13 44/3  
 44/24 49/2

**K**  
**Kathleen** [1] 2/8  
**Kathy** [1] 24/23  
**keep** [1] 11/21  
**keeping** [1] 40/1  
**Ken** [3] 4/7 34/18  
 41/16  
**Kenneth** [1] 2/5  
**know** [44] 6/3 9/22  
 15/5 15/6 15/23  
 15/24 15/24 16/1  
 16/18 18/6 19/6  
 19/20 20/3 24/12  
 24/13 25/5 25/8  
 28/9 29/12 29/14  
 30/15 31/8 31/23  
 32/14 32/18 32/19  
 32/19 32/20 32/22  
 34/16 34/22 40/20  
 40/21 40/22 41/24  
 42/5 46/25 47/10  
 47/11 47/12 49/2  
 49/13 50/1 50/2  
**knowledge** [5] 18/1  
 33/17 46/24 49/8  
 49/14  
**Kramer** [3] 1/16  
 51/4 52/6

**L**  
**L.E** [1] 30/20  
**last** [1] 30/3  
**later** [1] 4/15  
**law** [4] 25/21 36/16  
 44/19 45/1  
**lawyer** [1] 34/14  
**Lawyers** [1] 6/6  
**lead** [1] 39/18  
**leadership** [2] 8/12  
 8/17  
**least** [2] 33/24 48/8  
**leave** [1] 31/21  
**legal** [12] 2/8 2/10  
 10/3 12/3 18/18  
 18/18 19/16 20/11  
 20/15 20/21 26/22  
 44/23  
**Leslie** [3] 27/1 27/6

27/7  
**let** [5] 6/3 21/14  
 21/23 34/20 41/19  
**Let's** [1] 8/22  
**letter** [5] 3/9 3/10  
 3/11 3/11 28/10  
**letters** [1] 40/17  
**level** [3] 18/2 18/4  
 40/23  
**Lexington** [1] 37/6  
**life** [1] 20/4  
**like** [7] 11/11 25/9  
 31/25 33/25 40/13  
 44/8 50/6  
**likely** [1] 39/13  
**line** [2] 4/9 34/4  
**list** [2] 26/10 26/14  
**listed** [2] 16/6  
 16/11  
**listing** [1] 32/9  
**litigation** [3] 8/19  
 10/21 12/19  
**live** [1] 21/17  
**locked** [5] 36/24  
 37/2 38/17 38/23  
 41/1  
**locker** [23] 11/7  
 14/19 14/21 18/22  
 22/8 23/11 27/9  
 27/13 27/20 27/23  
 28/18 29/5 30/5  
 30/23 43/6 43/6  
 43/11 43/15 43/19  
 43/22 44/4 44/6  
 44/8  
**lockers** [1] 43/23  
**long** [4] 6/6 7/11  
 7/20 29/11  
**longer** [1] 35/21  
**look** [5] 23/14  
 24/20 26/24 33/25  
 38/13  
**looked** [2] 34/2  
 39/10  
**looking** [8] 15/7  
 21/4 23/19 25/25  
 36/11 37/5 37/20  
 45/4  
**looks** [5] 25/9  
 26/16 31/25 33/25  
 40/12  
**lot** [1] 8/8  
**Luken** [5] 28/5  
 31/16 31/17 33/24  
 34/7  
**lunch** [1] 29/8

**M**  
**made** [7] 10/25  
 11/5 11/9 12/23  
 18/9 24/11 46/18  
**Madison** [1] 2/9  
**Mahalek** [4] 24/23  
 25/11 25/15 25/16  
**main** [2] 10/22

38/14  
**mainstreamed** [2]  
 25/7 25/10  
**maintains** [1] 26/4  
**majority** [1] 25/9  
**make** [2] 16/7  
 32/22  
**makes** [1] 45/2  
**making** [1] 15/11  
**male** [49] 10/12  
 10/23 11/2 11/7  
 11/12 12/2 12/3  
 12/17 13/3 18/18  
 18/19 19/11 19/12  
 19/12 19/23 20/8  
 20/8 22/1 22/1  
 22/5 22/8 22/17  
 22/22 23/11 23/12  
 23/13 26/9 26/21  
 27/18 27/23 28/17  
 28/18 28/19 29/5  
 29/6 29/21 32/9  
 32/25 35/2 37/22  
 38/16 39/6 39/21  
 41/11 41/17 44/11  
 46/15 46/20 47/2  
**males** [2] 23/10  
 30/9  
**manager** [1] 26/16  
**many** [3] 9/16 9/16  
 48/23  
**map** [5] 3/16 36/12  
 37/5 38/14 43/5  
**Marie** [1] 24/23  
**Mark** [1] 2/16  
**marked** [7] 6/14  
 9/25 11/18 12/10  
 13/6 20/22 45/14  
**marker** [5] 3/6 3/8  
 18/19 19/12 21/7  
**markers** [3] 12/2  
 20/15 47/9  
**masculinize** [1] 41/7  
**masculinizes** [1]  
 41/20  
**MASON** [6] 1/14  
 1/16 4/1 4/7 4/24  
 50/20  
**master's** [3] 8/9  
 8/10 8/11  
**Matt** [2] 28/10 32/1  
**matter** [2] 22/15  
 51/7  
**may** [8] 22/12  
 24/15 24/15 28/4  
 28/8 30/16 32/17  
 38/20  
**McClendon** [5]  
 28/11 28/16 30/3  
 30/16 32/5  
**MCKINNEY** [1] 2/15  
**me** [9] 6/3 18/7  
 21/14 21/23 22/15  
 26/12 34/20 41/19  
 51/6

**M**  
**mean** [7] 9/16  
 13/19 15/2 16/20  
 48/12 48/24 49/18  
**means** [3] 13/21  
 16/21 20/14  
**meant** [1] 45/8  
**medical** [5] 10/3  
 23/4 31/21 40/18  
 41/25  
**meet** [1] 32/8  
**meetings** [5] 30/20  
 31/6 31/7 31/11  
 31/20  
**Megan** [1] 2/11  
**Melinda** [1] 24/23  
**memo** [1] 30/17  
**memorandum** [3]  
 3/17 45/17 47/19  
**men's** [1] 43/9  
**mention** [1] 27/8  
**mentioned** [5]  
 20/20 25/20 37/15  
 37/21 51/10  
**merits** [1] 4/18  
**message** [1] 26/11  
**met** [3] 9/2 16/22  
 22/12  
**MG** [1] 1/6  
**Michelle** [1] 24/18  
**middle** [4] 7/9 24/6  
 32/1 34/6  
**might** [4] 26/16  
 36/2 36/4 36/25  
**minutes** [1] 29/13  
**misstate** [1] 48/12  
**Misstates** [1] 48/10  
**mom** [14] 19/17  
 19/25 23/21 24/16  
 27/13 31/5 31/16  
 31/18 32/9 33/3  
 33/13 33/18 33/22  
 34/25  
**moment** [1] 34/8  
**Monument** [1] 2/16  
**more** [6] 6/22 19/14  
 37/25 39/13 39/25  
 45/5  
**morning** [1] 4/7  
**Most** [1] 42/22  
**mother** [3] 15/21  
 16/25 30/19  
**MR** [3] 2/21 4/6 9/1  
**Mr.** [5] 28/10 28/16  
 30/3 30/16 32/5  
**Mr. Matt** [1] 28/10  
**Mr. McClendon** [4]  
 28/16 30/3 30/16  
 32/5  
**Ms** [11] 4/7 23/25  
 24/24 25/11 25/11  
 25/12 25/15 25/15  
 25/16 25/18 33/24  
**Ms.** [1] 23/25

**Mr. Cavins** [1]  
 23/25  
**multiple** [2] 38/1  
 38/2  
**must** [1] 41/12  
**my** [19] 4/8 4/12  
 4/15 5/24 7/12  
 15/7 17/11 18/1  
 20/23 42/2 46/24  
 49/8 49/14 50/7  
 51/14 52/1 52/2  
 52/8 52/9

---

**N**  
**name** [12] 3/6 3/8  
 4/23 20/21 21/5  
 21/6 21/6 21/7  
 21/20 26/12 26/22  
 47/14  
**names** [20] 11/2  
 11/22 12/3 12/3  
 12/12 18/6 18/18  
 19/2 19/11 19/23  
 20/8 20/8 20/15  
 22/1 23/12 26/9  
 26/21 32/9 34/15  
 35/3  
**necessarily** [1] 31/8  
**necessary** [1] 4/17  
**need** [7] 5/20 15/10  
 19/16 19/20 19/25  
 23/5 40/2  
**never** [1] 20/23  
**New** [1] 21/17  
**New York** [1] 21/17  
**next** [7] 21/12  
 21/16 27/12 30/2  
 37/6 37/11 37/21  
**no** [15] 1/5 5/15  
 8/21 9/4 14/11  
 22/15 26/13 26/13  
 35/21 38/9 40/3  
 46/23 49/5 50/11  
 50/13  
**normal** [1] 37/8  
**Norman** [1] 37/11  
**NORTH** [10] 1/13  
 1/15 7/3 7/17  
 10/11 24/4 24/10  
 25/13 27/6 45/11  
**not** [66]  
**notarial** [1] 52/2  
**Notary** [3] 1/16  
 51/4 52/6  
**note** [1] 43/5  
**noted** [2] 46/9  
 51/11  
**notes** [1] 51/13  
**nothing** [2] 4/3  
 21/15  
**notice** [4] 3/5 6/15  
 6/19 9/5  
**noticed** [3] 9/6  
 28/24 29/6  
**now** [9] 17/2 18/18

19/1 19/11 19/25  
 20/4 25/25 36/7  
 41/4  
**number** [5] 3/4  
 15/12 16/7 16/8  
 28/1  
**numbers** [2] 20/23  
 37/14  
**nurse** [2] 36/21  
 37/2  
**nurse's** [12] 35/14  
 36/1 36/2 36/9  
 36/17 38/10 40/5  
 40/25 41/13 41/22  
 48/6 48/21  
**NY** [1] 21/10

---

**O**  
**oath** [1] 5/12  
**object** [9] 9/15 10/2  
 14/24 17/7 22/25  
 28/22 33/19 35/6  
 41/15  
**objection** [12]  
 10/14 15/3 17/23  
 29/3 30/13 31/1  
 32/16 41/2 41/18  
 44/22 48/10 49/24  
**objections** [2] 17/3  
 17/13  
**obviously** [1] 49/3  
**occurred** [2] 18/3  
 39/14  
**October** [1] 31/17  
**October 6** [1] 31/17  
**off** [9] 4/10 8/22  
 8/23 15/25 19/4  
 19/17 20/1 50/6  
 50/8  
**offered** [2] 35/10  
 35/11  
**office** [14] 28/12  
 35/14 36/1 36/2  
 36/9 36/17 36/21  
 36/24 36/25 38/10  
 40/5 41/13 41/22  
 48/7  
**Officer** [2] 45/21  
 45/25  
**official** [2] 7/4 26/4  
**officially** [1] 35/4  
**OHIO** [1] 1/21  
**okay** [8] 5/22 6/12  
 7/18 20/25 22/10  
 36/11 39/25 49/1  
**Olive** [2] 4/24 5/1  
**Once** [2] 19/9 20/11  
**one** [19] 5/9 6/22  
 10/22 12/11 16/22  
 16/23 19/1 31/14  
 31/17 35/13 37/7  
 37/22 37/22 38/1  
 38/16 38/16 44/1  
 46/21 47/13  
**ones** [1] 37/20

**only** [8] 6/10 14/12  
 14/16 18/1 34/3  
 35/10 38/11 38/21  
**open** [2] 44/5 44/6  
**operated** [1] 11/13  
**operation** [4] 41/10  
 41/17 41/20 41/24  
**opportunity** [1]  
 38/22  
**opposed** [1] 47/1  
**ORAL** [1] 1/13  
**order** [9] 3/6 3/8  
 12/6 12/8 18/15  
 19/7 19/24 21/23  
 47/9  
**ordered** [2] 12/7  
 18/19  
**orders** [2] 11/25  
 19/4  
**other** [15] 14/9  
 17/19 26/4 29/14  
 29/22 34/3 35/25  
 36/4 37/7 37/21  
 38/21 39/7 43/10  
 49/5 49/20  
**otherwise** [2] 6/3  
 51/23  
**our** [14] 13/21 14/4  
 15/13 18/1 19/3  
 20/13 21/21 26/15  
 28/11 42/13 42/21  
 43/9 45/1 45/8  
**out** [8] 24/14 26/8  
 34/8 38/21 39/11  
 39/16 46/22 47/12  
**over** [2] 5/21 25/18  
**oversee** [1] 7/9  
**oversees** [1] 46/17

---

**P**  
**p.m** [1] 34/7  
**Pactor** [1] 2/6  
**page** [18] 2/20 3/4  
 23/19 24/20 25/25  
 26/24 27/12 30/2  
 30/2 30/7 30/17  
 31/25 32/1 33/2  
 33/25 33/25 34/6  
 34/6  
**Page 51** [1] 33/25  
**papers** [1] 10/22  
**parent** [1] 22/21  
**parents** [3] 17/4  
 17/14 29/24  
**Parliament** [1]  
 37/10  
**particular** [5] 4/17  
 36/6 42/16 45/2  
 45/8  
**parties** [2] 51/23  
 51/25  
**parts** [1] 44/4  
**passing** [3] 29/8  
 29/8 29/11  
**past** [2] 20/6 35/11

**pay** [1] 47/19  
**PE** [8] 42/21 42/22  
 42/23 42/24 43/2  
 43/13 43/13 43/25  
**PE-1** [3] 42/21  
 42/23 43/13  
**PE-2** [3] 42/22  
 42/24 43/13  
**pending** [2] 4/14  
 6/11  
**people** [6] 6/23  
 9/16 26/10 27/4  
 39/2 48/18  
**perfectly** [1] 6/8  
**period** [3] 29/8  
 29/9 29/11  
**permission** [1]  
 35/25  
**permitted** [1] 35/23  
**person** [9] 6/24  
 9/11 30/20 31/8  
 31/11 35/13 36/8  
 47/12 51/21  
**persons** [1] 9/25  
**personally** [1] 40/21  
**persons** [1] 4/17  
**perspective** [1]  
 21/21  
**Petition** [2] 3/6 3/8  
**Ph.D** [1] 8/15  
**Philip** [1] 2/15  
**phone** [1] 31/9  
**physical** [1] 41/8  
**physically** [2] 15/25  
 19/7  
**physicians** [1] 13/3  
**piece** [1] 34/3  
**pieces** [1] 23/8  
**place** [2] 24/5 51/9  
**plaintiff** [5] 1/6  
 1/17 2/4 4/8 51/9  
**plaintiff's** [1] 12/2  
**plaintiffs** [37] 8/20  
 9/2 10/9 12/20  
 15/21 17/18 18/18  
 19/10 20/7 21/25  
 22/5 22/16 23/16  
 23/22 24/8 26/9  
 27/10 27/17 29/17  
 29/20 30/10 30/20  
 32/8 35/12 35/16  
 39/21 40/4 40/10  
 40/18 40/25 41/4  
 44/8 46/6 46/9  
 46/20 47/1 48/17  
**plaintiffs'** [2] 15/21  
 23/9  
**plan** [1] 25/21  
**please** [5] 17/10  
 19/19 26/24 34/8  
 48/13  
**point** [14] 5/24 6/7  
 22/19 22/19 24/14  
 25/18 27/16 31/23  
 34/25 35/9 38/21

**P**  
**point...** [3] 39/21  
 42/3 43/3  
**policies** [3] 13/22  
 13/23 14/9  
**policy** [18] 13/12  
 13/15 13/17 13/19  
 14/9 14/12 15/17  
 15/22 16/2 16/3  
 16/6 16/17 17/2  
 17/8 17/19 22/23  
 39/10 42/9  
**position** [14] 5/4  
 7/7 7/11 7/12 7/23  
 7/24 18/16 22/4  
 25/19 35/1 35/21  
 41/11 44/9 46/19  
**positions** [1] 7/24  
**positive** [1] 16/16  
**post** [2] 8/7 8/8  
**post-graduate** [2]  
 8/7 8/8  
**potentially** [3]  
 38/12 39/22 42/21  
**prefer** [1] 27/23  
**preferred** [1] 20/7  
**preliminary** [2] 4/14  
 4/19  
**prepared** [2] 11/19  
 12/11  
**present** [2] 15/9  
 51/10  
**presented** [1] 51/16  
**principal** [20] 1/13  
 1/15 7/3 8/1 8/2  
 15/14 16/13 16/14  
 16/15 17/2 17/12  
 19/18 28/5 30/21  
 30/21 31/19 31/21  
 32/5 33/7 34/12  
**principals** [1] 7/10  
**print** [1] 15/25  
**print-off** [1] 15/25  
**prior** [5] 7/23 8/19  
 13/1 19/24 40/16  
**privacy** [2] 23/6  
 42/11  
**private** [2] 18/9  
 38/5  
**privately** [1] 6/9  
**probably** [4] 5/10  
 7/16 16/15 17/11  
**problem** [2] 21/21  
 29/15  
**problems** [1] 29/21  
**Procedure** [1] 1/18  
**proceed** [2] 4/18  
 45/6  
**PROCEEDINGS** [2]  
 8/24 50/9  
**produce** [1] 6/22  
**produced** [1] 1/16  
**professional** [1]  
 41/25

**program** [6] 11/13  
 28/14 45/11 46/7  
 46/11 46/17  
**progressive** [1]  
 39/15  
**pronouns** [2] 19/23  
 23/13  
**proof** [1] 42/6  
**provide** [2] 42/14  
 47/15  
**provided** [1] 6/17  
**public** [4] 1/16  
 47/23 51/4 52/6  
**pull** [1] 13/23  
**purport** [1] 51/17  
**purposes** [1] 11/12  
**pursuant** [3] 1/18  
 47/9 48/8  
**pursued** [1] 46/25  
**put** [1] 23/8

**Q**  
**question** [12] 5/24  
 6/11 10/15 17/10  
 24/22 33/20 34/17  
 34/21 41/19 42/2  
 42/5 48/13  
**questions** [7] 2/21  
 4/6 4/13 5/12  
 23/20 50/11 50/14  
**quickly** [4] 5/11  
 5/25 6/2 25/25

**R**  
**raised** [4] 17/3  
 17/13 23/21 23/24  
**rare** [1] 49/3  
**reach** [1] 34/8  
**reached** [2] 46/22  
 47/12  
**read** [1] 16/21  
**reading** [1] 32/23  
**real** [1] 25/25  
**realized** [1] 5/10  
**reason** [4] 36/3  
 44/14 44/14 44/17  
**receive** [2] 49/19  
 50/3  
**received** [5] 19/7  
 20/3 20/11 33/22  
 49/9  
**receiving** [3] 12/21  
 40/16 41/4  
**RECESS** [2] 8/23  
 50/8  
**recognize** [1] 6/19  
**record** [8] 4/11  
 5/22 8/22 8/24  
 24/17 50/7 50/9  
 51/14  
**redacted** [4] 3/10  
 3/11 11/20 12/11  
**reduced** [1] 51/13  
**refer** [4] 21/25 26/8  
 26/21 44/2

**referenced** [1] 23/9  
**references** [1] 23/5  
**referencing** [2]  
 23/12 42/13  
**referred** [6] 11/2  
 17/8 19/10 19/10  
 20/10 20/18  
**referring** [3] 18/17  
 19/22 23/12  
**refers** [2] 15/11  
 34/23  
**regarding** [2] 3/12  
 13/8  
**registrar** [1] 26/2  
**regular** [2] 37/12  
 40/10  
**relative** [2] 45/1  
 51/22  
**relevant** [1] 4/13  
**remove** [1] 41/17  
**removes** [1] 41/10  
**repeat** [2] 17/10  
 48/13  
**rephrase** [1] 41/19  
**replace** [1] 14/9  
**reporter** [3] 5/16  
 5/19 6/1  
**REPORTING** [1] 1/21  
**reporting.com** [1]  
 1/23  
**represent** [1] 4/8  
**request** [7] 10/24  
 11/4 11/8 16/7  
 18/9 23/4 23/17  
**requested** [1] 49/5  
**requesting** [1]  
 15/17  
**requests** [2] 16/23  
 46/18  
**require** [1] 42/6  
**required** [8] 25/21  
 26/20 29/1 40/4  
 41/21 42/22 46/10  
 46/11  
**requiring** [1] 40/18  
**reserve** [3] 4/15  
 45/20 45/25  
**residence** [1] 52/9  
**respect** [1] 17/14  
**respective** [1] 51/25  
**respond** [2] 5/20  
 6/10  
**response** [1] 30/16  
**responsive** [1]  
 23/17  
**restrict** [1] 4/12  
**restroom** [15] 18/9  
 35/14 36/1 36/3  
 38/2 38/11 39/7  
 39/14 40/5 40/11  
 40/19 40/25 41/12  
 41/22 48/21  
**restrooms** [34]  
 10/23 18/12 18/22  
 22/6 22/13 22/17

22/22 23/11 27/18  
 28/19 28/19 29/6  
 29/21 32/25 35/13  
 35/17 35/22 35/23  
 37/8 37/12 37/20  
 38/13 38/15 38/18  
 39/3 39/22 40/6  
 40/11 41/13 41/21  
 44/11 47/24 48/18  
 49/6  
**result** [1] 33/23  
**retired** [1] 25/16  
**review** [1] 50/14  
**right** [6] 4/15 19/1  
 21/12 36/7 38/15  
 42/18  
**Riley** [2] 12/17 13/2  
**rise** [1] 18/4  
**Rockwell** [1] 37/11  
**room** [16] 27/9  
 27/13 27/23 29/5  
 30/5 30/23 37/2  
 37/6 43/6 43/6  
 43/9 43/19 43/22  
 44/4 44/6 44/9  
**rooms** [12] 11/7  
 14/19 14/21 18/22  
 22/8 23/11 27/20  
 28/18 37/14 43/8  
 43/12 43/15  
**ROTC** [9] 11/12  
 28/18 28/25 29/1  
 45/11 45/24 46/6  
 46/17 46/21  
**rule** [1] 39/6  
**Rules** [1] 1/18

**S**  
**S.E** [1] 10/10  
**safe** [1] 42/14  
**said** [5] 44/19  
 44/24 47/13 51/5  
 51/15  
**SAITH** [1] 50/17  
**salary** [1] 47/19  
**same** [6] 13/25  
 14/1 21/19 29/3  
 34/2 44/14  
**saw** [1] 29/16  
**say** [7] 5/16 6/7  
 7/13 7/16 7/18  
 11/25 40/8  
**saying** [1] 34/8  
**says** [8] 14/21 16/7  
 22/23 28/8 28/24  
 32/8 32/13 36/14  
**schedule** [3] 4/15  
 40/12 40/13  
**school** [67]  
**school's** [2] 35/21  
 41/11  
**Schultz** [3] 24/24  
 25/11 25/12  
**screen** [4] 21/1  
 21/5 26/5 34/1

**screens** [2] 38/8  
 38/9  
**seal** [1] 52/2  
**Second** [1] 2/11  
**secondary** [2] 5/6  
 7/8  
**see** [11] 11/16  
 21/11 21/13 21/14  
 27/2 30/6 32/3  
 32/10 33/5 33/11  
 34/10  
**seems** [1] 22/11  
**seen** [2] 11/23  
 12/13  
**senior** [2] 42/17  
 42/18  
**sense** [2] 38/5 45/2  
**sent** [4] 26/8 26/11  
 28/10 47/20  
**separate** [1] 44/3  
**separated** [1] 43/23  
**separates** [1] 44/3  
**September** [2]  
 30/17 31/15  
**September 10** [1]  
 30/17  
**September 27** [1]  
 31/15  
**serious** [1] 39/18  
**SERVICES** [2] 2/8  
 2/10  
**set** [2] 42/15 52/1  
**several** [1] 13/13  
**sex** [3] 9/13 10/1  
 15/19  
**she** [11] 19/4 24/1  
 24/4 25/13 26/4  
 28/5 28/10 31/6  
 32/17 33/24 34/25  
**Sherwin** [4] 3/9  
 3/10 3/11 3/11  
**short** [4] 6/25 8/23  
 19/1 50/8  
**short-circuited** [1]  
 19/1  
**shot** [4] 21/1 21/5  
 26/5 34/1  
**should** [4] 19/4  
 19/17 21/18 45/6  
**showers** [2] 43/19  
 43/21  
**showing** [7] 6/14  
 11/18 12/10 13/6  
 20/21 28/1 45/14  
**side** [3] 23/5 43/10  
 43/25  
**sign** [1] 50/14  
**signature** [2] 51/16  
 51/18  
**simply** [1] 19/16  
**since** [3] 11/17  
 12/19 49/9  
**sisters** [2] 30/4  
 30/10  
**situation** [6] 15/8

**S**  
**situation...** [5] 18/1  
 18/11 22/11 30/4  
 31/24  
**situations** [2] 18/3  
 18/7  
**six** [2] 7/22 29/13  
**Skyward** [1] 3/15  
**slowly** [1] 6/2  
**Smith** [3] 27/1 27/6  
 27/7  
**so** [13] 5/21 6/9  
 7/23 16/10 21/17  
 23/6 23/18 24/17  
 26/16 31/22 31/25  
 36/8 41/25  
**solely** [1] 47/5  
**some** [17] 6/17 9/6  
 11/17 20/3 27/16  
 30/20 31/9 31/22  
 34/1 34/25 36/5  
 37/10 42/6 42/6  
 42/7 43/23 48/5  
**somebody** [1] 49/19  
**someone** [3] 9/11  
 46/22 47/16  
**something** [5] 32/17  
 39/15 39/18 45/5  
 49/19  
**sophomore** [2]  
 42/24 43/1  
**sophomores** [1]  
 42/21  
**sorry** [2] 19/21  
 20/22  
**sort** [4] 25/17  
 28/16 42/7 43/24  
**South** [1] 2/11  
**SOUTHERN** [1] 1/2  
**space** [2] 42/14  
 44/1  
**spaces** [1] 44/3  
**speak** [1] 48/24  
**speaking** [1] 7/2  
**speaks** [5] 14/25  
 15/4 23/1 28/23  
 45/5  
**special** [7] 7/25  
 24/25 25/3 25/5  
 25/12 25/22 27/5  
**specifically** [3]  
 14/13 14/16 23/16  
**sporting** [1] 38/24  
**SS** [1] 51/1  
**Stability** [1] 28/13  
**Stacey** [1] 23/24  
**STACY** [5] 1/14  
 1/16 4/1 4/24  
 50/20  
**staff** [2] 20/9 26/20  
**stalls** [3] 38/2 38/5  
 43/20  
**started** [1] 12/19  
**starting** [1] 27/16

**state** [10] 1/17 4/23  
 8/14 8/16 42/22  
 45/6 49/15 49/17  
 50/20 51/5  
**stated** [1] 31/5  
**STATES** [2] 1/2 47/5  
**status** [6] 21/10  
 21/16 23/10 30/22  
 31/2 33/23  
**stays** [1] 44/4  
**Stenograph** [1]  
 51/13  
**steps** [1] 22/12  
**Steve** [3] 33/7 34/9  
 34/12  
**Stevie** [1] 2/6  
**still** [2] 14/7 46/4  
**store** [1] 37/11  
**straw** [1] 6/25  
**STREET** [4] 1/21 2/6  
 4/24 5/1  
**Stuart** [1] 2/11  
**student** [12] 15/8  
 15/17 17/4 17/14  
 20/13 22/12 22/21  
 24/4 38/1 39/6  
 42/25 43/13  
**student's** [1] 15/19  
**students** [37] 3/13  
 10/12 13/9 14/10  
 14/13 17/3 17/13  
 17/20 18/8 18/22  
 23/6 25/22 26/17  
 28/17 28/24 29/14  
 29/22 35/25 36/2  
 36/4 37/8 37/18  
 37/22 37/23 38/12  
 38/20 42/12 42/12  
 42/13 42/23 43/3  
 47/23 48/6 48/20  
 49/5 49/12 49/22  
**students'** [1] 40/13  
**stuff** [1] 36/24  
**subject** [2] 33/3  
 39/22  
**subsequent** [2] 9/3  
 27/16  
**successfully** [1]  
 47/24  
**such** [1] 48/8  
**sued** [1] 47/24  
**suite** [5] 1/21 2/16  
 36/18 40/5 40/8  
**Sulkoske** [3] 1/16  
 51/4 52/6  
**supervision** [2] 8/12  
 8/17  
**supervisor** [1] 24/25  
**supervisors** [1]  
 25/16  
**sure** [8] 24/13 27/7  
 31/7 31/8 31/23  
 34/19 42/2 48/14  
**surgery** [7] 22/4  
 22/17 22/24 35/20

**surgical** [1] 18/24  
**sworn** [3] 1/16 4/2  
 51/6  
**symbols** [1] 37/5  
**system** [3] 20/14  
 20/21 21/2

---

**T**  
**take** [11] 6/7 6/11  
 17/2 17/12 23/14  
 26/24 42/20 42/23  
 42/24 42/25 43/3  
**taken** [5] 1/17  
 21/21 25/18 51/8  
 51/12  
**taking** [3] 5/16 5/19  
 43/13  
**talk** [6] 5/21 5/25  
 6/1 6/2 6/9 50/7  
**talked** [5] 16/23  
 16/25 19/5 44/18  
 48/14  
**talking** [2] 30/10  
 44/17  
**teacher** [3] 7/25  
 25/13 27/5  
**teachers** [3] 20/14  
 20/17 26/14  
**team** [1] 43/11  
**teams** [1] 43/8  
**teleconference** [1]  
 1/17  
**telephonic** [1] 31/12  
**tell** [3] 4/3 48/24  
 51/7  
**telling** [2] 22/15  
 22/20  
**tenth** [1] 7/12  
**term** [7] 9/6 9/8  
 9/10 9/14 9/22  
 10/15 49/24  
**TERRE** [9] 1/3 1/13  
 1/15 4/25 7/3 7/17  
 10/11 25/13 45/11  
**Terre Haute** [6]  
 4/25 7/3 7/17  
 10/11 25/13 45/11  
**testified** [3] 4/4  
 48/4 48/17  
**testify** [1] 6/23  
**testifying** [1] 47/3  
**testimony** [3] 48/11  
 48/12 51/14  
**testosterone** [3]  
 12/21 35/20 41/5  
**than** [3] 38/1 39/13  
 39/25  
**Thank** [9] 17/9 20/2  
 21/13 21/17 24/19  
 26/13 41/18 47/16  
 50/12  
**Thanks** [1] 50/13  
**that** [343]  
**their** [46] 6/23 6/23

19/1 19/22 10/23  
 11/2 11/2 11/3  
 11/7 12/3 12/7  
 12/17 13/3 17/5  
 17/21 18/12 18/18  
 18/23 19/11 19/23  
 20/7 20/15 21/25  
 22/13 22/21 23/10  
 24/1 25/7 25/9  
 26/21 26/21 30/22  
 32/9 35/3 35/24  
 41/7 41/10 41/17  
 42/23 42/24 43/3  
 46/19 47/25 48/19  
 49/6 49/23  
**them** [11] 11/22  
 16/12 19/22 23/12  
 26/21 37/15 38/8  
 41/7 41/20 44/11  
 46/18  
**then** [8] 5/10 12/15  
 21/20 31/16 31/25  
 33/10 34/6 43/2  
**there** [51] 5/15  
 5/15 11/17 13/24  
 18/3 18/25 20/6  
 20/9 23/4 23/20  
 24/22 26/1 26/14  
 26/15 26/15 27/8  
 27/12 29/15 31/7  
 31/9 31/14 31/15  
 31/17 32/1 33/2  
 33/9 33/25 34/7  
 35/19 36/4 36/4  
 37/3 37/10 37/20  
 37/21 38/1 38/9  
 38/15 38/15 40/9  
 40/24 43/8 43/19  
 43/21 43/22 43/22  
 44/1 45/1 45/11  
 48/5 49/20  
**there's** [1] 8/8  
**thereafter** [1] 51/15  
**these** [12] 11/23  
 11/25 12/13 23/15  
 24/5 24/16 28/17  
 30/9 31/6 31/19  
 31/25 37/14  
**they** [61]  
**thing** [3] 6/10  
 20/24 21/19  
**things** [5] 9/16  
 10/22 15/9 16/10  
 26/4  
**think** [4] 4/13 23/6  
 41/16 45/4  
**this** [83]  
**THNVHS** [1] 3/16  
**those** [17] 13/25  
 15/9 16/10 16/21  
 16/23 18/7 23/8  
 26/16 27/4 37/7  
 37/12 37/15 37/22  
 38/17 38/18 38/23  
 46/21

**though** [1] 30/9  
**thought** [1] 21/18  
**three** [2] 10/22  
 36/16  
**through** [16] 12/16  
 15/9 16/5 16/10  
 16/12 16/21 16/23  
 16/25 20/4 26/12  
 33/10 33/10 39/2  
 39/10 42/17 42/18  
**throughout** [1]  
 38/17  
**time** [17] 4/15 5/9  
 8/23 24/7 24/10  
 25/14 25/18 26/20  
 29/9 31/22 35/19  
 38/1 38/19 38/19  
 46/10 50/8 51/9  
**times** [3] 18/8  
 40/24 48/23  
**title** [1] 28/13  
**today** [7] 4/12 4/18  
 6/6 6/20 18/16  
 35/16 46/4  
**together** [2] 23/8  
 25/17  
**told** [6] 5/10 16/1  
 16/3 16/4 34/25  
 46/23  
**too** [3] 5/25 6/1 6/2  
**took** [1] 24/5  
**top** [1] 21/4  
**topics** [1] 23/20  
**track** [1] 40/1  
**Training** [2] 45/21  
 45/25  
**trans** [1] 33/3  
**transgender** [26]  
 3/13 9/7 9/11 9/11  
 9/16 10/12 10/15  
 13/9 14/10 14/13  
 17/4 17/14 17/19  
 17/24 18/22 22/21  
 23/10 30/9 30/22  
 31/2 33/23 47/23  
 48/7 49/12 49/22  
 49/25  
**treated** [2] 11/12  
 48/8  
**treatment** [2] 13/2  
 23/4  
**Trial** [1] 1/18  
**true** [3] 40/14  
 40/15 51/14  
**truth** [4] 4/3 4/3  
 4/4 51/7  
**trying** [3] 21/3 23/7  
 23/7  
**Twenty** [1] 7/22  
**Twenty-six** [1] 7/22  
**two** [13] 12/20  
 17/18 23/22 25/3  
 27/4 27/10 28/17  
 29/16 30/4 30/9  
 31/14 37/21 38/15

**T**  
**typewriting [1]**  
51/13

**U**  
**unclear [1]** 24/15  
**undefined [5]** 9/17  
10/15 17/24 31/2  
49/25  
**under [7]** 4/16 5/12  
12/16 13/2 13/21  
25/21 51/13  
**understand [14]**  
5/13 5/17 5/24 6/3  
6/4 10/13 10/21  
10/24 11/4 11/8  
11/14 44/25 45/4  
46/21  
**understanding [15]**  
4/20 9/10 9/14  
9/20 9/24 10/7  
10/19 12/4 29/2  
30/24 31/5 33/15  
44/18 44/21 45/17  
**uniform [1]** 28/25  
**uniforms [5]** 46/10  
46/11 46/15 46/20  
47/2  
**unisex [2]** 35/13  
38/11  
**Unit [2]** 45/21  
45/25  
**UNITED [2]** 1/2 47/5  
**United States [1]**  
47/5  
**University [4]** 8/4  
8/14 8/16 12/16  
**Unless [2]** 41/10  
41/19  
**until [3]** 19/5 35/4  
44/10  
**up [3]** 13/23 25/22  
48/23  
**UPON [1]** 1/13  
**urinals [3]** 38/2  
38/8 38/9  
**us [2]** 20/5 20/12  
**usage [1]** 30/23  
**use [33]** 9/6 10/23  
11/7 13/13 17/15  
17/21 18/11 22/16  
23/10 27/18 27/20  
28/19 35/2 35/12  
35/13 35/16 35/22  
35/23 35/25 37/25  
39/3 39/21 40/4  
40/19 40/25 41/12  
41/21 44/8 44/11  
48/18 48/21 49/6  
49/22  
**used [6]** 21/17  
38/19 38/24 38/24  
48/16 48/20  
**uses [2]** 36/21 39/7

**using [5]** 17/4  
19/22 20/8 29/6  
29/21

**V**  
**vague [5]** 9/17  
10/16 17/24 31/2  
49/25  
**various [3]** 22/12  
43/11 44/3  
**VCSC [1]** 3/12  
**Verified [2]** 3/6 3/8  
**verify [1]** 51/18  
**very [4]** 6/6 30/6  
32/12 39/18  
**via [1]** 1/17  
**vice [3]** 28/5 30/21  
32/5  
**VIGO [20]** 1/8 1/12  
1/13 1/15 1/15 5/2  
5/4 7/2 7/4 7/13  
7/17 10/11 12/1  
12/6 13/7 18/16  
21/6 25/1 45/11  
50/3  
**Vigo County [1]**  
25/1  
**vigoschools.org [1]**  
33/4  
**Voll [1]** 26/1  
**volleyball [1]** 43/11  
**vs [1]** 1/7

**W**  
**wait [1]** 19/5  
**walk [1]** 26/12  
**walked [3]** 16/5  
16/10 16/12  
**wandering [1]** 39/2  
**want [13]** 6/7 6/8  
11/16 18/6 23/14  
24/14 26/12 27/20  
28/17 28/18 35/12  
39/2 42/14  
**wanted [3]** 17/20  
27/18 48/18  
**wanting [1]** 17/15  
**was [43]** 4/4 4/12  
7/23 8/23 9/13  
11/19 12/23 13/12  
13/15 14/5 16/14  
23/24 24/7 24/12  
25/13 26/8 26/11  
28/16 29/15 29/16  
29/18 30/15 31/15  
31/17 31/19 31/21  
31/23 33/13 33/24  
34/14 34/23 34/25  
35/1 39/16 40/22  
41/1 46/25 47/12  
50/8 51/6 51/8  
51/12 51/15  
**Washington [1]** 2/6  
**way [3]** 34/20 36/14  
39/7

**we [41]** 4/10 4/18  
5/20 5/21 6/6 6/11  
11/16 11/17 11/21  
15/7 15/10 16/10  
16/22 18/8 18/25  
18/25 19/14 19/16  
19/23 20/4 20/11  
20/12 21/20 22/3  
23/9 26/5 34/2  
37/20 38/13 42/12  
42/14 42/14 43/2  
45/4 45/6 47/14  
47/18 47/19 48/14  
50/13 50/14  
**wear [6]** 28/25 29/1  
46/10 46/14 46/20  
47/2  
**website [1]** 13/22  
**week [1]** 30/3  
**well [6]** 11/14  
11/20 22/8 27/13  
27/24 44/6  
**Wendi [3]** 1/16 51/4  
52/6  
**went [1]** 40/25  
**were [48]** 5/10 6/22  
6/24 8/19 8/25  
11/20 12/23 13/1  
13/2 13/3 13/22  
15/21 15/24 16/1  
16/3 16/4 16/5  
16/5 18/11 19/23  
23/20 24/3 24/6  
24/8 24/16 25/15  
25/17 28/24 29/5  
29/6 29/17 31/7  
31/7 31/9 31/12  
31/14 32/12 32/14  
32/20 32/24 35/4  
40/16 46/12 46/23  
48/5 48/7 48/8  
50/10  
**West [3]** 4/24 4/24  
5/1  
**what [49]** 5/1 5/4  
6/14 7/7 7/8 7/23  
8/11 11/18 11/19  
12/10 13/6 13/7  
13/10 13/19 15/2  
15/9 15/10 16/4  
16/10 16/20 18/16  
20/22 21/10 22/15  
22/19 22/19 22/20  
23/6 30/3 31/11  
31/22 32/12 32/14  
32/20 34/5 34/22  
36/16 39/14 40/12  
40/13 41/24 42/2  
42/9 43/8 44/1  
44/21 45/14 46/19  
47/2  
**when [7]** 8/5 13/12  
34/8 35/19 37/2  
38/24 48/14  
**where [15]** 8/3 8/13

11/16 16/6 18/8  
18/11 20/21 21/11  
22/11 36/5 36/8  
37/18 38/14 40/9  
43/22  
**WHEREOF [1]** 52/1  
**whether [3]** 31/11  
41/16 46/14  
**which [9]** 4/11 8/24  
12/1 14/5 34/1  
41/10 43/2 48/15  
50/9  
**while [1]** 24/5  
**who [22]** 4/9 9/12  
10/11 16/12 17/20  
23/24 25/11 25/22  
26/1 26/10 26/16  
27/4 27/7 28/8  
28/11 36/2 36/5  
43/13 47/12 47/16  
48/7 48/18  
**whole [1]** 4/3  
**whom [4]** 28/4 28/8  
30/16 31/12  
**Whose [1]** 46/14  
**why [4]** 22/23 25/5  
25/17 42/9  
**will [33]** 4/14 5/20  
6/1 6/3 6/6 7/13  
7/16 9/15 10/2  
17/11 18/21 18/25  
19/9 20/9 20/14  
20/17 21/5 21/8  
21/24 21/24 22/5  
22/16 28/22 33/20  
34/20 35/11 35/21  
36/16 37/2 37/18  
41/7 41/20 50/14  
**Wilson [2]** 24/6  
24/12  
**withdraw [2]** 33/20  
34/20  
**within [2]** 17/20  
42/13  
**without [2]** 18/23  
49/23  
**witness [6]** 1/16 4/2  
9/18 10/5 31/4  
52/1  
**Wohlford [1]** 2/16  
**Woodrow [1]** 24/6  
**word [1]** 9/11  
**work [1]** 8/8  
**working [2]** 15/9  
25/17  
**would [36]** 6/10  
11/11 13/21 13/23  
14/5 15/7 15/14  
16/12 16/13 19/5  
21/18 24/10 24/11  
26/20 27/23 32/24  
34/4 34/4 35/2  
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**Zoom [1]** 1/17

**VIGO COUNTY SCHOOL CORPORATION  
ADMINISTRATIVE GUIDELINE REGARDING ACCOMMODATIONS FOR  
TRANSGENDER STUDENTS**

Pursuant to Policy AC, the School Corporation does not allow discrimination on the basis of sex. Accordingly, and in light of recent court decisions interpreting this prohibition under federal law, the School Corporation provides these guidelines as to how the School Corporation interprets its nondiscrimination policy as it pertains to a transgender student's use of School Corporation restrooms.

This administrative guideline does not apply to requests other than request for access to restrooms. For example, this administrative guideline does not apply requests by transgender students or their parents or guardians for access to locker rooms or overnight boarding accommodations that do not correspond with the student's sex at birth or request related to sports programs. Such requests should be placed with the school's administrator and are evaluated on a case-by-case basis. Furthermore, this administrative guideline does not pertain to requests with respect to participation in sports governed by another body (e.g., Indiana High School Athletic Association, etc.).

**Access to Restroom**

The School Corporation reaffirms its commitment to nondiscrimination on the basis of sex, but the School Corporation also recognizes the legitimate privacy interest of all students. The School Corporation also is committed to policies and practices that grant all students equal program access without regards to sex, are workable, objective, practicable, equitably enforced, and based on sound medical science and scientific validity. Toward that end, transgender students or their parents or guardians as well as School Corporation staff should utilize the following procedures to evaluate requests for accommodations regarding use of restrooms within the School Corporation.

1. **Request Placed with School Administrator.**

Any student or parent or guardian of a student wishing to obtain use of any School Corporation restroom that does not correspond with the student's sex at birth must first place their request with the school administrator charged with oversight over the facility in which the restroom is located.

2. **Consideration of Accommodation by Administrator.**

In evaluating the request, the school administrator shall consider the following factors:

- The student's age;
- Whether the students current birth certificate reflects their new sex or whether there is any pending petition or legal process pursued by the student to change their birth certificate;
- The duration of any public or aesthetic transition period;

- Whether the student placed a previous request for a name change or change in associated pronouns with School Corporation teachers or administrators, including the central office;
- Whether the student has presented a diagnosis of Gender Dysphoria that is:
  - Demonstrated in writing;
  - Pursuant to the most recent version of the American Psychiatric Association's Diagnostic & Statistical Manual of Mental Disorders (currently DSM-5);
  - Diagnosed by a psychiatrist licensed to practice medicine in the United States; or
  - Diagnosed by a psychiatrist possessing appropriate board certification (*e.g.*, Child and Adolescent Psychiatry);
- Whether the student receives hormone treatment that is:
  - Demonstrated in writing;
  - Approved by a medical doctor licensed to practice medicine in the United States; or
  - Approved by an appropriately board-certified physician (*e.g.*, pediatric endocrinology);
- The duration of any hormone treatment;
- Whether the student has received any other medical treatment or undergone any medical procedure related to their transition;
- Other medical conditions of the student as diagnosed in writing by a medical doctor licensed to practice medicine in the United States that pertain to the requested accommodation;
- Concerns or objections raised by other students or parents or guardians of other students with respect to any requested accommodation;
- Facility restrictions; and
- Accommodations offered to other similarly-situated individuals.

The administrator must request that the student or parent or guardian of the student provide any evidence related to these factors to facilitate consideration within a reasonably time period set by the administrator.

All communications among involved parties and required supporting documentation shall be kept confidential in accordance with applicable student information and medical information privacy laws.

The administrator shall promptly consider the request and then notify the student or parent and guardian of the student whether the request was granted or denied.

3. Appeal.

Within ten (10) calendar days of the administrator's decision regarding the accommodation, a student or parent or guardian of a student may appeal any adverse decision to the Superintendent for consideration.

3254614\_1

# Terre Haute North Vigo High School

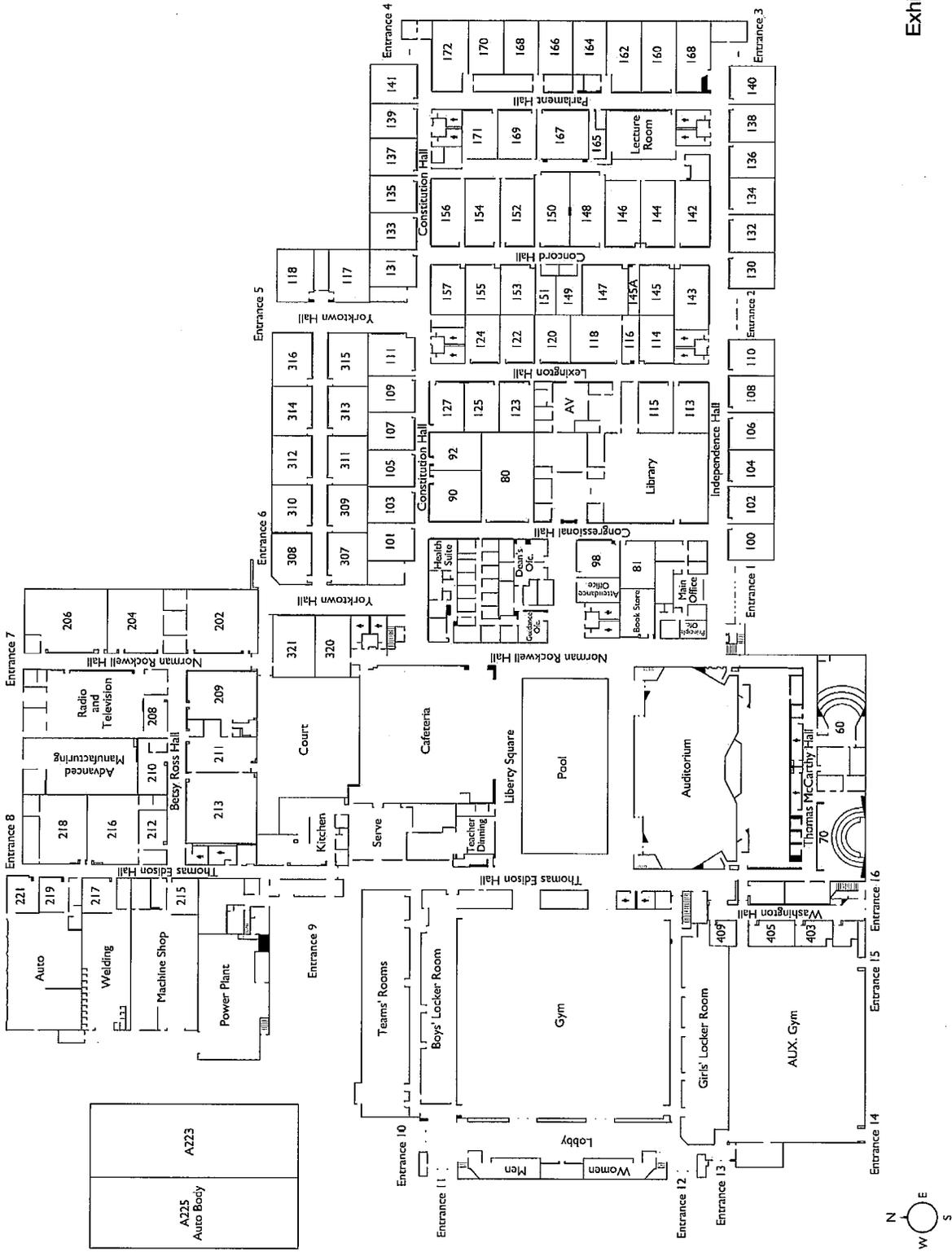


Exhibit 9

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
TERRE HAUTE DIVISION

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B.E. and S.E., minor children  
by their mother, legal guardian,  
and next friend, L.E.,  
Plaintiffs,

v. Case No.

VIGO COUNTY SCHOOL CORPORATION, 2:21-cv-00415-JRS-MG  
PRINCIPAL, TERRE HAUTE NORTH  
VIGO HIGH SCHOOL, in his  
official capacity,  
Defendants.

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VIDEOCONFERENCE DEPOSITION OF  
L.E.

DATE: Tuesday, December 21, 2021  
TIME: 9:01 a.m.  
LOCATION: Remote Proceeding  
Indianapolis, IN 46204  
REPORTED BY: Andrew Pronschinske, Notary Public  
JOB NO.: 4992729



<p style="text-align: right;">Page 6</p> <p>1 L.E.: Okay, thanks, Stevie.                  2 MS. PACTOR: Yeah.                  3 THE REPORTER: Okay. I will resume                  4 then.                  5 I am a notary authorized to take                  6 acknowledgements and administer oaths in Indiana.                  7 Parties agree that I will swear in the witness                  8 remotely, outside of his or her presence.                  9 Additionally, absent an objection on                  10 the record before the witness is sworn, all parties                  11 and the witness understand and agree that any                  12 certified transcript produced from the recording                  13 virtually of this proceeding:                  14 - is intended for all uses permitted                  15 under applicable procedural and                  16 evidentiary rules and laws in the same                  17 manner as a deposition recorded by                  18 stenographic means; and                  19 - shall constitute written stipulation                  20 of such.                  21 At this time, will everyone in                  22 attendance please identify yourself for the record,                  23 beginning with the witness?                  24 L.E.: L.E.                  25 MS. BENSBERG: Kathleen Bensberg,</p>	<p style="text-align: right;">Page 8</p> <p>1 THE REPORTER: We may proceed.                  2 EXAMINATION                  3 BY MR. ZIMMERLY:                  4 Q Good morning, L.E. My name is Phil                  5 Zimmerly. I am the -- I'm one of the counsels for                  6 Vigo County School Corporation.                  7 We're here for your deposition today. Thank                  8 you for being here. Would you, please, state your                  9 name for the record?                  10 A L.E. -- I mean, L.E.                  11 Q So we're here for your deposition. Have you                  12 ever given a deposition before?                  13 A No.                  14 Q So just a few ground rules for today, you                  15 understand that you're under oath, and so you have the                  16 obligation to provide truthful and accurate testimony.                  17 A Yes.                  18 Q Is there any reason why you could not                  19 provide truthful and accurate testimony today?                  20 A No.                  21 Q You're not under the influence of any drugs                  22 or alcohol or medication that would affect your                  23 testimony today.                  24 A No.                  25 Q You're doing a great job in giving me a</p>
<p style="text-align: right;">Page 7</p> <p>1 L.E.'s counsel.                  2 MR. ZIMMERLY: This is Phil Zimmerly,                  3 counsel for the defendant, Vigo County School                  4 Corporation.                  5 MR. FALK: Ken Falk from the ACLU,                  6 counsel for the plaintiffs.                  7 MS. PACTOR: Stevie Pactor, ACLU of                  8 Indiana, counsel for the plaintiffs.                  9 THE REPORTER: Excuse me. Could you                  10 repeat that? Your connection is not very strong.                  11 MS. PACTOR: Stevie Pactor from the                  12 ACLU of Indiana, counsel for the plaintiffs.                  13 MS. STUART: Megan Stuart of Indiana                  14 Legal Services, counsel for plaintiff.                  15 MR. WOHLFORD: Mark Wohlford of Bose                  16 McKinney &amp; Evans, counsel for the defendant, school                  17 corporation.                  18 THE REPORTER: Thank you. Hearing no                  19 objection, I will now swear in the witness. Please,                  20 raise your right hand.                  21 WHEREUPON,                  22 L.E.,                  23 called as a witness, and having been first duly sworn                  24 to tell the truth, the whole truth and nothing but the                  25 truth, was examined and testified as follows:</p>	<p style="text-align: right;">Page 9</p> <p>1 verbal response.                  2 A Thank you.                  3 Q If at some point in time you nod your head                  4 or shake your head, I may ask you to give a verbal                  5 response so that we can get that for purposes of the                  6 record. Do you understand that?                  7 A Yes.                  8 Q I'm going to presume that if I ask a                  9 question and you answer the question that you                  10 understood the question that I asked. Is that fair?                  11 A Yes.                  12 Q And if at any point in time you need to take                  13 a break to get a snack or run to the restroom, totally                  14 fine, the only caveat that I have with regard to that                  15 is if there is a question pending, I just would ask                  16 that you answer that question before we take a break.                  17 Is that fair?                  18 A Yes.                  19 Q So, L.E., let's talk a little bit about your                  20 family. It's my understanding that you have two                  21 children. Is that true?                  22 A Yes, I do.                  23 Q And that is who we've identified on the                  24 record as "B.E." and "S.E." Is that true?                  25 A Yes.</p>

<p style="text-align: right;">Page 10</p> <p>1 Q Do you have any other children?</p> <p>2 A No, I do not.</p> <p>3 Q Are you married?</p> <p>4 A No, I'm not.</p> <p>5 Q Were you married at one point in time?</p> <p>6 A Yes, I was.</p> <p>7 Q And who were you married to?</p> <p>8 A Leo Smith.</p> <p>9 Q Leo Smith. Are you now divorced from</p> <p>10 Mr. Smith?</p> <p>11 A Yes.</p> <p>12 Q Was Mr. Smith the father of B.E. and S.E.?</p> <p>13 A No.</p> <p>14 Q Who is the father of B.E. and S.E.?</p> <p>15 A Matt Reyeher.</p> <p>16 Q You said Matt Breyer?</p> <p>17 A Reyeher.</p> <p>18 Q Reyeher, how do you spell that?</p> <p>19 A R-E-H -- I don't know, E-H-E-Y [sic],</p> <p>20 Reyeher. He is not involved; so it doesn't matter.</p> <p>21 Q Does he have any legal status with regard to</p> <p>22 your children, B.E. and S.E., any --</p> <p>23 A No.</p> <p>24 Q Did he, at any point in time, have any legal</p> <p>25 custody or joint custody of the children?</p>	<p style="text-align: right;">Page 12</p> <p>1 there, and did you -- well, first, are those your</p> <p>2 initials there on the seventh page?</p> <p>3 A Yes, they are.</p> <p>4 Q And did you initial this declaration?</p> <p>5 A Yes, I did.</p> <p>6 Q And was this declaration prepared by your</p> <p>7 attorney on your behalf?</p> <p>8 A It was with both -- with myself and them.</p> <p>9 Q Okay. Let's look at Paragraph 4 of the</p> <p>10 declaration, on Page 1.</p> <p>11 A Yes.</p> <p>12 Q Page 4 -- on Page 1, Paragraph 4, there's a</p> <p>13 statement where you're referring to your children, and</p> <p>14 you state, "They are both boys who are transgender.</p> <p>15 They were designated female at birth, the gender</p> <p>16 listed on the birth certificates.</p> <p>17 "They told me when they were in elementary</p> <p>18 school that they are boys." What year in elementary</p> <p>19 school did your children tell you that they were boys?</p> <p>20 A When they was in fifth going into sixth.</p> <p>21 Q Did they tell you both at the same time that</p> <p>22 information, or did they tell you separately?</p> <p>23 A Separate.</p> <p>24 Q What do you recall about those</p> <p>25 conversations? Let's start with B.E. Tell me about</p>
<p style="text-align: right;">Page 11</p> <p>1 A No.</p> <p>2 Q Where do you currently work; do you</p> <p>3 currently work?</p> <p>4 A I'm on medical leave.</p> <p>5 Q Okay. And where are you on medical leave</p> <p>6 from?</p> <p>7 A Vigo County School Corporation.</p> <p>8 Q And what is your role at Vigo County School</p> <p>9 Corporation?</p> <p>10 A Cafeteria at Sugar Grove.</p> <p>11 Q And how long have you been in that role?</p> <p>12 A For seven years.</p> <p>13 Q I'm going to ask you -- I think I'm going to</p> <p>14 frame my questions a lot around the declaration you</p> <p>15 provided. Do you have a copy of that?</p> <p>16 A Yes, I do.</p> <p>17 Q So if you wouldn't mind pulling that out,</p> <p>18 we've identified that as being Exhibit 11.</p> <p>19 (Exhibit 11 was marked for</p> <p>20 identification.)</p> <p>21 It's a document that is titled Declaration</p> <p>22 of L.E., and if you turn to the ninth page -- well,</p> <p>23 actually, not the ninth page, this is the seventh</p> <p>24 page.</p> <p>25 Is that your -- are those your initials</p>	<p style="text-align: right;">Page 13</p> <p>1 your conversation with B.E. where B.E. told you that</p> <p>2 that child was a boy.</p> <p>3 A Well, he didn't want to come out at first to</p> <p>4 me, but he was -- he didn't know what to say to me.</p> <p>5 He was afraid how I would react.</p> <p>6 But he told me that he felt different. He</p> <p>7 is not who he is when he looks at himself.</p> <p>8 Q Do you recall anything else about that</p> <p>9 conversation?</p> <p>10 A No --</p> <p>11 Q How did you -- go ahead.</p> <p>12 A I don't know what you're asking.</p> <p>13 Q Sure. Do you recall B.E. saying anything</p> <p>14 else to you during that conversation?</p> <p>15 A That he didn't enjoy his body. He was</p> <p>16 depressed. He hated himself until he came out to me,</p> <p>17 and I told him that I would always be there</p> <p>18 regardless.</p> <p>19 Q So you told B.E. that you would always be</p> <p>20 there regardless. Did you say anything else or have</p> <p>21 any other response to the information that B.E. shared</p> <p>22 with you?</p> <p>23 A No.</p> <p>24 Q And was this the summer between the fifth</p> <p>25 and sixth-grade year, or when exactly in terms of</p>

Page 14

1 their fifth and sixth grade did year did this  
 2 conversation with B.E. occur?  
 3 A I really don't remember. It's been a while.  
 4 Q Okay. Did you do anything in response to  
 5 the information that B.E. shared with you?  
 6 A Yes. I did my research, and I took -- I got  
 7 resources. And we go to Riley Hospital, and they  
 8 start their -- they started their hormones.  
 9 It been a month and three weeks that they  
 10 have been on hormones. Their body is changing, and  
 11 they are a lot happier with themselves.  
 12 Q When you say that you did your research,  
 13 what did your research consist of at that time in the  
 14 fifth or sixth-grade year when B.E. shared this  
 15 information with you?  
 16 A I needed resources like research-wise to  
 17 understand because I don't -- I am not experiencing  
 18 that. So I need to understand.  
 19 So I was looking up resources on gender,  
 20 identifying transgender stories, family groups,  
 21 support groups. And the support groups that I've been  
 22 to, they, all their kids has experienced what we  
 23 have -- going through.  
 24 Q Was this research that you were conducting  
 25 online via Google or some other online search engine,

Page 15

1 or was it through some other means?  
 2 A Like Google, Next Gender, I reached out to  
 3 the lawyers, anything I could get my hands on,  
 4 honestly.  
 5 Q And so in terms of the support group that --  
 6 is it just one support group, or was more than one  
 7 support group that you were a part of?  
 8 A I was in two different kinds of support  
 9 groups.  
 10 Q And what were those?  
 11 A It was through Riley Hospital.  
 12 Q Both groups were through Riley Hospital.  
 13 A Yes.  
 14 Q And what were the names of those groups?  
 15 A Parents with Transgender Kids, I believe.  
 16 Q Okay. And was there a second group?  
 17 A Yeah, it was the same name.  
 18 Q Okay, just a different group of parents that  
 19 were a part of that group.  
 20 A Yeah.  
 21 Q In terms of conducting this research and  
 22 going to Riley Hospital, is that something that you  
 23 did in the fifth and sixth grade when your children  
 24 were in fifth and sixth grade, or was that something  
 25 that's happened more recently?

Page 16

1 A Well, it was due to COVID and closings and  
 2 stuff like that; it took us a little bit longer to get  
 3 in the system. It happened in 2001 when we started  
 4 talking, no, yeah. No, I don't know; I don't  
 5 remember.  
 6 Q Sure. I suppose let's try to get a little  
 7 bit -- try to firm up the timeline a little bit. When  
 8 did you begin bringing your children to Riley for  
 9 treatment?  
 10 A About four years, five.  
 11 Q So they have both been going to Riley  
 12 Hospital for treatment since approximately 2016 or  
 13 2017.  
 14 A Yes, for this purpose, but they always go to  
 15 Riley Hospital because they have stomach issues also.  
 16 Q Okay. It was approximately four or five  
 17 years ago where they began seeing a medical  
 18 professional with regard to their sharing information  
 19 about not feeling comfortable in their bodies.  
 20 A Yes.  
 21 Q And who did they begin to see at Riley  
 22 Hospital in the 2016/2017-time frame as to those  
 23 issues?  
 24 A Dr. Bell and the gender clinic.  
 25 Q What is Dr. Bell's first name?

Page 17

1 A I don't know.  
 2 Q And what is -- is it a -- well, Dr. Bell,  
 3 what is that doctor's area of specialty?  
 4 A He is a doctor -- I mean, she is a doctor  
 5 that specializes in transgender.  
 6 Q Okay. And then there were other medical  
 7 professionals that your children saw at the gender  
 8 clinic.  
 9 A Yes.  
 10 Q Do you know the names of those individuals?  
 11 A No, I don't.  
 12 Q So backtracking a little bit, we talked  
 13 about the conversation that you had with B.E. where  
 14 B.E. told you that B.E. was a boy, and there was a  
 15 separate conversation you had with S.E. in that  
 16 regard. Is that true?  
 17 A Yes, yes.  
 18 Q Tell me about that conversation. What did  
 19 S.E. say to you?  
 20 A He was telling me that he wasn't feeling  
 21 comfortable with the body; he doesn't -- I mean, he  
 22 doesn't see himself as a female, felt different  
 23 throughout his whole life, and he cannot pretend  
 24 anymore who he is.  
 25 And he said that he was a boy, so. And I,

Page 18

1 of course, said it would be okay. "We will handle  
 2 this; we will take care of it," what a parent should  
 3 do.  
 4 Q Do you recall S.E. sharing any other  
 5 information with you at that time?  
 6 A Besides both them going through hell  
 7 emotionally and I didn't know. So, yeah, that kind of  
 8 hurt me as a parent.  
 9 Q What do you recall about those statements?  
 10 A Well, it was mostly about school, you know,  
 11 how people treat them, and how they see themselves  
 12 and --  
 13 Q Do you recall specifically what S.E. said to  
 14 you about going through hell, specifically what S.E.  
 15 told you?  
 16 A Yes, like looking at yourself in the mirror,  
 17 you see yourself as who you are. He did not see  
 18 himself as that.  
 19 So that would have to, you know, do a mind  
 20 trick on you I would imagine, you know, and people  
 21 referring them as "females" knowing that they feel  
 22 like they -- I mean, they are guys.  
 23 Q Do you recall anything else about your  
 24 response to that in that S.E. shared with you?  
 25 A No.

Page 19

1 Q And who shared this information with you  
 2 first? Was it B.E., or was it S.E.?  
 3 A I don't remember.  
 4 Q And did they both begin going to Riley  
 5 Hospital to the gender clinic at the same time four or  
 6 five years ago?  
 7 A Yes.  
 8 Q And did they see the same medical  
 9 professionals?  
 10 A Yes.  
 11 Q Okay. You mentioned that there was -- that  
 12 they go to Riley -- do they go to Riley for all other  
 13 care as well?  
 14 A Yes.  
 15 Q And what other types -- I think you  
 16 mentioned some gastrointestinal issues. Can you tell  
 17 me a little bit about that?  
 18 We will start with -- do they have the same  
 19 issue or different issues?  
 20 A They are pretty much the same issues. They  
 21 was 25 weeks old when I gave birth. So they was  
 22 preemies.  
 23 They only weighed a pound each; they spent  
 24 seven months at Riley Hospital. They came home on  
 25 feeding tubes, oxygen, monitors.

Page 20

1 They have -- they had PT. First Dibs,  
 2 that's what the program was. At birth, a week after  
 3 B.E. was born, his intestine burst.  
 4 So they had to put a Penrose in -- in there,  
 5 and it healed. So they did not have to do any more  
 6 surgeries. But due to the scar and tissue, he is very  
 7 sensitive.  
 8 He has nerve damage, and their colons do not  
 9 contract, intestines, does not contract like how it  
 10 should. They go very slowly. So they take a lot of  
 11 laxatives, more than the average Joe.  
 12 And that's going to be a ongoing type thing.  
 13 And they have acid reflux, and like the acid doesn't  
 14 empty. It takes the acid longer because there's like  
 15 three different kinds of acids in your stomach, like  
 16 how it goes. I don't know. It's really complicated.  
 17 Okay?  
 18 Q Sure. Well, it sounds like both your  
 19 children are miracle babies to be born at 25 weeks at  
 20 a pound. That's amazing.  
 21 And so in terms of their ongoing care for --  
 22 you mentioned that B.E. had the intestine that burst.  
 23 Did S.E. have an intestine that burst as well or --  
 24 A No.  
 25 Q Okay. But S.E. also, in terms of the

Page 21

1 regiment of care that S.E. is receiving, S.E. also is  
 2 on these laxatives.  
 3 A Yes, laxatives due to the intestines not  
 4 contracting and acid reflux.  
 5 Q Okay. And have they been taking those  
 6 laxatives throughout the course of their life, or when  
 7 did those laxatives begin?  
 8 A Due to -- in the beginning.  
 9 Q So they have been taking laxatives since  
 10 they were children, I mean, you know.  
 11 A Yes, infants.  
 12 Q Infants, okay. Is there any other sort of  
 13 medications that they have received for the  
 14 gastrointestinal issues?  
 15 A What do you mean?  
 16 Q Do they take any other medication? Are  
 17 there any other surgeries that are involved with the  
 18 gastrointestinal issues, or is it kind of confined as  
 19 sort of check-ups and the laxatives?  
 20 A Well, that and testings. I mean, we have  
 21 done a lot of testings, like upper GI, lower GI, pH  
 22 probe, X-rays, drinking the -- like a swallow study,  
 23 and then, yeah.  
 24 Q Okay. So with regard to the care that they  
 25 have received at Riley since they were born, and so

<p style="text-align: right;">Page 22</p> <p>1 they have been receiving that gastrointestinal care at  2 Riley since they were infants.  3 A Correct.  4 Q And in terms of going to the gender clinic  5 at Riley, that's been since approximately 2016 or  6 2017.  7 A Yes.  8 Q Okay. Let's turn back to your declaration,  9 Paragraph 5. There's a statement.  10 "They have been recognized as boys in our  11 home since they were about 11 years old and have lived  12 as boys ever since."  13 When you say that your children have been  14 recognized as boys in your home, what do you mean by  15 that?  16 A They are -- how they dress, their haircuts,  17 how -- how they act.  18 Q Anything else?  19 A No.  20 Q And when you say "how they act," what do you  21 mean by that?  22 A No offense, but boys are lazy.  23 Q Anything else about how they act like boys?  24 A No.  25 Q Continuing with Paragraph 5, there's a</p>	<p style="text-align: right;">Page 24</p> <p>1 in sixth or seventh grade?  2 A Yes.  3 Q Was there some point in time when S.E. used  4 the name S.E.?  5 A Yes.  6 Q And when did S.E. use that name?  7 A Off and on, he didn't know which middle name  8 he wanted, and then he settled for S.E.  9 Q Okay. Were there any other names that they  10 used beyond either their birth names or these names  11 that reflect their gender?  12 A No, I don't -- I don't know.  13 Q Okay. When did your children begin using  14 male pronouns?  15 A Maybe two years ago.  16 Q Do you know for certain?  17 A No.  18 Q So it could have been more recent than that.  19 A Yeah, it could be, at least a year or two,  20 yeah, like what I said because they always got on me  21 for messing up. I still do once in a while, but I'm  22 human, so.  23 Q When you say you mess up, you occasionally  24 have times where you use female genders to refer to  25 them?</p>
<p style="text-align: right;">Page 23</p> <p>1 statement. "They go by the names that reflect the  2 gender, use male pronouns, and are masculine in  3 appearance.  4 "Like most teenage boys, they wear their  5 hair in masculine styles and wear boys' clothes."  6 When did your children begin going by the names that  7 reflect their gender?  8 A In middle school.  9 Q And so when you say "middle school," what  10 grade would that have been?  11 A That would be between sixth and eighth.  12 Q Do you recall which grade they began going  13 by names that reflect their gender?  14 A Maybe sixth to seventh.  15 Q All right. Do you know for certain?  16 A No, not really, it been really long ago, so.  17 Q What name did B.E. use?  18 A His -- B.E.  19 Q Okay. And was there a middle name?  20 A Oh, B.E.  21 Q And his that now the legal name?  22 A Yes, it is.  23 Q And what name did S.E. use?  24 A S.E.  25 Q And was that the name that S.E. began using</p>	<p style="text-align: right;">Page 25</p> <p>1 A Yes.  2 Q Do you also mess up by using their birth  3 names from time to time?  4 A No, I don't do that.  5 Q So it's solely with regard to gender  6 pronouns that you use.  7 A Yeah. It's kind of hard for me even though  8 I don't have no problem with it. It's just I do that  9 regardless of whoever it is.  10 Q When they began using male pronouns, did  11 they do that exclusively at that point in time?  12 A Can you repeat that or --  13 Q Well, when B.E. -- we will start with B.E.  14 When B.E. began using male pronouns, did B.E.  15 exclusively use male pronouns at that point in time?  16 A Yes.  17 Q When S.E. began using male pronouns, did  18 S.E. exclusively use male pronouns at that time?  19 A Yes.  20 Q Was there a point in time where S.E. also  21 used a "they" pronoun?  22 A Yes.  23 Q And when did S.E. use the "they" pronoun?  24 A Within two years or a year, I --  25 Q Did B.E. also use the "they" pronoun, or was</p>

7 (Pages 22 - 25)

Page 26

1 it just S.E.?

2 A I think both of them did.

3 Q And what was your understanding of the use

4 of the "they" pronoun?

5 A Well, "they" could be a lot of things, so.

6 I --

7 Q And if it could use a lot of things, how did

8 you understand it?

9 A To me, "they" means more than one, but

10 that's me.

11 Q Okay. Do you have an understanding or did

12 they share with you as to -- well, we will start with

13 B.E. Did B.E. share with you why B.E. wanted to use

14 the "they" pronoun at that point in time?

15 A I don't know.

16 Q Did you ever speak with B.E. about the use

17 of the "they" pronoun?

18 A No.

19 Q Did S.E. ever share with you why or what

20 S.E.'s understanding of the "they" pronoun pertained

21 to?

22 A No.

23 Q So other than --

24 A They did say "they" would be considered

25 either, you know. It could be a female or a male,

Page 27

1 "they" could be.

2 Q Okay. And so --

3 A -- switched to "he" because they are boys.

4 Q I'm sorry. I cut you off. Would you say

5 that again?

6 A Then they, instead of saying "they," they

7 switched to "he" because they are boys.

8 Q Okay. So they no longer use the "they"

9 pronoun.

10 A Correct.

11 Q But there was a period of time, over the

12 course of the last year or two, where they were using

13 the "they" pronoun.

14 A Very short time, yes.

15 Q Turning back to your declaration,

16 Paragraph 6, there is a statement. "Since then, I've

17 asked their schools to refer to them by the names and

18 pronouns that reflect their gender."

19 When you say "since then," what year or

20 grade did you make this request to the school

21 corporation?

22 A I would say in eighth and ninth.

23 Q And how did you make the request?

24 A Well, they started writing their names, and

25 then teachers reached out to me and asked. And I

Page 28

1 granted the request.

2 I -- I'm like, "They go by S.E. and B.E. and

3 pronouns 'he,' 'him.'" Yeah, talked to the principal

4 at Wilson about it and I talked to the vice principal

5 or assistant principal, Ashley Lucas [ph], and Josh,

6 the principal, the main principal -- oh, Steve -- I am

7 so bad with names, Johnsons, no. I don't know his

8 last name. Joseph [ph].

9 Q Let's start with your -- do you recall who

10 you corresponded with regarding the use of the names,

11 writing the names, who reached out to you about that

12 initially?

13 A It was during COVID. So it was pick up for

14 homework. So we did it in-person. It was just --

15 they are like, "Oh, is it okay?" I'm like, "Yeah,

16 it's definitely okay. Yeah, you go ahead and you, you

17 know, use their preferred names."

18 Q Okay. So this was during COVID. So it

19 would have been sometime in 2020 or 2021.

20 A Uh-uh.

21 Q And you said you met with the principal at

22 Wilson. Is that --

23 A Well, she was outside handing out folders

24 with homework, and she had -- she reached out and

25 asked if it was okay since all the -- since they been

Page 29

1 putting their names on their paper.

2 I'm like, "Yes." She just wanted to know if

3 it was okay. So we had to get permission, I guess.

4 So I told her, "Yeah."

5 Q So that --

6 A Some teachers used it; some teachers didn't.

7 Q And so that was the eighth-grade principal

8 that you had the conversation with outside of the

9 school.

10 A Yes.

11 Q And she was asking your permission to use

12 those names and pronouns.

13 A Yes, or she wanted to let me know, you know,

14 to be aware of it. I'm like, "Yeah, that's fine."

15 Q Okay. And do you recall the principal's

16 name?

17 A No, it's a female one.

18 Q Okay.

19 (Discussion held off the record.)

20 THE REPORTER: Now back on the record

21 at 9:44 a.m.

22 BY MR. ZIMMERLY:

23 Q Okay, L.E. We continue with Paragraph 6 of

24 your declaration. There's a statement.

25 "Most of the teachers and classmates have

Page 30

1 respected this request, the request to use the names  
 2 and the pronouns that reflect their gender.  
 3 "Throughout middle school, all their  
 4 teachers and classmates used their names and pronouns  
 5 at my request and middle school principal's  
 6 direction." Is that a true statement?  
 7 A Yes.  
 8 Q And when you say that, "Most of their  
 9 teachers and classmates have respected this request,"  
 10 are there specific teachers and classmates who have  
 11 not referred to your children by their chosen names  
 12 and pronouns?  
 13 A Yes.  
 14 Q Who?  
 15 A I just know a couple that -- that did say  
 16 the names correctly.  
 17 Q Do you know any teachers that did not use  
 18 the chosen names and pronouns?  
 19 A Probably, subs, substitutes.  
 20 Q You say probably substitutes.  
 21 A I know substitutes.  
 22 Q Okay. Are there specific substitutes that  
 23 you're aware of?  
 24 A No.  
 25 Q Other than substitute teachers, are you

Page 31

1 aware of any regular teachers -- when I say "regular  
 2 teachers," I'm saying ones that --  
 3 A Normal.  
 4 Q -- yeah, the ones that have them day-to-day.  
 5 Do you recall any of them not honoring your request  
 6 with regard to the use of names and gender pronouns?  
 7 A Are we talking about middle school or high  
 8 school?  
 9 Q Let's start with middle school.  
 10 A Okay. For example, when they graduated,  
 11 when they walked -- walked on the stage, some of them  
 12 said their dead names.  
 13 And then when they got back up on the stage,  
 14 they called them by their preferred names. So that  
 15 has to be confusing to everybody. So that was  
 16 interesting.  
 17 Q And this was at the eighth-grade graduation.  
 18 A Yes.  
 19 Q And who used, what you referred to as, "the  
 20 dead names"?  
 21 A I think -- I don't know who that lady was,  
 22 but the one who did say the right -- correct, is  
 23 Ms. Titus. She is the best teacher.  
 24 Q And what role was Ms. Titus at that middle  
 25 school?

Page 32

1 A She was the record keeper and science -- no,  
 2 social studies, and she was always there for the kids  
 3 if they needed extra help because they do have a IEP.  
 4 Q What is the IEP in relation to?  
 5 A Learning disability -- containing  
 6 information.  
 7 Q So rather than that example that you gave at  
 8 the eighth-grade graduation where whoever was speaking  
 9 for the day has used, what you referred to as, "the  
 10 dead names," are you aware of any other instances  
 11 where the regular teachers, the day-to-day teachers  
 12 didn't honor your request to use male names --  
 13 A Not to my knowledge, I don't know.  
 14 Q Okay.  
 15 A I wasn't at school.  
 16 Q So that was middle school. Let's talk about  
 17 high school. Are you aware of specific teachers or  
 18 classmates who have not referred to your children by  
 19 their chosen names and pronouns?  
 20 A Substitutes and I believe the gym teacher  
 21 and the ROTC guy.  
 22 Q Do you have any personal knowledge with  
 23 regard to the gym teacher?  
 24 A Do I what?  
 25 Q Do you have any personal knowledge of the

Page 33

1 gym teacher, things the gym teacher has said? Have  
 2 you been present for any of those --  
 3 A I just know that he likes to separate them  
 4 as boys and girls to teams and makes my boys to be on  
 5 the female team. So that's terrible.  
 6 Q What is the gym teacher's name?  
 7 A Ryan -- Brian Bray.  
 8 Q Did you say Brian Bray?  
 9 A His last name is Bray.  
 10 Q Bray, okay.  
 11 A I'm really bad with names, so.  
 12 Q And the ROTC guy, who is that?  
 13 A Oh -- what? Rafford? I don't know.  
 14 Q Okay. And so what has the -- you say that  
 15 with regard to the gym teacher separating boys and  
 16 girls for the various sort of activities there, what  
 17 has Mr. Rafford, the ROTC guy, done with regard to not  
 18 honoring your request?  
 19 A He says that he is following protocols, you  
 20 know. I mean, I don't know. Can you repeat that  
 21 question? I'm sorry.  
 22 Q Sure. In what way has the ROTC guy not  
 23 honored your request?  
 24 A The male uniforms, he -- we had to -- we had  
 25 to fill out a -- a waiver at first to request them to

Page 34

1 have the male uniforms instead of the female uniforms.  
 2 And that was still in the process, probably  
 3 still in the process. But since then, he kept on  
 4 calling them females, hers, or ma'am.  
 5 Q Okay. So with regard to the ROTC person, it  
 6 comes down to the uniform and the use of the female  
 7 pronouns for your children.  
 8 A Correct.  
 9 Q Other than the gym teacher and the ROTC guy,  
 10 are you aware of any other specific teachers or  
 11 classmates who have not referred to your children by  
 12 their chosen names and pronouns?  
 13 A Not to my knowledge.  
 14 Q And with regard to the gym teacher, does he  
 15 use the legal names at this point in time now that the  
 16 names have been changed, or do you know?  
 17 A I do not know.  
 18 Q Do you know -- well, do you know whether or  
 19 not the gym teacher used your children's chosen names  
 20 and pronouns prior to the legal name change?  
 21 A I do not know.  
 22 Q Have your children received counseling?  
 23 A Yes.  
 24 Q When did they begin receiving counseling?  
 25 A Since sixth grade.

Page 35

1 Q Who do they receive counseling from?  
 2 A From Hamilton Center and FSA.  
 3 Q What is Hamilton Center?  
 4 A A counselor.  
 5 Q Okay. Is it there in Vigo County?  
 6 A Yes.  
 7 Q And what is FSA?  
 8 A It's a counseling group business.  
 9 Q Were there specific counselors that they saw  
 10 at Hamilton Center?  
 11 A Yes.  
 12 Q And who are those specific counselors?  
 13 A We had so many because they kept on  
 14 switching out. One of them was Crystal. I really  
 15 don't remember.  
 16 Q Okay. And FSA, that's also in Vigo County.  
 17 A Yes.  
 18 Q And did they see more than one counselor  
 19 there at FSA?  
 20 A No, well, two because one of them moved.  
 21 So, yes.  
 22 Q Do you recall the names of those counselors?  
 23 A Megan and I don't know. I'm really bad with  
 24 names; I told you. I'm sorry.  
 25 Q Sure. When they began going to that

Page 36

1 counseling in sixth grade, what was the purpose of  
 2 that counseling? Why did they go to that counseling?  
 3 A Because they said that they needed to talk  
 4 to people -- I mean, talk, and I thought that would  
 5 be, you know, helpful to talk to a counselor with them  
 6 being bullied at school or going through what they are  
 7 going through.  
 8 Q Did it pertain to the gender issues that are  
 9 at issue in this case, or did it also involve other  
 10 issues?  
 11 A Other issues.  
 12 Q What were other issues that they were  
 13 receiving counseling for?  
 14 A Coping with things.  
 15 Q Anything else?  
 16 A Well, I guess it has something to do with  
 17 this case. I mean, it was about them hurting  
 18 themselves because of what they are going through.  
 19 Q Okay. And when you say "hurting  
 20 themselves," what -- had they engaged in activities  
 21 where they were engaging in self-harm?  
 22 A Yes.  
 23 Q And was that with regard to both children?  
 24 A Yes, but more with B.E.  
 25 Q And what kind of conduct was B.E. engaged in

Page 37

1 that regard?  
 2 A Suffocating herself.  
 3 Q Anything else?  
 4 A Not to my knowledge.  
 5 Q What about with regard to S.E.?  
 6 A Just thoughts.  
 7 Q And when you say "thoughts," what do you  
 8 mean by that?  
 9 A Well, both of them had thoughts also,  
 10 cutting. I don't -- I don't really don't know what  
 11 their plans was.  
 12 I just found out about the suffocating thing  
 13 from a counselor at Hamilton Center, so.  
 14 Q And when you say "cutting," was one of your  
 15 children engaging in cutting?  
 16 A No, they was thinking about it.  
 17 Q Okay. Did they receive any sort of mental  
 18 health diagnoses from the counselors at Hamilton  
 19 Center or FSA?  
 20 A Just depressed -- depressed and anxiety.  
 21 Q Okay. Any other mental health diagnoses  
 22 from those providers?  
 23 A No.  
 24 Q At Riley, have they received any diagnoses  
 25 in relation to their mental health?

Page 38

1 A Yes, depression and anxiety and they are on  
 2 Prozac.  
 3 Q Anything else?  
 4 A No. They do see counselors at Riley  
 5 Hospital also, but that's -- well, it's pretty much  
 6 for everything. It's a GI therapist.  
 7 Q So the GI therapist sees them in relation to  
 8 their counseling as well.  
 9 A Yes.  
 10 Q And what sort of counseling does the GI  
 11 therapist provide?  
 12 A She does with coping with pain and pretty  
 13 much everything.  
 14 Q Has the GI therapist provided any other sort  
 15 of mental health diagnoses for your children?  
 16 A No.  
 17 Q And her name is Ashley Hartman [ph],  
 18 Hartman. See; I got her.  
 19 MS. BENSBERG: Since your answer is  
 20 finished, do we want to take a five-minute break?  
 21 MR. ZIMMERLY: That would be fine.  
 22 THE WITNESS: Thank you.  
 23 //  
 24 //  
 25 //

Page 39

1 THE REPORTER: All right. In that  
 2 case, we are now off the record at ten o'clock --  
 3 (Off the record.)  
 4 THE REPORTER: We are now back on the  
 5 record at 10:10 a.m.; Stevie Pactor is not on the  
 6 call.  
 7 BY MR. ZIMMERLY:  
 8 Q Turning again to your declaration,  
 9 Exhibit 11, Paragraph 7 goes on to state, or you  
 10 state, "They are completely accepted by their friends  
 11 and our family as boys, and many members of our  
 12 community have only known them as boys." What do you  
 13 mean by that?  
 14 MS. BENSBERG: I'm sorry, Phil. Can  
 15 you just clarify where we are?  
 16 MR. ZIMMERLY: Sure, it's Page 2 of the  
 17 declaration, Paragraph 7, the second sentence.  
 18 MS. BENSBERG: Thank you.  
 19 THE WITNESS: So what was the question?  
 20 I'm so sorry.  
 21 BY MR. ZIMMERLY:  
 22 Q Sure. That second sentence where you state,  
 23 "They are completely accepted by their friends and our  
 24 family as boys, and many members of our community have  
 25 only known them as boys," what do you mean by that?

Page 40

1 A That they are -- we accept them how they  
 2 are; they are boys. And the friends that they have  
 3 see them as boys.  
 4 Q When you refer to "members of our  
 5 community," who are you referring to there in your  
 6 statement?  
 7 A The Pride Center, some of their classmates.  
 8 Q Anyone else that you're referring to when  
 9 you use the phrase "members of our community"?  
 10 A Doctors, just everyday people who we meet.  
 11 Q You said the Pride Center. What is the  
 12 Pride Center?  
 13 A It is a -- a group that supports  
 14 transgender, lesbians, gays, a community for support.  
 15 Q Is that -- like is there a physical location  
 16 for the Pride Center, or is --  
 17 A Yeah, it's -- it's in Terre Haute. It's on  
 18 Wabash.  
 19 Q And is the Center, is that something that  
 20 you and your children have been involved with?  
 21 A Yes.  
 22 Q And how long have you and your children been  
 23 involved with the Pride Center?  
 24 A This year.  
 25 Q So sometime in 2021.

Page 41

1 A Yes.  
 2 Q Do you recall when you became involved with  
 3 the Pride Center?  
 4 A August of this year.  
 5 Q Okay. Going back to that statement I was  
 6 asking about in Paragraph 7, you said that members of  
 7 your community also included some of your children's  
 8 classmates. Was -- I will strike that.  
 9 Paragraph 8, let's turn to that paragraph.  
 10 You state, "But as they have gotten older, it has  
 11 become increasingly distressing for them to viewed by  
 12 others as girls and have bodies that do not align with  
 13 their gender. This distress manifested itself in a  
 14 number of ways."  
 15 By stating your children have bodies that do  
 16 not align with their gender, do you mean that their  
 17 present physical anatomy is female?  
 18 A They appear to be females on the outside,  
 19 but inside, they are boys.  
 20 Q So they are outside physical anatomy is what  
 21 you expect for a female. Is that true?  
 22 A Correct.  
 23 Q And when you make the statement that this  
 24 distress manifested itself in a number of ways, what  
 25 did you mean by that? How did the distress manifest

Page 42

1 itself?

2 A The older they get, the more they look like

3 boys. But because, I mean, they don't, I mean -- I

4 don't know.

5 Q Do you know what you meant when you said,

6 "This distress manifested itself in a number of ways"?

7 Do you know what you meant by that?

8 A Well, like better depressing -- I mean,

9 being depressed and their moods, their --

10 Q Anything else?

11 A No, I mean, it just distressed everything.

12 I mean, I -- I mean, they have boobs; they don't want

13 boobs. I mean, I don't know what to say, I mean, but

14 they can't have surgery until they are 18, so.

15 Q Okay. Paragraph 9, there's a statement, "To

16 address their psychological distress, I sought out

17 health professionals at Riley Children's Hospital to

18 address any transition-related medical or mental

19 healthcare needs."

20 A Yes.

21 Q Did you receive a referral to Riley for that

22 care?

23 A It was all in Riley.

24 Q So nobody at the Hamilton Center or FSA made

25 a referral to Riley; you were already at Riley.

Page 43

1 A Correct.

2 Q Had the children been receiving any

3 transition-related medical or mental healthcare prior

4 to you seeking out that care at Riley?

5 A Yes, and then they diagnosed them with

6 gender -- I don't know what that word is. I can't say

7 it.

8 Q Gender dysphoria.

9 A Yes, yes.

10 Q Okay. We will talk about that in a moment.

11 You had mentioned that there was some other provider

12 that had been providing transition-related medical or

13 mental healthcare prior to getting that care from

14 Riley. Who was providing that care before Riley?

15 A Next -- Next Gender.

16 Q And what is Next Gender?

17 A That just tells -- I mean, they just put you

18 in resources on like support groups, where to go, if

19 you need anything, they would be there to help to

20 guide you.

21 Q And is it a physical location, or is it an

22 online space? Is it a group; what is it? How did you

23 connect with Next Gender?

24 A From Riley, everything is about Riley.

25 Q Okay. Is Next Gender located in

Page 44

1 Indianapolis or Terre Haute or --

2 A I think in Indianapolis. I really don't

3 know.

4 Q Did you ever go to a physical location to

5 meet with somebody from Next Gender?

6 A No.

7 Q Did you speak with someone over the phone?

8 A Yes.

9 Q Do you recall who that person was?

10 A Megan -- no, not -- it starts with a M; it's

11 a weird name matter fact. It's not Megan.

12 Q And did that person at Next Gender then

13 provide counseling, or --

14 A She sent me a list of all the counselors and

15 information.

16 Q And then did your children receive

17 counseling through Next Gender?

18 A Through Riley, Dr. Branson -- Brandon and

19 Ferrman. I'm really not sure about the names, of

20 course, but that was a online support group that they

21 met every Wednesday.

22 Q Was that that support group Parents of

23 Transgender Children that we talked about earlier?

24 A No, it's a different thing.

25 Q What was the name of that group?

Page 45

1 A I believe it's Gender Kids.

2 Q Is that through Riley?

3 A Yes, their doctors, yeah.

4 Q Okay. So Next Gender, at what point in time

5 were you dealing with Next Gender?

6 A I talked to them way in the beginning, but

7 they are always there if I need them.

8 Q And when you say "way at the beginning,"

9 what time frame are you talking about?

10 A It's I would say about four years ago. I

11 mean, throughout this whole process.

12 Q And have your communications with them been

13 limited to phone calls, or you have also exchanged

14 emails with them?

15 A Emails -- she -- she sends me links if I am

16 interested in doing other support groups.

17 Q And has it been the same point of contact at

18 Next Gender for those four years?

19 A Yes, email, phone calls.

20 Q And that's that individual that has a name

21 that starts with an M that you can't recall right now.

22 A Yes, yes.

23 Q Other than being sort of a resource to sort

24 of point you to other resources, has Next Gender

25 itself provided your children with any care?

<p style="text-align: right;">Page 46</p> <p>1 A No, just support groups -- I mean, just                  2 resources.                  3 Q And do you have an understanding of what                  4 Next Gender is?                  5 A It's a resource place.                  6 Q Okay.                  7 A I believe.                  8 Q So you mentioned that your children have                  9 been diagnosed with gender dysphoria. Is that true?                  10 A Yes.                  11 Q When did they receive a diagnosis of gender                  12 dysphoria?                  13 A This year.                  14 Q Was it at the same time, or did they receive                  15 that diagnosis separately?                  16 A Two separate times, two different doctors.                  17 Q So two separate times being once for each                  18 child or --                  19 A Yes.                  20 Q And so who diagnosed B.E. with gender                  21 dysphoria?                  22 A Dr. Ferrman at Riley and then doctor Bolocks                  23 -- Bowle -- B-O -- N-I-Z, I think that's how you spell                  24 her name.                  25 Q So how do you spell Ferrman?</p>	<p style="text-align: right;">Page 48</p> <p>1 specifically.                  2 A No.                  3 Q Have you received documentation of that                  4 gender dysphoria diagnosis for B.E.?                  5 A Yes, I do.                  6 Q Have you received documentation for gender                  7 dysphoria diagnosis for S.E.?                  8 A Yes.                  9 Q And have you provided that documentation to                  10 the school corporation?                  11 A Yes.                  12 Q And when did you provide the gender                  13 dysphoria diagnosis to the school corporation?                  14 A I believe in September.                  15 Q And how did you provide it?                  16 A I have done it through email and in-person.                  17 Q And what specific documentation did you                  18 provide with that gender dysphoria diagnosis to the                  19 school corporation?                  20 A Could you say that again?                  21 Q Sure. What documentation indicating a                  22 gender dysphoria diagnosis did you provide to the                  23 school corporation?                  24 A A paper that has their diagnosis like their                  25 depression, their anxiety, the gender D. Let's just</p>
<p style="text-align: right;">Page 47</p> <p>1 A It's F-E-R-R-M-A-N, Ferrman.                  2 Q You didn't realize this was going to be a                  3 spelling test; did you?                  4 A Yeah, I know. I'm not in school; come on.                  5 Stop it.                  6 Q And then Dr. Balinks?                  7 A Yeah, something like Bozex, B-O-N-I-Z or I-C                  8 or I don't know.                  9 Q For B.E., do you recall when B.E. received a                  10 gender dysphoria diagnosis from Dr. Ferrman?                  11 A When?                  12 Q Yeah. You said it was sometime this year.                  13 Do you recall when this year?                  14 A So many doctor's appointments, I would say                  15 before August. I don't --                  16 Q So sometime before August, but you don't                  17 recall.                  18 A Yes.                  19 Q Could it have been after August?                  20 A Oh, yeah.                  21 Q What about S.E.'s gender dysphoria                  22 diagnosis? Do you recall when S.E. received that                  23 diagnosis this year?                  24 A It was around the same time.                  25 Q But you don't recall when that was this year</p>	<p style="text-align: right;">Page 49</p> <p>1 say "D," and their stomach issue, GI.                  2 Q I then you said -- are you referring to --                  3 if you will flip to the end of your declaration, there                  4 are two documents that are attached. There is a                  5 Medical Accommodation Request Letter from Dr. Nomi                  6 Sherwin.                  7 A Yeah, Sherman [sic], that's right.                  8 Q Is that what you're referring to when you                  9 were saying that you're providing documentation of a                  10 gender dysphoria diagnosis?                  11 A Yes.                  12 Q So it's --                  13 A I'm sorry.                  14 Q -- these documents that are Pages 8 and 9 of                  15 your declaration.                  16 A Well, this, yes.                  17 MS. BENSBERG: I'm sorry. Can you just                  18 clarify if these are separately marked as Exhibits 4                  19 and 5?                  20 MR. ZIMMERLY: Yes, that's helpful.                  21 (Exhibits 4 and 5 were marked for                  22 identification.)                  23 BY MR. ZIMMERLY:                  24 Q So in addition to being part of your                  25 declaration, for the record, these also have been</p>

Page 50

1 marked as Exhibits 4 and 5, so the record is clear.  
 2 So going back to my initial question, was  
 3 this the documentation that you were referring to with  
 4 regard to a gender dysphoria diagnosis?  
 5 A No, because this -- this is for GI issues.  
 6 I think, but that was -- this is for a different -- I  
 7 mean, a different thing altogether because it's the  
 8 bathrooms.  
 9 Q Okay. Was there separate documentation that  
 10 you provided?  
 11 A In-person, but they didn't make a copy or  
 12 anything. She -- they looked at it, but they gave it  
 13 back to me.  
 14 Q Okay. So there's some other documentation  
 15 that you shared. And did they make a copy of it,  
 16 or --  
 17 A No. They didn't make a copy of it. They  
 18 dismissed it like everything else.  
 19 Q Well, when did you share that documentation  
 20 with the school corporation?  
 21 A I would say in September.  
 22 Q And who did you share it with?  
 23 A Ashley Lucas, the vice principal, and  
 24 Joseph, the principal, the main principal, too, he saw  
 25 it, too.

Page 51

1 Q Okay. So there was some documentation that  
 2 provided that gender dysphoria diagnosis.  
 3 A Yes.  
 4 Q Okay.  
 5 A That's what I was looking for. But, yes,  
 6 I -- I send them everything. Well, I did send them  
 7 everything.  
 8 Q In Paragraph 10, turning to your  
 9 declaration, Paragraph 10, Page --  
 10 A Oh, wait a minute. Now, you gave me two  
 11 different things.  
 12 MS. BENSBERG: Those are Exhibits 4 and  
 13 5.  
 14 THE WITNESS: Okay, great, sorry. But  
 15 I think he is talking about this one.  
 16 MS. BENSBERG: Let's just clarify. Are  
 17 we back to the declaration?  
 18 BY MR. ZIMMERLY:  
 19 Q Yes, we're going back to your declaration.  
 20 (Discussion held off the record.)  
 21 THE REPORTER: We're now back on the  
 22 record at 10:33 a.m.  
 23 BY MR. ZIMMERLY:  
 24 Q So, L.E., in Paragraph 10 of your  
 25 declaration, which is Exhibit 11, you state, "They

Page 52

1 have both been diagnosed with gender dysphoria and  
 2 have begun hormone therapy." What sort of hormone  
 3 therapy are they receiving?  
 4 A Shots daily -- I mean, shots weekly only.  
 5 Q And what sorts of hormones are they  
 6 receiving?  
 7 A 0.2 milligram shots tesrone.  
 8 Q Testosterone.  
 9 A Yes.  
 10 Q And when did they -- I think you indicated  
 11 this earlier. But when did they begin receiving those  
 12 hormones?  
 13 A It been almost two months now. They are on  
 14 their seventh shot.  
 15 Q So they receive the shots weekly, and they  
 16 are now on their seventh shot.  
 17 A Yes.  
 18 Q So they have been receiving those shots for  
 19 seven weeks.  
 20 A Yes.  
 21 Q Paragraphs 11 and 12 of your declaration  
 22 refer to you contacting teachers and making requests  
 23 about names and pronouns.  
 24 And in Paragraph 12, you state, "Although we  
 25 made this request, it's my understanding that

Page 53

1 substitute teachers continue to call the boys by their  
 2 birth names and continue to refer to the boys with  
 3 female pronouns."  
 4 Putting the substitute teachers to the side,  
 5 was it your understanding that the normal teachers  
 6 have honored your requests to use chosen names and  
 7 chosen pronouns?  
 8 A What the principal told me was they had --  
 9 the teachers had the right to say their birth name or  
 10 their preferred name. That was their options.  
 11 Q And when did the principal tell you that?  
 12 A In December.  
 13 Q Was that during a meeting with the  
 14 principal?  
 15 A Yes.  
 16 Q And in terms of the meetings you have had  
 17 with the assistant principal or the vice principal, I  
 18 suppose let's figure it out.  
 19 How many times do you recall that you have  
 20 met with the assistant principal? And this is the  
 21 high school to be clear.  
 22 A Yes. Two times.  
 23 Q And how many times have you met with the  
 24 principal of the high school?  
 25 A Once.

Page 54

1 Q And the time that you met with the  
 2 principal, that was one of the two times that you met  
 3 with the vice principal, assistant principal?  
 4 A Yes.  
 5 Q And the first meeting you had with the  
 6 assistant principal, was that meeting that the  
 7 principal was at, or was that the second meeting?  
 8 A It was the second one.  
 9 Q Okay. So do you recall when you met with  
 10 the assistant principal the first time and it was just  
 11 her, where did you meet?  
 12 A It was in her office.  
 13 Q And was anybody else there for the meeting?  
 14 A My boys.  
 15 Q Anyone else?  
 16 A No.  
 17 Q And do you recall when that meeting  
 18 occurred?  
 19 A It was in the beginning of September.  
 20 Q Okay. And what do you recall about that  
 21 meeting? Just tell me everything you remember about  
 22 that meeting.  
 23 A Well, that's when she told us that we had --  
 24 they had to use the female bathrooms or health room.  
 25 They cannot go into the guys' bathroom.

Page 55

1 Q What else do you remember about that  
 2 meeting?  
 3 A It was just about the bathrooms, I believe.  
 4 Q Okay. And had something happened that  
 5 caused that meeting to occur, or why was that meeting  
 6 being held?  
 7 A Because someone reported them using the  
 8 bathroom, boys' bathroom.  
 9 Q Okay. So other than your recollection that  
 10 during that meeting the assistant principal told you  
 11 that your children were going to need to use the  
 12 female bathroom or the health bathroom, do you recall  
 13 anything else about that meeting?  
 14 A Oh, yes, pictures, yearbooks, funny story,  
 15 still haven't got B.E.'s pictures.  
 16 What am I -- but I got five of S.E., saying  
 17 that -- trying to put their preferred name in the  
 18 yearbook instead of her birth name, dead name, and  
 19 they said that they couldn't.  
 20 Q When you said "they said," was that  
 21 something the --  
 22 A Oh, she said.  
 23 Q Was this during the -- that was with  
 24 the -- and this was during the first meeting with the  
 25 assistant principal.

Page 56

1 A Yes, yes, sorry, and the second time, too,  
 2 because I brought it up also, again. But -- yeah,  
 3 sorry.  
 4 Q So -- I'm sorry I cut you off. Did you have  
 5 anything else to say?  
 6 A No, not about the first one, no.  
 7 Q So the topics of that were the assistant  
 8 principal sharing with you that your children were to  
 9 use the female bathrooms.  
 10 But they also could use the health bathroom,  
 11 and you brought up the topic of the yearbook pictures.  
 12 A Yes.  
 13 Q Do you recall anything else about that  
 14 meeting?  
 15 A She was going to get back with me on the  
 16 yearbook, yeah.  
 17 Q Okay. And do you recall your children  
 18 saying anything during that meeting?  
 19 A They was very quiet.  
 20 Q Okay. So you don't recall them saying  
 21 anything.  
 22 A They just agreed or not really agreed but --  
 23 Q What was your response --  
 24 A -- didn't have a choice in the matter,  
 25 honestly, I mean.

Page 57

1 Q Did you respond at that time to the  
 2 assistant principal letting you know that the  
 3 bathrooms that were available to your children would  
 4 be the female bathroom and the health bathroom?  
 5 Did you have any response to that at that  
 6 time?  
 7 A Yes, I wanted more options.  
 8 Q And what did you specifically say if you  
 9 recall?  
 10 A That should be able to use boys'-- the boys'  
 11 bathroom. They look like boys; they are boys.  
 12 Q And what was the assistant principal's  
 13 response to those statements?  
 14 A "We have policies."  
 15 Q Anything else?  
 16 A No.  
 17 Q Do you recall anything else about that  
 18 meeting other than what we've talked about so far?  
 19 A Not to my knowledge.  
 20 Q Okay. Let's talk about the second meeting  
 21 that you described with the assistant principal where  
 22 the principal was also there from the high school.  
 23 Where did that meeting occur?  
 24 A It was in -- it was in Joseph's office, the  
 25 principal's office, and it was in, I think, October.

Page 58

1 Q And other than the assistant principal,  
 2 principal, and you, who else was present for that  
 3 meeting if anyone?  
 4 A It was just me and the principal and the  
 5 vice principal, only us.  
 6 Q Okay. And tell me everything you remember  
 7 about that meeting.  
 8 A They -- well, before that, I got a email  
 9 saying that I need -- we need to come in and have a  
 10 meeting, face-to-face.  
 11 And so I came that day, anyways. I gave  
 12 them all the information that I got from Next Gender,  
 13 and -- and later on that day, I emailed them the  
 14 letters stating that they are males. And that was,  
 15 you know, that was in October, yeah.  
 16 Q So after you met with them, you actually  
 17 emailed them documentation.  
 18 A Yes, yes, because I didn't have it on hand  
 19 with me. But they pretty much told me that the --  
 20 they said that they talked to the lawyers, and the  
 21 policy is not changing, so.  
 22 Q So the topic of that meeting in October was  
 23 with regard to access to the boys' restrooms and the  
 24 boys' locker rooms.  
 25 A Yes, and pictures.

Page 59

1 Q Oh, and the pictures. Anything else that  
 2 was a topic during that meeting?  
 3 A No.  
 4 Q And you referred to Next Gender a number of  
 5 times. Is it actually GenderNexus?  
 6 A Yeah, that's it. See. I told you I'm bad  
 7 with names.  
 8 Q So in previous testimony, when you were  
 9 talking about using Next Gender as a resource, you  
 10 were actually referring to GenderNexus.  
 11 A Yes, GenderNexus, okay. That sounds so much  
 12 better.  
 13 Q And you indicated that after your meeting  
 14 with the principal and the vice principal, you emailed  
 15 them with some documentation. Is that true?  
 16 A Yes.  
 17 Q Because you didn't have that documentation  
 18 on hand at the time.  
 19 A Correct.  
 20 Q And so I'm trying to understand some of your  
 21 prior testimony in that regard where I think you had  
 22 said that you had some documentation that you shared  
 23 with them. Did you --  
 24 A Oh, I did.  
 25 Q Okay. So there was some other documentation

Page 60

1 that you shared with them at that time.  
 2 A Yes.  
 3 Q Okay.  
 4 A It was a printout from the doctor saying  
 5 what the diagnosis was.  
 6 Q Okay. And you shared that with --  
 7 A They didn't keep it.  
 8 Q And you shared that with the principal and  
 9 the vice principal at that time.  
 10 A Yes. They said that they would forward the  
 11 paperwork to someone higher, you know, for their  
 12 lawyers.  
 13 Q Do you recall anything else about that  
 14 meeting?  
 15 A No, just the pictures. I'm very upset about  
 16 the pictures also.  
 17 Q Paragraph 13 and 14 of your declaration  
 18 which is Exhibit 11, you describe, "Several weeks into  
 19 the school year in late September, I received a phone  
 20 call from the vice principal at Terre Haute North  
 21 requesting that I and my children come into her office  
 22 for a meeting to discuss my son's use of the boys'  
 23 bathroom at the school."  
 24 Is that the first meeting that you described  
 25 and told me about with the assistant principal?

Page 61

1 A Yes. Yes.  
 2 Q And then, in Paragraph 14, you state, "At  
 3 that meeting, I requested that my sons be allowed to  
 4 use the boys' facilities at school and asked that  
 5 school employees and students refer to them with the  
 6 names they go by and male pronouns.  
 7 "I explained that they both receive  
 8 transition-related care, and will begin hormone  
 9 therapy in November 2021 and will rapidly masculinize  
 10 their appearance."  
 11 So that's what you told the vice principal  
 12 at that time.  
 13 A Oh, yes.  
 14 Q And then, in Paragraph 15, you state, "We  
 15 were told that my children would not be allowed to use  
 16 the boys' facilities at school.  
 17 "They were instead directed to use the  
 18 girls' bathrooms or to use the unisex bathrooms in the  
 19 health office." Was there any reason given for this?  
 20 A I believe because of the gender marker on  
 21 their record since it was stated a female instead of a  
 22 male.  
 23 But now, it should be a male mark. So it  
 24 shouldn't have a -- they shouldn't have no issues that  
 25 they use the boys' bathroom now.

Page 62	<p>1 Q When you say you believe it was because of a</p> <p>2 gender marker, was there a reason given at that point</p> <p>3 in time as to -- what did the -- did the assistant</p> <p>4 principal give a reason as to why your children --</p> <p>5 A Because they was females, and I consist that</p> <p>6 they wasn't. They was boys.</p> <p>7 Q Okay. And did the assistant principal say</p> <p>8 that to you, that it's because they were females, or</p> <p>9 is that sort of -- I'm asking.</p> <p>10 What specifically did the assistant</p> <p>11 principal say? Did the assistant principal give a</p> <p>12 reason?</p> <p>13 A It has to go in what their appearance looks</p> <p>14 like.</p> <p>15 Q And that's what the assistant principal said</p> <p>16 during that first meeting.</p> <p>17 A I believe so.</p> <p>18 Q Do you recall specifically one way or the</p> <p>19 other?</p> <p>20 A It has to match what the record had.</p> <p>21 Q Do you recall a specific statement that was</p> <p>22 made by the assistant principal in that regard at that</p> <p>23 first meeting?</p> <p>24 A Well, they said that they had to go to the</p> <p>25 females' or to the health room because they are</p>	Page 64	<p>1 to the male restrooms?</p> <p>2 A Yes, I -- I don't know. Can you rephrase</p> <p>3 it?</p> <p>4 Q Sure.</p> <p>5 A Say it again.</p> <p>6 Q So I know that you made a request with</p> <p>7 regard to the use of pronouns and names. But prior to</p> <p>8 this meeting with the vice principal in September, had</p> <p>9 you actually made a request that your children have</p> <p>10 access to the male restrooms?</p> <p>11 A I believe so.</p> <p>12 Q And who did you make that request to?</p> <p>13 A To the vice principal.</p> <p>14 Q And how did you make that request?</p> <p>15 A Probably through email.</p> <p>16 Q And do you recall when that request was</p> <p>17 made?</p> <p>18 A No.</p> <p>19 Q Is it possible that this meeting with the</p> <p>20 assistant principal was the first time were the</p> <p>21 restrooms and locker rooms had been discussed between</p> <p>22 you and the vice principal?</p> <p>23 A Yes.</p> <p>24 Q During middle school, did your children use</p> <p>25 the female restroom or the male restrooms?</p>
Page 63	<p>1 females, so.</p> <p>2 Q And is that what the assistant principal</p> <p>3 said?</p> <p>4 A Yes, in not so many ways, yes.</p> <p>5 Q I'm not trying to ask the question</p> <p>6 over. I just really want, if you recall the specific</p> <p>7 statements that were made by the assistant principal</p> <p>8 during that first meeting, that's really what I'm</p> <p>9 asking.</p> <p>10 If you don't recall specifically, that's</p> <p>11 fine as well. But if you do recall specific</p> <p>12 statements that were made, I just ask that you let me</p> <p>13 know what they were.</p> <p>14 A Well, it was in September or November. So I</p> <p>15 have slept since then.</p> <p>16 Q So you don't specifically recall, but your</p> <p>17 understanding leaving that meeting was that they would</p> <p>18 not be allowed access to the male restrooms because</p> <p>19 their sex was female.</p> <p>20 A Pretty much, I mean, that's the reason why</p> <p>21 we went and got a name and gender mark so we would</p> <p>22 change this issue, but I guess, that doesn't change</p> <p>23 anything.</p> <p>24 Q Had you requested, prior to this meeting,</p> <p>25 had you made a request that your children have access</p>	Page 65	<p>1 A I believe the females'.</p> <p>2 Q And that was in sixth and seventh and eighth</p> <p>3 grade where they used the female restrooms.</p> <p>4 A Yes, but they felt very, very uncomfortable.</p> <p>5 Q During that time frame, sixth, seventh, and</p> <p>6 eighth grade, did they also use the female locker</p> <p>7 rooms?</p> <p>8 A Yes.</p> <p>9 Q I'm going to ask you to pull up a different</p> <p>10 exhibit. First, let's look at Paragraph 18 of your</p> <p>11 declaration before we go to the other exhibit. This</p> <p>12 will give us some context.</p> <p>13 So Paragraph 18, we talked a little bit</p> <p>14 about this but just so the record is clear,</p> <p>15 Paragraph 18 of your declaration, you state, "I also</p> <p>16 provided letters from my children's doctor, Dr. Nomi</p> <p>17 Sherwin, explaining that they both had medical issues</p> <p>18 that require them to use the restroom often." And --</p> <p>19 A Use the boys' bathroom.</p> <p>20 Q And so Exhibit 7, if you turn to that, if</p> <p>21 you have that available, it's this larger packet of</p> <p>22 just a bunch of emails.</p> <p>23 (Exhibit 7 was marked for</p> <p>24 identification.)</p> <p>25 A Okay.</p>

Page 66

1 Q If you would, turn to Page -- there's a  
 2 Bates stamp at the bottom of the document that begins  
 3 BESE there at the bottom. If you would, turn to Page  
 4 BESE Page 47.  
 5 A Is this it?  
 6 Q Are you there?  
 7 A Yes.  
 8 Q At the bottom of the page, underneath this  
 9 big, black bar with attorney/client communication,  
 10 there is a forwarded message with a "From: L.E." And  
 11 there's an email snickers 181 at Yahoo dot com. Do  
 12 you see that?  
 13 A Yes.  
 14 Q Is that your email, snickers 181 at Yahoo  
 15 dot com?  
 16 A Yes.  
 17 Q And this is an email that's sent on Monday,  
 18 October 18, 2021, at 9:42 a.m. Correct?  
 19 A Yes.  
 20 Q And were you sending it to the principal at  
 21 Vigo Schools -- at the high school?  
 22 A Yes, oh -- that's, yes. I sent it to Steve  
 23 Joseph, the principal.  
 24 Q And the email states, "Hello, this L.E. I'm  
 25 sending you information all about transgender and the

Page 67

1 law about it. Please, feel free to contact me  
 2 anytime.  
 3 "I have do have letters from the doctor's  
 4 statements. Them, B.E. and S.E., should be treated as  
 5 boys, and anything that isn't legally names/dead names  
 6 should not appear anywhere except personal  
 7 information. Please, obey with the wishes."  
 8 Is that the email that you sent to the  
 9 principal on October 18th?  
 10 A Yes.  
 11 Q And it looks like, if you will turn the page  
 12 to BESE underscore 49 and underscore 50, these are  
 13 those notes from Dr. Sherwin --  
 14 A Yes.  
 15 Q -- we talked about before; correct?  
 16 A Yes.  
 17 Q Were these attached to that email you sent  
 18 to Mr. Joseph on October 18th?  
 19 A I believe so, yes.  
 20 Q And there is also on Page -- BESE Page 51,  
 21 there's also sort of a snapshot of an ACLU Know Your  
 22 Rights --  
 23 A Yes.  
 24 Q Was that also included as an attachment to  
 25 your email to Mr. Joseph?

Page 68

1 A Yes. I sent that. I mean, I also handed  
 2 that to them also, so.  
 3 Q And with regard to these doctor's notes, I  
 4 think your testimony before was that you did not  
 5 actually have these doctor's notes when you met with  
 6 the assistant principal and principal.  
 7 You actually followed up by sending it via  
 8 email. Is this when you sent those, or do I have the  
 9 timeline correct? Or am I missing something?  
 10 A The thing is, he wasn't even looking at the  
 11 papers. He pretty much said he is going to send it to  
 12 the person who controls -- to, you know, take care of  
 13 it, to look into things he said. So he didn't really  
 14 care.  
 15 Q You're not really answering the question I  
 16 asked. So my question is to try and understand when  
 17 this information was provided and how it was provided.  
 18 My understanding, from your testimony  
 19 earlier, was that you met with the principal and vice  
 20 principal.  
 21 You didn't have these doctor's notes at that  
 22 time with you and that you then sent them to the  
 23 principal via email. Is that correct?  
 24 A Yes.  
 25 Q And is this when you sent those doctor's

Page 69

1 notes to the principal, on October 18th, via email?  
 2 A Yes.  
 3 Q So let's -- just they occur a couple of  
 4 times in the record, but I'm going to ask you to pull  
 5 out them as the exhibits, Exhibits 4 and 5.  
 6 A Okay.  
 7 Q Let's start with Exhibit 4. Is the version  
 8 that you're looking at the redacted version, or does  
 9 it have the name of your child?  
 10 A It says "B.E."  
 11 Q Okay. So the first one is in regard to  
 12 B.E., Exhibit 4, and there is a statement here.  
 13 It says, "B.E. has a medical condition which  
 14 requires frequent restroom use. Please, allow him to  
 15 be excused from class as needed to use the restroom.  
 16 Please, allow him to use bathrooms and locker rooms  
 17 that are congruent with his male gender."  
 18 And we've already talked about the medical  
 19 condition that B.E. has, the gastrointestinal issue.  
 20 Is that true?  
 21 A Yes.  
 22 Q Is that the medical condition that the  
 23 doctor is referring to in this note?  
 24 A Yes.  
 25 Q And that was a medical condition that was

Page 70

1 diagnosed since infancy.  
 2 A Yes.  
 3 Q And B.E. had some digestive/intestinal  
 4 issues during elementary school and middle school. Is  
 5 that true?  
 6 A Yes.  
 7 Q Now, in this note, Dr. Sherwin is requesting  
 8 that B.E. be excused from class as needed to use the  
 9 restroom.  
 10 And I understand that in this lawsuit, we  
 11 have a dispute about the use of male restrooms and  
 12 locker rooms.  
 13 But putting that to the side, has the school  
 14 corporation complied with Dr. Sherwin's request to the  
 15 extent that she was requesting that B.E. be excused  
 16 from class as needed to use the restroom?  
 17 A Most time, yes, but he did have to serve  
 18 detention due to tardiness. I didn't know until after  
 19 the fact because --  
 20 Q So generally speaking, with that  
 21 accommodation of allowing B.E. to be excused from  
 22 class as needed to use the restroom, that  
 23 accommodation has been provided. Is that true?  
 24 A Yes.  
 25 Q And you have indicated there was an instance

Page 71

1 where B.E. was in detention -- or was it detention?  
 2 A Something like that.  
 3 Q Okay.  
 4 A Before class, I mean, before school, I  
 5 didn't even know anything about it until afterwards.  
 6 Q And when did that event occur?  
 7 A I -- it had to be in September, I believe,  
 8 or October.  
 9 Q In that particular instance, B.E. was not  
 10 allowed to leave detention to go to the restroom.  
 11 A I don't know.  
 12 Q Okay.  
 13 A I just know that he should not have had  
 14 detention since he had a medical statement saying,  
 15 "Please, excuse."  
 16 Q Okay, I misunderstood. So you're saying  
 17 that B.E. was given detention because B.E. was tardy  
 18 or perceived as being tardy even though B.E. was using  
 19 the restroom at that time.  
 20 A Correct, correct.  
 21 Q Okay. And when you met with the assistant  
 22 principal or the principal, did they let you know that  
 23 they would write passes for your children if that  
 24 became an issue?  
 25 A Yes.

Page 72

1 Q And generally speaking, have they complied  
 2 with that accommodation other than the one instance  
 3 that you have identified?  
 4 A Yes.  
 5 Q And in this letter from -- referring, again,  
 6 back to Exhibit 4, where the doctor writes, "Please,  
 7 allow him to use bathrooms and locker rooms that are  
 8 congruent with his male gender," do you agree that the  
 9 request to use the male bathroom and locker rooms is  
 10 based on your child's gender and not based on your  
 11 child's sex?  
 12 A Yes, I think.  
 13 Q Let's turn to Exhibit 5. Exhibit 5 pertains  
 14 to S.E. The medical condition that's referred to in  
 15 the letter from the doctor, is that the same medical  
 16 condition, the gastrointestinal issue that we've  
 17 already talked about?  
 18 A Yes.  
 19 Q And that was a medical condition that was  
 20 diagnosed in infancy?  
 21 A Yes.  
 22 Q And --  
 23 A I'm so sorry to interrupt you on this, but  
 24 the school nurse, on record, has different letters  
 25 also that has bathroom excuses, so just -- sorry, just

Page 73

1 on that note.  
 2 Q Sure, so --  
 3 A It's already in the system.  
 4 Q Okay.  
 5 A Before -- before all this.  
 6 Q So there are separate notes dealing with the  
 7 sort of gastrointestinal issues, ability to leave when  
 8 necessary.  
 9 A Yes.  
 10 Q And that was entirely unrelated to the  
 11 gender issue.  
 12 A Yes, and that was from Dr. Dunn from  
 13 St. Vincent's Hospital.  
 14 Q Okay. And when was that letter provided?  
 15 A Oh, in the beginning of school.  
 16 Q Of 2021.  
 17 A Well, she had been writing them since three  
 18 years.  
 19 Q Okay.  
 20 A Because the school system has to like keep  
 21 on getting new ones.  
 22 Q Okay. And so S.E. had been dealing with the  
 23 digestive intestinal issues since elementary school,  
 24 all through middle school, up to high school.  
 25 A Yeah.

Page 74

1 Q And same inquiry with regard to S.E., as  
 2 with B.E., I understand we have a dispute about the  
 3 use of male restrooms and locker rooms.  
 4 But with regard to the request that's made  
 5 in this letter that S.E. be excused from class as  
 6 needed to use the restroom, has the school complied  
 7 with that request?  
 8 A To my knowledge, yes.  
 9 Q And, again, in this letter to -- on behalf  
 10 of S.E., Dr. Sherwin writes, "Please, allow him to use  
 11 bathrooms and locker rooms that are congruent with his  
 12 male gender."  
 13 Do you agree that this request to use the  
 14 bathrooms and locker rooms is based on your child's  
 15 gender and not based on your child's sex?  
 16 A Correct.  
 17 Q Paragraphs 22 and 23, turning back to your  
 18 declaration, Exhibit 11, it begins in Paragraph 22.  
 19 "In mid-October, I had another in-person meeting with  
 20 the vice principal and the principal of Terre Haute  
 21 North." Okay.  
 22 "I was told," let me just go ahead and read  
 23 it and see if I have any questions about it. "I was  
 24 told that after consulting with executive staff  
 25 members of the school corporation and its lawyers, the

Page 75

1 school would continue to refuse my sons access to the  
 2 boys' bathrooms or other facilities.  
 3 "While they would be excused from class as  
 4 needed because of their medical issues, they would  
 5 only be allowed to use the girls' bathrooms or the  
 6 unisex bathroom in the health office." Was that what  
 7 you were told at that time?  
 8 A Yes.  
 9 Q Paragraph 23, "I was also told that they  
 10 would not direct school employees and students to  
 11 refer to my children by the names and pronouns to  
 12 reflect their gender.  
 13 "They would instead give teachers the choice  
 14 whether to use the names they go by and male pronouns  
 15 or to refer to them with their birth names and female  
 16 pronouns.  
 17 "My children would also continue to be  
 18 listed on class rosters and in the school yearbook  
 19 under their birth names." So who made those  
 20 statements to you about the use of the pronouns and  
 21 the names?  
 22 A The principal and the vice principal, both  
 23 of them.  
 24 Q And were there, in your understanding or  
 25 based on what your children had told you, other than

Page 76

1 substitute teachers, have there been any of the normal  
 2 teachers that referred to your children not using  
 3 their chosen names or pronouns?  
 4 A I think you already asked me this. What  
 5 did -- I mean, can you repeat it?  
 6 Q I guess maybe I already asked it. Let me  
 7 just reframe the question. So my understanding in  
 8 talking with you today is that the normal teachers at  
 9 the high school have sought to honor your and your  
 10 children's request to use male pronouns and their  
 11 chosen names, B.E. and S.E.  
 12 And the exception to that, there had been  
 13 occasions where the substitute teachers have not done  
 14 that, but the normal teachers have complied with that  
 15 request. Is that a correct understanding?  
 16 A Yes, to my knowledge. I mean, I don't go to  
 17 school there.  
 18 Q Okay. And I'm not asking you anything  
 19 beyond on knowledge but based on what your children  
 20 have told you.  
 21 Paragraph 25, you state, "Being unable to  
 22 use the boys' facilities has been emotionally and  
 23 physically harmful.  
 24 "They often come home having avoided using  
 25 the bathrooms at all during school which is very

Page 77

1 dangerous because of their medical issues and has  
 2 impacted their ability to be at school and their  
 3 desire to participate in school or do their school  
 4 work."  
 5 When do you recall that either of your  
 6 children has come home having avoided using the  
 7 bathrooms at all during school?  
 8 A That's all the time.  
 9 Q And have you kept a log of those specific  
 10 days?  
 11 A No, I didn't know I needed to.  
 12 Q When you say "all the time," what do you  
 13 mean by that?  
 14 A They come home -- I mean, almost bend over  
 15 cramping because they have to use the bathroom.  
 16 Sometimes, they even come home like half of  
 17 the -- half of the day or even a little bit -- when  
 18 school is about to leave saying that their stomach  
 19 hurts because they don't -- they can't use the  
 20 bathroom -- the normal, I mean, the boys' bathroom.  
 21 So I come and pick them up because of their  
 22 stomach issues.  
 23 Q And when, specifically, has that occurred?  
 24 A That happened twice. I believe in this  
 25 month, in December. It happened two times, I believe.

Page 78

1 Q And was that with regard to one of your  
 2 children or both of your children both on the same  
 3 day?  
 4 A Yes, yes, both on the same but different  
 5 times, yeah.  
 6 Q And so when you say it happened twice, it  
 7 was twice for each child or --  
 8 A Yes.  
 9 Q -- twice on the same day? Twice for B.E.  
 10 and twice for S.E.  
 11 A Yes, correct, and two different days.  
 12 Q Okay, always got to be confusing with twins;  
 13 right?  
 14 A Yes, yes.  
 15 Q And when you said that this happens all the  
 16 time, how frequently did you mean by that?  
 17 A It's pretty much like every -- every day or  
 18 every other day, at least a couple times a week.  
 19 Q So a couple times a week where they come  
 20 home and say that they didn't use the restroom at all  
 21 during that day.  
 22 A Or like when they try to go to the North --  
 23 the health clinic, it was closed, I mean.  
 24 Q Paragraph 26, you state, "Without the  
 25 ability to use the easily-accessible boys' bathrooms

Page 79

1 at school, they have been times when they have been  
 2 unable to avoid having bathroom accidents.  
 3 "This is embarrassing for them and  
 4 disruptive because they have to miss class and wait  
 5 until I can get to school with a change of clothes."  
 6 When is that an occurrence that's occurred  
 7 for both children or just for one of them?  
 8 A Both.  
 9 Q And let's start with B.E. When did B.E.  
 10 have a bathroom accident that required you to bring a  
 11 change of clothes?  
 12 A I -- I believe I just picked -- picked him  
 13 up and brought him home.  
 14 Q And when did that occur?  
 15 A It happens once in a while. I don't -- I  
 16 don't recall.  
 17 Q Do you recall specific instances when that  
 18 occurred for B.E.?  
 19 A Sometimes, sometimes he doesn't even he did,  
 20 and it's on the back of his pants. So sometimes, I  
 21 don't even have to go and give him extra clothes  
 22 because he doesn't know and then, you know.  
 23 Q Do you recall any specific instances where  
 24 this has occurred?  
 25 A Yeah, when he comes home, it's -- I don't

Page 80

1 know what you're asking.  
 2 Q Okay. So your declaration seems to indicate  
 3 that there were times where B.E. had to miss class  
 4 because you had to bring B.E. a change of clothes.  
 5 Has that ever occurred where you had to  
 6 bring B.E. a change of clothes?  
 7 A Yes.  
 8 Q And when did that occur?  
 9 A In middle school.  
 10 Q Okay. So that has not occurred in high  
 11 school.  
 12 A Well, it -- not the clothes thing. I  
 13 haven't -- I don't remember.  
 14 Q So you don't remember, sitting here today,  
 15 ever bringing a change of clothes to B.E. because B.E.  
 16 has had an accident in high school.  
 17 A No, I do remember. I just don't know  
 18 exactly when. I mean, I don't know what day or month.  
 19 Q Well, what do you remember about -- even if  
 20 you don't remember the day or the month, what do you  
 21 recall with regard to that particular occurrence?  
 22 A I don't know.  
 23 Q So you don't have --  
 24 MS. BENSBERG: Can I just object? How  
 25 much more do you reckon you have?

Page 81

1 MR. ZIMMERLY: I think I'm going to be  
 2 done -- I'm shooting to be done at noon. I might go a  
 3 little beyond noon, but my goal is to be done at noon.  
 4 MS. BENSBERG: Okay. L.E., how are you  
 5 doing; do you need a break?  
 6 THE WITNESS: Yes, I would love to have  
 7 a break.  
 8 MS. BENSBERG: Okay. Can we come back  
 9 on at 11:30?  
 10 MR. ZIMMERLY: That would be fine,  
 11 yeah.  
 12 MS. BENSBERG: Thank you.  
 13 THE REPORTER: We're now off the record  
 14 at 11:20 a.m.  
 15 (Off the record.)  
 16 THE REPORTER: We are now back on the  
 17 record at 11:34 a.m.  
 18 BY MR. ZIMMERLY:  
 19 Q L.E., when we took a break, I was asking you  
 20 if you recalled specific instances where your children  
 21 had bathroom accidents that required that you bring  
 22 them a change of clothes.  
 23 With regard to B.E., do you recall a  
 24 specific instance where you had to bring a change of  
 25 clothes in high school because B.E. had an accident at

<p style="text-align: right;">Page 82</p> <p>1 school?</p> <p>2 A It was mostly in middle school about the</p> <p>3 extra clothes, but she -- he continues to have</p> <p>4 accidents. So I don't know.</p> <p>5 Q Do you recall any specific times in high</p> <p>6 school where you had to bring B.E. had a change of</p> <p>7 clothes?</p> <p>8 A I don't remember.</p> <p>9 Q And what about with regard to S.E.? Have</p> <p>10 there been any occasions where, in high school, you</p> <p>11 have had to bring S.E. a change of clothes because</p> <p>12 S.E. has had an accident?</p> <p>13 A He keeps on having accidents. I don't</p> <p>14 know -- remember -- I mean, I don't remember times.</p> <p>15 Q Even if you don't --</p> <p>16 A They keep on having accidents.</p> <p>17 Q Okay. Do you recall specific times where</p> <p>18 you have brought S.E. a change of clothes to school in</p> <p>19 high school?</p> <p>20 A Yes.</p> <p>21 Q And when did that -- was that once, twice,</p> <p>22 how many times?</p> <p>23 A I believe once.</p> <p>24 Q And do you recall when that was in terms of</p> <p>25 time frame?</p>	<p style="text-align: right;">Page 84</p> <p>1 transgender because of the school's continued use of</p> <p>2 their birth names?</p> <p>3 A In gym class.</p> <p>4 Q I'm sorry. Can you say that again? You</p> <p>5 actually broke up on Zoom.</p> <p>6 A In gym class and ROTC and math class.</p> <p>7 Q And is this based on information that has</p> <p>8 been shared with you by your children?</p> <p>9 A Yes.</p> <p>10 Q And is it your understanding that those</p> <p>11 classmates, prior to the use of the birth names, that</p> <p>12 those classmates, in your understanding, previously</p> <p>13 believed that your children were biological males?</p> <p>14 A I'm not understanding the question</p> <p>15 apparently.</p> <p>16 Q Well, the statement, "Many of their</p> <p>17 classmates have learned that they are transgender</p> <p>18 because of the school's continued use of their birth</p> <p>19 names --</p> <p>20 A Yeah. They are confusing their peers.</p> <p>21 Q Okay. So --</p> <p>22 A So they don't know what sex they are. So</p> <p>23 they keep on looking them up and down to see what they</p> <p>24 are.</p> <p>25 Q Okay. Paragraph 28 goes on to state, you go</p>
<p style="text-align: right;">Page 83</p> <p>1 A No, I don't.</p> <p>2 Q I think you testified that there were,</p> <p>3 approximately, well, two occasions for S.E. where you</p> <p>4 picked up S.E. and you took S.E. home and two</p> <p>5 occasions where you picked up B.E. and took B.E. home.</p> <p>6 And do you recall any other occasions beyond</p> <p>7 those two instances for each student where you picked</p> <p>8 them up and brought them home?</p> <p>9 A Yeah, a couple of times within this year due</p> <p>10 to accidents also, but they didn't let them know.</p> <p>11 They just said that their stomach hurt. When they</p> <p>12 came home, they -- you could tell that they had</p> <p>13 accidents.</p> <p>14 Q Okay. And those were the same two instances</p> <p>15 that we talked about for each student or different</p> <p>16 instances?</p> <p>17 A Different.</p> <p>18 Q And do you recall those specific dates?</p> <p>19 A No, I don't.</p> <p>20 Q Turning back to your declaration,</p> <p>21 Paragraph 28, you state, "Many of their classmates</p> <p>22 have learned that they are transgender because of the</p> <p>23 school's continued use of their birth names."</p> <p>24 With regard to that statement, which</p> <p>25 classmates have learned that your children are</p>	<p style="text-align: right;">Page 85</p> <p>1 on to state, "Some of their peers have started</p> <p>2 discussing their gender and denying that they are</p> <p>3 really boys."</p> <p>4 Let me ask you about that. Have you been</p> <p>5 present for any of those discussions?</p> <p>6 A No.</p> <p>7 Q And so your information that comprised that</p> <p>8 statement here in your declaration is based on</p> <p>9 information that's been shared by your children.</p> <p>10 A Correct.</p> <p>11 Q And what have they told you about those</p> <p>12 discussions?</p> <p>13 A Well, they come home really distraught, and</p> <p>14 they are questioning them. And it shouldn't be a</p> <p>15 factor.</p> <p>16 Q What specifically have they told you --</p> <p>17 well, specifically, what has B.E. said to you that</p> <p>18 B.E.'s peers have discussed gender and denying that</p> <p>19 B.E. is really a boy?</p> <p>20 A Because of their dead names, they knew them.</p> <p>21 They went to school with them prior to the name</p> <p>22 change.</p> <p>23 Q And what specifically did B.E. tell you</p> <p>24 about those discussions with B.E.'s peers?</p> <p>25 A Like, some of them knew the old person.</p>

<p style="text-align: right;">Page 86</p> <p>1 Then they are like, "Nu-huh, your name is this." And</p> <p>2 B.E. corrects it, and I don't know.</p> <p>3 I mean, they are just getting confused.</p> <p>4 They don't know -- the peers do not know -- I mean,</p> <p>5 they are denying that they are boys because they went</p> <p>6 to school with them prior before hormones and the</p> <p>7 haircuts, the dress.</p> <p>8 Q And so B.E., in your talks with B.E., has</p> <p>9 shared with you that it's been confusing for B.E.'s</p> <p>10 peers because those peers knew B.E. previously as a</p> <p>11 female and now B.E. is presenting as a male. Is that</p> <p>12 what B.E. shared with you?</p> <p>13 A That's correct. And then the teachers mess</p> <p>14 up on pronouns or, you know, slip up and say their</p> <p>15 dead names.</p> <p>16 Q What conversations have you had with S.E.</p> <p>17 about S.E.'s discussions with S.E.'s peers?</p> <p>18 A Well, I tell -- I tell both of them to</p> <p>19 correct them -- correct the person, so.</p> <p>20 Q And that's your response. What has S.E.</p> <p>21 shared with you about discussions with S.E.'s peers?</p> <p>22 A Most of them think that they are -- they are</p> <p>23 boys because they are boys.</p> <p>24 But when teachers and ex-classmates get</p> <p>25 involved and open, you know, put their two cents in,</p>	<p style="text-align: right;">Page 88</p> <p>1 anti -- so they lost friends. They have lost friends.</p> <p>2 Q Well, I'm specifically asking you about</p> <p>3 family friends that expressed anti-transgender</p> <p>4 sentiments. Do you recall any of your family friends</p> <p>5 expressing anti-transgender sentiments?</p> <p>6 A Meaning against it, right?</p> <p>7 Q That would be "anti," yes, so.</p> <p>8 A Friends, yes, family friends, yes, we just</p> <p>9 don't hang out with them, I mean, simple as that.</p> <p>10 Q And who are they?</p> <p>11 A Does it matter? Miranda Waltrap, I don't</p> <p>12 know her name, but B.E. was friends with her; they</p> <p>13 might still be friends but not really. They called</p> <p>14 her "B.E.," or something. I don't know. Family --</p> <p>15 no, that would be family friends.</p> <p>16 BY MR. ZIMMERLY:</p> <p>17 Q So beyond the one person you're not aware,</p> <p>18 somebody called B.E. "B.E.," and you have mentioned</p> <p>19 Miranda Waltrap. Who is Miranda Waltrap?</p> <p>20 A Miranda, we was really good friends when we</p> <p>21 was pregnant together. She -- and she has a boy, and</p> <p>22 he was early also.</p> <p>23 So we -- I mean, we just don't see</p> <p>24 eye-to-eye anymore. So we kind of lost -- they don't</p> <p>25 hang out. They don't hang out; they don't do</p>
<p style="text-align: right;">Page 87</p> <p>1 it makes it stressful. And -- and he doesn't like it,</p> <p>2 I mean.</p> <p>3 Q Did these discussions increase in any way</p> <p>4 after B.E. and S.E. began using the boys' restroom?</p> <p>5 A What do you mean, use the bathrooms? They</p> <p>6 are not supposed to use the boys' bathroom. So I</p> <p>7 don't know what you're saying.</p> <p>8 Q Okay. Well, I understand, that they, at one</p> <p>9 point in time, used male restrooms and were told not</p> <p>10 to do so.</p> <p>11 Other than that one -- or that instance, do</p> <p>12 you know whether or not that increased or decreased</p> <p>13 the discussions in relation to this topic?</p> <p>14 A No.</p> <p>15 Q So you don't know one way or the other or,</p> <p>16 no, there were no further discussions?</p> <p>17 A No more discussions.</p> <p>18 Q Okay. Paragraph 28 continues, and you</p> <p>19 state, "Some of our family friends," this is the last</p> <p>20 sentence of the final clause.</p> <p>21 "Some of our family friends have expressed</p> <p>22 anti-transgender sentiments." Who are the family</p> <p>23 friends that expressed anti-transgender sentiments?</p> <p>24 A I don't know; I'm a blank. Oh. Well, even,</p> <p>25 you know, some of our family friends have expressed</p>	<p style="text-align: right;">Page 89</p> <p>1 activities anymore.</p> <p>2 Q And what anti-transgender sentiment did</p> <p>3 Ms. Waltrap express?</p> <p>4 A That she didn't agree on what I'm doing, on</p> <p>5 doctors, you know.</p> <p>6 Q Okay. Anything else beyond that?</p> <p>7 A No, I don't think so.</p> <p>8 Q Paragraph 29 begins with the statement,</p> <p>9 "These issues are chronically disrupting my children's</p> <p>10 education and lives." What do you mean by that?</p> <p>11 A Well, going to school every day knowing that</p> <p>12 people is looking at you and judging you on who you</p> <p>13 are, that has to do something with not paying</p> <p>14 attention with your schoolwork, so.</p> <p>15 They are paying -- they are paying more</p> <p>16 attention to the negative outlook inside of learning</p> <p>17 because that's all they are able to think of, I guess.</p> <p>18 I'm just guessing.</p> <p>19 Q Anything else beyond that?</p> <p>20 A No.</p> <p>21 Q If you would, pull up a separate exhibit,</p> <p>22 Exhibit 2.</p> <p>23 (Exhibit 2 was marked for</p> <p>24 identification.)</p> <p>25 A Okay.</p>

<p style="text-align: right;">Page 90</p> <p>1 Q Do you have that document in front of you?</p> <p>2 A Yes.</p> <p>3 Q This should be the Order Unverified Petition</p> <p>4 for Change of Name and Gender Marker. And is it true</p> <p>5 that this order changed your child's legal name,</p> <p>6 changed B.E.'s legal name?</p> <p>7 A Yes, it did.</p> <p>8 Q And it's also true that it changed your</p> <p>9 child's legal gender to male. Is that true?</p> <p>10 A Yes, it did.</p> <p>11 Q Is it true that this order did not legally</p> <p>12 change your child's biological sex?</p> <p>13 A Not yet until he is 18 to have surgery.</p> <p>14 Q Okay. As of today, B.E.'s anatomy is still</p> <p>15 that of a biological female.</p> <p>16 MS. BENSBERG: I'm just going to</p> <p>17 object. We've gone over this several times.</p> <p>18 BY MR. ZIMMERLY:</p> <p>19 Q You can answer.</p> <p>20 A Next question, please.</p> <p>21 Q Did you answer my question?</p> <p>22 A I don't know what that question was.</p> <p>23 Q Let me re-ask it, noting the objection. Is</p> <p>24 it true that B.E.'s anatomy is still that of a</p> <p>25 biological female?</p>	<p style="text-align: right;">Page 92</p> <p>1 Q If you turn to Exhibit 7 which is the email</p> <p>2 packet --</p> <p>3 A Okay.</p> <p>4 Q I just had a few questions about specific</p> <p>5 emails in here. If you turn to Page 23 in the</p> <p>6 packet --</p> <p>7 A Twenty-three, you said.</p> <p>8 Q Yes.</p> <p>9 A Okay, thank you. Oh, this is my sister.</p> <p>10 Q I was going to ask you that. So there's an</p> <p>11 email from -- on August 8, 2021, from M.E. at M.E. 11</p> <p>12 at Gmail dot com. Do you see that?</p> <p>13 A Yes, I do.</p> <p>14 Q And we can refer to her as "M.E.," and just</p> <p>15 note that in the record. So M.E., is she your sister?</p> <p>16 A Yes.</p> <p>17 Q When she indicates that she -- the email</p> <p>18 indicates that she is the aunt of B.E. and S.E., and</p> <p>19 uses their prior legal names, I want to ask you</p> <p>20 specifically about the second paragraph where she</p> <p>21 writes, "B.E. only goes by B.E., and S.E. only goes by</p> <p>22 S.E."</p> <p>23 So as of August 8, 2021, was S.E. still</p> <p>24 going by the name S.E.?</p> <p>25 A Maybe to her.</p>
<p style="text-align: right;">Page 91</p> <p>1 A Yes, on the outside, yes.</p> <p>2 Q Turning to Exhibit 3, do you have that in</p> <p>3 front of you?</p> <p>4 (Exhibit 3 was marked for</p> <p>5 identification.)</p> <p>6 A Yes, I do.</p> <p>7 Q This is the Order Unverified Petition for</p> <p>8 Change of Name and Gender Marker for S.E. Is that</p> <p>9 true?</p> <p>10 A Yes.</p> <p>11 Q And so this document changed S.E.'s legal</p> <p>12 name. Is that true?</p> <p>13 A Yes.</p> <p>14 Q And it also changed S.E.'s legal gender to</p> <p>15 male. Is that true?</p> <p>16 A Yes.</p> <p>17 Q And is it also true that it did not legally</p> <p>18 change S.E.'s biological sex?</p> <p>19 MS. BENSBERG: Same objection, go</p> <p>20 ahead.</p> <p>21 THE WITNESS: Yes.</p> <p>22 BY MR. ZIMMERLY:</p> <p>23 Q And is it also true that S.E.'s anatomy is</p> <p>24 still that of a biological female?</p> <p>25 A Yes.</p>	<p style="text-align: right;">Page 93</p> <p>1 Q Okay. And --</p> <p>2 A Them are just little nicknames like -- I</p> <p>3 don't know.</p> <p>4 Q Okay. In the last sentence of that</p> <p>5 paragraph, M.E. writes, "B.E. pronouns are he, him,</p> <p>6 and S.E.'s pronouns are they, he." So as of August 8,</p> <p>7 2021, was S.E. still using the pronoun "they"?</p> <p>8 A I guess not, no.</p> <p>9 Q S.E. was not using the pronoun "they" as of</p> <p>10 August 8, 2021.</p> <p>11 A I don't know.</p> <p>12 Q You don't know one way or the other.</p> <p>13 A Correct, because to me, they, he, him, are</p> <p>14 all the same, but they are not.</p> <p>15 Q Let's go to Page 18.</p> <p>16 A Okay.</p> <p>17 Q Is this an email that you sent? In kind of</p> <p>18 the middle of the page here, there's a email,</p> <p>19 August 18, 2021, at 9:32 a.m.</p> <p>20 A Yeah.</p> <p>21 Q Is that your school corporation email</p> <p>22 address that you sent the email from?</p> <p>23 A Yes.</p> <p>24 Q In the beginning of the email, you use the</p> <p>25 then legal names of your two children. Is that true?</p>

Page 94

1 A Yes, with everything I do, pretty much.  
 2 Q What do you mean by that?  
 3 A So they can't recognize who I'm talking  
 4 about.  
 5 Q In the email, you write, this is after the  
 6 ellipsis where you write, "Is there any way that they  
 7 can use the boy locker room and a different locker  
 8 room because you do have other locker rooms or let  
 9 them go into boys' locker room after or before the  
 10 class starts or ends?" Do you see that there?  
 11 A Yeah.  
 12 Q So as of August 18, 2021, was your request  
 13 to allow your children to use a different boys' locker  
 14 room than the other boys or allow them to use it  
 15 before or after the biological boys?  
 16 A I just wanted them to be able to use any  
 17 boys' locker room or bathroom.  
 18 Q And so you were proposing sort of an  
 19 alternative at that time where they could maybe use a  
 20 different boys' locker room or use it before or after  
 21 the other students. Is that what you were doing here?  
 22 A Yes.  
 23 Q The next sentence you state, or you write,  
 24 "Please, I do understand that they can't go inside  
 25 with the boys. And honestly, they don't either.

Page 95

1 "It's just the fact that it is what they  
 2 prefer, what they are boys," exclamation point,  
 3 exclamation point. What did you mean by that?  
 4 A Meaning, you don't -- okay, when you go into  
 5 any locker room, you really don't want to go and get  
 6 dressed or undressed in front of people, so.  
 7 Q So your proposal in relation to allowing  
 8 them to use a different boys' locker room or to use  
 9 the locker room before or after the other boys would  
 10 be to protect your child's privacy interests.  
 11 A Yes.  
 12 Q And was part of that privacy interest in  
 13 relation to the fact that your children have different  
 14 physical anatomy than biological boys?  
 15 A Yes.  
 16 Q The next sentence you write, "I honestly  
 17 hate this, but I have to support their decision. Or  
 18 maybe I don't know. I'm having a hard time accepting  
 19 it. I'm sorry." What did you mean by that?  
 20 A Well, in the beginning, I was having issues,  
 21 honestly hating this because I work for the school.  
 22 I love my job, and I didn't want to go  
 23 through all this. And I don't want to get fired, but  
 24 I will do what I have to do to support my kids.  
 25 Q I don't want to inquire about specific

Page 96

1 conversations you have had with your counsel. Those  
 2 are attorney/client privileged. I would like to know  
 3 when you first consulted with an attorney about these  
 4 issues.  
 5 A I would say I was in the process of it in  
 6 the beginning of the school year. I was right on it.  
 7 Q So beginning of this school year, fall 2021.  
 8 A Yes.  
 9 Q Other than your attorneys, have you talked  
 10 with anyone about this lawsuit?  
 11 A No.  
 12 MR. ZIMMERLY: I think we may be done.  
 13 If you just give me maybe three minutes to consult  
 14 with my co-counsel, maybe let's come back maybe at  
 15 12:07, and we may be done.  
 16 THE REPORTER: Okay. We are now off  
 17 the record at 12:03 p.m.  
 18 (Off the record.)  
 19 THE REPORTER: We are now back on the  
 20 record at 12:08 p.m.  
 21 MR. ZIMMERLY: Those are all the  
 22 questions I have. Thank you so much, L.E., for your  
 23 day with us. We appreciate you taking your morning to  
 24 spend with us.  
 25 We do reserve our rights to re-depose

Page 97

1 you. We're at the early stages of the case and  
 2 preliminary injunction and have not yet been able to  
 3 see a number of documents we discussed with regard to  
 4 medical records and records that you have indicated  
 5 that you shared with the school.  
 6 So we reserve that right but thank you  
 7 for your time today. And we appreciate it.  
 8 THE WITNESS: I do want to clear  
 9 something up about who else knows about this case. It  
 10 is my sister, M.E. She does live with us off and on.  
 11 So she does know about the case.  
 12 BY MR. ZIMMERLY:  
 13 Q So is that -- I had asked you -- just going  
 14 back -- I may have some follow-up questions on that.  
 15 Just I had asked you whether you had talked  
 16 with anybody about the lawsuit. Is that what you're  
 17 referring to, somebody you talked about the lawsuit  
 18 with?  
 19 A Yes.  
 20 Q And how many times have you talked with M.E.  
 21 about the lawsuit?  
 22 A Couple of times.  
 23 Q And what specifically have the two of you  
 24 talked about?  
 25 A Really not much, she does know -- I mean,

Page 98

1 she does know about it. I was just letting you know.  
 2 She does know about it, but she doesn't put her two  
 3 cents in, I mean.  
 4 Q And did you talk with her about your  
 5 deposition today?  
 6 A I think -- she knows about the meeting, yes.  
 7 MR. ZIMMERLY: Okay. I have no further  
 8 questions. Thank you for your time again, and happy  
 9 holidays to you. Have a happy New Year.  
 10 THE WITNESS: Yes, happy New Year's to  
 11 you, and thank you so much.  
 12 THE REPORTER: Before I ask about  
 13 transcripts, will there be further questioning?  
 14 MS. BENSBERG: Nothing from us.  
 15 THE REPORTER: Okay. Then going in  
 16 order, I will ask Mr. Zimmerly. Are you ordering?  
 17 MR. ZIMMERLY: Yes, we will get a copy,  
 18 E-tran condensed.  
 19 THE REPORTER: Okay. Ms. Bensberg?  
 20 MR. FALK: And send the transcripts to  
 21 me for plaintiffs, please, and we will take a E-tran.  
 22 THE REPORTER: Okay.  
 23 MR. FALK: And we did not ask about  
 24 signature. L.E., you have the right to review this  
 25 transcript before it's finalized.

Page 99

1 We will review it as well. If there  
 2 are any sort of typos or mistakes, you cannot change  
 3 the substance of the deposition, but you make those  
 4 corrections.  
 5 You can waive that right, but we  
 6 recommend that you sign off on it. We will go through  
 7 it with you to review it. Is that okay?  
 8 THE WITNESS: Yes.  
 9 MR. FALK: And we will take signature.  
 10 THE REPORTER: Okay.  
 11 MR. FALK: I'm sorry; I will shut up  
 12 now.  
 13 THE REPORTER: And I assume all  
 14 plaintiff counsel are sharing a transcript order.  
 15 UNIDENTIFIED SPEAKER: Yes.  
 16 MR. FALK: Just send that to us and  
 17 bill us. Bill the ACLU.  
 18 THE REPORTER: Okay. In that case, we  
 19 are now off the record. Oh, no, exhibits. With  
 20 regards to the exhibits you mentioned, will you be  
 21 providing those or retaining them?  
 22 MR. ZIMMERLY: I will email them to  
 23 B.E. -- I mean, Andrew. What is your email?  
 24 THE REPORTER: I will tell you off the  
 25 record.

Page 100

1 MR. ZIMMERLY: Okay.  
 2 THE REPORTER: All right. In that  
 3 case, we are now off the record at 12:11 p.m.  
 4 (Signature reserved.)  
 5 (Whereupon, at 12:11 p.m., the  
 6 proceeding was concluded.)  
 7  
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Page 101

1 CERTIFICATE OF DEPOSITION OFFICER  
 2 I, ANDREW PRONSCHINSKE, the officer before  
 3 whom the foregoing proceedings were taken, do hereby  
 4 certify that any witness(es) in the foregoing  
 5 proceedings, prior to testifying, were duly sworn;  
 6 that the proceedings were recorded by me and  
 7 thereafter reduced to typewriting by a qualified  
 8 transcriptionist; that said digital audio recording of  
 9 said proceedings are a true and accurate record to the  
 10 best of my knowledge, skills, and ability; that I am  
 11 neither counsel for, related to, nor employed by any  
 12 of the parties to the action in which this was taken;  
 13 and, further, that I am not a relative or employee of  
 14 any counsel or attorney employed by the parties  
 15 hereto, nor financially or otherwise interested in the  
 16 outcome of this  
  
 17 ANDREW PRONSCHINSKE  
 18 Notary Public in and for the  
 19 State of Indiana  
 20  
 21 [X] Review of the transcript was requested.  
 22  
 23  
 24  
 25

Page 102

1 CERTIFICATE OF TRANSCRIBER  
 2 I, AMY DAMOTH, do hereby certify that this  
 3 transcript was prepared from the digital audio  
 4 recording of the foregoing proceeding, that said  
 5 transcript is a true and accurate record of the  
 6 proceedings to the best of my knowledge, skills, and  
 7 ability; that I am neither counsel for, related to,  
 8 nor employed by any of the parties to the action in  
 9 which this was taken; and, further, that I am not a  
 10 relative or employee of any counsel or attorney  
 11 employed by the parties hereto, nor financially or  
 12 otherwise interested in the outcome of this action.  
 13  
 14  
  
 15 \_\_\_\_\_  
 16 AMY DAMOTH  
 17  
 18  
 19  
 20  
 21  
 22  
 23  
 24  
 25

Page 103

1 Veritext Legal Solutions  
 2 1100 Superior Ave  
 3 Suite 1820  
 4 Cleveland, Ohio 44114  
 5 Phone: 216-523-1313  
 6  
 7 December 30, 2021  
 8 To: Mr. Falk  
 9  
 10 Case Name: B.E. And S.E., Et Al. v. Vigo County School Corporation, Et  
 11 Al.  
 12 Veritext Reference Number: 4992729  
 13 Witness: L.E. Deposition Date: 12/21/2021  
 14  
 15 Dear Sir/Madam:  
 16  
 17 Enclosed please find a deposition transcript. Please have the witness  
 18 review the transcript and note any changes or corrections on the  
 19 included errata sheet, indicating the page, line number, change, and  
 20 the reason for the change. Have the witness' signature notarized and  
 21 forward the completed page(s) back to us at the Production address  
 22 shown  
 23 above, or email to production-midwest@veritext.com.  
 24  
 25 If the errata is not returned within thirty days of your receipt of  
 this letter, the reading and signing will be deemed waived.  
 Sincerely,  
 Production Department  
 NO NOTARY REQUIRED IN CA

Page 104

1 DEPOSITION REVIEW  
 CERTIFICATION OF WITNESS  
 2  
 3 ASSIGNMENT REFERENCE NO: 4992729  
 CASE NAME: B.E. And S.E., Et Al. v. Vigo County School  
 Corporation, Et Al.  
 DATE OF DEPOSITION: 12/21/2021  
 WITNESS' NAME: L.E.  
 5 In accordance with the Rules of Civil  
 Procedure, I have read the entire transcript of  
 6 my testimony or it has been read to me.  
 7 I have made no changes to the testimony  
 as transcribed by the court reporter.  
 8  
 9 Date \_\_\_\_\_ L.E.  
 10 Sworn to and subscribed before me, a  
 Notary Public in and for the State and County,  
 11 the referenced witness did personally appear  
 and acknowledge that:  
 12  
 13 They have read the transcript;  
 They signed the foregoing Sworn  
 Statement; and  
 14 Their execution of this Statement is of  
 their free act and deed.  
 15  
 16 I have affixed my name and official seal  
 17 this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.  
 18  
 19 \_\_\_\_\_  
 Notary Public  
 20  
 21 \_\_\_\_\_  
 Commission Expiration Date  
 22  
 23  
 24  
 25

Page 105

1 DEPOSITION REVIEW  
 CERTIFICATION OF WITNESS  
 2  
 3 ASSIGNMENT REFERENCE NO: 4992729  
 CASE NAME: B.E. And S.E., Et Al. v. Vigo County School  
 Corporation, Et Al.  
 DATE OF DEPOSITION: 12/21/2021  
 WITNESS' NAME: L.E.  
 5 In accordance with the Rules of Civil  
 Procedure, I have read the entire transcript of  
 6 my testimony or it has been read to me.  
 7 I have listed my changes on the attached  
 Errata Sheet, listing page and line numbers as  
 8 well as the reason(s) for the change(s).  
 9 I request that these changes be entered  
 as part of the record of my testimony.  
 10  
 11 I have executed the Errata Sheet, as well  
 as this Certificate, and request and authorize  
 that both be appended to the transcript of my  
 12 testimony and be incorporated therein.  
 13  
 14 Date \_\_\_\_\_ L.E.  
 15 Sworn to and subscribed before me, a  
 Notary Public in and for the State and County,  
 16 the referenced witness did personally appear  
 and acknowledge that:  
 17 They have read the transcript;  
 They have listed all of their corrections  
 18 in the appended Errata Sheet;  
 They signed the foregoing Sworn  
 19 Statement; and  
 Their execution of this Statement is of  
 20 their free act and deed.  
 21 I have affixed my name and official seal  
 22 this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.  
 23  
 24 \_\_\_\_\_  
 Notary Public  
 25  
 \_\_\_\_\_  
 Commission Expiration Date

1 ERRATA SHEET  
 2 VERITEXT LEGAL SOLUTIONS MIDWEST  
 3 ASSIGNMENT NO: 4992729  
 4 PAGE/LINE(S) / CHANGE /REASON  
 5 \_\_\_\_\_  
 6 \_\_\_\_\_  
 7 \_\_\_\_\_  
 8 \_\_\_\_\_  
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 17 \_\_\_\_\_  
 18 \_\_\_\_\_  
 19 \_\_\_\_\_  
 20 Date \_\_\_\_\_ L.E.  
 21 SUBSCRIBED AND SWORN TO BEFORE ME THIS \_\_\_\_\_  
 22 DAY OF \_\_\_\_\_, 20\_\_\_\_\_.  
 23 \_\_\_\_\_  
 24 Notary Public  
 25 \_\_\_\_\_  
 Commission Expiration Date

[&amp; - acknowledge]

Page 1

&	2	4	9
& 3:12,20 7:16	2 4:8 39:16 89:22	4 4:10 12:9,12,12	9 42:15 49:14
0	89:23	49:18,21 50:1	91 4:9
0.2 52:7	20 104:16 105:22	51:12 69:5,7,12	9:01 1:19 5:5
00415 1:10	106:22	72:6	9:32 93:19
1	2001 16:3	44114 103:2	9:42 66:18
1 12:10,12	2016 16:12 22:5	46202 2:14,22	9:44 29:21
10 51:8,9,24	2016/2017 16:22	46204 1:21 3:14,22	a
1031 2:13,21	2017 16:13 22:6	46225 2:6	a.m. 1:19 5:5
10:10 39:5	2020 28:19	47 66:4	29:21 39:5 51:22
10:33 51:22	2021 1:18 5:8	47404 3:6	66:18 81:14,17
11 4:13,13 11:18	28:19 40:25 61:9	49 4:10,11 67:12	93:19
11:19 22:11 39:9	66:18 73:16 92:11	4992729 1:23	ability 73:7 77:2
51:25 52:21 60:18	92:23 93:7,10,19	103:8 104:2 105:2	78:25 101:10
74:18 92:11	94:12 96:7 103:4	106:2	102:7
1100 103:1	21 1:18 5:8	5	able 57:10 89:17
111 3:13,21	214 3:5	5 4:11 22:9,25	94:16 97:2
11:20 81:14	216-523-1313	49:19,21 50:1	absent 6:9
11:30 81:9	103:3	51:13 69:5 72:13	accept 40:1
11:34 81:17	22 74:17,18	72:13	accepted 39:10,23
12 52:21,24	23 74:17 75:9 92:5	50 67:12	accepting 95:18
12/21/2021 103:9	25 19:21 20:19	51 67:20	access 58:23 63:18
104:3 105:3	76:21	6	63:25 64:10 75:1
1200 2:5	26 78:24	6 27:16 29:23	accessible 78:25
12:03 96:17	26567 102:14	631-9410 2:8	accident 79:10
12:07 96:15	2700 3:13,21	635-4059 2:16,24	80:16 81:25 82:12
12:08 96:20	27071 101:16	65 4:12	accidents 79:2
12:11 100:3,5	28 83:21 84:25	684-5000 3:16,24	81:21 82:4,13,16
13 60:17	87:18	7	83:10,13
14 60:17 61:2	29 89:8	7 4:12 39:9,17	accommodation
15 61:14	2:21 1:10	41:6 65:20,23	49:5 70:21,23
18 42:14 65:10,13	2nd 3:5	92:1	72:2
65:15 66:18 90:13	3	8	accurate 8:16,19
93:15,19 94:12	3 4:9 91:2,4	8 4:3 41:9 49:14	101:9 102:5
181 66:11,14	30 103:4	92:11,23 93:6,10	acid 20:13,13,14
1820 103:2	300 2:5	812 3:8	21:4
18th 67:9,18 69:1	317 2:8,16,24 3:16	89 4:8	acids 20:15
	3:24		acknowledge
	339-7668 3:8		104:11 105:16

## [acknowledgements - back]

Page 2

<p><b>acknowledgeme...</b> 5:11 6:6</p> <p><b>aclu</b> 2:12,15,20,23 7:5,7,12 67:21 99:17</p> <p><b>act</b> 22:17,20,23 104:14 105:20</p> <p><b>action</b> 101:12,16 102:8,12</p> <p><b>activities</b> 33:16 36:20 89:1</p> <p><b>addition</b> 49:24</p> <p><b>additionally</b> 6:9</p> <p><b>address</b> 42:16,18 93:22 103:16</p> <p><b>administer</b> 5:11 6:6</p> <p><b>affect</b> 8:22</p> <p><b>affixed</b> 104:15 105:21</p> <p><b>afraid</b> 13:5</p> <p><b>ago</b> 16:17 19:6 23:16 24:15 45:10</p> <p><b>agree</b> 5:12 6:7,11 72:8 74:13 89:4</p> <p><b>agreed</b> 56:22,22</p> <p><b>ahead</b> 13:11 28:16 74:22 91:20</p> <p><b>al</b> 5:7,8 103:6,7 104:3,3 105:3,3</p> <p><b>alcohol</b> 8:22</p> <p><b>align</b> 41:12,16</p> <p><b>allow</b> 69:14,16 72:7 74:10 94:13 94:14</p> <p><b>allowed</b> 61:3,15 63:18 71:10 75:5</p> <p><b>allowing</b> 70:21 95:7</p> <p><b>alternative</b> 94:19</p>	<p><b>altogether</b> 50:7</p> <p><b>amazing</b> 20:20</p> <p><b>amy</b> 102:2,15</p> <p><b>anatomy</b> 41:17,20 90:14,24 91:23 95:14</p> <p><b>andrew</b> 1:22 5:3 99:23 101:2,17</p> <p><b>answer</b> 9:9,16 38:19 90:19,21</p> <p><b>answering</b> 68:15</p> <p><b>anti</b> 87:22,23 88:1 88:3,5,7 89:2</p> <p><b>anxiety</b> 37:20 38:1 48:25</p> <p><b>anybody</b> 54:13 97:16</p> <p><b>anymore</b> 17:24 88:24 89:1</p> <p><b>anytime</b> 67:2</p> <p><b>anyways</b> 58:11</p> <p><b>apparently</b> 84:15</p> <p><b>appear</b> 41:18 67:6 104:11 105:15</p> <p><b>appearance</b> 23:3 61:10 62:13</p> <p><b>appended</b> 105:11 105:18</p> <p><b>applicable</b> 6:15</p> <p><b>appointments</b> 47:14</p> <p><b>appreciate</b> 96:23 97:7</p> <p><b>approximately</b> 16:12,16 22:5 83:3</p> <p><b>area</b> 17:3</p> <p><b>ashley</b> 28:5 38:17 50:23</p> <p><b>asked</b> 9:10 27:17 27:25 28:25 61:4</p>	<p>68:16 76:4,6 97:13,15</p> <p><b>asking</b> 13:12 29:11 41:6 62:9 63:9 76:18 80:1 81:19 88:2</p> <p><b>assigned</b> 5:3</p> <p><b>assignment</b> 104:2 105:2 106:2</p> <p><b>assistant</b> 28:5 53:17,20 54:3,6,10 55:10,25 56:7 57:2,12,21 58:1 60:25 62:3,7,10,11 62:15,22 63:2,7 64:20 68:6 71:21</p> <p><b>assume</b> 99:13</p> <p><b>attached</b> 49:4 67:17 105:7</p> <p><b>attachment</b> 67:24</p> <p><b>attendance</b> 6:22</p> <p><b>attention</b> 89:14,16</p> <p><b>attorney</b> 12:7 66:9 96:2,3 101:14 102:10</p> <p><b>attorneys</b> 96:9</p> <p><b>audio</b> 5:17,21 101:8 102:3</p> <p><b>august</b> 41:4 47:15 47:16,19 92:11,23 93:6,10,19 94:12</p> <p><b>aunt</b> 92:18</p> <p><b>authorize</b> 105:11</p> <p><b>authorized</b> 5:10 6:5</p> <p><b>available</b> 57:3 65:21</p> <p><b>ave</b> 103:1</p> <p><b>avenue</b> 2:5 3:5</p> <p><b>average</b> 20:11</p>	<p><b>avoid</b> 79:2</p> <p><b>avoided</b> 76:24 77:6</p> <p><b>aware</b> 29:14 30:23 31:1 32:10,17 34:10 88:17</p> <hr/> <p style="text-align: center;"><b>b</b></p> <hr/> <p><b>b</b> 4:6 46:23 47:7</p> <p><b>b.e.</b> 1:5 2:2,10,18 3:2 5:7 9:24 10:12 10:14,22 12:25 13:1,1,13,19,21 14:2,5,14 17:13,14 17:14 19:2 20:3 20:22 23:17,18,20 25:13,13,14,14,25 26:13,13,13,16 28:2 36:24,25 46:20 47:9,9 48:4 67:4 69:10,12,13 69:19 70:3,8,15,21 71:1,9,17,17,18 74:2 76:11 78:9 79:9,9,18 80:3,4,6 80:15,15 81:23,25 82:6 83:5,5 85:17 85:19,23 86:2,8,8 86:10,11,12 87:4 88:12,14,18,18 92:18,21,21 93:5 99:23 103:6 104:3 105:3</p> <p><b>b.e.'s</b> 55:15 85:18 85:24 86:9 90:6 90:14,24</p> <p><b>babies</b> 20:19</p> <p><b>back</b> 22:8 27:15 29:20 31:13 39:4 41:5 50:2,13 51:17,19,21 56:15 72:6 74:17 79:20</p>
--	--	---	---

[back - certain]

Page 3

81:8,16 83:20 96:14,19 97:14 103:16 <b>backtracking</b> 17:12 <b>bad</b> 28:7 33:11 35:23 59:6 <b>balinks</b> 47:6 <b>bar</b> 66:9 <b>based</b> 72:10,10 74:14,15 75:25 76:19 84:7 85:8 <b>bates</b> 66:2 <b>bathroom</b> 54:25 55:8,8,12,12 56:10 57:4,4,11 60:23 61:25 65:19 72:9 72:25 75:6 77:15 77:20,20 79:2,10 81:21 87:6 94:17 <b>bathrooms</b> 50:8 54:24 55:3 56:9 57:3 61:18,18 69:16 72:7 74:11 74:14 75:2,5 76:25 77:7 78:25 87:5 <b>began</b> 16:17 23:12 23:25 25:10,14,17 35:25 87:4 <b>beginning</b> 6:23 21:8 45:6,8 54:19 73:15 93:24 95:20 96:6,7 <b>begins</b> 66:2 74:18 89:8 <b>begun</b> 52:2 <b>behalf</b> 2:2,10,18 3:2,10,18 12:7 74:9	<b>believe</b> 15:15 32:20 45:1 46:7 48:14 55:3 61:20 62:1,17 64:11 65:1 67:19 71:7 77:24,25 79:12 82:23 <b>believed</b> 84:13 <b>bell</b> 16:24 17:2 <b>bell's</b> 16:25 <b>bend</b> 77:14 <b>bensberg</b> 2:3 6:25 6:25 38:19 39:14 39:18 49:17 51:12 51:16 80:24 81:4 81:8,12 90:16 91:19 98:14,19 <b>bese</b> 66:3,4 67:12 67:20 <b>best</b> 31:23 101:10 102:6 <b>better</b> 42:8 59:12 <b>beyond</b> 24:10 76:19 81:3 83:6 88:17 89:6,19 <b>big</b> 66:9 <b>bill</b> 99:17,17 <b>biological</b> 84:13 90:12,15,25 91:18 91:24 94:15 95:14 <b>birth</b> 12:15,16 19:21 20:2 24:10 25:2 53:2,9 55:18 75:15,19 83:23 84:2,11,18 <b>bit</b> 9:19 16:2,7,7 17:12 19:17 65:13 77:17 <b>black</b> 66:9 <b>blank</b> 87:24	<b>bloomington</b> 3:6 <b>bodies</b> 16:19 41:12 41:15 <b>body</b> 13:15 14:10 17:21 <b>bolocks</b> 46:22 <b>boobs</b> 42:12,13 <b>born</b> 20:3,19 21:25 <b>bose</b> 3:12,20 7:15 <b>boselaw.com</b> 3:15 3:23 <b>bottom</b> 66:2,3,8 <b>bowle</b> 46:23 <b>boy</b> 13:2 17:14,25 85:19 88:21 94:7 <b>boys</b> 12:14,18,19 22:10,12,14,22,23 23:4,5 27:3,7 33:4 33:4,15 39:11,12 39:24,25 40:2,3 41:19 42:3 53:1,2 54:14 55:8 57:10 57:10,11,11 58:23 58:24 60:22 61:4 61:16,25 62:6 65:19 67:5 75:2 76:22 77:20 78:25 85:3 86:5,23,23 87:4,6 94:9,13,14 94:15,17,20,25 95:2,8,9,14 <b>bozex</b> 47:7 <b>brandon</b> 44:18 <b>branson</b> 44:18 <b>bray</b> 33:7,8,9,10 <b>break</b> 9:13,16 38:20 81:5,7,19 <b>breyer</b> 10:16 <b>brian</b> 33:7,8	<b>bring</b> 79:10 80:4,6 81:21,24 82:6,11 <b>bringing</b> 16:8 80:15 <b>broke</b> 84:5 <b>brought</b> 56:2,11 79:13 82:18 83:8 <b>bullied</b> 36:6 <b>bunch</b> 65:22 <b>burst</b> 20:3,22,23 <b>business</b> 35:8  <b>c</b> <b>c</b> 2:1 3:1 5:1 47:7 <b>ca</b> 103:25 <b>cafeteria</b> 11:10 <b>call</b> 39:6 53:1 60:20 <b>called</b> 7:23 31:14 88:13,18 <b>calling</b> 34:4 <b>calls</b> 45:13,19 <b>capacity</b> 1:13 <b>care</b> 18:2 19:13 20:21 21:1,24 22:1 42:22 43:4 43:13,14 45:25 61:8 68:12,14 <b>case</b> 1:9 36:9,17 39:2 97:1,9,11 99:18 100:3 103:6 104:3 105:3 <b>caused</b> 55:5 <b>caveat</b> 9:14 <b>center</b> 35:2,3,10 37:13,19 40:7,11 40:12,16,19,23 41:3 42:24 <b>cents</b> 86:25 98:3 <b>certain</b> 23:15 24:16
--	---	--	---

<p><b>certificate</b> 101:1 102:1 105:11</p> <p><b>certificates</b> 12:16</p> <p><b>certification</b> 104:1 105:1</p> <p><b>certified</b> 6:12</p> <p><b>certify</b> 101:4 102:2</p> <p><b>change</b> 4:8,9 34:20 63:22,22 79:5,11 80:4,6,15 81:22,24 82:6,11,18 85:22 90:4,12 91:8,18 99:2 103:14,15 105:8 106:3</p> <p><b>changed</b> 34:16 90:5,6,8 91:11,14</p> <p><b>changes</b> 103:13 104:7 105:7,9</p> <p><b>changing</b> 14:10 58:21</p> <p><b>check</b> 21:19</p> <p><b>child</b> 13:2 46:18 69:9 78:7</p> <p><b>child's</b> 72:10,11 74:14,15 90:5,9,12 95:10</p> <p><b>children</b> 1:5 9:21 10:1,22,25 12:13 12:19 15:23 16:8 17:7 20:19 21:10 22:13 23:6 24:13 30:11 32:18 34:7 34:11,22 36:23 37:15 38:15 40:20 40:22 41:15 43:2 44:16,23 45:25 46:8 55:11 56:8 56:17 57:3 60:21 61:15 62:4 63:25 64:9,24 71:23</p>	<p>75:11,17,25 76:2 76:19 77:6 78:2,2 79:7 81:20 83:25 84:8,13 85:9 93:25 94:13 95:13</p> <p><b>children's</b> 34:19 41:7 42:17 65:16 76:10 89:9</p> <p><b>choice</b> 56:24 75:13</p> <p><b>chosen</b> 30:11,18 32:19 34:12,19 53:6,7 76:3,11</p> <p><b>chronically</b> 89:9</p> <p><b>circle</b> 3:13,21</p> <p><b>civil</b> 104:5 105:5</p> <p><b>clarify</b> 39:15 49:18 51:16</p> <p><b>class</b> 69:15 70:8,16 70:22 71:4 74:5 75:3,18 79:4 80:3 84:3,6,6 94:10</p> <p><b>classmates</b> 29:25 30:4,9,10 32:18 34:11 40:7 41:8 83:21,25 84:11,12 84:17 86:24</p> <p><b>clause</b> 87:20</p> <p><b>clear</b> 50:1 53:21 65:14 97:8</p> <p><b>cleveland</b> 103:2</p> <p><b>client</b> 66:9 96:2</p> <p><b>clinic</b> 16:24 17:8 19:5 22:4 78:23</p> <p><b>close</b> 5:16</p> <p><b>closed</b> 78:23</p> <p><b>closings</b> 16:1</p> <p><b>clothes</b> 23:5 79:5 79:11,21 80:4,6,12 80:15 81:22,25 82:3,7,11,18</p>	<p><b>college</b> 3:5</p> <p><b>colons</b> 20:8</p> <p><b>com</b> 66:11,15 92:12</p> <p><b>come</b> 13:3 47:4 58:9 60:21 76:24 77:6,14,16,21 78:19 81:8 85:13 96:14</p> <p><b>comes</b> 34:6 79:25</p> <p><b>comfortable</b> 16:19 17:21</p> <p><b>commission</b> 104:19 105:25 106:25</p> <p><b>communication</b> 66:9</p> <p><b>communications</b> 45:12</p> <p><b>community</b> 39:12 39:24 40:5,9,14 41:7</p> <p><b>completed</b> 103:16</p> <p><b>completely</b> 39:10 39:23</p> <p><b>complicated</b> 20:16</p> <p><b>complied</b> 70:14 72:1 74:6 76:14</p> <p><b>comprised</b> 85:7</p> <p><b>computer</b> 5:17,21 5:24</p> <p><b>concluded</b> 100:6</p> <p><b>condensed</b> 98:18</p> <p><b>condition</b> 69:13,19 69:22,25 72:14,16 72:19</p> <p><b>conduct</b> 36:25</p> <p><b>conducting</b> 14:24 15:21</p> <p><b>confined</b> 21:18</p>	<p><b>confused</b> 86:3</p> <p><b>confusing</b> 31:15 78:12 84:20 86:9</p> <p><b>congruent</b> 69:17 72:8 74:11</p> <p><b>connect</b> 43:23</p> <p><b>connection</b> 7:10</p> <p><b>considered</b> 26:24</p> <p><b>consist</b> 14:13 62:5</p> <p><b>constitute</b> 6:19</p> <p><b>consult</b> 96:13</p> <p><b>consulted</b> 96:3</p> <p><b>consulting</b> 74:24</p> <p><b>cont'd</b> 3:1</p> <p><b>contact</b> 45:17 67:1</p> <p><b>contacting</b> 52:22</p> <p><b>containing</b> 32:5</p> <p><b>context</b> 65:12</p> <p><b>continue</b> 29:23 53:1,2 75:1,17</p> <p><b>continued</b> 83:23 84:1,18</p> <p><b>continues</b> 82:3 87:18</p> <p><b>continuing</b> 22:25</p> <p><b>contract</b> 20:9,9</p> <p><b>contracting</b> 21:4</p> <p><b>controls</b> 68:12</p> <p><b>conversation</b> 13:1 13:9,14 14:2 17:13,15,18 29:8</p> <p><b>conversations</b> 12:25 86:16 96:1</p> <p><b>coping</b> 36:14 38:12</p> <p><b>copy</b> 11:15 50:11 50:15,17 98:17</p> <p><b>corporation</b> 1:10 3:10,18 5:8 7:4,17 8:6 11:7,9 27:21 48:10,13,19,23</p>
--	--	--	--

<p>50:20 70:14 74:25 93:21 103:6 104:3 105:3 <b>correct</b> 22:3 27:10 31:22 34:8 41:22 43:1 59:19 66:18 67:15 68:9,23 71:20,20 74:16 76:15 78:11 85:10 86:13,19,19 93:13 <b>corrections</b> 99:4 103:13 105:17 <b>correctly</b> 30:16 <b>corrects</b> 86:2 <b>corresponded</b> 28:10 <b>counsel</b> 4:16 7:1,3 7:6,8,12,14,16 96:1,14 99:14 101:11,14 102:7 102:10 <b>counseling</b> 34:22 34:24 35:1,8 36:1 36:2,2,13 38:8,10 44:13,17 <b>counselor</b> 35:4,18 36:5 37:13 <b>counselors</b> 35:9,12 35:22 37:18 38:4 44:14 <b>counsels</b> 8:5 <b>county</b> 1:10 3:10 3:18 5:7 7:3 8:6 11:7,8 35:5,16 103:6 104:3,10 105:3,15 <b>couple</b> 30:15 69:3 78:18,19 83:9 97:22 <b>course</b> 18:1 21:6 27:12 44:20</p>	<p><b>court</b> 1:1 104:7 <b>covid</b> 16:1 28:13 28:18 <b>cramping</b> 77:15 <b>crystal</b> 35:14 <b>currently</b> 11:2,3 <b>custody</b> 10:25,25 <b>cut</b> 27:4 56:4 <b>cutting</b> 37:10,14 37:15 <b>cv</b> 1:10</p> <p style="text-align: center;"><b>d</b></p> <p><b>d</b> 4:1 5:1 48:25 49:1 <b>daily</b> 52:4 <b>damage</b> 20:8 <b>damoth</b> 102:2,15 <b>dangerous</b> 77:1 <b>date</b> 1:18 103:9 104:3,9,19 105:3 105:13,25 106:20 106:25 <b>dates</b> 83:18 <b>day</b> 31:4,4 32:9,11 32:11 58:11,13 77:17 78:3,9,17,18 78:21 80:18,20 89:11 96:23 104:16 105:22 106:22 <b>days</b> 77:10 78:11 103:19 <b>dead</b> 31:12,20 32:10 55:18 67:5 85:20 86:15 <b>dealing</b> 45:5 73:6 73:22 <b>dear</b> 103:10 <b>december</b> 1:18 5:8 53:12 77:25 103:4</p>	<p><b>decision</b> 95:17 <b>declaration</b> 4:13 11:14,21 12:4,6,10 22:8 27:15 29:24 39:8,17 49:3,15,25 51:9,17,19,25 52:21 60:17 65:11 65:15 74:18 80:2 83:20 85:8 <b>decreased</b> 87:12 <b>deed</b> 104:14 105:20 <b>deemed</b> 103:20 <b>defendant</b> 3:10,18 7:3,16 <b>defendants</b> 1:14 <b>definitely</b> 28:16 <b>denying</b> 85:2,18 86:5 <b>department</b> 103:22 <b>depose</b> 96:25 <b>deposition</b> 1:16 5:6 6:17 8:7,11,12 98:5 99:3 101:1 103:9,12 104:1,3 105:1,3 <b>depressed</b> 13:16 37:20,20 42:9 <b>depressing</b> 42:8 <b>depression</b> 38:1 48:25 <b>describe</b> 60:18 <b>described</b> 57:21 60:24 <b>description</b> 4:7 <b>designated</b> 12:15 <b>desire</b> 77:3 <b>detention</b> 70:18 71:1,1,10,14,17</p>	<p><b>diagnosed</b> 43:5 46:9,20 52:1 70:1 72:20 <b>diagnoses</b> 37:18 37:21,24 38:15 <b>diagnosis</b> 46:11,15 47:10,22,23 48:4,7 48:13,18,22,24 49:10 50:4 51:2 60:5 <b>dial</b> 5:18 <b>dibs</b> 20:1 <b>different</b> 13:6 15:8 15:18 17:22 19:19 20:15 44:24 46:16 50:6,7 51:11 65:9 72:24 78:4,11 83:15,17 94:7,13 94:20 95:8,13 <b>digestive</b> 70:3 73:23 <b>digital</b> 101:8 102:3 <b>direct</b> 75:10 <b>directed</b> 61:17 <b>direction</b> 30:6 <b>disability</b> 32:5 <b>discuss</b> 60:22 <b>discussed</b> 64:21 85:18 97:3 <b>discussing</b> 85:2 <b>discussion</b> 29:19 51:20 <b>discussions</b> 85:5 85:12,24 86:17,21 87:3,13,16,17 <b>dismissed</b> 50:18 <b>dispute</b> 70:11 74:2 <b>disrupting</b> 89:9 <b>disruptive</b> 79:4 <b>distraught</b> 85:13</p>
--	--	---	--

<p><b>distress</b> 41:13,24 41:25 42:6,16 <b>distressed</b> 42:11 <b>distressing</b> 41:11 <b>district</b> 1:1,2 <b>division</b> 1:3 <b>divorced</b> 10:9 <b>doctor</b> 17:4,4 46:22 60:4 65:16 69:23 72:6,15 <b>doctor's</b> 17:3 47:14 67:3 68:3,5 68:21,25 <b>doctors</b> 40:10 45:3 46:16 89:5 <b>document</b> 11:21 66:2 90:1 91:11 <b>documentation</b> 48:3,6,9,17,21 49:9 50:3,9,14,19 51:1 58:17 59:15 59:17,22,25 <b>documents</b> 49:4 49:14 97:3 <b>doing</b> 8:25 45:16 81:5 89:4 94:21 <b>dot</b> 66:11,15 92:12 <b>dr</b> 4:10,11 16:24 16:25 17:2 44:18 46:22 47:6,10 49:5 65:16 67:13 70:7,14 73:12 74:10 <b>dress</b> 22:16 86:7 <b>dressed</b> 95:6 <b>drinking</b> 21:22 <b>drugs</b> 8:21 <b>due</b> 16:1 20:6 21:3 21:8 70:18 83:9 <b>duly</b> 7:23 101:5</p>	<p><b>dunn</b> 73:12 <b>dysphoria</b> 43:8 46:9,12,21 47:10 47:21 48:4,7,13,18 48:22 49:10 50:4 51:2 52:1</p> <hr/> <p style="text-align: center;"><b>e</b></p> <hr/> <p><b>e</b> 2:1,1 3:1,1 4:1,6 5:1,1 10:19,19,19 47:1 98:18,21 <b>earlier</b> 44:23 52:11 68:19 <b>early</b> 88:22 97:1 <b>easily</b> 78:25 <b>east</b> 2:13,21 <b>education</b> 89:10 <b>eighth</b> 23:11 27:22 29:7 31:17 32:8 65:2,6 <b>either</b> 24:10 26:25 77:5 94:25 <b>elementary</b> 12:17 12:18 70:4 73:23 <b>ellipsis</b> 94:6 <b>else's</b> 5:16 <b>email</b> 45:19 48:16 58:8 64:15 66:11 66:14,17,24 67:8 67:17,25 68:8,23 69:1 92:1,11,17 93:17,18,21,22,24 94:5 99:22,23 103:17 <b>emailed</b> 58:13,17 59:14 <b>emails</b> 4:12 45:14 45:15 65:22 92:5 <b>embarrassing</b> 79:3 <b>emotionally</b> 18:7 76:22</p>	<p><b>employed</b> 101:11 101:14 102:8,11 <b>employee</b> 101:13 102:10 <b>employees</b> 61:5 75:10 <b>empty</b> 20:14 <b>enclosed</b> 103:12 <b>ends</b> 94:10 <b>engaged</b> 36:20,25 <b>engaging</b> 36:21 37:15 <b>engine</b> 14:25 <b>enjoy</b> 13:15 <b>entered</b> 105:9 <b>entire</b> 104:5 105:5 <b>entirely</b> 5:24 73:10 <b>errata</b> 103:14,19 105:7,10,18 106:1 <b>es</b> 101:4 <b>esquire</b> 2:3,11,19 3:3,11,19 <b>et</b> 5:7,8 103:6,6 104:3,3 105:3,3 <b>evans</b> 3:12,20 7:16 <b>event</b> 71:6 <b>everybody</b> 31:15 <b>everyday</b> 40:10 <b>evidentiary</b> 6:16 <b>ex</b> 86:24 <b>exactly</b> 13:25 80:18 <b>examination</b> 4:2 8:2 <b>examined</b> 7:25 <b>example</b> 31:10 32:7 <b>exception</b> 76:12 <b>exchanged</b> 45:13</p>	<p><b>exclamation</b> 95:2 95:3 <b>exclusively</b> 25:11 25:15,18 <b>excuse</b> 5:14 7:9 71:15 <b>excused</b> 69:15 70:8,15,21 74:5 75:3 <b>excuses</b> 72:25 <b>executed</b> 105:10 <b>execution</b> 104:14 105:19 <b>executive</b> 74:24 <b>exhibit</b> 4:8,9,10,11 4:12,13 11:18,19 39:9 51:25 60:18 65:10,11,20,23 69:7,12 72:6,13,13 74:18 89:21,22,23 91:2,4 92:1 <b>exhibits</b> 4:16 49:18,21 50:1 51:12 69:5,5 99:19,20 <b>expect</b> 41:21 <b>experienced</b> 14:22 <b>experiencing</b> 14:17 <b>expiration</b> 104:19 105:25 106:25 <b>explained</b> 61:7 <b>explaining</b> 65:17 <b>express</b> 89:3 <b>expressed</b> 87:21 87:23,25 88:3 <b>expressing</b> 88:5 <b>extent</b> 70:15 <b>extra</b> 32:3 79:21 82:3</p>
---	--	---	---

<b>eye</b> 88:24,24	<b>fifth</b> 12:20 13:24 14:1,14 15:23,24	<b>frame</b> 11:14 16:22 45:9 65:5 82:25	69:17 72:8,10 73:11 74:12,15 75:12 85:2,18 90:4,9 91:8,14
<b>f</b>	<b>figure</b> 53:18	<b>free</b> 67:1 104:14 105:20	<b>gender</b> nexus 59:5 59:10,11
<b>f</b> 47:1	<b>fill</b> 33:25	<b>frequent</b> 69:14	<b>genders</b> 24:24
<b>face</b> 58:10,10	<b>final</b> 87:20	<b>frequently</b> 78:16	<b>generally</b> 70:20 72:1
<b>facilities</b> 61:4,16 75:2 76:22	<b>finalized</b> 98:25	<b>friend</b> 1:7	<b>getting</b> 43:13 73:21 86:3
<b>fact</b> 44:11 70:19 95:1,13	<b>financially</b> 101:15 102:11	<b>friends</b> 39:10,23 40:2 87:19,21,23 87:25 88:1,1,3,4,8 88:8,12,13,15,20	<b>gi</b> 21:21,21 38:6,7 38:10,14 49:1 50:5
<b>factor</b> 85:15	<b>find</b> 103:12	<b>front</b> 90:1 91:3 95:6	<b>girls</b> 33:4,16 41:12 61:18 75:5
<b>fair</b> 9:10,17	<b>fine</b> 5:24 9:14 29:14 38:21 63:11 81:10	<b>fsa</b> 35:2,7,16,19 37:19 42:24	<b>give</b> 9:4 62:4,11 65:12 75:13 79:21 96:13
<b>falk</b> 2:11 7:5,5 98:20,23 99:9,11 99:16 103:5	<b>finished</b> 38:20	<b>funny</b> 55:14	<b>given</b> 8:12 61:19 62:2 71:17
<b>fall</b> 96:7	<b>fired</b> 95:23	<b>further</b> 87:16 98:7 98:13 101:13 102:9	<b>giving</b> 8:25
<b>family</b> 9:20 14:20 39:11,24 87:19,21 87:22,25 88:3,4,8 88:14,15	<b>firm</b> 16:7	<b>g</b>	<b>gmail</b> 92:12
<b>father</b> 10:12,14	<b>first</b> 7:23 12:1 13:3 16:25 19:2 20:1 33:25 54:5 54:10 55:24 56:6 60:24 62:16,23 63:8 64:20 65:10 69:11 96:3	<b>g</b> 5:1	<b>go</b> 13:11 14:7 16:14 19:12,12 20:10 23:1 28:2 28:16 36:2 43:18 44:4 54:25 61:6 62:13,24 65:11 71:10 74:22 75:14 76:16 78:22 79:21 81:2 84:25 91:19 93:15 94:9,24 95:4,5,22 99:6
<b>feedback</b> 5:15	<b>five</b> 16:10,16 19:6 38:20 55:16	<b>gastrointestinal</b> 19:16 21:14,18 22:1 69:19 72:16 73:7	<b>goal</b> 81:3
<b>feeding</b> 19:25	<b>flip</b> 49:3	<b>gays</b> 40:14	<b>goes</b> 20:16 39:9 84:25 92:21,21
<b>feel</b> 18:21 67:1	<b>floor</b> 3:5	<b>gender</b> 4:8,9 12:15 14:19 15:2 16:24 17:7 19:5 22:4 23:2,7,13 24:11 25:5 27:18 30:2 31:6 36:8 41:13 41:16 43:6,8,15,16 43:23,25 44:5,12 44:17 45:1,4,5,18 45:24 46:4,9,11,20 47:10,21 48:4,6,12 48:18,22,25 49:10 50:4 51:2 52:1 58:12 59:4,9 61:20 62:2 63:21	<b>going</b> 9:8 11:13,13 12:20 14:23 15:22 16:11 18:6,14 19:4 20:12 22:4
<b>feeling</b> 16:19 17:20	<b>folders</b> 28:23		
<b>felt</b> 13:6 17:22 65:4	<b>follow</b> 97:14		
<b>female</b> 12:15 17:22 24:24 26:25 29:17 33:5 34:1,6 41:17,21 53:3 54:24 55:12 56:9 57:4 61:21 63:19 64:25 65:3,6 75:15 86:11 90:15 90:25 91:24	<b>followed</b> 68:7		
<b>females</b> 18:21 34:4 41:18 62:5,8,25 63:1 65:1	<b>following</b> 33:19		
<b>ferrman</b> 44:19 46:22,25 47:1,10	<b>follows</b> 7:25		
	<b>foregoing</b> 101:3,4 102:4 104:13 105:18		
	<b>forward</b> 60:10 103:16		
	<b>forwarded</b> 66:10		
	<b>found</b> 37:12		
	<b>four</b> 16:10,16 19:5 45:10,18		

23:6,12 35:25 36:6,7,18 41:5 47:2 50:2 51:19 55:11 56:15 65:9 68:11 69:4 81:1 89:11 90:16 92:10 92:24 97:13 98:15 <b>good</b> 5:2 8:4 88:20 <b>google</b> 14:25 15:2 <b>gotten</b> 41:10 <b>grade</b> 13:25 14:1 14:14 15:23,24 23:10,12 24:1 27:20 29:7 31:17 32:8 34:25 36:1 65:3,6 <b>graduated</b> 31:10 <b>graduation</b> 31:17 32:8 <b>granted</b> 28:1 <b>great</b> 8:25 51:14 <b>ground</b> 8:14 <b>group</b> 15:5,6,7,16 15:18,19 35:8 40:13 43:22 44:20 44:22,25 <b>groups</b> 14:20,21 14:21 15:9,12,14 43:18 45:16 46:1 <b>grove</b> 11:10 <b>guardian</b> 1:6 <b>guess</b> 29:3 36:16 63:22 76:6 89:17 93:8 <b>guessing</b> 89:18 <b>guide</b> 43:20 <b>guy</b> 32:21 33:12 33:17,22 34:9 <b>guys</b> 18:22 54:25 <b>gym</b> 32:20,23 33:1 33:1,6,15 34:9,14	34:19 84:3,6 <b>h</b> <b>h</b> 4:6 10:19,19 <b>hair</b> 23:5 <b>haircuts</b> 22:16 86:7 <b>half</b> 77:16,17 <b>hamilton</b> 35:2,3 35:10 37:13,18 42:24 <b>hand</b> 7:20 58:18 59:18 <b>handed</b> 68:1 <b>handing</b> 28:23 <b>handle</b> 18:1 <b>hands</b> 15:3 <b>hang</b> 88:9,25,25 <b>happened</b> 15:25 16:3 55:4 77:24 77:25 78:6 <b>happens</b> 78:15 79:15 <b>happier</b> 14:11 <b>happy</b> 98:8,9,10 <b>hard</b> 25:7 95:18 <b>harm</b> 36:21 <b>harmful</b> 76:23 <b>hartman</b> 38:17,18 <b>hate</b> 95:17 <b>hated</b> 13:16 <b>hating</b> 95:21 <b>haute</b> 1:3,11 40:17 44:1 60:20 74:20 <b>head</b> 9:3,4 <b>healed</b> 20:5 <b>health</b> 37:18,21,25 38:15 42:17 54:24 55:12 56:10 57:4 61:19 62:25 75:6 78:23	<b>healthcare</b> 42:19 43:3,13 <b>hearing</b> 7:18 <b>held</b> 29:19 51:20 55:6 <b>hell</b> 18:6,14 <b>hello</b> 66:24 <b>help</b> 5:19 32:3 43:19 <b>helpful</b> 36:5 49:20 <b>hereto</b> 101:15 102:11 <b>high</b> 1:12 31:7 32:17 53:21,24 57:22 66:21 73:24 76:9 80:10,16 81:25 82:5,10,19 <b>higher</b> 60:11 <b>hissself</b> 13:7,16 17:22 18:18 <b>holidays</b> 98:9 <b>home</b> 19:24 22:11 22:14 76:24 77:6 77:14,16 78:20 79:13,25 83:4,5,8 83:12 85:13 <b>homework</b> 28:14 28:24 <b>honestly</b> 15:4 56:25 94:25 95:16 95:21 <b>honor</b> 32:12 76:9 <b>honored</b> 33:23 53:6 <b>honoring</b> 31:5 33:18 <b>hormone</b> 52:2,2 61:8 <b>hormones</b> 14:8,10 52:5,12 86:6	<b>hospital</b> 14:7 15:11,12,22 16:12 16:15,22 19:5,24 38:5 42:17 73:13 <b>huh</b> 86:1 <b>human</b> 24:22 <b>hurt</b> 18:8 83:11 <b>hurting</b> 36:17,19 <b>hurts</b> 77:19 <b>i</b> <b>identification</b> 11:20 49:22 65:24 89:24 91:5 <b>identified</b> 9:23 11:18 72:3 <b>identify</b> 6:22 <b>identifying</b> 14:20 <b>iep</b> 32:3,4 <b>ilsi.net</b> 2:7 3:7 <b>imagine</b> 18:20 <b>impacted</b> 77:2 <b>in.org</b> 2:15,23 <b>included</b> 41:7 67:24 103:14 <b>incorporated</b> 105:12 <b>increase</b> 87:3 <b>increased</b> 87:12 <b>increasingly</b> 41:11 <b>indiana</b> 1:2 2:4,12 2:20 3:4 5:11 6:6 7:8,12,13 101:19 <b>indianapolis</b> 1:21 2:6,14,22 3:14,22 44:1,2 <b>indicate</b> 80:2 <b>indicated</b> 52:10 59:13 70:25 97:4 <b>indicates</b> 92:17,18 <b>indicating</b> 48:21 103:14
---	---	---	---

<b>individual</b> 45:20 <b>individuals</b> 17:10 <b>infancy</b> 70:1 72:20 <b>infants</b> 21:11,12 22:2 <b>influence</b> 8:21 <b>information</b> 12:22 13:21 14:5,15 16:18 18:5 19:1 32:6 44:15 58:12 66:25 67:7 68:17 84:7 85:7,9 <b>initial</b> 12:4 50:2 <b>initially</b> 28:12 <b>initials</b> 11:25 12:2 <b>injunction</b> 97:2 <b>inquire</b> 95:25 <b>inquiry</b> 74:1 <b>inside</b> 41:19 89:16 94:24 <b>instance</b> 70:25 71:9 72:2 81:24 87:11 <b>instances</b> 32:10 79:17,23 81:20 83:7,14,16 <b>intended</b> 6:14 <b>interest</b> 95:12 <b>interested</b> 45:16 101:15 102:12 <b>interesting</b> 31:16 <b>interests</b> 95:10 <b>interrupt</b> 72:23 <b>intestinal</b> 70:3 73:23 <b>intestine</b> 20:3,22 20:23 <b>intestines</b> 20:9 21:3 <b>involve</b> 36:9	<b>involved</b> 10:20 21:17 40:20,23 41:2 86:25 <b>issue</b> 19:19 36:9 49:1 63:22 69:19 71:24 72:16 73:11 <b>issues</b> 16:15,23 19:16,19,20 21:14 21:18 36:8,10,11 36:12 50:5 61:24 65:17 70:4 73:7 73:23 75:4 77:1 77:22 89:9 95:20 96:4  <b>j</b>  <b>j</b> 2:19 <b>job</b> 1:23 8:25 95:22 <b>joe</b> 20:11 <b>johnsons</b> 28:7 <b>joint</b> 10:25 <b>joseph</b> 28:8 50:24 66:23 67:18,25 <b>joseph's</b> 57:24 <b>josh</b> 28:5 <b>jrs</b> 1:10 <b>judging</b> 89:12  <b>k</b>  <b>kathleen</b> 2:3 6:25 <b>kathleen.bensberg</b> 2:7 <b>keep</b> 60:7 73:20 82:16 84:23 <b>keeper</b> 32:1 <b>keeps</b> 82:13 <b>ken</b> 7:5 <b>kenneth</b> 2:11 <b>kept</b> 34:3 35:13 77:9	<b>kfalk</b> 2:15 <b>kids</b> 14:22 15:15 32:2 45:1 95:24 <b>kind</b> 18:7 21:18 25:7 36:25 88:24 93:17 <b>kinds</b> 15:8 20:15 <b>knew</b> 85:20,25 86:10 <b>know</b> 10:19 13:4 13:12 16:4 17:1 17:10 18:7,10,19 18:20 20:16 21:10 23:15 24:7,12,16 26:15,25 28:7,17 29:2,13,13 30:15 30:17,21 31:21 32:13 33:3,13,20 33:20 34:16,17,18 34:18,21 35:23 36:5 37:10 42:4,5 42:7,13 43:6 44:3 47:4,8 57:2 58:15 60:11 63:13 64:2 64:6 67:21 68:12 70:18 71:5,11,13 71:22 77:11 79:22 79:22 80:1,17,18 80:22 82:4,14 83:10 84:22 86:2 86:4,4,14,25 87:7 87:12,15,24,25 88:12,14 89:5 90:22 93:3,11,12 95:18 96:2 97:11 97:25 98:1,1,2 <b>knowing</b> 18:21 89:11 <b>knowledge</b> 32:13 32:22,25 34:13 37:4 57:19 74:8	76:16,19 101:10 102:6 <b>known</b> 39:12,25 <b>knows</b> 97:9 98:6  <b>l</b>  <b>l.e.</b> 1:7,17 2:2,10 2:18 3:2 4:13 5:6 5:15,18,22 6:1,24 6:24 7:22 8:4,10 8:10 9:19 11:22 29:23 51:24 66:10 66:24 81:4,19 96:22 98:24 103:9 104:4,9 105:4,13 106:20 <b>l.e.'s</b> 7:1 <b>lady</b> 31:21 <b>larger</b> 65:21 <b>late</b> 60:19 <b>law</b> 67:1 <b>laws</b> 6:16 <b>lawsuit</b> 70:10 96:10 97:16,17,21 <b>lawyers</b> 15:3 58:20 60:12 74:25 <b>laxatives</b> 20:11 21:2,3,6,7,9,19 <b>lazy</b> 22:22 <b>learned</b> 83:22,25 84:17 <b>learning</b> 32:5 89:16 <b>leave</b> 11:4,5 71:10 73:7 77:18 <b>leaving</b> 63:17 <b>legal</b> 1:6 2:4 3:4 7:14 10:21,24 23:21 34:15,20 90:5,6,9 91:11,14 92:19 93:25 103:1 106:1
---	---	--	--

<p><b>legally</b> 67:5 90:11 91:17</p> <p><b>leo</b> 10:8,9</p> <p><b>lesbians</b> 40:14</p> <p><b>letter</b> 4:10,11 49:5 72:5,15 73:14 74:5,9 103:20</p> <p><b>letters</b> 58:14 65:16 67:3 72:24</p> <p><b>letting</b> 57:2 98:1</p> <p><b>life</b> 17:23 21:6</p> <p><b>likes</b> 33:3</p> <p><b>limited</b> 45:13</p> <p><b>line</b> 103:14 105:7 106:3</p> <p><b>links</b> 45:15</p> <p><b>list</b> 44:14</p> <p><b>listed</b> 12:16 75:18 105:7,17</p> <p><b>listing</b> 105:7</p> <p><b>little</b> 9:19 16:2,6,7 17:12 19:17 65:13 77:17 81:3 93:2</p> <p><b>live</b> 97:10</p> <p><b>lived</b> 22:11</p> <p><b>lives</b> 89:10</p> <p><b>llp</b> 3:12,20</p> <p><b>located</b> 43:25</p> <p><b>location</b> 1:20 40:15 43:21 44:4</p> <p><b>locker</b> 58:24 64:21 65:6 69:16 70:12 72:7,9 74:3,11,14 94:7,7,8,9,13,17 94:20 95:5,8,9</p> <p><b>log</b> 77:9</p> <p><b>long</b> 5:23 11:11 23:16 40:22</p> <p><b>longer</b> 16:2 20:14 27:8</p>	<p><b>look</b> 12:9 42:2 57:11 65:10 68:13</p> <p><b>looked</b> 50:12</p> <p><b>looking</b> 14:19 18:16 51:5 68:10 69:8 84:23 89:12</p> <p><b>looks</b> 13:7 62:13 67:11</p> <p><b>lost</b> 88:1,1,24</p> <p><b>lot</b> 11:14 14:11 20:10 21:21 26:5 26:7</p> <p><b>love</b> 81:6 95:22</p> <p><b>lower</b> 21:21</p> <p><b>lucas</b> 28:5 50:23</p> <p style="text-align: center;"><b>m</b></p> <p><b>m</b> 44:10 45:21 47:1</p> <p><b>m.e.</b> 92:11,11,14 92:15 93:5 97:10 97:20</p> <p><b>ma'am</b> 34:4</p> <p><b>madam</b> 103:10</p> <p><b>madison</b> 2:5</p> <p><b>main</b> 28:6 50:24</p> <p><b>making</b> 52:22</p> <p><b>male</b> 23:2 24:14 25:10,14,15,17,18 26:25 32:12 33:24 34:1 61:6,22,23 63:18 64:1,10,25 69:17 70:11 72:8 72:9 74:3,12 75:14 76:10 86:11 87:9 90:9 91:15</p> <p><b>males</b> 58:14 84:13</p> <p><b>manifest</b> 41:25</p> <p><b>manifested</b> 41:13 41:24 42:6</p> <p><b>manner</b> 6:17</p>	<p><b>mark</b> 3:19 7:15 61:23 63:21</p> <p><b>marked</b> 11:19 49:18,21 50:1 65:23 89:23 91:4</p> <p><b>marker</b> 61:20 62:2 90:4 91:8</p> <p><b>married</b> 10:3,5,7</p> <p><b>masculine</b> 23:2,5</p> <p><b>masculinize</b> 61:9</p> <p><b>match</b> 62:20</p> <p><b>math</b> 84:6</p> <p><b>matt</b> 10:15,16</p> <p><b>matter</b> 5:7 10:20 44:11 56:24 88:11</p> <p><b>mckinney</b> 3:12,20 7:16</p> <p><b>mean</b> 8:10 17:4,21 18:22 21:10,15,20 22:14,21 33:20 36:4,17 37:8 39:13,25 41:16,25 42:3,3,8,11,12,12 42:13,13 43:17 45:11 46:1 50:7 52:4 56:25 63:20 68:1 71:4 76:5,16 77:13,14,20 78:16 78:23 80:18 82:14 86:3,4 87:2,5 88:9 88:23 89:10 94:2 95:3,19 97:25 98:3 99:23</p> <p><b>meaning</b> 88:6 95:4</p> <p><b>means</b> 6:18 15:1 26:9</p> <p><b>meant</b> 42:5,7</p> <p><b>medical</b> 11:4,5 16:17 17:6 19:8 42:18 43:3,12 49:5 65:17 69:13</p>	<p>69:18,22,25 71:14 72:14,15,19 75:4 77:1 97:4</p> <p><b>medication</b> 8:22 21:16</p> <p><b>medications</b> 21:13</p> <p><b>meet</b> 40:10 44:5 54:11</p> <p><b>meeting</b> 53:13 54:5,6,7,13,17,21 54:22 55:2,5,5,10 55:13,24 56:14,18 57:18,20,23 58:3,7 58:10,22 59:2,13 60:14,22,24 61:3 62:16,23 63:8,17 63:24 64:8,19 74:19 98:6</p> <p><b>meetings</b> 53:16</p> <p><b>megan</b> 3:3 7:13 35:23 44:10,11</p> <p><b>megan.stuart</b> 3:7</p> <p><b>members</b> 39:11,24 40:4,9 41:6 74:25</p> <p><b>mental</b> 37:17,21 37:25 38:15 42:18 43:3,13</p> <p><b>mentioned</b> 19:11 19:16 20:22 43:11 46:8 88:18 99:20</p> <p><b>mess</b> 24:23 25:2 86:13</p> <p><b>message</b> 66:10</p> <p><b>messing</b> 24:21</p> <p><b>met</b> 28:21 44:21 53:20,23 54:1,2,9 58:16 68:5,19 71:21</p> <p><b>mg</b> 1:10</p> <p><b>mid</b> 74:19</p>
--	--	---	--

<p><b>middle</b> 23:8,9,19 24:7 30:3,5 31:7,9 31:24 32:16 64:24 70:4 73:24 80:9 82:2 93:18 <b>midwest</b> 103:17 106:1 <b>milligram</b> 52:7 <b>mind</b> 11:17 18:19 <b>mine</b> 5:22 <b>minor</b> 1:5 <b>minute</b> 38:20 51:10 <b>minutes</b> 96:13 <b>miracle</b> 20:19 <b>miranda</b> 88:11,19 88:19,20 <b>mirror</b> 18:16 <b>missing</b> 68:9 <b>mistakes</b> 99:2 <b>misunderstood</b> 71:16 <b>moment</b> 43:10 <b>monday</b> 66:17 <b>monitors</b> 19:25 <b>month</b> 14:9 77:25 80:18,20 <b>months</b> 19:24 52:13 <b>monument</b> 3:13 3:21 <b>moods</b> 42:9 <b>morning</b> 5:2 8:4 96:23 <b>mother</b> 1:6 <b>moved</b> 35:20 <b>muted</b> 5:25 <b>mwohlford</b> 3:23</p>	<p style="text-align: center;"><b>n</b></p> <p><b>n</b> 2:1 3:1 4:1 5:1 46:23 47:1,7 <b>name</b> 4:8,9 5:2 8:4 8:9 15:17 16:25 23:17,19,21,23,25 24:4,6,7 28:8 29:16 33:6,9 34:20 38:17 44:11 44:25 45:20 46:24 53:9,10 55:17,18 55:18 63:21 69:9 85:21 86:1 88:12 90:4,5,6 91:8,12 92:24 103:6 104:3 104:4,15 105:3,4 105:21 <b>names</b> 15:14 17:10 23:1,6,13 24:9,10 24:10 25:3 27:17 27:24 28:7,10,11 28:17 29:1,12 30:1,4,11,16,18 31:6,12,14,20 32:10,12,19 33:11 34:12,15,16,19 35:22,24 44:19 52:23 53:2,6 59:7 61:6 64:7 67:5,5 75:11,14,15,19,21 76:3,11 83:23 84:2,11,19 85:20 86:15 92:19 93:25 <b>necessary</b> 73:8 <b>need</b> 9:12 14:18 43:19 45:7 55:11 58:9,9 81:5 <b>needed</b> 5:22 14:16 32:3 36:3 69:15 70:8,16,22 74:6 75:4 77:11</p>	<p><b>needs</b> 42:19 <b>negative</b> 89:16 <b>neither</b> 101:11 102:7 <b>nerve</b> 20:8 <b>new</b> 73:21 98:9,10 <b>nicknames</b> 93:2 <b>ninth</b> 11:22,23 27:22 <b>nod</b> 9:3 <b>nomi</b> 49:5 65:16 <b>noon</b> 81:2,3,3 <b>normal</b> 31:3 53:5 76:1,8,14 77:20 <b>north</b> 1:11 60:20 74:21 78:22 <b>notarized</b> 103:15 <b>notary</b> 1:22 5:10 6:5 101:18 103:25 104:10,18 105:15 105:23 106:23 <b>note</b> 69:23 70:7 73:1 92:15 103:13 <b>notes</b> 67:13 68:3,5 68:21 69:1 73:6 <b>noting</b> 90:23 <b>november</b> 61:9 63:14 <b>nu</b> 86:1 <b>number</b> 41:14,24 42:6 59:4 97:3 103:8,14 <b>numbers</b> 105:7 <b>nurse</b> 72:24</p> <p style="text-align: center;"><b>o</b></p> <p><b>o</b> 5:1 46:23 47:7 <b>o'clock</b> 39:2 <b>oath</b> 8:15 <b>oaths</b> 5:11 6:6 <b>obey</b> 67:7</p>	<p><b>object</b> 80:24 90:17 <b>objection</b> 6:9 7:19 90:23 91:19 <b>obligation</b> 8:16 <b>occasionally</b> 24:23 <b>occasions</b> 76:13 82:10 83:3,5,6 <b>occur</b> 14:2 55:5 57:23 69:3 71:6 79:14 80:8 <b>occurred</b> 54:18 77:23 79:6,18,24 80:5,10 <b>occurrence</b> 79:6 80:21 <b>october</b> 57:25 58:15,22 66:18 67:9,18 69:1 71:8 74:19 <b>offense</b> 22:22 <b>office</b> 54:12 57:24 57:25 60:21 61:19 75:6 <b>officer</b> 101:1,2 <b>official</b> 1:13 104:15 105:21 <b>oh</b> 23:20 28:6,15 33:13 47:20 51:10 55:14,22 59:1,24 61:13 66:22 73:15 87:24 92:9 99:19 <b>ohio</b> 103:2 <b>okay</b> 5:23 6:1,3 11:5 12:9 14:4 15:16,18 16:16 17:6 18:1 19:11 20:17,25 21:5,12 21:24 22:8 23:19 24:9,13 26:11 27:2,8 28:15,16,18 28:25 29:3,15,18</p>
--	--	---	--

[okay - preemies]

Page 12

29:23 30:22 31:10 32:14 33:10,14 34:5 35:5,16 36:19 37:17,21 41:5 42:15 43:10 43:25 45:4 46:6 50:9,14 51:1,4,14 54:9,20 55:4,9 56:17,20 57:20 58:6 59:11,25 60:3,6 62:7 65:25 69:6,11 71:3,12,16 71:21 73:4,14,19 73:22 74:21 76:18 78:12 80:2,10 81:4,8 82:17 83:14 84:21,25 87:8,18 89:6,25 90:14 92:3,9 93:1 93:4,16 95:4 96:16 98:7,15,19 98:22 99:7,10,18 100:1 <b>old</b> 19:21 22:11 85:25 <b>older</b> 41:10 42:2 <b>once</b> 24:21 46:17 53:25 79:15 82:21 82:23 <b>ones</b> 31:2,4 73:21 <b>ongoing</b> 20:12,21 <b>online</b> 14:25,25 43:22 44:20 <b>open</b> 86:25 <b>options</b> 53:10 57:7 <b>order</b> 90:3,5,11 91:7 98:16 99:14 <b>ordering</b> 98:16 <b>outcome</b> 101:16 102:12	<b>outlook</b> 89:16 <b>outside</b> 5:13 6:8 28:23 29:8 41:18 41:20 91:1 <b>oxygen</b> 19:25 <hr/> <b>p</b> <b>p</b> 2:1,1 3:1,1 5:1 <b>p.m.</b> 96:17,20 100:3,5 <b>packet</b> 65:21 92:2 92:6 <b>pactor</b> 2:19 5:20 5:23 6:2 7:7,7,11 7:11 39:5 <b>page</b> 4:2,7 11:22 11:23,24 12:2,10 12:12,12 39:16 51:9 66:1,3,4,8 67:11,20,20 92:5 93:15,18 103:14 103:16 105:7 106:3 <b>pages</b> 49:14 <b>pain</b> 38:12 <b>pants</b> 79:20 <b>paper</b> 29:1 48:24 <b>papers</b> 68:11 <b>paperwork</b> 60:11 <b>paragraph</b> 12:9 12:12 22:9,25 27:16 29:23 39:9 39:17 41:6,9,9 42:15 51:8,9,24 52:24 60:17 61:2 61:14 65:10,13,15 74:18 75:9 76:21 78:24 83:21 84:25 87:18 89:8 92:20 93:5 <b>paragraphs</b> 52:21 74:17	<b>parent</b> 18:2,8 <b>parents</b> 15:15,18 44:22 <b>part</b> 15:7,19 49:24 95:12 105:9 <b>participate</b> 77:3 <b>particular</b> 71:9 80:21 <b>parties</b> 5:12 6:7,10 101:12,14 102:8 102:11 <b>passes</b> 71:23 <b>paying</b> 89:13,15 89:15 <b>peers</b> 84:20 85:1 85:18,24 86:4,10 86:10,17,21 <b>pending</b> 9:15 <b>penrose</b> 20:4 <b>people</b> 18:11,20 36:4 40:10 89:12 95:6 <b>perceived</b> 71:18 <b>period</b> 27:11 <b>permission</b> 29:3 29:11 <b>permitted</b> 6:14 <b>person</b> 28:14 34:5 44:9,12 48:16 50:11 68:12 74:19 85:25 86:19 88:17 <b>personal</b> 32:22,25 67:6 <b>personally</b> 104:11 105:15 <b>pertain</b> 36:8 <b>pertained</b> 26:20 <b>pertains</b> 72:13 <b>petition</b> 4:8,9 90:3 91:7	<b>ph</b> 21:21 28:5,8 38:17 <b>phil</b> 7:2 8:4 39:14 <b>philip</b> 3:11 <b>phone</b> 44:7 45:13 45:19 60:19 103:3 <b>phrase</b> 40:9 <b>physical</b> 40:15 41:17,20 43:21 44:4 95:14 <b>physically</b> 76:23 <b>pick</b> 28:13 77:21 <b>picked</b> 79:12,12 83:4,5,7 <b>pictures</b> 55:14,15 56:11 58:25 59:1 60:15,16 <b>place</b> 46:5 <b>plaintiff</b> 7:14 99:14 <b>plaintiffs</b> 1:8 2:2 2:10,18 3:2 7:6,8 7:12 98:21 <b>plans</b> 37:11 <b>playing</b> 5:17 <b>please</b> 6:22 7:19 8:8 67:1,7 69:14 69:16 71:15 72:6 74:10 90:20 94:24 98:21 103:12,12 <b>point</b> 9:3,12 10:5 10:24 24:3 25:11 25:15,20 26:14 34:15 45:4,17,24 62:2 87:9 95:2,3 <b>policies</b> 57:14 <b>policy</b> 58:21 <b>possible</b> 64:19 <b>pound</b> 19:23 20:20 <b>preemies</b> 19:22
---	--	---	--

[prefer - recall]

Page 13

<p><b>prefer</b> 95:2  <b>preferred</b> 28:17  31:14 53:10 55:17  <b>pregnant</b> 88:21  <b>preliminary</b> 97:2  <b>prepared</b> 12:6  102:3  <b>presence</b> 5:13 6:8  <b>present</b> 33:2 41:17  58:2 85:5  <b>presenting</b> 86:11  <b>presume</b> 9:8  <b>pretend</b> 17:23  <b>pretty</b> 19:20 38:5  38:12 58:19 63:20  68:11 78:17 94:1  <b>previous</b> 59:8  <b>previously</b> 84:12  86:10  <b>pride</b> 40:7,11,12  40:16,23 41:3  <b>principal</b> 1:11  28:3,4,5,6,6,21  29:7 50:23,24,24  53:8,11,14,17,17  53:20,24 54:2,3,3  54:6,7,10 55:10,25  56:8 57:2,21,22  58:1,2,4,5 59:14  59:14 60:8,9,20,25  61:11 62:4,7,11,11  62:15,22 63:2,7  64:8,13,20,22  66:20,23 67:9  68:6,6,19,20,23  69:1 71:22,22  74:20,20 75:22,22  <b>principal's</b> 29:15  30:5 57:12,25  <b>printout</b> 60:4</p>	<p><b>prior</b> 34:20 43:3  43:13 59:21 63:24  64:7 84:11 85:21  86:6 92:19 101:5  <b>privacy</b> 95:10,12  <b>privileged</b> 96:2  <b>probably</b> 30:19,20  34:2 64:15  <b>probe</b> 21:22  <b>problem</b> 25:8  <b>procedural</b> 6:15  <b>procedure</b> 104:5  105:5  <b>proceed</b> 8:1  <b>proceeding</b> 1:20  5:4 6:13 100:6  102:4  <b>proceedings</b> 101:3  101:5,6,9 102:6  <b>process</b> 34:2,3  45:11 96:5  <b>produced</b> 6:12  <b>production</b> 103:16  103:17,22  <b>professional</b> 16:18  <b>professionals</b> 17:7  19:9 42:17  <b>program</b> 20:2  <b>pronoun</b> 25:21,23  25:25 26:4,14,17  26:20 27:9,13  93:7,9  <b>pronouns</b> 23:2  24:14 25:6,10,14  25:15,17,18 27:18  28:3 29:12 30:2,4  30:12,18 31:6  32:19 34:7,12,20  52:23 53:3,7 61:6  64:7 75:11,14,16  75:20 76:3,10</p>	<p>86:14 93:5,6  <b>pronschinske</b> 1:22  5:3 101:2,17  <b>proposal</b> 95:7  <b>proposing</b> 94:18  <b>protect</b> 95:10  <b>protocols</b> 33:19  <b>provide</b> 8:16,19  38:11 44:13 48:12  48:15,18,22  <b>provided</b> 11:15  38:14 45:25 48:9  50:10 51:2 65:16  68:17,17 70:23  73:14  <b>provider</b> 43:11  <b>providers</b> 37:22  <b>providing</b> 43:12  43:14 49:9 99:21  <b>prozac</b> 38:2  <b>psychological</b>  42:16  <b>pt</b> 20:1  <b>public</b> 1:22 101:18  104:10,18 105:15  105:23 106:23  <b>pull</b> 65:9 69:4  89:21  <b>pulling</b> 11:17  <b>purpose</b> 16:14  36:1  <b>purposes</b> 9:5  <b>put</b> 20:4 43:17  55:17 86:25 98:2  <b>putting</b> 29:1 53:4  70:13  <b>pzimmerly</b> 3:15</p>	<p>39:19 50:2 63:5  68:15,16 76:7  84:14 90:20,21,22  <b>questioning</b> 85:14  98:13  <b>questions</b> 11:14  74:23 92:4 96:22  97:14 98:8  <b>quiet</b> 56:19</p>
			<b>r</b>
			<p><b>r</b> 2:1 3:1 5:1 10:19  47:1,1  <b>rafford</b> 33:13,17  <b>raise</b> 7:20  <b>rapidly</b> 61:9  <b>rays</b> 21:22  <b>reached</b> 15:2  27:25 28:11,24  <b>react</b> 13:5  <b>read</b> 74:22 104:5,6  104:12 105:5,6,17  <b>reading</b> 103:20  <b>realize</b> 47:2  <b>really</b> 14:3 20:16  23:16,16 33:11  35:14,23 37:10  44:2,19 56:22  63:6,8 68:13,15  85:3,13,19 88:13  88:20 95:5 97:25  <b>reason</b> 8:18 61:19  62:2,4,12 63:20  103:15 105:8  106:3  <b>recall</b> 12:24 13:8  13:13 18:4,9,13,23  23:12 28:9 29:15  31:5 35:22 41:2  44:9 45:21 47:9  47:13,17,22,25  53:19 54:9,17,20</p>
		<b>q</b>	
		<p><b>qualified</b> 101:7  <b>question</b> 9:9,9,10  9:15,16 33:21</p>	

[recall - review]

Page 14

<p>55:12 56:13,17,20 57:9,17 60:13 62:18,21 63:6,10 63:11,16 64:16 77:5 79:16,17,23 80:21 81:23 82:5 82:17,24 83:6,18 88:4</p> <p><b>recalled</b> 81:20</p> <p><b>receipt</b> 103:19</p> <p><b>receive</b> 35:1 37:17 42:21 44:16 46:11 46:14 52:15 61:7</p> <p><b>received</b> 21:13,25 34:22 37:24 47:9 47:22 48:3,6 60:19</p> <p><b>receiving</b> 21:1 22:1 34:24 36:13 43:2 52:3,6,11,18</p> <p><b>reckon</b> 80:25</p> <p><b>recognize</b> 94:3</p> <p><b>recognized</b> 22:10 22:14</p> <p><b>recollection</b> 55:9</p> <p><b>recommend</b> 99:6</p> <p><b>record</b> 5:4,5 6:10 6:22 8:9 9:6,24 29:19,20 32:1 39:2,3,5 49:25 50:1 51:20,22 61:21 62:20 65:14 69:4 72:24 81:13 81:15,17 92:15 96:17,18,20 99:19 99:25 100:3 101:9 102:5 105:9</p> <p><b>recorded</b> 6:17 101:6</p> <p><b>recording</b> 6:12 101:8 102:4</p>	<p><b>records</b> 97:4,4</p> <p><b>redacted</b> 69:8</p> <p><b>reduced</b> 101:7</p> <p><b>refer</b> 24:24 27:17 40:4 52:22 53:2 61:5 75:11,15 92:14</p> <p><b>reference</b> 103:8 104:2 105:2</p> <p><b>referenced</b> 104:11 105:15</p> <p><b>referral</b> 42:21,25</p> <p><b>referred</b> 30:11 31:19 32:9,18 34:11 59:4 72:14 76:2</p> <p><b>referring</b> 12:13 18:21 40:5,8 49:2 49:8 50:3 59:10 69:23 72:5 97:17</p> <p><b>reflect</b> 23:1,7,13 24:11 27:18 30:2 75:12</p> <p><b>reflux</b> 20:13 21:4</p> <p><b>reframe</b> 76:7</p> <p><b>refuse</b> 75:1</p> <p><b>regard</b> 9:14 10:21 16:18 17:16 21:24 25:5 31:6 32:23 33:15,17 34:5,14 36:23 37:1,5 50:4 58:23 59:21 62:22 64:7 68:3 69:11 74:1,4 78:1 80:21 81:23 82:9 83:24 97:3</p> <p><b>regarding</b> 28:10</p> <p><b>regardless</b> 13:18 13:20 25:9</p> <p><b>regards</b> 99:20</p>	<p><b>regiment</b> 21:1</p> <p><b>regular</b> 31:1,1 32:11</p> <p><b>related</b> 42:18 43:3 43:12 61:8 101:11 102:7</p> <p><b>relation</b> 32:4 37:25 38:7 87:13 95:7,13</p> <p><b>relative</b> 101:13 102:10</p> <p><b>remember</b> 14:3 16:5 19:3 35:15 54:21 55:1 58:6 80:13,14,17,19,20 82:8,14,14</p> <p><b>remote</b> 1:20</p> <p><b>remotely</b> 5:13 6:8</p> <p><b>repeat</b> 7:10 25:12 33:20 76:5</p> <p><b>rephrase</b> 64:2</p> <p><b>reported</b> 1:22 55:7</p> <p><b>reporter</b> 5:2,3 6:3 7:9,18 8:1 29:20 39:1,4 51:21 81:13,16 96:16,19 98:12,15,19,22 99:10,13,18,24 100:2 104:7</p> <p><b>request</b> 27:20,23 28:1 30:1,1,5,9 31:5 32:12 33:18 33:23,25 49:5 52:25 63:25 64:6 64:9,12,14,16 70:14 72:9 74:4,7 74:13 76:10,15 94:12 105:9,11</p> <p><b>requested</b> 61:3 63:24 101:21</p>	<p><b>requesting</b> 60:21 70:7,15</p> <p><b>requests</b> 52:22 53:6</p> <p><b>require</b> 65:18</p> <p><b>required</b> 79:10 81:21 103:25</p> <p><b>requires</b> 69:14</p> <p><b>research</b> 14:6,12 14:13,16,24 15:21</p> <p><b>reserve</b> 96:25 97:6</p> <p><b>reserved</b> 100:4</p> <p><b>resource</b> 45:23 46:5 59:9</p> <p><b>resources</b> 14:7,16 14:19 43:18 45:24 46:2</p> <p><b>respected</b> 30:1,9</p> <p><b>respond</b> 57:1</p> <p><b>response</b> 9:1,5 13:21 14:4 18:24 56:23 57:5,13 86:20</p> <p><b>restroom</b> 9:13 64:25 65:18 69:14 69:15 70:9,16,22 71:10,19 74:6 78:20 87:4</p> <p><b>restrooms</b> 58:23 63:18 64:1,10,21 64:25 65:3 70:11 74:3 87:9</p> <p><b>resume</b> 6:3</p> <p><b>retained</b> 4:16</p> <p><b>retaining</b> 99:21</p> <p><b>returned</b> 103:19</p> <p><b>review</b> 98:24 99:1 99:7 101:21 103:13 104:1 105:1</p>
--	--	--	--

<b>reyeher</b> 10:15,17 10:18,20 <b>right</b> 7:20 23:15 31:22 39:1 45:21 49:7 53:9 78:13 88:6 96:6 97:6 98:24 99:5 100:2 <b>rights</b> 67:22 96:25 <b>riley</b> 14:7 15:11,12 15:22 16:8,11,15 16:21 19:4,12,12 19:24 21:25 22:2 22:5 37:24 38:4 42:17,21,23,25,25 43:4,14,14,24,24 44:18 45:2 46:22 <b>role</b> 11:8,11 31:24 <b>room</b> 54:24 62:25 94:7,8,9,14,17,20 95:5,8,9 <b>rooms</b> 58:24 64:21 65:7 69:16 70:12 72:7,9 74:3,11,14 94:8 <b>rosters</b> 75:18 <b>rotc</b> 32:21 33:12 33:17,22 34:5,9 84:6 <b>rules</b> 6:16 8:14 104:5 105:5 <b>run</b> 9:13 <b>ryan</b> 33:7	23:23,24,25 24:3,4 24:6,8 25:17,18,20 25:23 26:1,19 28:2 37:5 47:22 48:7 55:16 67:4 72:14 73:22 74:1 74:5,10 76:11 78:10 82:9,11,12 82:18 83:3,4,4 86:16,20 87:4 91:8 92:18,21,22 92:23,24 93:7,9 103:6 104:3 105:3 <b>s.e.'s</b> 26:20 47:21 86:17,17,21 91:11 91:14,18,23 93:6 <b>saw</b> 17:7 35:9 50:24 <b>saying</b> 13:13 27:6 31:2 49:9 55:16 56:18,20 58:9 60:4 71:14,16 77:18 87:7 <b>says</b> 33:19 69:10 69:13 <b>scar</b> 20:6 <b>school</b> 1:10,12 3:10,18 5:8 7:3,16 8:6 11:7,8 12:18 12:19 18:10 23:8 23:9 27:20 29:9 30:3,5 31:7,8,9,25 32:15,16,17 36:6 47:4 48:10,13,19 48:23 50:20 53:21 53:24 57:22 60:19 60:23 61:4,5,16 64:24 66:21 70:4 70:4,13 71:4 72:24 73:15,20,23 73:24,24 74:6,25	75:1,10,18 76:9,17 76:25 77:2,3,3,7 77:18 79:1,5 80:9 80:11,16 81:25 82:1,2,6,10,18,19 85:21 86:6 89:11 93:21 95:21 96:6 96:7 97:5 103:6 104:3 105:3 <b>school's</b> 83:23 84:1,18 <b>schools</b> 27:17 66:21 <b>schoolwork</b> 89:14 <b>science</b> 32:1 <b>seal</b> 104:15 105:21 <b>search</b> 14:25 <b>second</b> 15:16 39:17,22 54:7,8 56:1 57:20 92:20 <b>see</b> 16:21 17:22 18:11,17,17 19:8 35:18 38:4,18 40:3 59:6 66:12 74:23 84:23 88:23 92:12 94:10 97:3 <b>seeing</b> 16:17 <b>seeking</b> 43:4 <b>sees</b> 38:7 <b>self</b> 36:21 <b>send</b> 51:6,6 68:11 98:20 99:16 <b>sending</b> 66:20,25 68:7 <b>sends</b> 45:15 <b>sensitive</b> 20:7 <b>sent</b> 44:14 66:17 66:22 67:8,17 68:1,8,22,25 93:17 93:22	<b>sentence</b> 39:17,22 87:20 93:4 94:23 95:16 <b>sentiment</b> 89:2 <b>sentiments</b> 87:22 87:23 88:4,5 <b>separate</b> 12:23 17:15 33:3 46:16 46:17 50:9 73:6 89:21 <b>separately</b> 12:22 46:15 49:18 <b>separating</b> 33:15 <b>september</b> 48:14 50:21 54:19 60:19 63:14 64:8 71:7 <b>serve</b> 70:17 <b>services</b> 2:4 3:4 7:14 <b>settled</b> 24:8 <b>seven</b> 11:12 19:24 52:19 <b>seventh</b> 11:23 12:2 23:14 24:1 52:14 52:16 65:2,5 <b>sex</b> 63:19 72:11 74:15 84:22 90:12 91:18 <b>shake</b> 9:4 <b>share</b> 26:12,13,19 50:19,22 <b>shared</b> 13:21 14:5 14:14 18:24 19:1 50:15 59:22 60:1 60:6,8 84:8 85:9 86:9,12,21 97:5 <b>sharing</b> 16:18 18:4 56:8 99:14 <b>sheet</b> 103:14 105:7 105:10,18 106:1
<b>s</b>			
<b>s</b> 2:1 3:1 4:6 5:1 103:16 105:8,8 106:3 <b>s.e.</b> 1:5 2:2,10,18 3:2 5:7 9:24 10:12 10:14,22 17:15,19 18:4,13,14,24 19:2 20:23,25 21:1,1			

<b>sherman</b> 49:7 <b>sherwin</b> 49:6 65:17 67:13 70:7 74:10 <b>sherwin's</b> 4:10,11 70:14 <b>shooting</b> 81:2 <b>short</b> 27:14 <b>shot</b> 52:14,16 <b>shots</b> 52:4,4,7,15 52:18 <b>shown</b> 103:16 <b>shut</b> 99:11 <b>sic</b> 10:19 49:7 <b>side</b> 53:4 70:13 <b>sign</b> 99:6 <b>signature</b> 98:24 99:9 100:4 101:16 102:14 103:15 <b>signed</b> 104:13 105:18 <b>signing</b> 103:20 <b>simple</b> 88:9 <b>sincerely</b> 103:21 <b>sir</b> 103:10 <b>sister</b> 92:9,15 97:10 <b>sitting</b> 80:14 <b>sixth</b> 12:20 13:25 14:1,14 15:23,24 23:11,14 24:1 34:25 36:1 65:2,5 <b>skills</b> 101:10 102:6 <b>slept</b> 63:15 <b>slip</b> 86:14 <b>slowly</b> 20:10 <b>smith</b> 10:8,9,10,12 <b>snack</b> 9:13 <b>snapshot</b> 67:21 <b>snickers</b> 66:11,14	<b>social</b> 32:2 <b>solely</b> 25:5 <b>solutions</b> 103:1 106:1 <b>somebody</b> 44:5 88:18 97:17 <b>son's</b> 60:22 <b>sons</b> 61:3 75:1 <b>sorry</b> 27:4 33:21 35:24 39:14,20 49:13,17 51:14 56:1,3,4 72:23,25 84:4 95:19 99:11 <b>sort</b> 5:16 21:12,19 33:16 37:17 38:10 38:14 45:23,23 52:2 62:9 67:21 73:7 94:18 99:2 <b>sorts</b> 52:5 <b>sought</b> 42:16 76:9 <b>sounds</b> 20:18 59:11 <b>south</b> 3:5 <b>southern</b> 1:2 <b>space</b> 43:22 <b>spactor</b> 2:23 <b>speak</b> 26:16 44:7 <b>speaker</b> 99:15 <b>speaking</b> 32:8 70:20 72:1 <b>specializes</b> 17:5 <b>specialty</b> 17:3 <b>specific</b> 30:10,22 32:17 34:10 35:9 35:12 48:17 62:21 63:6,11 77:9 79:17,23 81:20,24 82:5,17 83:18 92:4 95:25 <b>specifically</b> 18:13 18:14 48:1 57:8	62:10,18 63:10,16 77:23 85:16,17,23 88:2 92:20 97:23 <b>spell</b> 10:18 46:23 46:25 <b>spelling</b> 47:3 <b>spend</b> 96:24 <b>spent</b> 19:23 <b>st</b> 73:13 <b>staff</b> 74:24 <b>stage</b> 31:11,13 <b>stages</b> 97:1 <b>stamp</b> 66:2 <b>start</b> 12:25 14:8 19:18 25:13 26:12 28:9 31:9 69:7 79:9 <b>started</b> 14:8 16:3 27:24 85:1 <b>starts</b> 44:10 45:21 94:10 <b>state</b> 8:8 12:14 39:9,10,22 41:10 51:25 52:24 61:2 61:14 65:15 76:21 78:24 83:21 84:25 85:1 87:19 94:23 101:19 104:10 105:15 <b>stated</b> 61:21 <b>statement</b> 12:13 22:9 23:1 27:16 29:24 30:6 40:6 41:5,23 42:15 62:21 69:12 71:14 83:24 84:16 85:8 89:8 104:13,14 105:19,19 <b>statements</b> 18:9 57:13 63:7,12 67:4 75:20	<b>states</b> 1:1 66:24 <b>stating</b> 41:15 58:14 <b>status</b> 10:21 <b>stenographic</b> 6:18 <b>steve</b> 28:6 66:22 <b>stevie</b> 2:19 6:1 7:7 7:11 39:5 <b>stipulation</b> 6:19 <b>stomach</b> 16:15 20:15 49:1 77:18 77:22 83:11 <b>stop</b> 47:5 <b>stories</b> 14:20 <b>story</b> 55:14 <b>street</b> 2:13,21 <b>stressful</b> 87:1 <b>strike</b> 41:8 <b>strong</b> 7:10 <b>stuart</b> 3:3 7:13,13 <b>student</b> 83:7,15 <b>students</b> 61:5 75:10 94:21 <b>studies</b> 32:2 <b>study</b> 21:22 <b>stuff</b> 16:2 <b>styles</b> 23:5 <b>subs</b> 30:19 <b>subscribed</b> 104:10 105:14 106:21 <b>substance</b> 99:3 <b>substitute</b> 30:25 53:1,4 76:1,13 <b>substitutes</b> 30:19 30:20,21,22 32:20 <b>suffocating</b> 37:2 37:12 <b>sugar</b> 11:10 <b>suite</b> 2:5 3:13,21 103:2
--	--	--	---

<p><b>summer</b> 13:24  <b>superior</b> 103:1  <b>support</b> 14:21,21  15:5,6,7,8 40:14  43:18 44:20,22  45:16 46:1 95:17  95:24  <b>supports</b> 40:13  <b>suppose</b> 16:6  53:18  <b>supposed</b> 87:6  <b>sure</b> 13:13 16:6  20:18 33:22 35:25  39:16,22 44:19  48:21 64:4 73:2  <b>surgeries</b> 20:6  21:17  <b>surgery</b> 42:14  90:13  <b>swallow</b> 21:22  <b>swear</b> 5:12 6:7  7:19  <b>switched</b> 27:3,7  <b>switching</b> 35:14  <b>sworn</b> 6:10 7:23  101:5 104:10,13  105:14,18 106:21  <b>system</b> 16:3 73:3  73:20</p>	<p><b>talked</b> 17:12 28:3  28:4 44:23 45:6  57:18 58:20 65:13  67:15 69:18 72:17  83:15 96:9 97:15  97:17,20,24  <b>talking</b> 16:4 31:7  45:9 51:15 59:9  76:8 94:3  <b>talks</b> 86:8  <b>tardiness</b> 70:18  <b>tardy</b> 71:17,18  <b>teacher</b> 31:23  32:20,23 33:1,1,15  34:9,14,19  <b>teacher's</b> 33:6  <b>teachers</b> 27:25  29:6,6,25 30:4,9  30:10,17,25 31:1,2  32:11,11,17 34:10  52:22 53:1,4,5,9  75:13 76:1,2,8,13  76:14 86:13,24  <b>team</b> 33:5  <b>teams</b> 33:4  <b>teenage</b> 23:4  <b>tell</b> 7:24 12:19,21  12:22,25 17:18  19:16 53:11 54:21  58:6 83:12 85:23  86:18,18 99:24  <b>telling</b> 17:20  <b>tells</b> 43:17  <b>ten</b> 39:2  <b>terms</b> 13:25 15:5  15:21 20:21,25  22:4 53:16 82:24  <b>terre</b> 1:3,11 40:17  44:1 60:20 74:20  <b>terrible</b> 33:5</p>	<p><b>tesrone</b> 52:7  <b>test</b> 47:3  <b>testified</b> 7:25 83:2  <b>testifying</b> 101:5  <b>testimony</b> 8:16,19  8:23 59:8,21 68:4  68:18 104:6,7  105:6,9,12  <b>testings</b> 21:20,21  <b>testosterone</b> 52:8  <b>thank</b> 7:18 8:7 9:2  38:22 39:18 81:12  92:9 96:22 97:6  98:8,11  <b>thanks</b> 6:1  <b>themselves</b> 14:11  18:11 36:18,20  <b>therapist</b> 38:6,7  38:11,14  <b>therapy</b> 52:2,3  61:9  <b>thing</b> 20:12 37:12  44:24 50:7 68:10  80:12  <b>things</b> 26:5,7 33:1  36:14 51:11 68:13  <b>think</b> 11:13 19:15  26:2 31:21 44:2  46:23 50:6 51:15  52:10 57:25 59:21  68:4 72:12 76:4  81:1 83:2 86:22  89:7,17 96:12  98:6  <b>thinking</b> 37:16  <b>thirty</b> 103:19  <b>thought</b> 36:4  <b>thoughts</b> 37:6,7,9  <b>three</b> 14:9 20:15  73:17 92:7 96:13</p>	<p><b>time</b> 1:19 6:21 9:3  9:12 10:5,24  12:21 14:13 16:22  18:5 19:5 24:3  25:3,3,11,15,18,20  26:14 27:11,14  34:15 45:4,9  46:14 47:24 54:1  54:10 56:1 57:1,6  59:18 60:1,9  61:12 62:3 64:20  65:5 68:22 70:17  71:19 75:7 77:8  77:12 78:16 82:25  87:9 94:19 95:18  97:7 98:8  <b>timeline</b> 16:7 68:9  <b>times</b> 24:24 46:16  46:17 53:19,22,23  54:2 59:5 69:4  77:25 78:5,18,19  79:1 80:3 82:5,14  82:17,22 83:9  90:17 97:20,22  <b>tissue</b> 20:6  <b>titled</b> 11:21  <b>titus</b> 31:23,24  <b>today</b> 8:7,14,19,23  76:8 80:14 90:14  97:7 98:5  <b>told</b> 12:17 13:1,6  13:17,19 17:14  18:15 29:4 35:24  53:8 54:23 55:10  58:19 59:6 60:25  61:11,15 74:22,24  75:7,9,25 76:20  85:11,16 87:9  <b>topic</b> 56:11 58:22  59:2 87:13</p>
<b>t</b>			
<p><b>t</b> 4:6  <b>take</b> 5:4,10 6:5  9:12,16 18:2  20:10 21:16 38:20  68:12 98:21 99:9  <b>taken</b> 5:6 101:3,12  102:9  <b>takes</b> 20:14  <b>talk</b> 9:19 32:16  36:3,4,5 43:10  57:20 98:4</p>			

<p><b>topics</b> 56:7  <b>totally</b> 9:13  <b>tran</b> 98:18,21  <b>transcribed</b> 104:7  <b>transcriber</b> 102:1  <b>transcript</b> 6:12  98:25 99:14  101:21 102:3,5  103:12,13 104:5  104:12 105:5,11  105:17  <b>transcriptionist</b>  101:8  <b>transcripts</b> 98:13  98:20  <b>transgender</b> 12:14  14:20 15:15 17:5  40:14 44:23 66:25  83:22 84:1,17  87:22,23 88:3,5  89:2  <b>transition</b> 42:18  43:3,12 61:8  <b>treat</b> 18:11  <b>treated</b> 67:4  <b>treatment</b> 16:9,12  <b>trick</b> 18:20  <b>true</b> 9:21,24 17:16  30:6 41:21 46:9  59:15 69:20 70:5  70:23 90:4,8,9,11  90:24 91:9,12,15  91:17,23 93:25  101:9 102:5  <b>truth</b> 7:24,24,25  <b>truthful</b> 8:16,19  <b>try</b> 16:6,7 68:16  78:22  <b>trying</b> 55:17 59:20  63:5</p>	<p><b>tubes</b> 19:25  <b>tuesday</b> 1:18  <b>turn</b> 5:20 11:22  22:8 41:9 65:20  66:1,3 67:11  72:13 92:1,5  <b>turning</b> 27:15 39:8  51:8 74:17 83:20  91:2  <b>twenty</b> 92:7  <b>twice</b> 77:24 78:6,7  78:9,9,10 82:21  <b>twins</b> 78:12  <b>two</b> 9:20 15:8  24:15,19 25:24  27:12 35:20 46:16  46:16,17 49:4  51:10 52:13 53:22  54:2 77:25 78:11  83:3,4,7,14 86:25  93:25 97:23 98:2  <b>type</b> 20:12  <b>types</b> 19:15  <b>typewriting</b> 101:7  <b>typos</b> 99:2</p>	<p>63:17 68:18 75:24  76:7,15 84:10,12  84:14  <b>understood</b> 9:10  <b>undressed</b> 95:6  <b>unidentified</b> 99:15  <b>uniform</b> 34:6  <b>uniforms</b> 33:24  34:1,1  <b>unisex</b> 61:18 75:6  <b>united</b> 1:1  <b>unrelated</b> 73:10  <b>unverified</b> 90:3  91:7  <b>upper</b> 21:21  <b>ups</b> 21:19  <b>upset</b> 60:15  <b>use</b> 23:2,17,23  24:6,24 25:6,15,18  25:23,25 26:3,7,13  26:16 27:8 28:10  28:17 29:11 30:1  30:17 31:6 32:12  34:6,15 40:9 53:6  54:24 55:11 56:9  56:10 57:10 60:22  61:4,15,17,18,25  64:7,24 65:6,18,19  69:14,15,16 70:8  70:11,16,22 72:7,9  74:3,6,10,13 75:5  75:14,20 76:10,22  77:15,19 78:20,25  83:23 84:1,11,18  87:5,6 93:24 94:7  94:13,14,16,19,20  95:8,8  <b>uses</b> 6:14 92:19</p>	<p style="text-align: center;"><b>v</b></p> <p><b>v</b> 1:9 103:6 104:3  105:3  <b>various</b> 33:16  <b>verbal</b> 9:1,4  <b>veritext</b> 5:4 103:1  103:8 106:1  <b>veritext.com.</b>  103:17  <b>version</b> 69:7,8  <b>vice</b> 28:4 50:23  53:17 54:3 58:5  59:14 60:9,20  61:11 64:8,13,22  68:19 74:20 75:22  <b>videoconference</b>  1:16 2:3,11,19 3:3  3:11,19  <b>viewed</b> 41:11  <b>vigo</b> 1:10,12 3:10  3:18 5:7 7:3 8:6  11:7,8 35:5,16  66:21 103:6 104:3  105:3  <b>vincent's</b> 73:13  <b>virtually</b> 6:13  <b>vs</b> 5:7</p>
	<p style="text-align: center;"><b>u</b></p> <p><b>uh</b> 28:20,20  <b>unable</b> 76:21 79:2  <b>uncomfortable</b>  65:4  <b>underneath</b> 66:8  <b>underscore</b> 67:12  67:12  <b>understand</b> 6:11  8:15 9:6 14:17,18  26:8 59:20 68:16  70:10 74:2 87:8  94:24  <b>understanding</b>  9:20 26:3,11,20  46:3 52:25 53:5</p>		<p style="text-align: center;"><b>w</b></p> <p><b>wabash</b> 40:18  <b>wait</b> 51:10 79:4  <b>waive</b> 99:5  <b>waived</b> 103:20  <b>waiver</b> 33:25  <b>walked</b> 31:11,11  <b>waltrap</b> 88:11,19  88:19 89:3  <b>want</b> 5:25 13:3  38:20 42:12 63:6  92:19 95:5,22,23  95:25 97:8</p>

[wanted - zoom]

Page 19

<p><b>wanted</b> 24:8 26:13 29:2,13 57:7 94:16 <b>washington</b> 2:13 2:21 <b>way</b> 33:22 45:6,8 62:18 87:3,15 93:12 94:6 <b>ways</b> 41:14,24 42:6 63:4 <b>we've</b> 9:23 11:18 57:18 69:18 72:16 90:17 <b>wear</b> 23:4,5 <b>wednesday</b> 44:21 <b>week</b> 20:2 78:18 78:19 <b>weekly</b> 52:4,15 <b>weeks</b> 14:9 19:21 20:19 52:19 60:18 <b>weighed</b> 19:23 <b>weird</b> 44:11 <b>went</b> 63:21 85:21 86:5 <b>wilson</b> 28:4,22 <b>wise</b> 14:16 <b>wishes</b> 67:7 <b>witness</b> 5:12 6:7 6:10,11,23 7:19,23 38:22 39:19 51:14 81:6 91:21 97:8 98:10 99:8 101:4 103:9,12 104:1,4 104:11 105:1,4,15 <b>witness'</b> 103:15 <b>wohlford</b> 3:19 7:15,15 <b>word</b> 43:6 <b>work</b> 11:2,3 77:4 95:21</p>	<p><b>write</b> 71:23 94:5,6 94:23 95:16 <b>writes</b> 72:6 74:10 92:21 93:5 <b>writing</b> 27:24 28:11 73:17 <b>written</b> 6:19</p> <p style="text-align: center;"><b>x</b></p> <p><b>x</b> 4:1,6 21:22 101:21</p> <p style="text-align: center;"><b>y</b></p> <p><b>y</b> 10:19 <b>yahoo</b> 66:11,14 <b>yeah</b> 6:2 15:17,20 16:4 18:7 21:23 24:19,20 25:7 28:3,15,16 29:4,14 31:4 40:17 45:3 47:4,7,12,20 49:7 56:2,16 58:15 59:6 73:25 78:5 79:25 81:11 83:9 84:20 93:20 94:11 <b>year</b> 12:18 13:25 14:1,14 24:19 25:24 27:12,19 40:24 41:4 46:13 47:12,13,23,25 60:19 83:9 96:6,7 98:9 <b>year's</b> 98:10 <b>yearbook</b> 55:18 56:11,16 75:18 <b>yearbooks</b> 55:14 <b>years</b> 11:12 16:10 16:17 19:6 22:11 24:15 25:24 45:10 45:18 73:18</p>	<p style="text-align: center;"><b>z</b></p> <p><b>z</b> 46:23 47:7 <b>zimmerly</b> 3:11 4:3 7:2,2 8:3,5 29:22 38:21 39:7,16,21 49:20,23 51:18,23 81:1,10,18 88:16 90:18 91:22 96:12 96:21 97:12 98:7 98:16,17 99:22 100:1 <b>zoom</b> 5:9 84:5</p>
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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate.

The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.

THE ABOVE RULES ARE CURRENT AS OF APRIL 1,

2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES

OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS  
COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

Veritext Legal Solutions is committed to maintaining the confidentiality of client and witness information, in accordance with the regulations promulgated under the Health Insurance Portability and Accountability Act (HIPAA), as amended with respect to protected health information and the Gramm-Leach-Bliley Act, as amended, with respect to Personally Identifiable Information (PII). Physical transcripts and exhibits are managed under strict facility and personnel access controls. Electronic files of documents are stored in encrypted form and are transmitted in an encrypted fashion to authenticated parties who are permitted to access the material. Our data is hosted in a Tier 4 SSAE 16 certified facility.

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DEPOSITION REVIEW  
CERTIFICATION OF WITNESS

ASSIGNMENT REFERENCE NO: 4992729

CASE NAME: B.E. And S.E., Et Al. v. Vigo County School Corporation, Et Al.

DATE OF DEPOSITION: 12/21/2021

WITNESS' NAME: L.E.

In accordance with the Rules of Civil Procedure, I have read the entire transcript of my testimony or it has been read to me.

I have listed my changes on the attached Errata Sheet, listing page and line numbers as well as the reason(s) for the change(s).

I request that these changes be entered as part of the record of my testimony.

I have executed the Errata Sheet, as well as this Certificate, and request and authorize that both be appended to the transcript of my testimony and be incorporated therein.

1-20-22                      LE  
Date                                      L.E.

Sworn to and subscribed before me, a Notary Public in and for the State and County, the referenced witness did personally appear and acknowledge that:

- They have read the transcript;
- They have listed all of their corrections in the appended Errata Sheet;
- They signed the foregoing Sworn Statement; and
- Their execution of this Statement is of their free act and deed.

I have affixed my name and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

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Notary Public

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Commission Expiration Date



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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
TERRE HAUTE DIVISION

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B.E. and S.E., minor children  
by their mother, legal guardian,  
and next friend, L.E.,  
Plaintiffs,

v.

Case No.

VIGO COUNTY SCHOOL CORPORATION,  
PRINCIPAL, TERRE HAUTE NORTH  
VIGO HIGH SCHOOL, in his  
official capacity,  
Defendants.

2:21-cv-00415-JRS-MG

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VIDEOCONFERENCE DEPOSITION OF

B.E.

DATE: Tuesday, December 21, 2021  
TIME: 12:24 p.m.  
LOCATION: Remote Proceeding  
Indianapolis, IN 46204  
REPORTED BY: Andrew Pronschinske, Notary Public  
JOB NO.: 4992729



<p style="text-align: right;">Page 6</p> <p>1 Ken, Mark Wohlford on behalf of Vigo County School 2 Corporation. 3 MR. FALK: Ken Falk on behalf of 4 plaintiffs. 5 MS. STUART: Megan Stuart on behalf of 6 plaintiffs. 7 THE REPORTER: Thank you. Hearing no 8 objection, I will now swear in the witness. Please, 9 raise your right hand. 10 WHEREUPON, 11 B.E., 12 called as a witness, and having been first duly sworn 13 to tell the truth, the whole truth and nothing but the 14 truth, was examined and testified as follows: 15 THE REPORTER: We may proceed. 16 EXAMINATION 17 BY MR. ZIMMERLY: 18 Q Good afternoon, B.E. I'm going to refer to 19 you as "B.E." throughout given our order in the case. 20 Thank you for being here today. 21 My name is Phil Zimmerly. I am an attorney 22 that represents Vigo County School Corporation, and 23 we're here for your deposition today. Do you 24 understand that? 25 A Yes.</p>	<p style="text-align: right;">Page 8</p> <p>1 to use the restroom or to get a snack or for whatever 2 reason, just let me know. 3 We can take a break, and my only caveat to 4 that is if I've asked you a question, I just would ask 5 that you answer that question before we take a break. 6 Is that fair? 7 A Yes. 8 Q So, B.E., let's talk about sort of your 9 school history; let's start there. Where did you go 10 to elementary school? 11 A Lost Creek Elementary. 12 Q And did you go to elementary school -- is it 13 Lost Creek? 14 A Lost -- Lost Creek, I believe, yeah. 15 Q Okay. And did you go to all of your 16 elementary school to that school? 17 A No, I don't think so. 18 Q Did you go to another elementary school as 19 well? 20 A I think. 21 Q What was the other elementary school that 22 you think you went to? 23 A I'm not sure. 24 Q Where did you go to middle school? 25 A Woodrow Wilson.</p>
<p style="text-align: right;">Page 7</p> <p>1 Q Have you ever given a deposition before? 2 A No. 3 Q So let me give you a couple of the rules we 4 will be using today. You understand that you're under 5 oath; so you have the obligation to provide truthful 6 and accurate testimony. Do you understand that? 7 A Yes. 8 Q Is there any reason why you cannot provide 9 accurate and truthful testimony today? 10 A No. 11 Q You're not under the influence of any drugs 12 or alcohol or medication that would prevent you from 13 providing truthful and accurate testimony. 14 A No. 15 Q You're doing a great job today of giving me 16 a verbal response. If at some point in time, you nod 17 your head to say "yes" or shake your head to say "no," 18 I may remind you to give me a verbal response. Does 19 that make sense? 20 A Yes. 21 Q I'm also going to presume that if I ask you 22 a question and you answer the question that I ask that 23 you understood that question. Is that fair? 24 A Yes. 25 Q And if at any point you need to take a break</p>	<p style="text-align: right;">Page 9</p> <p>1 Q And in Vigo County, is middle school sixth, 2 seventh, and eighth grade, or is it just seventh and 3 eighth grade? 4 A Sixth, seventh, and eighth. 5 Q And so you were at Woodrow Wilson for all 6 three of those grades. 7 A Yes. 8 Q And where are you currently going to high 9 school? 10 A North Vigo -- North High School. 11 Q In middle school, were you involved in any, 12 what I call, extracurricular activities? Those are 13 those sorts of activities that you get involved with 14 that aren't your everyday class. 15 It might be, you know, clubs, organizations, 16 or sports or band. In middle school, were you 17 involved in any extracurricular activities? 18 A Yes. 19 Q What sorts of things were you involved with? 20 A Theater, band, I think that's it. 21 Q Okay, so theater and band. 22 A Hold on, also like a community service one. 23 Q So there was a community service club that 24 you were a part of. 25 A Yeah.</p>

<p style="text-align: right;">Page 10</p> <p>1 Q Did it have a name?</p> <p>2 A I -- yeah, but I forgot what it is.</p> <p>3 Q Okay. In high school, have you been</p> <p>4 involved in any extracurricular activities?</p> <p>5 A No.</p> <p>6 Q A number of my questions are going to be</p> <p>7 based on a declaration that you signed. Do you recall</p> <p>8 reviewing and signing a declaration, B.E.?</p> <p>9 A I believe.</p> <p>10 Q Okay. We marked it as Exhibit 12.</p> <p>11 (Exhibit 12 was marked for</p> <p>12 identification.)</p> <p>13 And do you have that declaration with you,</p> <p>14 B.E.?</p> <p>15 A Yeah.</p> <p>16 Q I'm going to ask you some questions about</p> <p>17 some of the statements that were made in here. At the</p> <p>18 end of the document, on Page 7, there is a</p> <p>19 verification. Do you see that on Page 7?</p> <p>20 A Yeah.</p> <p>21 Q And it says under the verification, "I</p> <p>22 verify under the penalty of perjury that the foregoing</p> <p>23 is true and correct." Do you see that there?</p> <p>24 A Yes.</p> <p>25 Q And are those your initials, and did you</p>	<p style="text-align: right;">Page 12</p> <p>1 Q And when you said that you dressed a little</p> <p>2 bit masculine, just a little bit, what do you mean by</p> <p>3 that?</p> <p>4 A Well, there was like a certain day. Like,</p> <p>5 you dress up, but I dressed up. I was like -- well,</p> <p>6 it was a president, but, still. I dressed in</p> <p>7 masculine clothes.</p> <p>8 Q And you said you dressed up as a president.</p> <p>9 What president did you dress up as?</p> <p>10 A Well, it was really bad. I probably</p> <p>11 shouldn't have done that or anything, but Barrack</p> <p>12 Obama, yeah.</p> <p>13 Q When you said that you didn't feel</p> <p>14 comfortable with the restrooms, what did you mean by</p> <p>15 that?</p> <p>16 A I didn't like using them because I felt like</p> <p>17 it didn't -- it shouldn't have went with me. It</p> <p>18 didn't feel right, and the students weren't very nice</p> <p>19 either.</p> <p>20 Q And were there specific students that were</p> <p>21 not nice?</p> <p>22 A Yes.</p> <p>23 Q And how were they not nice?</p> <p>24 A They didn't really like some of the things</p> <p>25 I've done, and they just didn't really like me.</p>
<p style="text-align: right;">Page 11</p> <p>1 initial that under the verification?</p> <p>2 A Yes.</p> <p>3 Q So this is a document that was prepared by</p> <p>4 your counsel, and you reviewed and signed. Is that</p> <p>5 true?</p> <p>6 A Yes.</p> <p>7 Q If you turn to the first page of the</p> <p>8 declaration, Page 1, there is a statement in</p> <p>9 Paragraph 4, first sentence.</p> <p>10 You state, "I was designated female when I</p> <p>11 was born, but I realized in elementary school that I</p> <p>12 am a boy."</p> <p>13 When you say that you realized in elementary</p> <p>14 school that you were a boy when in elementary school</p> <p>15 did you have that realization?</p> <p>16 A Fifth -- fifth grade.</p> <p>17 Q And how did you come to that realization?</p> <p>18 Tell me about it.</p> <p>19 A Well, I dressed a little bit mascular, just</p> <p>20 a little bit, and I didn't feel comfortable with the</p> <p>21 restrooms and with the students and myself.</p> <p>22 Q When you say you, "Dressed a little bit</p> <p>23 mascular," do you mean you dressed a little bit</p> <p>24 masculine?</p> <p>25 A Yeah.</p>	<p style="text-align: right;">Page 13</p> <p>1 Q What things didn't they like that you had</p> <p>2 done?</p> <p>3 A I don't know, dress, probably, what I think.</p> <p>4 Q And did they say that to you, that they</p> <p>5 didn't like the way that you dressed or the way that</p> <p>6 you thought?</p> <p>7 A I don't think they said that, but I know</p> <p>8 they didn't like some of the things I like -- like I</p> <p>9 just told you because they were mean to me.</p> <p>10 Q And how were they mean to you?</p> <p>11 A They would say things, that they disagree on</p> <p>12 what I would say or do.</p> <p>13 Q And do you recall what you had disagreements</p> <p>14 about in terms of things that you would say or do?</p> <p>15 A Dress, play, friendships, and just what I</p> <p>16 think or do in general.</p> <p>17 Q Do you recall -- and we're still talking</p> <p>18 about elementary school; right?</p> <p>19 A Yes.</p> <p>20 Q Do you recall specific statements that were</p> <p>21 made by your peers, the other students that you</p> <p>22 thought were unkind or hurtful?</p> <p>23 A They were.</p> <p>24 Q Do you recall specifically what they said?</p> <p>25 A I don't think so. I just know they weren't</p>

Page 14

1 very nice, how they talked to me.  
 2 Q And did those comments by your peers in  
 3 elementary school, were they in any relation to your  
 4 gender?  
 5 A No.  
 6 Q Let's move on to the next paragraph of your  
 7 declaration. This is Exhibit 12.  
 8 In Paragraph 5, you state, "By the time I  
 9 was about 11 years old, I told my family that I am a  
 10 boy and began to live and present myself to the world  
 11 as a boy." Is that a true statement?  
 12 A Yes.  
 13 Q When you say that you told your family that  
 14 you were a boy, who did you tell?  
 15 A Well, I believe I first told my aunt, well,  
 16 even my brother, but probably my brother before my  
 17 aunt, and then I told my mom.  
 18 Q When you say you told your brother, you're  
 19 referring to S.E.  
 20 A Yes.  
 21 Q And what did you say to S.E.?  
 22 A That this isn't me and I don't feel like  
 23 myself.  
 24 Q And how did S.E. respond?  
 25 A S.E. was okay.

Page 15

1 Q What did you say to your aunt?  
 2 A That I know I'm a boy, and just this isn't  
 3 me. I mean, that wasn't me. I was pretending to be  
 4 what people probably wanted.  
 5 Q And how did your aunt respond to that?  
 6 A She was okay with that other than she was  
 7 probably like -- I don't know, maybe a little bit  
 8 surprised but okay with it.  
 9 Q Do you recall telling your mother that you  
 10 were a boy?  
 11 A Yes.  
 12 Q What do you recall about that conversation?  
 13 A That I don't feel like this is me but --  
 14 that was me, I don't like myself. I definitely don't  
 15 like my body, and I can't pretend anymore.  
 16 Q And what was your mother's response at that  
 17 time?  
 18 A She was okay with it, just a little bit  
 19 shocked.  
 20 Q And then in Paragraph 5, you also stated  
 21 that you began to live and present yourself to the  
 22 world as a boy. What do you mean by that?  
 23 A I was wearing masculine clothing. My hair  
 24 was short, and I used "he," "him" pronouns and the  
 25 name, the preferred name.

Page 16

1 Q Anything else in terms of living and  
 2 presenting yourself as a boy?  
 3 A No.  
 4 Q Let's go ahead and turn the page to  
 5 Paragraph 8. Are you there?  
 6 A Yeah.  
 7 Q Okay. There is a statement where you state,  
 8 "Beginning in elementary school, some students and  
 9 teachers began to use the name and pronouns that  
 10 reflect my gender at my and my mother's request.  
 11 "This is also how I was known throughout  
 12 middle school." Who did you make this request to in  
 13 terms of using your chosen name and pronouns in  
 14 elementary school?  
 15 A I told my mom.  
 16 Q And did you speak with any teachers about  
 17 that in elementary school?  
 18 A Yes.  
 19 Q And who would that have been?  
 20 A I don't know her name, but I think she was a  
 21 math teacher of ours.  
 22 Q And did you ask that she call you by B.E.;  
 23 did you ask her that?  
 24 A I believe, but I can't remember.  
 25 Q Did you ask that math teacher to use male

Page 17

1 pronouns?  
 2 A I don't remember.  
 3 Q What do you remember about talking about  
 4 with that math teacher?  
 5 A I mean, I honestly don't remember but like  
 6 about my name at least.  
 7 Q Do you recall in elementary school any  
 8 teachers using male pronouns for you?  
 9 A No.  
 10 Q Do you recall in elementary school any  
 11 students using male pronouns for you?  
 12 A No.  
 13 Q In middle school, do you recall any teachers  
 14 using male pronouns for you?  
 15 A Yes.  
 16 Q And which teachers would use male pronouns  
 17 for you?  
 18 A The art teacher, a history teacher, I think  
 19 that's it.  
 20 Q So the art teacher and the history teacher.  
 21 A And maybe a little bit of a English teacher  
 22 did.  
 23 Q Okay. And was that when you were in eighth  
 24 grade or a different grade?  
 25 A I'm not sure if it was seventh but probably

Page 18

1 eighth.

2 Q Okay. Do you recall the names of any of

3 those teachers you have told me about, the art

4 teacher, the history teacher, the English teacher?

5 A Ms. Titus, Ms. Perez, Jennings.

6 Q And what does Ms. Titus teach?

7 A History, so, yeah.

8 Q What about Ms. Perez?

9 A Art, the art teacher.

10 Q And Ms. Jennings, was it Ms. Jennings?

11 A Yeah.

12 Q And was she the English teacher?

13 A Yes.

14 Q And did you have all three of those teachers

15 in eighth grade?

16 A Yes.

17 Q Did other students refer to you as using

18 male pronouns in middle school?

19 A Yes.

20 Q And was that true for all students or just

21 some of them?

22 A Just some of them.

23 Q Were those other students, were they the

24 ones that are kind of your close friends?

25 A Yes.

Page 19

1 Q And when you were in middle school -- well,

2 when you were in elementary school, did you use the

3 female restrooms?

4 A Yes.

5 Q And when you were in middle school, did you

6 use the female restrooms?

7 A Wait; I think you just said that.

8 Q No, I asked first about elementary school.

9 In middle school, I'm asking a little bit of a

10 different question. In middle school, did you use the

11 female restrooms?

12 A Yes.

13 Q In middle school, were there any teachers

14 who you asked to use male pronouns or the name "B.E."

15 that refused to do that in middle school?

16 Are there any teachers that you said, "Hey,

17 I really want you to use male pronouns and use the

18 name 'B.E.," and they refused to do that?"

19 A I don't remember.

20 Q So you're not, sitting here today, you don't

21 have any recollection of making such a request to a

22 middle school teacher and them not honoring that

23 request. Is that true?

24 A Well, back to that question, it would have

25 been maybe the gym teachers and math -- I mean, and a

Page 20

1 science teacher who -- did you say pronouns or name?

2 Q Well, let's start with pronouns. Was

3 there -- and my question -- let's back up a little

4 bit.

5 My question is, in middle school, was there

6 ever a point in time where you asked a teacher to use

7 male pronouns with you and they did not honor your

8 request?

9 A Yes.

10 Q And when did that occur, which teacher?

11 A I believe the gym teachers and maybe a

12 science teacher, but she didn't do it all the time.

13 Q Do you recall the names of either of those

14 teachers, the gym teacher or the science teacher?

15 A Ms. McDonald, I can't remember the other

16 one.

17 Q And what did Ms. McDonald teach?

18 A Science.

19 Q And so you asked Ms. McDonald to use male

20 pronouns with you in eighth grade. Is that what

21 happened?

22 A Well, it might have been before eighth when

23 I did ask.

24 Q And what was her response?

25 A I can't remember, but I'm not sure if she

Page 21

1 did use the correct pronouns or if she just used the

2 other pronouns.

3 Q You don't recall one way or the other

4 sitting here today.

5 A I think she might have used both; I can't

6 remember.

7 Q Okay. And what do you remember about the

8 gym teacher?

9 A I'm not sure, but she was just mean in

10 general to me.

11 Q Sometimes, I'm just thinking back to my gym

12 class. I think gym teachers sometimes had a

13 reputation for being mean, and so that was my own

14 personal -- that's why I was smiling there because the

15 gym teacher was mean to you.

16 But what do you recall about the gym teacher

17 being mean to you?

18 A She would yell at me a lot. She would use

19 the wrong name and pronouns, and she wouldn't let me

20 join everyone else.

21 Q And was this when you were in eighth grade

22 or seventh grade?

23 A I believe sixth through eighth.

24 Q Okay. Let's turn to Paragraph 10 of your

25 declaration, Exhibit 12.

Page 22

1 You state, "I also use the boys' bathrooms  
 2 at the beginning of my freshman year because they are  
 3 the correct and comfortable bathroom for me like they  
 4 are for any other boy.  
 5 "The boys' bathrooms in my school have  
 6 urinals and individual stalls with toilets and are  
 7 conveniently located throughout the school."  
 8 When you began using the boys' bathrooms in  
 9 high school, did you use the individual stalls?  
 10 A Yes, I use the stalls.  
 11 Q And in Paragraph 12, reading on further,  
 12 skipping down to Paragraph 12, you state, "When a  
 13 school employee noticed that I used the boys'  
 14 bathroom, I was told to stop." Who noticed you using  
 15 the boys' bathroom?  
 16 A The vice principal and maybe a student.  
 17 Q And who told you to stop?  
 18 A The vice principal, the vice principal.  
 19 Q And what did the vice principal say to you?  
 20 A Well, it was at the meeting where she said  
 21 that -- it was something about like she noticed that  
 22 we were using the boys' restrooms and we should stop.  
 23 Q When you say this was a meeting, was this  
 24 the meeting that was with your mother and the  
 25 assistant superintendent -- I mean, the assistant

Page 23

1 principal in the assistant principal's office?  
 2 A Yes.  
 3 Q Do you recall anybody else being present for  
 4 that meeting?  
 5 A No, other than S.E. and L.E. and me.  
 6 Q Tell me everything you remember about that  
 7 meeting.  
 8 A She told us that she has gotten complaints,  
 9 or it was maybe just her, saying that we have been  
 10 using the boys' restroom -- restrooms, and we should  
 11 stop.  
 12 And I'm pretty sure that's the only thing I  
 13 can remember, but --  
 14 Q So you don't recall anything else about that  
 15 meeting with the vice principal.  
 16 A I don't think so.  
 17 Q The next -- reading on, in Paragraph 12,  
 18 there's a statement. "When I used them again, the  
 19 vice principal called my mother and asked her to come  
 20 into school with me and my brother for a meeting about  
 21 our bathroom use."  
 22 Going back, so you told me about that  
 23 meeting, I think, with the vice principal and your  
 24 mother and S.E.  
 25 And in the sentence before that, you had

Page 24

1 made the statement that, "When a school employee  
 2 noticed that I used the boys' bathroom, I was told to  
 3 stop."  
 4 Was there a separate instance where another  
 5 employee at the school saw you using the boys'  
 6 restroom or noticed you using the boys' restroom and  
 7 told you to stop?  
 8 A No.  
 9 Q Okay. If you can turn to Paragraph 18, in  
 10 Paragraph 18, the first sentence, it states, "Being  
 11 treated as a boy at school is extremely important for  
 12 my mental and physical health."  
 13 And I understand that you're not a doctor or  
 14 a psychologist; I just want to ask from your  
 15 understanding with regard to that statement. Okay?  
 16 From your understanding, or your  
 17 perspective, why is being treated as a boy extremely  
 18 important for your mental health?  
 19 A Because it affects me, well, just like it  
 20 states, physical and mentally, and I feel like --  
 21 well, I mean, I am a boy. And I feel like everywhere  
 22 I go, I am bothered, especially at school for how I  
 23 am.  
 24 Q So that was about your mental health. From  
 25 asking about your physical health, you say that being

Page 25

1 treated as a boy is extremely important for your  
 2 physical health.  
 3 From your perspective, why is being treated  
 4 as a boy extremely important for your physical health?  
 5 A Well, part of what I already said was  
 6 probably for physically, or both actually.  
 7 Q And what was that?  
 8 A I am a boy. I don't like how I -- well, my  
 9 body, myself. When I'm around -- well, anywhere, I  
 10 know that I'm different, and it just feels terrible to  
 11 me about everything actually.  
 12 Q And what do you mean by that?  
 13 A Can you repeat?  
 14 Q Sure. I was just asking when you said that  
 15 you feel terrible about everything, what do you mean  
 16 by that?  
 17 A About what I have to go through, about  
 18 myself, about pretty much almost everything.  
 19 Q Let's go back to your declaration,  
 20 Paragraph 19, it's on the fourth page of your  
 21 declaration.  
 22 A Wait, 14.  
 23 Q It's Paragraph 19, Page 4. And you make the  
 24 statement, "I see health professionals at Riley  
 25 Children's Hospital, and I've been diagnosed with

Page 26

1 gender dysphoria." Do you see that?  
 2 A Yes.  
 3 Q And I understand that you have been  
 4 receiving care at Riley since you were -- probably,  
 5 can remember, since you were a baby. Is that true?  
 6 A Yes.  
 7 Q And when did you begin going to the gender  
 8 clinic at Riley?  
 9 A That I can remember, it's been probably a  
 10 few years now or something.  
 11 Q And you state that you were diagnosed with  
 12 gender dysphoria. Do you know who diagnosed you with  
 13 that?  
 14 A I can't remember.  
 15 Q Do you know when you received that  
 16 diagnosis?  
 17 A Sometime, this year.  
 18 Q And do you understand what that diagnosis  
 19 means, what gender dysphoria means? Let me ask you a  
 20 better question. What is your understanding of what  
 21 gender dysphoria is?  
 22 A Well, you don't feel comfortable -- well, I  
 23 don't feel comfortable in my own body, definitely  
 24 don't like yourself, or at least, part of yourself,  
 25 and sometimes, people don't want to live because of

Page 27

1 this.  
 2 Q In Paragraph 20, you make the statement,  
 3 "I've also had gastrointestinal issues my whole life.  
 4 My medical issues make me need to use the bathroom  
 5 frequently and urgently." Is that true a statement?  
 6 A Yes.  
 7 Q And these issues are ones that you have had  
 8 since you were a child. Is that true?  
 9 A A infant or a baby, but, yes.  
 10 Q Yeah, that's fair, good correction. And I  
 11 understand that you take laxatives to help you go to  
 12 the restroom. Is that true?  
 13 A Yes.  
 14 Q Paragraph 21, you make the statement, "The  
 15 girls' bathrooms and health office bathroom that I am  
 16 allowed to use are not suitable alternatives for the  
 17 boys' facilities that I want to use."  
 18 Is it true that the school has -- that the  
 19 girls' bathrooms are still available for your use at  
 20 the high school?  
 21 A It's a option that they -- I probably  
 22 shouldn't say "offering," but, yes. Yes.  
 23 Q And is it also true that the health office  
 24 bathroom has also been made available for your use?  
 25 A Yes.

Page 28

1 Q And that option is still available to you.  
 2 Is that true?  
 3 A Yes.  
 4 Q And when you indicate that those -- not  
 5 suitable alternatives, that the girls' restroom or the  
 6 health office restroom when you say those aren't  
 7 suitable alternatives, what do you mean by that?  
 8 A -- well, I am a boy. It shouldn't be  
 9 exactly for me. I shouldn't have that, and it's far  
 10 away. Well, I don't know if that counts, but it's far  
 11 away. It's not right or comfortable for me.  
 12 Q I'm sorry I interrupted you. What did you  
 13 just say?  
 14 A And I'm late.  
 15 Q So in terms of it being a suitable  
 16 alternative, the girls' restroom or the health office,  
 17 well, with regard to the health office, your view  
 18 about that not being a suitable alternative is the  
 19 distance that it has for you to get to it. You said  
 20 it was far away. Is that right?  
 21 A [No audible response.]  
 22 Q In terms of it -- is there anything wrong  
 23 with those restrooms in terms of their repair, you  
 24 know, the toilets, or the sinks?  
 25 Do those work in those restrooms, the girls'

Page 29

1 restrooms and the health office restroom?  
 2 A I'm not sure about the girls' restrooms, but  
 3 I assume -- well, I know for a fact that all of them  
 4 have problems.  
 5 It's not clean, well, obviously. They don't  
 6 have enough like stalls, toilets, whatever, and it's  
 7 not built all the way correctly, so.  
 8 Q When you're referring to that, are you  
 9 referring to the girls' restrooms?  
 10 A I'm referring to all of them.  
 11 Q To all the restrooms.  
 12 A Yeah.  
 13 Q And all of them aren't clean.  
 14 A Pretty sure.  
 15 Q And when you said they are all not built  
 16 correctly, what do you mean by that?  
 17 A Well, the toilets leak. There's also  
 18 another reason why it leaks -- I mean, there's another  
 19 way it leaks, I mean.  
 20 The stalls are definitely -- could be better  
 21 like built better because I can tell that there almost  
 22 like falling apart because of the nails.  
 23 Q Yeah. But is that true for both the male  
 24 restrooms and -- the girls' restrooms and the boys'  
 25 restrooms where they may have issues with cleanliness

Page 30

1 and repair?

2 A Pretty sure.

3 Q And when you said that the -- when you said

4 those alternatives that were provided to you were not

5 comfortable for you, what do you mean by that?

6 A That don't suit me. I don't feel -- well,

7 comfortable, but I already said that, well, yeah. It

8 doesn't feel right that I'm using the ones that I

9 personally think I should use.

10 And it definitely should be open for me. It

11 would be the only option.

12 Q Paragraph 27, if you turn to that in your

13 declaration, there's a statement that you make that.

14 "It's also difficult to get to the health office as

15 quickly as I need to avoid accidents because of my

16 medical issues."

17 Have there been incidents at school, in high

18 school, where you have had accidents at the school,

19 restroom accidents?

20 A Yes.

21 Q And do you recall those specific incidences

22 where you had an accident?

23 A It shows from our pants.

24 Q I'm sorry; I didn't hear what you said.

25 A It shows from our pants.

Page 31

1 Q Okay. And was that -- did it happen more

2 than once, or was it one occasion?

3 A I don't remember.

4 Q Of the incidents that you do remember, well,

5 is there an instance that you do remember?

6 A Can you repeat?

7 Q Sure. I mean trying to understand

8 whether -- my understanding from your testimony is

9 that you don't recall more than one instance where you

10 had an accident.

11 And I'm trying to understand the one time

12 where do you recall having an accident, what you do

13 remember about that.

14 So to the extent that you have specific

15 knowledge about that, that's what I'm asking about if

16 you could tell me about that instance.

17 A Like, what I remember, it shows from our

18 pants and clothing.

19 Q Okay. That's all remember about that

20 instance.

21 A I believe.

22 Q Do you recall your mom bringing you a change

23 of clothes when that happened?

24 A No.

25 MS. BENSBERG: I'm just going to

Page 32

1 object. He has answered that several times. Go

2 ahead.

3 BY MR. ZIMMERLY:

4 Q You don't have a recollection of that.

5 A Did she just -- no.

6 Q I think she answered the question. I will

7 go on.

8 A Yeah.

9 Q Paragraph 18.

10 A Eighteen.

11 MS. BENSBERG: Before we move on to the

12 next question, we're about at the hour mark. Can we

13 do a short break?

14 THE WITNESS: Yeah.

15 MS. BENSBERG: Can we come back on in

16 ten minutes?

17 MR. ZIMMERLY: Yeah.

18 MS. BENSBERG: How much more do you

19 think you have for B.E.?

20 MR. ZIMMERLY: It looks like --

21 THE REPORTER: Are we off the record?

22 MR. ZIMMERLY: Yes.

23 //

24 //

25 //

Page 33

1 THE REPORTER: Okay. We are now off

2 the record at 1:19 p.m.

3 (Off the record.)

4 THE REPORTER: We are now back on the

5 record at 1:31 p.m.

6 BY MR. ZIMMERLY:

7 Q B.E., when I was asking your mother when I

8 deposed her earlier today, I asked her if there were

9 occasions where she would come and pick you up at

10 school.

11 And she indicated she recalled two occasions

12 where that was the case. Do you recall occasions

13 where your mom came to pick you up at school because

14 you either weren't feeling well or because there were

15 bathroom issues?

16 A Yes.

17 Q What specific instances do you recall that

18 occurring?

19 A Like, how many times?

20 Q Sure, let's start with how many times.

21 A Probably, two or three or something.

22 Q And when did those two or three times, when

23 do you recall those happening?

24 A Either the same month or several months, I

25 don't know.

Page 34

1 Q Okay. And do you recall whether they were  
 2 in August or September or October or November or  
 3 December? Do you have any specific recollection as to  
 4 when that happened?  
 5 A November.  
 6 Q Okay. And what specifically do you recall  
 7 as being the reason why your mom came to pick you up?  
 8 A Because my stomach wasn't okay; I wasn't  
 9 feeling good.  
 10 Q Was that true for all two to three of those  
 11 incidents, or was there a different reason for the  
 12 other times, the other one or two times, beyond what  
 13 you just told me?  
 14 A It was for all of them.  
 15 Q Okay. And why didn't your stomach feel  
 16 good?  
 17 A I'm not sure; it just hurt. And my stomach  
 18 usually hurts, but sometimes, it hurts more than  
 19 usual.  
 20 Q Okay. Do you recall whether or not it had  
 21 anything to do with the restroom?  
 22 A Yes.  
 23 Q And what did it have to do with the  
 24 restroom?  
 25 A Holding -- holding it.

Page 35

1 Q And is that true for those two to three  
 2 occasions where you were holding it?  
 3 A Probably just for one or so.  
 4 Q Have you used the health office restroom?  
 5 A Yeah --  
 6 Q And how often do you use the health office  
 7 restroom?  
 8 A Every day when I'm at school.  
 9 Q Okay. And do you use it multiple times over  
 10 the course of the day?  
 11 A Yes.  
 12 Q Have there been occasions where you have  
 13 gone to the health office and the health office has  
 14 been locked?  
 15 A Yes.  
 16 Q And how often has that happened?  
 17 A A few times, but it could be every day.  
 18 Q And the few times when that's happened, do  
 19 you recall when that was in terms of time frame?  
 20 A In the morning and maybe after school but  
 21 especially before, I mean, in the morning.  
 22 Q And do you recall specifically in terms of  
 23 how recently that happened where you went in the  
 24 morning to use the health office restroom and the  
 25 health office was locked?

Page 36

1 A November.  
 2 Q And what did you do when you found that the  
 3 door was locked?  
 4 A I decided to hold it.  
 5 Q And what happened next?  
 6 A I held it.  
 7 Q At some later time, were you able to go back  
 8 and use the restroom?  
 9 A Yes.  
 10 Q Do you recall any other instances where the  
 11 health office was locked?  
 12 A No.  
 13 Q As a high school student, are your teachers  
 14 using your legal name, B.E., in the classroom?  
 15 A Yes.  
 16 Q And are they using your male gender pronouns  
 17 in the classroom?  
 18 A Yes.  
 19 Q Paragraph 33 of your declaration, can you  
 20 turn to that? You make a statement in the first  
 21 sentence in Paragraph 33.  
 22 "My regular teachers this year are  
 23 supportive and are trying to address me correctly, but  
 24 it's very stressful to know that they, or teachers in  
 25 the future, can insist on using my birth name and

Page 37

1 female pronouns."  
 2 With regard to that first sentence -- that  
 3 first clause, is it true that your regular teachers  
 4 this year have been supportive and have tried to  
 5 address you correctly?  
 6 A Yes.  
 7 Q Paragraph 35, the first sentence, you state,  
 8 "Some substitute teachers do insist on using my birth  
 9 name and female pronouns."  
 10 Do you recall what substitute teacher  
 11 insisted on using your birth name and female pronouns?  
 12 A I think I can remember one but not their  
 13 name.  
 14 Q Okay. What class was that substitute a  
 15 substitute for?  
 16 A Well, it was supposed to be for my  
 17 healthcare, but that sub was actually a counselor.  
 18 Q And when did that occur, what time of the  
 19 school year?  
 20 A Well, in the morning, either November or  
 21 October.  
 22 Q Okay. And was that just the one class that  
 23 you had with that substitute in the healthcare class?  
 24 A Yes.  
 25 Q Were there any other instances where a

Page 38	<p>1 substitute teacher used your birth name or female                  2 pronoun?                  3 A Yes.                  4 Q And when was that?                  5 A October or November.                  6 Q And what class was that in?                  7 A The same one, healthcare.                  8 Q Same teacher or a different substitute?                  9 A Different sub. And can I add another thing?                  10 Q Sure.                  11 A And there a was sub for gym. He used the                  12 wrong name and pronouns, but we corrected him. And                  13 then he got it right the next time he subbed for us                  14 for a different class.                  15 Q Okay. With regard to the other two                  16 instances you identified that were in the healthcare                  17 class, those two substitutes, did you correct those                  18 two substitutes?                  19 A What I said was right. "Correct," what do                  20 you mean?                  21 Q Well, you said that when the gym teacher                  22 used your then legal name and female pronouns that you                  23 corrected him, and then the next class you had with                  24 that gym teacher, he used male pronouns and the name                  25 you asked him to use. Is that true?</p>	Page 40	<p>1 A Gym, but part of that doesn't go with the --                  2 that day.                  3 Q Okay. Tell me what you remember. You said                  4 part of it doesn't go with that day. Was the part of                  5 it that went with that day, was that what you already                  6 told me about with that substitute gym teacher?                  7 A No.                  8 Q Okay. Why don't you just tell me what you                  9 mean? Tell me about -- if there are two separate                  10 things, tell me.                  11 A -- the -- on the girls' team, that part was                  12 a different day, and we had our regular teacher.                  13 Q Okay. So your regular teacher had you                  14 participate on the girls' team for a class activity.                  15 A Yes. But he didn't say the girls' team or                  16 the boys' team, but, yes.                  17 Q What was the activity?                  18 A Basketball.                  19 Q Okay. So with regard to the statement                  20 where, "The substitute used my birth name and female                  21 pronouns for the rest of the class," did that happen                  22 in gym class?                  23 A I believe a little, yes.                  24 Q And when you -- it's my understanding, from                  25 your prior testimony, that when you let the gym</p>
Page 39	<p>1 A Yes. But he is a sub.                  2 Q Okay. And what I was asking is, did you                  3 have a similar conversation like that with those other                  4 two substitutes teachers where after they used female                  5 pronouns and used your then legal name where you                  6 corrected them?                  7 A Yes.                  8 Q And what was their response?                  9 A "Oh, I didn't know," or something.                  10 Q Okay. And so did they then continue to use                  11 the -- after you corrected them, did they continue to                  12 use the female pronouns and your then legal name, or                  13 did they kind of honor the request that you made to                  14 them?                  15 A They didn't say anything else.                  16 Q Okay. Let me ask you specifically about                  17 Paragraph 37 of your declaration. There's a statement                  18 that you make.                  19 "Recently, after a substitute teacher called                  20 my birth name, other substitutes told the class that I                  21 am transgender and that I'm 'really a girl.'                  22 "The substitute used my birth name and                  23 female pronouns for the rest of the class and made me                  24 participate on the girls' team for a class activity."                  25 What class did that occur in?</p>	Page 41	<p>1 teacher know, the substitute gym teacher, he then                  2 corrected himself and then no longer did that. Is                  3 that true?                  4 A Yes.                  5 Q Have you ever been bullied in high school?                  6 A Not touched but with words.                  7 Q And with words, when have you been bullied                  8 in high school?                  9 A It's usually in the class, the classes, even                  10 the hallway sometimes.                  11 Q And let's start with in class. Are there                  12 particular students who you perceive as bullying you?                  13 A Yes.                  14 Q And is it one student or more than one                  15 student?                  16 A More than one.                  17 Q And how many students are we talking about?                  18 A Three.                  19 Q And how do they bully you? What sorts of                  20 things do the bullies in class say?                  21 A Well, one of them, he was like, "Oh, they                  22 are really," dead name and dead name and so on, blah,                  23 blah, blah.                  24 And that really hurt me, and I don't really                  25 think anyone did a thing about it other than I said,</p>

Page 42

1 "Whatever," or something.  
 2 Q What specifically -- now, you kind of  
 3 finished and said, "Blah, blah, blah." I want to  
 4 know, specifically, what the student said if you  
 5 wouldn't mind just so the record is clear. What did  
 6 the student say about --  
 7 A "They look different. They look totally  
 8 different. They changed." I'm pretty sure that's  
 9 all.  
 10 Q Okay. So that was one student, one of the  
 11 three. What did the other students say?  
 12 A They would laugh, comment, just keep on  
 13 looking at me.  
 14 Q And are these -- is there anything else, any  
 15 other statements that they have made?  
 16 A No.  
 17 Q And was it one occasion, or was it more than  
 18 one time where these comments were made?  
 19 A More than once, but with the first person,  
 20 it was just once.  
 21 Q Okay. So the other instances where it was  
 22 the other two students, did they specifically say  
 23 saying, or were they just laughing and looking at you?  
 24 A I think they said something, but I don't  
 25 remember.

Page 43

1 Q Okay. And were these students, the three of  
 2 them, are they boys? Are they girls or some boys,  
 3 some girls? What are -- you know, what is their  
 4 gender or sex?  
 5 A The first one is a boy, and the other ones  
 6 are girls.  
 7 Q Okay. Did you tell anyone at the school  
 8 about the comments that the first student made?  
 9 A Yes.  
 10 Q Who did you tell?  
 11 A One of my math teachers or both, but --  
 12 Q And who was the math teacher that you told?  
 13 A Ms. or Mrs. Hoseman [ph].  
 14 Q And what was her response?  
 15 A She said that she will deal with it, and we  
 16 asked so we could move to different seats away from  
 17 them. It's been better.  
 18 Q So from your perspective, after you told the  
 19 teacher, she has taken some steps to remedy that  
 20 situation by moving you, and this hasn't happened  
 21 again. Is that true?  
 22 A Yes.  
 23 Q I understand you're involved in the ROTC  
 24 program. Is that true?  
 25 A Yes.

Page 44

1 Q And when does that program occur in the  
 2 school day?  
 3 A Every day, in the morning for me.  
 4 Q Okay. And do you have to change into a  
 5 particular uniform for that event or that class?  
 6 A Yes, but it occurs Fridays, so one day.  
 7 Q So one day out of the week, you have this  
 8 ROTC class.  
 9 A No, about the uniform.  
 10 Q Okay. So you have the class every day, but  
 11 it's only once per week where you have to change into  
 12 the uniform.  
 13 A Yes.  
 14 Q And where do you change into that uniform?  
 15 A The health room.  
 16 Q Okay. Have you ever changed into that  
 17 uniform in one of the boys' or the girls' restrooms?  
 18 A Yes.  
 19 Q And was it the boys' restroom that you  
 20 changed into the ROTC uniform or was it the girls'  
 21 restroom, or was it both?  
 22 A The boys' restroom.  
 23 Q When was it that you used the boys' restroom  
 24 to change into your ROTC uniform?  
 25 A When?

Page 45

1 Q Yes.  
 2 A Fridays, in the morning, just sometimes.  
 3 Q And when you changed in the boys' restroom  
 4 in the past for ROTC, were you changing in one of the  
 5 stalls, the individual stalls?  
 6 A Yes.  
 7 Q Do other students use the restrooms to  
 8 change for ROTC; do you know?  
 9 A Yes.  
 10 Q And how frequently do they use the restrooms  
 11 for that purpose if you know?  
 12 A Fridays.  
 13 Q And is that all the students that are in the  
 14 class, that they would use the restroom to change into  
 15 it, or do they also use the locker room?  
 16 A No, just the boys' restroom. I believe  
 17 that's what you were saying.  
 18 Q So as far as you're aware, students at ROTC  
 19 are only changing in the boys' restroom or the girls'  
 20 restroom, or in your case, you use the health office  
 21 restroom. They are not using the locker rooms for  
 22 that purpose. Is that true?  
 23 A Yes.  
 24 Q And is the reason -- in the past when you  
 25 used the male -- the boys' restroom to change for

Page 46

1 ROTC, when you used an individual stall, was that so  
 2 you could have privacy when you were changing?  
 3 A Yes.  
 4 MR. ZIMMERLY: Okay. Those are all the  
 5 questions that I have today. We would reserve the  
 6 right to re-depose you later on in the case.  
 7 We're at the preliminary injunction  
 8 phase where we're sort of operating on limited  
 9 information. So we reserve that right.  
 10 Your counsel may have some questions  
 11 for you. I don't expect that she will, but if she  
 12 does, now is her opportunity to ask you some  
 13 questions.  
 14 But thank you, B.E., for being here  
 15 today. It was nice to meet you over Zoom and happy  
 16 holidays and have a happy New Year.  
 17 THE WITNESS: You, too.  
 18 THE REPORTER: Any questions --  
 19 MS. BENSBERG: I do not have any  
 20 questions for B.E. I will just note that we will also  
 21 reserve an objection to any future deposition of B.E.  
 22 THE REPORTER: Okay. With regards to  
 23 transcripts, once again, Mr. Zimmerly, are you  
 24 ordering for this witness?  
 25 MR. ZIMMERLY: Yes, electronic and

Page 47

1 condensed.  
 2 THE REPORTER: And, Mr. Falk?  
 3 MR. FALK: Same for us.  
 4 THE REPORTER: Okay. Any signature?  
 5 MR. FALK: Yes.  
 6 MS. BENSBERG: We will review and sign.  
 7 THE REPORTER: Okay. In that case --  
 8 once again, exhibits provided to the court reporter?  
 9 MR. ZIMMERLY: Yes, I think we've got  
 10 one. It's Exhibit 12, and I will send it by email to  
 11 you.  
 12 THE REPORTER: Okay. In that case, we  
 13 are now off the record at 1:57 p.m.  
 14 (Signature reserved.)  
 15 (Whereupon, at 1:57 p.m., the  
 16 proceeding was concluded.)  
 17  
 18  
 19  
 20  
 21  
 22  
 23  
 24  
 25

Page 48

1 CERTIFICATE OF DEPOSITION OFFICER  
 2 I, ANDREW PRONSCHINSKE, the officer before  
 3 whom the foregoing proceedings were taken, do hereby  
 4 certify that any witness(es) in the foregoing  
 5 proceedings, prior to testifying, were duly sworn;  
 6 that the proceedings were recorded by me and  
 7 thereafter reduced to typewriting by a qualified  
 8 transcriptionist; that said digital audio recording of  
 9 said proceedings are a true and accurate record to the  
 10 best of my knowledge, skills, and ability; that I am  
 11 neither counsel for, related to, nor employed by any  
 12 of the parties to the action in which this was taken;  
 13 and, further, that I am not a relative or employee of  
 14 any counsel or attorney employed by the parties  
 15 hereto, nor financially or otherwise interested in the  
 16 outcome of this

  
 ANDREW PRONSCHINSKE  
 Notary Public in and for the  
 State of Indiana

21  Review of the transcript was requested.  
 22  
 23  
 24  
 25

Page 49

1 CERTIFICATE OF TRANSCRIBER  
 2 I, AMY DAMOTH, do hereby certify that this  
 3 transcript was prepared from the digital audio  
 4 recording of the foregoing proceeding, that said  
 5 transcript is a true and accurate record of the  
 6 proceedings to the best of my knowledge, skills, and  
 7 ability; that I am neither counsel for, related to,  
 8 nor employed by any of the parties to the action in  
 9 which this was taken; and, further, that I am not a  
 10 relative or employee of any counsel or attorney  
 11 employed by the parties hereto, nor financially or  
 12 otherwise interested in the outcome of this action.  
 13  
 14   
 15 AMY DAMOTH  
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<b>&amp;</b>	<b>3</b>	<b>acknowledge</b> 51:11 52:16	<b>art</b> 17:18,20 18:3 18:9,9
<b>&amp;</b> 3:4,12	<b>30</b> 50:4	<b>acknowledgeme...</b> 5:11	<b>asked</b> 8:4 19:8,14 20:6,19 23:19
<b>0</b>	<b>300</b> 2:5	<b>aclu</b> 2:12,15	33:8 38:25 43:16
<b>00415</b> 1:10	<b>317</b> 2:8,16 3:8,16	<b>act</b> 51:14 52:20	<b>asking</b> 19:9 24:25 25:14 31:15 33:7 39:2
<b>1</b>	<b>33</b> 36:19,21	<b>action</b> 48:12,16 49:8,12	<b>assigned</b> 5:3
<b>1</b> 11:8	<b>339-7668</b> 2:24	<b>activities</b> 9:12,13 9:17 10:4	<b>assignment</b> 51:2 52:2 53:2
<b>10</b> 4:8 21:24	<b>35</b> 37:7	<b>activity</b> 39:24 40:14,17	<b>assistant</b> 22:25,25 23:1
<b>1031</b> 2:13	<b>37</b> 39:17	<b>add</b> 38:9	<b>assume</b> 29:3
<b>11</b> 14:9	<b>4</b>	<b>address</b> 36:23 37:5 50:16	<b>attached</b> 52:7
<b>1100</b> 50:1	<b>4</b> 11:9 25:23	<b>administer</b> 5:11	<b>attendance</b> 5:15
<b>111</b> 3:5,13	<b>44114</b> 50:2	<b>affixed</b> 51:15 52:21	<b>attorney</b> 6:21 48:14 49:10
<b>12</b> 4:8 10:10,11 14:7 21:25 22:11 22:12 23:17 47:10	<b>46202</b> 2:14	<b>afternoon</b> 5:2 6:18	<b>audible</b> 28:21
<b>12/21/2021</b> 50:9 51:3 52:3	<b>46204</b> 1:21 3:6,14	<b>agree</b> 5:12	<b>audio</b> 48:8 49:3
<b>1200</b> 2:5	<b>46225</b> 2:6	<b>ahead</b> 16:4 32:2	<b>august</b> 34:2
<b>12:24</b> 1:19 5:5	<b>47404</b> 2:22	<b>al</b> 5:7,8 50:6,7 51:3,3 52:3,3	<b>aunt</b> 14:15,17 15:1 15:5
<b>14</b> 25:22	<b>4992729</b> 1:23 50:8 51:2 52:2 53:2	<b>alcohol</b> 7:12	<b>authorize</b> 52:11
<b>18</b> 24:9,10 32:9	<b>5</b>	<b>allowed</b> 27:16	<b>authorized</b> 5:10
<b>1820</b> 50:2	<b>5</b> 14:8 15:20	<b>alternative</b> 28:16 28:18	<b>available</b> 27:19,24 28:1
<b>19</b> 25:20,23	<b>6</b>	<b>alternatives</b> 27:16 28:5,7 30:4	<b>ave</b> 50:1
<b>1:19</b> 33:2	<b>6</b> 4:3	<b>amy</b> 49:2,15	<b>avenue</b> 2:5,21
<b>1:31</b> 33:5	<b>631-9410</b> 2:8	<b>andrew</b> 1:22 5:3 48:2,17	<b>avoid</b> 30:15
<b>1:57</b> 47:13,15	<b>635-4059</b> 2:16	<b>answer</b> 7:22 8:5	<b>aware</b> 45:18
<b>2</b>	<b>684-5000</b> 3:8,16	<b>answered</b> 32:1,6	<b>b</b>
<b>20</b> 27:2 51:16 52:22 53:22	<b>7</b>	<b>anybody</b> 23:3	<b>b</b> 4:6
<b>2021</b> 1:18 5:8 50:4	<b>7</b> 10:18,19	<b>anymore</b> 15:15	<b>b.e.</b> 1:5,17 2:2,10 2:18 5:6,7,17,17 5:19,19,21 6:11,18 6:19 8:8 10:8,14 16:22 19:14,18 32:19 33:7 36:14 46:14,20,21 50:6,9 51:3,4,9 52:3,4,13
<b>21</b> 1:18 5:8 27:14	<b>8</b>	<b>apart</b> 29:22	
<b>214</b> 2:21	<b>8</b> 16:5	<b>appear</b> 51:11 52:15	
<b>216-523-1313</b> 50:3	<b>812</b> 2:24	<b>appended</b> 52:11 52:18	
<b>26567</b> 49:14	<b>a</b>		
<b>27</b> 30:12	<b>ability</b> 48:10 49:7		
<b>2700</b> 3:5,13	<b>able</b> 36:7		
<b>27071</b> 48:16	<b>accident</b> 30:22 31:10,12		
<b>2:21</b> 1:10	<b>accidents</b> 30:15,18 30:19		
<b>2nd</b> 2:21	<b>accurate</b> 7:6,9,13 48:9 49:5		

[b.e. - corrected]

Page 2

<p>53:20  <b>baby</b> 26:5 27:9  <b>back</b> 19:24 20:3  21:11 23:22 25:19  32:15 33:4 36:7  50:16  <b>bad</b> 12:10  <b>band</b> 9:16,20,21  <b>barrack</b> 12:11  <b>based</b> 10:7  <b>basketball</b> 40:18  <b>bathroom</b> 22:3,14  22:15 23:21 24:2  27:4,15,24 33:15  <b>bathrooms</b> 22:1,5  22:8 27:15,19  <b>began</b> 14:10 15:21  16:9 22:8  <b>beginning</b> 5:16  16:8 22:2  <b>behalf</b> 2:2,10,18  3:2,10 5:23 6:1,3  6:5  <b>believe</b> 8:14 10:9  14:15 16:24 20:11  21:23 31:21 40:23  45:16  <b>bensberg</b> 2:3 5:18  5:20,20 31:25  32:11,15,18 46:19  47:6  <b>best</b> 48:10 49:6  <b>better</b> 26:20 29:20  29:21 43:17  <b>beyond</b> 34:12  <b>birth</b> 36:25 37:8  37:11 38:1 39:20  39:22 40:20  <b>bit</b> 11:19,20,22,23  12:2,2 15:7,18  17:21 19:9 20:4</p>	<p><b>blah</b> 41:22,23,23  42:3,3,3  <b>bloomington</b> 2:22  <b>body</b> 15:15 25:9  26:23  <b>born</b> 11:11  <b>bose</b> 3:4,12  <b>boselaw.com</b> 3:7  3:15  <b>bothered</b> 24:22  <b>boy</b> 11:12,14  14:10,11,14 15:2  15:10,22 16:2  22:4 24:11,17,21  25:1,4,8 28:8 43:5  <b>boys</b> 22:1,5,8,13  22:15,22 23:10  24:2,5,6 27:17  29:24 40:16 43:2  43:2 44:17,19,22  44:23 45:3,16,19  45:25  <b>break</b> 7:25 8:3,5  32:13  <b>bringing</b> 31:22  <b>brother</b> 14:16,16  14:18 23:20  <b>built</b> 29:7,15,21  <b>bullied</b> 41:5,7  <b>bullies</b> 41:20  <b>bully</b> 41:19  <b>bullying</b> 41:12</p>	<p><b>case</b> 1:9 6:19  33:12 45:20 46:6  47:7,12 50:6 51:3  52:3  <b>caveat</b> 8:3  <b>certain</b> 12:4  <b>certificate</b> 48:1  49:1 52:11  <b>certification</b> 51:1  52:1  <b>certify</b> 48:4 49:2  <b>change</b> 31:22 44:4  44:11,14,24 45:8  45:14,25 50:14,15  52:8 53:3  <b>changed</b> 42:8  44:16,20 45:3  <b>changes</b> 50:13  51:7 52:7,9  <b>changing</b> 45:4,19  46:2  <b>child</b> 27:8  <b>children</b> 1:5  <b>children's</b> 25:25  <b>chosen</b> 16:13  <b>circle</b> 3:5,13  <b>civil</b> 51:5 52:5  <b>class</b> 9:14 21:12  37:14,22,23 38:6  38:14,17,23 39:20  39:23,24,25 40:14  40:21,22 41:9,11  41:20 44:5,8,10  45:14  <b>classes</b> 41:9  <b>classroom</b> 36:14  36:17  <b>clause</b> 37:3  <b>clean</b> 29:5,13  <b>cleanliness</b> 29:25</p>	<p><b>clear</b> 42:5  <b>cleveland</b> 50:2  <b>clinic</b> 26:8  <b>close</b> 18:24  <b>clothes</b> 12:7 31:23  <b>clothing</b> 15:23  31:18  <b>club</b> 9:23  <b>clubs</b> 9:15  <b>college</b> 2:21  <b>come</b> 11:17 23:19  32:15 33:9  <b>comfortable</b> 11:20  12:14 22:3 26:22  26:23 28:11 30:5  30:7  <b>comment</b> 42:12  <b>comments</b> 14:2  42:18 43:8  <b>commission</b> 51:19  52:25 53:25  <b>community</b> 9:22  9:23  <b>complaints</b> 23:8  <b>completed</b> 50:16  <b>concluded</b> 47:16  <b>condensed</b> 47:1  <b>cont'd</b> 3:1  <b>continue</b> 39:10,11  <b>conveniently</b> 22:7  <b>conversation</b>  15:12 39:3  <b>corporation</b> 1:10  3:2,10 5:8,24 6:2  6:22 50:6 51:3  52:3  <b>correct</b> 10:23 21:1  22:3 38:17,19  <b>corrected</b> 38:12  38:23 39:6,11  41:2</p>
	<b>c</b>		
	<p><b>c</b> 2:1 3:1 5:1  <b>ca</b> 50:25  <b>call</b> 9:12 16:22  <b>called</b> 6:12 23:19  39:19  <b>capacity</b> 1:13  <b>care</b> 26:4</p>		

[correction - feel]

Page 3

<b>correction</b> 27:10 <b>corrections</b> 50:13 52:17 <b>correctly</b> 29:7,16 36:23 37:5 <b>counsel</b> 4:10 11:4 46:10 48:11,14 49:7,10 <b>counselor</b> 37:17 <b>counts</b> 28:10 <b>county</b> 1:10 3:2,10 5:7,23 6:1,22 9:1 50:6 51:3,10 52:3 52:15 <b>couple</b> 7:3 <b>course</b> 35:10 <b>court</b> 1:1 47:8 51:7 <b>creek</b> 8:11,13,14 <b>currently</b> 9:8 <b>cv</b> 1:10	25:21 30:13 36:19 39:17 <b>deed</b> 51:14 52:20 <b>deemed</b> 50:20 <b>defendant</b> 3:2,10 5:23 <b>defendants</b> 1:14 <b>definitely</b> 15:14 26:23 29:20 30:10 <b>department</b> 50:22 <b>depose</b> 46:6 <b>deposed</b> 33:8 <b>deposition</b> 1:16 5:6 6:23 7:1 46:21 48:1 50:9,12 51:1 51:3 52:1,3 <b>description</b> 4:7 <b>designated</b> 11:10 <b>diagnosed</b> 25:25 26:11,12 <b>diagnosis</b> 26:16,18 <b>different</b> 17:24 19:10 25:10 34:11 38:8,9,14 40:12 42:7,8 43:16 <b>difficult</b> 30:14 <b>digital</b> 48:8 49:3 <b>disagree</b> 13:11 <b>disagreements</b> 13:13 <b>distance</b> 28:19 <b>district</b> 1:1,2 <b>division</b> 1:3 <b>doctor</b> 24:13 <b>document</b> 10:18 11:3 <b>doing</b> 7:15 <b>door</b> 36:3 <b>dress</b> 12:5,9 13:3 13:15	<b>dressed</b> 11:19,22 11:23 12:1,5,6,8 13:5 <b>drugs</b> 7:11 <b>duly</b> 6:12 48:5 <b>dysphoria</b> 26:1,12 26:19,21	<b>esquire</b> 2:3,11,19 3:3,11 <b>et</b> 5:7,8 50:6,6 51:3,3 52:3,3 <b>evans</b> 3:4,12 <b>event</b> 44:5 <b>everyday</b> 9:14 <b>exactly</b> 28:9 <b>examination</b> 4:2 6:16 <b>examined</b> 6:14 <b>executed</b> 52:10 <b>execution</b> 51:14 52:19 <b>exhibit</b> 4:8 10:10 10:11 14:7 21:25 47:10 <b>exhibits</b> 4:10 47:8 <b>expect</b> 46:11 <b>expiration</b> 51:19 52:25 53:25 <b>extent</b> 31:14 <b>extracurricular</b> 9:12,17 10:4 <b>extremely</b> 24:11 24:17 25:1,4
<b>d</b>	<b>d</b> 4:1 5:1 <b>damoth</b> 49:2,15 <b>date</b> 1:18 50:9 51:3,9,19 52:3,13 52:25 53:20,25 <b>day</b> 12:4 35:8,10 35:17 40:2,4,5,12 44:2,3,6,7,10 51:16 52:22 53:22 <b>days</b> 50:19 <b>dead</b> 41:22,22 <b>deal</b> 43:15 <b>dear</b> 50:10 <b>december</b> 1:18 5:8 34:3 50:4 <b>decided</b> 36:4 <b>declaration</b> 4:8 10:7,8,13 11:8 14:7 21:25 25:19	<b>e</b>	<b>e</b> 2:1,1 3:1,1 4:1,6 5:1,1 <b>earlier</b> 33:8 <b>east</b> 2:13 <b>eighteen</b> 32:10 <b>eighth</b> 9:2,3,4 17:23 18:1,15 20:20,22 21:21,23 <b>either</b> 12:19 20:13 33:14,24 37:20 <b>electronic</b> 46:25 <b>elementary</b> 8:10 8:11,12,16,18,21 11:11,13,14 13:18 14:3 16:8,14,17 17:7,10 19:2,8 <b>email</b> 47:10 50:17 <b>employed</b> 48:11 48:14 49:8,11 <b>employee</b> 22:13 24:1,5 48:13 49:10 <b>enclosed</b> 50:12 <b>english</b> 17:21 18:4 18:12 <b>entered</b> 52:9 <b>entire</b> 51:5 52:5 <b>errata</b> 50:14,19 52:7,10,18 53:1 <b>es</b> 48:4 <b>especially</b> 24:22 35:21
		<b>f</b>	<b>facilities</b> 27:17 <b>fact</b> 29:3 <b>fair</b> 7:23 8:6 27:10 <b>falk</b> 2:11 6:3,3 47:2,3,5 50:5 <b>falling</b> 29:22 <b>family</b> 14:9,13 <b>far</b> 28:9,10,20 45:18 <b>feel</b> 11:20 12:13,18 14:22 15:13 24:20 24:21 25:15 26:22 26:23 30:6,8 34:15

[feeling - instance]

Page 4

<b>feeling</b> 33:14 34:9 <b>feels</b> 25:10 <b>felt</b> 12:16 <b>female</b> 11:10 19:3 19:6,11 37:1,9,11 38:1,22 39:4,12,23 40:20 <b>fifth</b> 11:16,16 <b>financially</b> 48:15 49:11 <b>find</b> 50:12 <b>finished</b> 42:3 <b>first</b> 6:12 11:7,9 14:15 19:8 24:10 36:20 37:2,3,7 42:19 43:5,8 <b>floor</b> 2:21 <b>follows</b> 6:14 <b>foregoing</b> 10:22 48:3,4 49:4 51:13 52:18 <b>forgot</b> 10:2 <b>forward</b> 50:16 <b>found</b> 36:2 <b>fourth</b> 25:20 <b>frame</b> 35:19 <b>free</b> 51:14 52:20 <b>frequently</b> 27:5 45:10 <b>freshman</b> 22:2 <b>fridays</b> 44:6 45:2 45:12 <b>friend</b> 1:7 <b>friends</b> 18:24 <b>friendships</b> 13:15 <b>further</b> 22:11 48:13 49:9 <b>future</b> 36:25 46:21	<b>g</b> <b>g</b> 5:1 <b>gastrointestinal</b> 27:3 <b>gender</b> 14:4 16:10 26:1,7,12,19,21 36:16 43:4 <b>general</b> 13:16 21:10 <b>girl</b> 39:21 <b>girls</b> 27:15,19 28:5 28:16,25 29:2,9,24 39:24 40:11,14,15 43:2,3,6 44:17,20 45:19 <b>give</b> 7:3,18 <b>given</b> 6:19 7:1 <b>giving</b> 7:15 <b>go</b> 8:9,12,15,18,24 16:4 24:22 25:17 25:19 27:11 32:1 32:7 36:7 40:1,4 <b>going</b> 6:18 7:21 9:8 10:6,16 23:22 26:7 31:25 <b>good</b> 5:2 6:18 27:10 34:9,16 <b>gotten</b> 23:8 <b>grade</b> 9:2,3 11:16 17:24,24 18:15 20:20 21:21,22 <b>grades</b> 9:6 <b>great</b> 7:15 <b>guardian</b> 1:6 <b>gym</b> 19:25 20:11 20:14 21:8,11,12 21:15,16 38:11,21 38:24 40:1,6,22,25 41:1	<b>h</b> <b>h</b> 4:6 <b>hair</b> 15:23 <b>hallway</b> 41:10 <b>hand</b> 6:9 <b>happen</b> 31:1 40:21 <b>happened</b> 20:21 31:23 34:4 35:16 35:18,23 36:5 43:20 <b>happening</b> 33:23 <b>happy</b> 46:15,16 <b>haute</b> 1:3,11 <b>head</b> 7:17,17 <b>health</b> 24:12,18,24 24:25 25:2,4,24 27:15,23 28:6,16 28:17 29:1 30:14 35:4,6,13,13,24,25 36:11 44:15 45:20 <b>healthcare</b> 37:17 37:23 38:7,16 <b>hear</b> 30:24 <b>hearing</b> 6:7 <b>held</b> 36:6 <b>help</b> 27:11 <b>hereto</b> 48:15 49:11 <b>hey</b> 19:16 <b>high</b> 1:12 9:8,10 10:3 22:9 27:20 30:17 36:13 41:5 41:8 <b>history</b> 8:9 17:18 17:20 18:4,7 <b>hold</b> 9:22 36:4 <b>holding</b> 34:25,25 35:2 <b>holidays</b> 46:16 <b>honestly</b> 17:5 <b>honor</b> 20:7 39:13	<b>honoring</b> 19:22 <b>hoseman</b> 43:13 <b>hospital</b> 25:25 <b>hour</b> 32:12 <b>hurt</b> 34:17 41:24 <b>hurtful</b> 13:22 <b>hurts</b> 34:18,18  <b>i</b> <b>identification</b> 10:12 <b>identified</b> 38:16 <b>identify</b> 5:15 <b>ils.net</b> 2:7,23 <b>important</b> 24:11 24:18 25:1,4 <b>in.org</b> 2:15 <b>incidences</b> 30:21 <b>incidents</b> 30:17 31:4 34:11 <b>included</b> 50:14 <b>incorporated</b> 52:12 <b>indiana</b> 1:2 2:4,12 2:20 5:11 48:19 <b>indianapolis</b> 1:21 2:6,14 3:6,14 <b>indicate</b> 28:4 <b>indicated</b> 33:11 <b>indicating</b> 50:14 <b>individual</b> 22:6,9 45:5 46:1 <b>infant</b> 27:9 <b>influence</b> 7:11 <b>information</b> 46:9 <b>initial</b> 11:1 <b>initials</b> 10:25 <b>injunction</b> 46:7 <b>insist</b> 36:25 37:8 <b>insisted</b> 37:11 <b>instance</b> 24:4 31:5 31:9,16,20

[instances - name]

Page 5

<b>instances</b> 33:17 36:10 37:25 38:16 42:21 <b>interested</b> 48:15 49:12 <b>interrupted</b> 28:12 <b>involved</b> 9:11,13 9:17,19 10:4 43:23 <b>issues</b> 27:3,4,7 29:25 30:16 33:15	<b>l</b> <b>l.e.</b> 1:7 2:2,10,18 5:13 23:5 <b>late</b> 28:14 <b>laugh</b> 42:12 <b>laughing</b> 42:23 <b>laxatives</b> 27:11 <b>leak</b> 29:17 <b>leaks</b> 29:18,19 <b>legal</b> 1:6 2:4,20 36:14 38:22 39:5 39:12 50:1 53:1	<b>m</b> <b>madam</b> 50:10 <b>madison</b> 2:5 <b>making</b> 19:21 <b>male</b> 16:25 17:8 17:11,14,16 18:18 19:14,17 20:7,19 29:23 36:16 38:24 45:25 <b>mark</b> 3:11 5:25 6:1 32:12 <b>marked</b> 10:10,11 <b>mascular</b> 11:19,23 <b>masculine</b> 11:24 12:2,7 15:23 <b>math</b> 16:21,25 17:4 19:25 43:11 43:12 <b>matter</b> 5:7 <b>mcdonald</b> 20:15 20:17,19 <b>mckinney</b> 3:4,12 <b>mean</b> 11:23 12:2 12:14 13:9,10 15:3,22 17:5 19:25 21:9,13,15 21:17 22:25 24:21 25:12,15 28:7 29:16,18,19 30:5 31:7 35:21 38:20 40:9 <b>means</b> 26:19,19 <b>medical</b> 27:4 30:16 <b>medication</b> 7:12 <b>meet</b> 46:15 <b>meeting</b> 22:20,23 22:24 23:4,7,15,20 23:23 <b>megan</b> 2:19 6:5	<b>megan.stuart</b> 2:23 <b>mental</b> 24:12,18 24:24 <b>mentally</b> 24:20 <b>mg</b> 1:10 <b>middle</b> 8:24 9:1,11 9:16 16:12 17:13 18:18 19:1,5,9,10 19:13,15,22 20:5 <b>midwest</b> 50:17 53:1 <b>mind</b> 42:5 <b>minor</b> 1:5 <b>minutes</b> 32:16 <b>mom</b> 14:17 16:15 31:22 33:13 34:7 <b>month</b> 33:24 <b>months</b> 33:24 <b>monument</b> 3:5,13 <b>morning</b> 35:20,21 35:24 37:20 44:3 45:2 <b>mother</b> 1:6 15:9 22:24 23:19,24 33:7 <b>mother's</b> 15:16 16:10 <b>move</b> 14:6 32:11 43:16 <b>moving</b> 43:20 <b>multiple</b> 35:9 <b>mwolford</b> 3:15
<b>j</b>			
<b>jennings</b> 18:5,10 18:10 <b>job</b> 1:23 7:15 <b>join</b> 21:20 <b>jrs</b> 1:10	<b>letter</b> 50:20 <b>life</b> 27:3 <b>limited</b> 46:8 <b>line</b> 50:14 52:7 53:3 <b>listed</b> 52:7,17 <b>listing</b> 52:7 <b>little</b> 11:19,20,22 11:23 12:1,2 15:7 15:18 17:21 19:9 20:3 40:23 <b>live</b> 14:10 15:21 26:25 <b>living</b> 16:1 <b>llp</b> 3:4,12 <b>located</b> 22:7 <b>location</b> 1:20 <b>locked</b> 35:14,25 36:3,11 <b>locker</b> 45:15,21 <b>longer</b> 41:2 <b>look</b> 42:7,7 <b>looking</b> 42:13,23 <b>looks</b> 32:20 <b>lost</b> 8:11,13,14,14 <b>lot</b> 21:18		
<b>k</b>			
<b>kathleen</b> 2:3 5:20 <b>kathleen.bensberg</b> 2:7 <b>keep</b> 42:12 <b>ken</b> 6:1,3 <b>kenneth</b> 2:11 <b>kfalk</b> 2:15 <b>kind</b> 18:24 39:13 42:2 <b>know</b> 8:2 9:15 13:3,7,25 15:2,7 16:20 25:10 26:12 26:15 28:10,24 29:3 33:25 36:24 39:9 41:1 42:4 43:3 45:8,11 <b>knowledge</b> 31:15 48:10 49:6 <b>known</b> 16:11			
			<b>n</b> <b>n</b> 2:1 3:1 4:1 5:1 <b>nails</b> 29:22 <b>name</b> 5:2,17 6:21 10:1 15:25,25 16:9,13,20 17:6 19:14,18 20:1 21:19 36:14,25 37:9,11,13 38:1,12

[name - probably]

Page 6

<p>38:22,24 39:5,12 39:20,22 40:20 41:22,22 50:6 51:3,4,15 52:3,4 52:21 <b>names</b> 18:2 20:13 <b>need</b> 7:25 27:4 30:15 <b>neither</b> 48:11 49:7 <b>new</b> 46:16 <b>nice</b> 12:18,21,23 14:1 46:15 <b>nod</b> 7:16 <b>north</b> 1:11 9:10,10 <b>notarized</b> 50:15 <b>notary</b> 1:22 5:10 48:18 50:25 51:10 51:18 52:15,23 53:23 <b>note</b> 46:20 50:13 <b>noticed</b> 22:13,14 22:21 24:2,6 <b>november</b> 34:2,5 36:1 37:20 38:5 <b>number</b> 10:6 50:8 50:14 <b>numbers</b> 52:7</p>	<p><b>occur</b> 20:10 37:18 39:25 44:1 <b>occurring</b> 33:18 <b>occurs</b> 44:6 <b>october</b> 34:2 37:21 38:5 <b>offering</b> 27:22 <b>office</b> 23:1 27:15 27:23 28:6,16,17 29:1 30:14 35:4,6 35:13,13,24,25 36:11 45:20 <b>officer</b> 48:1,2 <b>official</b> 1:13 51:15 52:21 <b>oh</b> 39:9 41:21 <b>ohio</b> 50:2 <b>okay</b> 8:15 9:21 10:3,10 14:25 15:6,8,18 16:7 17:23 18:2 21:7 21:24 24:9,15 31:1,19 33:1 34:1 34:6,8,15,20 35:9 37:14,22 38:15 39:2,10,16 40:3,8 40:13,19 42:10,21 43:1,7 44:4,10,16 46:4,22 47:4,7,12 <b>old</b> 14:9 <b>once</b> 31:2 42:19,20 44:11 46:23 47:8 <b>ones</b> 18:24 27:7 30:8 43:5 <b>open</b> 30:10 <b>operating</b> 46:8 <b>opportunity</b> 46:12 <b>option</b> 27:21 28:1 30:11 <b>order</b> 6:19</p>	<p><b>ordering</b> 46:24 <b>organizations</b> 9:15 <b>outcome</b> 48:16 49:12 <b>outlined</b> 5:12</p> <p style="text-align: center;"><b>p</b></p> <p><b>p</b> 2:1,1 3:1,1 5:1 <b>p.m.</b> 1:19 5:5 33:2 33:5 47:13,15 <b>page</b> 4:2,7 10:18 10:19 11:7,8 16:4 25:20,23 50:14,16 52:7 53:3 <b>pants</b> 30:23,25 31:18 <b>paragraph</b> 11:9 14:6,8 15:20 16:5 21:24 22:11,12 23:17 24:9,10 25:20,23 27:2,14 30:12 32:9 36:19 36:21 37:7 39:17 <b>part</b> 9:24 25:5 26:24 40:1,4,4,11 52:9 <b>participate</b> 39:24 40:14 <b>particular</b> 41:12 44:5 <b>parties</b> 5:12 48:12 48:14 49:8,11 <b>peers</b> 13:21 14:2 <b>penalty</b> 10:22 <b>people</b> 15:4 26:25 <b>perceive</b> 41:12 <b>perez</b> 18:5,8 <b>perjury</b> 10:22 <b>person</b> 42:19 <b>personal</b> 21:14 <b>personally</b> 30:9 51:11 52:15</p>	<p><b>perspective</b> 24:17 25:3 43:18 <b>ph</b> 43:13 <b>phase</b> 46:8 <b>phil</b> 5:22 6:21 <b>philip</b> 3:3 <b>phone</b> 50:3 <b>physical</b> 24:12,20 24:25 25:2,4 <b>physically</b> 25:6 <b>pick</b> 33:9,13 34:7 <b>plaintiff</b> 5:21 <b>plaintiffs</b> 1:8 2:2 2:10,18 6:4,6 <b>play</b> 13:15 <b>please</b> 5:15 6:8 50:12,12 <b>point</b> 7:16,25 20:6 <b>preferred</b> 15:25 <b>preliminary</b> 46:7 <b>prepared</b> 11:3 49:3 <b>present</b> 14:10 15:21 23:3 <b>presenting</b> 16:2 <b>president</b> 12:6,8,9 <b>presume</b> 7:21 <b>pretend</b> 15:15 <b>pretending</b> 15:3 <b>pretty</b> 23:12 25:18 29:14 30:2 42:8 <b>prevent</b> 7:12 <b>previous</b> 5:13 <b>principal</b> 1:11 22:16,18,18,19 23:1,15,19,23 <b>principal's</b> 23:1 <b>prior</b> 40:25 48:5 <b>privacy</b> 46:2 <b>probably</b> 12:10 13:3 14:16 15:4,7</p>
<b>o</b>			
<p><b>o</b> 5:1 <b>oath</b> 7:5 <b>oaths</b> 5:11 <b>obama</b> 12:12 <b>object</b> 32:1 <b>objection</b> 6:8 46:21 <b>obligation</b> 7:5 <b>obviously</b> 29:5 <b>occasion</b> 31:2 42:17 <b>occasions</b> 33:9,11 33:12 35:2,12</p>			

[probably - room]

Page 7

17:25 25:6 26:4,9 27:21 33:21 35:3 <b>problems</b> 29:4 <b>procedure</b> 51:5 52:5 <b>proceed</b> 6:15 <b>proceeding</b> 1:20 5:4 47:16 49:4 <b>proceedings</b> 48:3 48:5,6,9 49:6 <b>production</b> 50:16 50:17,22 <b>professionals</b> 25:24 <b>program</b> 43:24 44:1 <b>pronoun</b> 38:2 <b>pronouns</b> 15:24 16:9,13 17:1,8,11 17:14,16 18:18 19:14,17 20:1,2,7 20:20 21:1,2,19 36:16 37:1,9,11 38:12,22,24 39:5 39:12,23 40:21 <b>pronschinske</b> 1:22 5:3 48:2,17 <b>provide</b> 7:5,8 <b>provided</b> 30:4 47:8 <b>providing</b> 7:13 <b>psychologist</b> 24:14 <b>public</b> 1:22 48:18 51:10,18 52:15,23 53:23 <b>purpose</b> 45:11,22 <b>pzimmerly</b> 3:7	19:24 20:3,5 26:20 32:6,12 <b>questions</b> 10:6,16 46:5,10,13,18,20 <b>quickly</b> 30:15	<b>recorded</b> 48:6 <b>recording</b> 48:8 49:4 <b>reduced</b> 48:7 <b>refer</b> 6:18 18:17 <b>reference</b> 50:8 51:2 52:2 <b>referenced</b> 51:11 52:15 <b>referring</b> 14:19 29:8,9,10 <b>reflect</b> 16:10 <b>refused</b> 19:15,18 <b>regard</b> 24:15 28:17 37:2 38:15 40:19 <b>regards</b> 46:22 <b>regular</b> 36:22 37:3 40:12,13 <b>related</b> 48:11 49:7 <b>relation</b> 14:3 <b>relative</b> 48:13 49:10 <b>remedy</b> 43:19 <b>remember</b> 16:24 17:2,3,5 19:19 20:15,25 21:6,7 23:6,13 26:5,9,14 31:3,4,5,13,17,19 37:12 40:3 42:25 <b>remind</b> 7:18 <b>remote</b> 1:20 <b>repair</b> 28:23 30:1 <b>repeat</b> 25:13 31:6 <b>reported</b> 1:22 <b>reporter</b> 5:2,3 6:7 6:15 32:21 33:1,4 46:18,22 47:2,4,7 47:8,12 51:7 <b>represents</b> 6:22	<b>reputation</b> 21:13 <b>request</b> 16:10,12 19:21,23 20:8 39:13 52:9,11 <b>requested</b> 48:21 <b>required</b> 50:25 <b>reserve</b> 46:5,9,21 <b>reserved</b> 47:14 <b>respond</b> 14:24 15:5 <b>response</b> 7:16,18 15:16 20:24 28:21 39:8 43:14 <b>rest</b> 39:23 40:21 <b>restroom</b> 8:1 23:10 24:6,6 27:12 28:5,6,16 29:1 30:19 34:21 34:24 35:4,7,24 36:8 44:19,21,22 44:23 45:3,14,16 45:19,20,21,25 <b>restrooms</b> 11:21 12:14 19:3,6,11 22:22 23:10 28:23 28:25 29:1,2,9,11 29:24,24,25 44:17 45:7,10 <b>retained</b> 4:10 <b>returned</b> 50:19 <b>review</b> 47:6 48:21 50:13 51:1 52:1 <b>reviewed</b> 11:4 <b>reviewing</b> 10:8 <b>right</b> 6:9 12:18 13:18 28:11,20 30:8 38:13,19 46:6,9 <b>riley</b> 25:24 26:4,8 <b>room</b> 44:15 45:15
<b>q</b>	<b>r</b>		
<b>qualified</b> 48:7 <b>question</b> 7:22,22 7:23 8:4,5 19:10	<b>r</b> 2:1 3:1 5:1 <b>raise</b> 6:9 <b>read</b> 51:5,6,12 52:5,6,17 <b>reading</b> 22:11 23:17 50:20 <b>realization</b> 11:15 11:17 <b>realized</b> 11:11,13 <b>really</b> 12:10,24,25 19:17 39:21 41:22 41:24,24 <b>reason</b> 7:8 8:2 29:18 34:7,11 45:24 50:15 52:8 53:3 <b>recall</b> 10:7 13:13 13:17,20,24 15:9 15:12 17:7,10,13 18:2 20:13 21:3 21:16 23:3,14 30:21 31:9,12,22 33:12,17,23 34:1,6 34:20 35:19,22 36:10 37:10 <b>recalled</b> 33:11 <b>receipt</b> 50:19 <b>received</b> 26:15 <b>receiving</b> 26:4 <b>recollection</b> 19:21 32:4 34:3 <b>record</b> 5:4,5,15 32:21 33:2,3,5 42:5 47:13 48:9 49:5 52:9		

<b>rooms</b> 45:21 <b>rotc</b> 43:23 44:8,20 44:24 45:4,8,18 46:1 <b>rules</b> 7:3 51:5 52:5 <hr/> <b>s</b> <hr/> <b>s</b> 2:1 3:1 4:6 5:1 50:16 52:8,8 53:3 <b>s.e.</b> 1:5 2:2,10,18 5:7 14:19,21,24,25 23:5,24 50:6 51:3 52:3 <b>saw</b> 24:5 <b>saying</b> 23:9 42:23 45:17 <b>says</b> 10:21 <b>school</b> 1:10,12 3:2 3:10 5:8,23 6:1,22 8:9,10,12,16,16,18 8:21,24 9:1,9,10 9:11,16 10:3 11:11,14,14 13:18 14:3 16:8,12,14,17 17:7,10,13 18:18 19:1,2,5,8,9,10,13 19:15,22 20:5 22:5,7,9,13 23:20 24:1,5,11,22 27:18 27:20 30:17,18,18 33:10,13 35:8,20 36:13 37:19 41:5 41:8 43:7 44:2 50:6 51:3 52:3 <b>science</b> 20:1,12,14 20:18 <b>seal</b> 51:15 52:21 <b>seats</b> 43:16 <b>see</b> 10:19,23 25:24 26:1 <b>send</b> 47:10	<b>sense</b> 7:19 <b>sentence</b> 11:9 23:25 24:10 36:21 37:2,7 <b>separate</b> 24:4 40:9 <b>september</b> 34:2 <b>service</b> 9:22,23 <b>services</b> 2:4,20 <b>seventh</b> 9:2,2,4 17:25 21:22 <b>sex</b> 43:4 <b>shake</b> 7:17 <b>sheet</b> 50:14 52:7 52:10,18 53:1 <b>shocked</b> 15:19 <b>short</b> 15:24 32:13 <b>shown</b> 50:16 <b>shows</b> 30:23,25 31:17 <b>sign</b> 47:6 <b>signature</b> 47:4,14 48:16 49:14 50:15 <b>signed</b> 10:7 11:4 51:13 52:18 <b>signing</b> 10:8 50:20 <b>similar</b> 39:3 <b>sincerely</b> 50:21 <b>sinks</b> 28:24 <b>sir</b> 50:10 <b>sitting</b> 19:20 21:4 <b>situation</b> 43:20 <b>sixth</b> 9:1,4 21:23 <b>skills</b> 48:10 49:6 <b>skipping</b> 22:12 <b>smiling</b> 21:14 <b>snack</b> 8:1 <b>solutions</b> 50:1 53:1 <b>sorry</b> 5:25 28:12 30:24	<b>sort</b> 8:8 46:8 <b>sorts</b> 9:13,19 41:19 <b>south</b> 2:21 <b>southern</b> 1:2 <b>speak</b> 16:16 <b>specific</b> 12:20 13:20 30:21 31:14 33:17 34:3 <b>specifically</b> 13:24 34:6 35:22 39:16 42:2,4,22 <b>sports</b> 9:16 <b>stall</b> 46:1 <b>stalls</b> 22:6,9,10 29:6,20 45:5,5 <b>start</b> 8:9 20:2 33:20 41:11 <b>state</b> 11:10 14:8 16:7 22:1,12 26:11 37:7 48:19 51:10 52:15 <b>stated</b> 15:20 <b>statement</b> 11:8 14:11 16:7 23:18 24:1,15 25:24 27:2,5,14 30:13 36:20 39:17 40:19 51:13,14 52:19,19 <b>statements</b> 10:17 13:20 42:15 <b>states</b> 1:1 24:10,20 <b>steps</b> 43:19 <b>stipulations</b> 5:12 <b>stomach</b> 34:8,15 34:17 <b>stop</b> 22:14,17,22 23:11 24:3,7 <b>street</b> 2:13 <b>stressful</b> 36:24	<b>stuart</b> 2:19 6:5,5 <b>student</b> 22:16 36:13 41:14,15 42:4,6,10 43:8 <b>students</b> 11:21 12:18,20 13:21 16:8 17:11 18:17 18:20,23 41:12,17 42:11,22 43:1 45:7,13,18 <b>sub</b> 37:17 38:9,11 39:1 <b>subbed</b> 38:13 <b>subscribed</b> 51:10 52:14 53:21 <b>substitute</b> 37:8,10 37:14,15,23 38:1,8 39:19,22 40:6,20 41:1 <b>substitutes</b> 38:17 38:18 39:4,20 <b>suit</b> 30:6 <b>suitable</b> 27:16 28:5,7,15,18 <b>suite</b> 2:5 3:5,13 50:2 <b>superintendent</b> 22:25 <b>superior</b> 50:1 <b>supportive</b> 36:23 37:4 <b>supposed</b> 37:16 <b>sure</b> 8:23 17:25 20:25 21:9 23:12 25:14 29:2,14 30:2 31:7 33:20 34:17 38:10 42:8 <b>surprised</b> 15:8 <b>swear</b> 6:8 <b>sworn</b> 6:12 48:5 51:10,13 52:14,18
--	---	---	--

[sworn - vice]

Page 9

53:21	<b>testified</b> 6:14	<b>told</b> 13:9 14:9,13	<b>typewriting</b> 48:7
<b>t</b>	<b>testifying</b> 48:5	14:15,17,18 16:15	<b>u</b>
<b>t</b> 4:6	<b>testimony</b> 7:6,9,13	18:3 22:14,17	<b>understand</b> 6:24
<b>take</b> 5:4,10 7:25	31:8 40:25 51:6,7	23:8,22 24:2,7	7:4,6 24:13 26:3
8:3,5 27:11	52:6,9,12	34:13 39:20 40:6	26:18 27:11 31:7
<b>taken</b> 5:6 43:19	<b>thank</b> 6:7,20 46:14	43:12,18	31:11 43:23
48:3,12 49:9	<b>theater</b> 9:20,21	<b>totally</b> 42:7	<b>understanding</b>
<b>talk</b> 8:8	<b>thing</b> 23:12 38:9	<b>touched</b> 41:6	24:15,16 26:20
<b>talked</b> 14:1	41:25	<b>transcribed</b> 51:7	31:8 40:24
<b>talking</b> 13:17 17:3	<b>things</b> 9:19 12:24	<b>transcriber</b> 49:1	<b>understood</b> 7:23
41:17	13:1,8,11,14 40:10	<b>transcript</b> 48:21	<b>uniform</b> 44:5,9,12
<b>teach</b> 18:6 20:17	41:20	49:3,5 50:12,13	44:14,17,20,24
<b>teacher</b> 16:21,25	<b>think</b> 8:17,20,22	51:5,12 52:5,11,17	<b>united</b> 1:1
17:4,18,18,20,20	9:20 13:3,7,16,25	<b>transcriptionist</b>	<b>unkind</b> 13:22
17:21 18:4,4,4,9	16:20 17:18 19:7	48:8	<b>urgently</b> 27:5
18:12 19:22 20:1	21:5,12 23:16,23	<b>transcripts</b> 46:23	<b>urinals</b> 22:6
20:6,10,12,14,14	30:9 32:6,19	<b>transgender</b> 39:21	<b>use</b> 8:1 16:9,25
21:8,15,16 37:10	37:12 41:25 42:24	<b>treated</b> 24:11,17	17:16 19:2,6,10,14
38:1,8,21,24 39:19	47:9	25:1,3	19:17,17 20:6,19
40:6,12,13 41:1,1	<b>thinking</b> 21:11	<b>tried</b> 37:4	21:1,18 22:1,9,10
43:12,19	<b>thirty</b> 50:19	<b>true</b> 10:23 11:5	23:21 27:4,16,17
<b>teachers</b> 16:9,16	<b>thought</b> 13:6,22	14:11 18:20 19:23	27:19,24 30:9
17:8,13,16 18:3,14	<b>three</b> 9:6 18:14	26:5 27:5,8,12,18	35:6,9,24 36:8
19:13,16,25 20:11	33:21,22 34:10	27:23 28:2 29:23	38:25 39:10,12
20:14 21:12 36:13	35:1 41:18 42:11	34:10 35:1 37:3	45:7,10,14,15,20
36:22,24 37:3,8	43:1	38:25 41:3 43:21	<b>usual</b> 34:19
39:4 43:11	<b>time</b> 1:19 5:14	43:24 45:22 48:9	<b>usually</b> 34:18 41:9
<b>team</b> 39:24 40:11	7:16 14:8 15:17	49:5	<b>v</b>
40:14,15,16	20:6,12 31:11	<b>truth</b> 6:13,13,14	<b>v</b> 1:9 50:6 51:3
<b>tell</b> 6:13 11:18	35:19 36:7 37:18	<b>truthful</b> 7:5,9,13	52:3
14:14 23:6 29:21	38:13 42:18	<b>trying</b> 31:7,11	<b>verbal</b> 7:16,18
31:16 40:3,8,9,10	<b>times</b> 32:1 33:19	36:23	<b>verification</b> 10:19
43:7,10	33:20,22 34:12,12	<b>tuesday</b> 1:18	10:21 11:1
<b>telling</b> 15:9	35:9,17,18	<b>turn</b> 11:7 16:4	<b>verify</b> 10:22
<b>ten</b> 32:16	<b>titus</b> 18:5,6	21:24 24:9 30:12	<b>veritext</b> 5:4 50:1,8
<b>terms</b> 13:14 16:1	<b>today</b> 6:20,23 7:4	36:20	53:1
16:13 28:15,22,23	7:9,15 19:20 21:4	<b>two</b> 33:11,21,22	<b>veritext.com.</b>
35:19,22	33:8 46:5,15	34:10,12 35:1	50:17
<b>terre</b> 1:3,11	<b>toilets</b> 22:6 28:24	38:15,17,18 39:4	<b>vice</b> 22:16,18,18
<b>terrible</b> 25:10,15	29:6,17	40:9 42:22	22:19 23:15,19,23

## [videoconference - zoom]

Page 10

<b>videoconference</b> 1:16 2:3,11,19 3:3 3:11 <b>view</b> 28:17 <b>vigo</b> 1:10,12 3:2 3:10 5:7,23 6:1,22 9:1,10 50:6 51:3 52:3 <b>vs</b> 5:7	<b>x</b> <b>x</b> 4:1,6 48:21
<b>w</b>	<b>y</b>
<b>wait</b> 19:7 25:22 <b>waived</b> 50:20 <b>want</b> 19:17 24:14 26:25 27:17 42:3 <b>wanted</b> 15:4 <b>washington</b> 2:13 <b>way</b> 13:5,5 21:3 29:7,19 <b>we've</b> 47:9 <b>wearing</b> 15:23 <b>week</b> 44:7,11 <b>went</b> 8:22 12:17 35:23 40:5 <b>wilson</b> 8:25 9:5 <b>witness</b> 5:13,16 6:8,12 32:14 46:17,24 48:4 50:9,12 51:1,4,11 52:1,4,15 <b>witness'</b> 50:15 <b>wohlford</b> 3:11 5:25,25 6:1 <b>woodrow</b> 8:25 9:5 <b>words</b> 41:6,7 <b>work</b> 28:25 <b>world</b> 14:10 15:22 <b>wrong</b> 21:19 28:22 38:12	<b>yeah</b> 5:18 8:14 9:25 10:2,15,20 11:25 12:12 16:6 18:7,11 27:10 29:12,23 30:7 32:8,14,17 35:5 <b>year</b> 22:2 26:17 36:22 37:4,19 46:16 <b>years</b> 14:9 26:10 <b>yell</b> 21:18
	<b>z</b>
	<b>zimmerly</b> 3:3 4:3 5:22,22 6:17,21 32:3,17,20,22 33:6 46:4,23,25 47:9 <b>zoom</b> 5:9 46:15

Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate.

The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.

THE ABOVE RULES ARE CURRENT AS OF APRIL 1,

2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES

OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS  
COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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DEPOSITION REVIEW  
CERTIFICATION OF WITNESS

ASSIGNMENT REFERENCE NO: 4992729

CASE NAME: B.E. And S.E., Et Al. v. Vigo County School Corporation, Et Al.

DATE OF DEPOSITION: 12/21/2021

WITNESS' NAME: B.E.

In accordance with the Rules of Civil Procedure, I have read the entire transcript of my testimony or it has been read to me.

I have listed my changes on the attached Errata Sheet, listing page and line numbers as well as the reason(s) for the change(s).

I request that these changes be entered as part of the record of my testimony.

I have executed the Errata Sheet, as well as this Certificate, and request and authorize that both be appended to the transcript of my testimony and be incorporated therein.

1-20-22                      B.E  
Date                                      B.E.

Sworn to and subscribed before me, a Notary Public in and for the State and County, the referenced witness did personally appear and acknowledge that:

- They have read the transcript;
- They have listed all of their corrections in the appended Errata Sheet;
- They signed the foregoing Sworn Statement; and
- Their execution of this Statement is of their free act and deed.

I have affixed my name and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

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Notary Public

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Commission Expiration Date

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ERRATA SHEET  
VERITEXT LEGAL SOLUTIONS MIDWEST  
ASSIGNMENT NO: 4992729

PAGE/LINE(S) /	CHANGE	/REASON
12:11	"Barrack" to "Barack"	misspelling
30:6	"that don't suit me" to "that they don't suit me"	transcription error
30:8	"I'm using" to "I'm not using"	transcription error

1-20-22 B.E.

20 Date B.E.  
21 SUBSCRIBED AND SWORN TO BEFORE ME THIS \_\_\_\_\_  
22 DAY OF \_\_\_\_\_, 20\_\_\_\_,

23 \_\_\_\_\_  
Notary Public

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
TERRE HAUTE DIVISION

---

B.E. and S.E., minor children  
by their mother, legal guardian,  
and next friend, L.E.,  
Plaintiffs,

v.

Case No.

VIGO COUNTY SCHOOL CORPORATION, 2:21-cv-00415-JRS-MG  
PRINCIPAL, TERRE HAUTE NORTH  
VIGO HIGH SCHOOL, in his  
official capacity,  
Defendants.

---

VIDEOCONFERENCE DEPOSITION OF  
S.E.

DATE: Tuesday, December 21, 2021  
TIME: 1:59 p.m.  
LOCATION: Remote Proceeding  
Indianapolis, IN 46204  
REPORTED BY: Andrew Pronschinske, Notary Public  
JOB NO.: 4992729

Page 2

1 APPEARANCES

2 ON BEHALF OF PLAINTIFFS B.E., S.E., and L.E.:

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25

Page 3

1 INDEX

2 EXAMINATION: PAGE

3 By Mr. Zimmerly 5

4 By Ms. Bensberg 32

5

6 EXHIBITS

7 NO. DESCRIPTION PAGE

8 Exhibit 13 Declaration 7

9

10 (Exhibits retained by counsel.)

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Page 4

1 PROCEEDINGS

2 THE REPORTER: Good afternoon. My name

3 is Andrew Pronschinske; I am the reporter assigned by

4 Veritext to take the record of this proceeding. We

5 are now on the record at 1:59 p.m.

6 This is the deposition of S.E. taken in

7 the matter of B.E. and S.E., et al, vs. Vigo County

8 School Corporation, et al, on December 21, 2021, over

9 Zoom.

10 I am a notary authorized to take

11 acknowledgements and administer oaths in Indiana.

12 Parties agree to the stipulations that were outlined

13 with the previous witness, L.E. Thank you.

14 At this time, will everyone in

15 attendance please identify yourself for the record,

16 beginning with the witness?

17 S.E.: S.E.

18 MS. BENSBERG: Kathleen Bensberg for

19 plaintiff, S.E.

20 MR. ZIMMERLY: This is Phil Zimmerly on

21 behalf of the defendant, Vigo County School

22 Corporation.

23 MR. FALK: Ken Falk on behalf of the

24 plaintiffs as well.

25 THE REPORTER: Thank you. Hearing no

Page 5

1 objection, I will now swear in the witness. Please,

2 raise your right hand.

3 WHEREUPON,

4 S.E.,

5 called as a witness, and having been first duly sworn

6 to tell the truth, the whole truth and nothing but the

7 truth, was examined and testified as follows:

8 THE REPORTER: We may proceed.

9 EXAMINATION

10 BY MR. ZIMMERLY:

11 Q All right, good afternoon, S.E. My name is

12 Phil Zimmerly. I am the attorney for the Vigo County

13 School Corporation; thank you for being here today.

14 It's nice to meet you. Have you ever given a

15 deposition before?

16 A No.

17 Q So I'm going to go over a couple of the

18 ground rules for today very briefly. You understand

19 that you're under oath; so you have the obligation to

20 provide truthful and accurate testimony. Do you

21 understand that?

22 A Yes.

23 Q And is there any reason why you could not

24 provide truthful and accurate testimony today?

25 A No.

Page 6	<p>1 Q You're not under the influence any of drugs 2 or alcohol or medication that would affect your 3 testimony. Is that true? 4 A It's true. 5 Q I'm going to presume that if I ask a 6 question and you answer the question that you 7 understood the question that I asked. Is that fair? 8 A Yeah. 9 Q If at any point, you need to take a break, 10 feel free to let me know. We can totally do that. 11 My caveat to that is if I have asked you a 12 question, I just ask that you answer that question 13 before we take a break. Is that fair? 14 A Yes. 15 Q Let's a little bit talk about school. Where 16 did you go to elementary school? 17 A Lost Creek. 18 Q Okay. And did you go to any other schools 19 for elementary? 20 A I believe, yeah. 21 Q Do you remember what that school was? 22 A I forgot the name. 23 Q And where did you go to middle school? 24 A Woodrow Wilson. 25 Q Okay. And you're currently a freshman in</p>	Page 8	<p>1 BY MR. ZIMMERLY: 2 A S.E., is this a document that you have seen 3 before? 4 A Yes. 5 Q And on the seventh page, there is a 6 verification. Do you see that on the seventh page? 7 A Yes. 8 Q Are those initials there, S.E.? 9 A Yes. 10 Q And did you initial that? 11 A Yes. 12 Q Okay. So turn to the first page, if you 13 would, of your declaration. 14 There is in Paragraph 4, you make the 15 statement, "I was designated female when I was born, 16 but I realized in elementary school that I am a boy. 17 "I began to feel uncomfortable when others 18 treated me as a girl. This discomfort has increased 19 as I have gotten older." 20 When you say that you realized in elementary 21 school that you were a boy, how old were you when you 22 came to that realization? 23 A How old I was? I think like 11. 24 Q And what do you remember about coming to 25 that realization?</p>
Page 7	<p>1 high school. 2 A Yes. 3 Q And is that at the North High School there 4 in Vigo? 5 A Yes. 6 Q In middle school, were you involved in any 7 extracurricular activities? 8 A Yes. 9 Q What sort of extracurriculars were you 10 involved in? 11 A A club for committee service, theater, and 12 soccer. 13 Q And anything else? 14 A No. 15 Q And the high school, are you involved with 16 any extracurriculars there? 17 A Other than ROTC, no. 18 Q Okay. I'm going to ask you some questions 19 about your declaration which we've marked as 20 Exhibit 12 if you don't mind pulling that out. 21 MS. BENSBERG: Exhibit 13, Counsel. 22 MR. ZIMMERLY: I'm sorry, Exhibit 13, 23 so the record is clear, Exhibit 13. 24 (Exhibit 13 was marked for 25 identification.)</p>	Page 9	<p>1 A Can you restate that? 2 Q Sure. You stated that, "I realized in 3 elementary school that I am a boy." What do you mean 4 by that? How did you come to that realization? 5 A Well, I always knew I was different from 6 when I was born, so. 7 Q And, okay. So let's move on to Paragraph 5, 8 okay. Paragraph 5 says, "By the time I was about 11 9 years old, I told my family that I am a boy and began 10 to live and present myself to the world as a boy." 11 Who did you tell when you were 11 years old 12 that you were a boy? 13 A My brother, B.E., my aunt, and my mom. 14 Q And who did you tell first? 15 A My brother. 16 Q And what did you tell B.E.? 17 A That I'm -- that I'm different. Like, I am 18 a guy. 19 Q And what was B.E.'s response? 20 A That he is okay with it. 21 Q What did you tell your aunt? 22 A That I've always felt different, and I'm a 23 guy. 24 Q And what was your aunt's response? 25 A I think they kind of already like knew, but</p>

Page 10

1 I think they were kind of shocked. They were okay  
 2 with it.  
 3 Q And what did you -- you told your mother  
 4 after you told B.E. and your aunt.  
 5 A Yes.  
 6 Q What did you say to your mom?  
 7 A That I always felt different, and I'm a guy.  
 8 Like, I don't like -- yeah.  
 9 Q And what was your mom's response?  
 10 A Like, she is okay with it.  
 11 Q Okay. I asked B.E. about the same sort of  
 12 thing. When B.E. shared this information with you and  
 13 with your aunt and with your mom, do you recall who  
 14 let other people know about this? Were you first, or  
 15 was B.E. first?  
 16 A I'm not really sure.  
 17 Q And do you recall B.E. coming to you and  
 18 sharing the same type of information with you?  
 19 A Yes.  
 20 Q What do you remember about that?  
 21 A That B.E. feels like a guy and is a guy.  
 22 Q In the same paragraph, when you say that you  
 23 began to live and present yourself to the world as a  
 24 boy, what do you mean by that?  
 25 A What page, what paragraph?

Page 11

1 Q Paragraph 5 on Page 1, the second part of  
 2 that where you say, "By the time I was about 11 years  
 3 old, I told my family that I am a boy and began to  
 4 live and present myself to the world as a boy."  
 5 And my question is, when you say that you  
 6 began to live and present yourself to the world as a  
 7 boy, what does that mean? What do you mean by that?  
 8 A I had my hair cut, wore like boy clothes,  
 9 like acted.  
 10 Q So haircut, boy clothes, you said "acted."  
 11 A Yeah, like present.  
 12 Q And what do you mean by that, "acted" or  
 13 "presented"?  
 14 A Like, I acted like a guy.  
 15 Q Okay. And what does that mean, to act like  
 16 a guy?  
 17 A Like, lazy.  
 18 Q Did you say, "Like, crazy"?  
 19 A Well, yeah, and lazy.  
 20 Q Oh, lazy.  
 21 A Yeah.  
 22 Q Did you say -- I don't want to put words in  
 23 your mouth. Did you say lazy or crazy?  
 24 A Lazy.  
 25 Q Okay. In Paragraph 8, you state, "Beginning

Page 12

1 in elementary school, some students and teachers began  
 2 to use the name and pronouns that reflect my gender at  
 3 my and my mother's request. And this is also how I  
 4 was known throughout middle school."  
 5 Do you recall making a request to use male  
 6 names and male pronouns in elementary school?  
 7 A Yeah, yes.  
 8 Q And who did you make that request to in  
 9 elementary school?  
 10 A I'm not really sure.  
 11 Q Okay. Do you recall teachers or students  
 12 referring to you with a male name or male pronouns in  
 13 elementary school?  
 14 A I -- I'm not sure.  
 15 Q What about in middle school? In middle  
 16 school, did you request that your teachers or  
 17 classmates use male pronouns and a male name for you?  
 18 A Yes.  
 19 Q And who did you ask to do that?  
 20 A I'm not exactly sure.  
 21 Q Do you have any recollection of making that  
 22 request in middle school?  
 23 A I might have.  
 24 Q You might have, but you don't, sitting here  
 25 today, recall one way or the other.

Page 13

1 A Yeah.  
 2 Q Okay. Paragraph 10 of your declaration,  
 3 Exhibit 13, there's a statement. "I also use the  
 4 boys' bathrooms at the beginning of my freshman year  
 5 because they are the correct and comfortable bathroom  
 6 for me like they are for any other boy."  
 7 In elementary school, did you use the boys'  
 8 bathrooms?  
 9 A No.  
 10 Q In middle school, did you use the boys'  
 11 bathrooms?  
 12 A No.  
 13 Q Continuing on in that paragraph,  
 14 Paragraph 10, you state, "The boys' bathrooms in my  
 15 school have urinals and individual stalls with toilets  
 16 and are conveniently located throughout the school."  
 17 On those occasions where you used the boys'  
 18 bathroom in high school, did you use the individual  
 19 stalls?  
 20 A Yes.  
 21 Q And going on to Paragraph 12, there's a  
 22 statement. "When a school employee noticed that I  
 23 used the boys' bathroom, I was told to stop.  
 24 "When I used it again, the vice principal  
 25 called my mother and asked her to come into school

Page 14

1 with me and brother for a meeting about our bathroom  
 2 use."  
 3 Do you recall a school employee noticing  
 4 that you were using the boys' bathroom and telling you  
 5 to stop?  
 6 A I -- I'm not sure; I don't think.  
 7 Q Do you recall going to a meeting with the  
 8 vice principal and your mother and B.E.?  
 9 A Yes.  
 10 Q And was that pertaining to the use of the  
 11 male restroom?  
 12 A Yes.  
 13 Q Why don't you tell me what you remember  
 14 about that meeting? What do you remember about it?  
 15 A That they give -- that they gave us the  
 16 option of using the female or the nurse's office.  
 17 Q Okay. And do you recall what -- did you or  
 18 B.E. say anything during that meeting?  
 19 A I'm not sure.  
 20 Q Did your mother speak during that meeting?  
 21 A I'm not sure.  
 22 Q Do you recall what her response was when --  
 23 to that information about using the nurse's office  
 24 restroom or using the girls' restroom? Did she have a  
 25 response at that time?

Page 15

1 A I'm not sure.  
 2 Q You don't remember one way or the other.  
 3 A Yeah.  
 4 Q Okay. Were you also advised, that as an  
 5 accommodation, that if you needed to leave class early  
 6 or in the middle of class to go to the restroom that  
 7 you would be able to do that? Was that an  
 8 accommodation that was provided to you?  
 9 A Yes.  
 10 Q And was that an accommodation that was  
 11 consistently provided to you?  
 12 A Can you repeat that?  
 13 Q Sure. On those occasions where you had to  
 14 go to use the restroom perhaps in the middle of class  
 15 or the beginning or the end of class because you have  
 16 to use the restroom, have teachers consistently  
 17 allowed you to do so?  
 18 A Yes.  
 19 Q Paragraph 18 of your declaration, there's a  
 20 sentence at the very beginning of Paragraph 18.  
 21 It says, "Being treated as a boy at school  
 22 is extremely important for my mental and physical  
 23 health."  
 24 "And it's physically uncomfortable and  
 25 emotionally difficult to be at school when I cannot be

Page 16

1 who I am. This causes me anxiety and makes me  
 2 depressed and makes me not want to go to school."  
 3 I'm specifically asking about this statement  
 4 of the very first sentence of that where you say that  
 5 being treated as a boy at school is extremely for your  
 6 mental health and physical health.  
 7 I understand that you're not a psychologist  
 8 or psychiatrist or doctor. But from your perspective,  
 9 why is being treated as a boy extremely important for  
 10 your mental health?  
 11 A Well, because that's who I am, and, I mean,  
 12 it would -- it would be like -- I would feel better.  
 13 Q From your perspective, why is being treated  
 14 as a boy extremely important for your physical health?  
 15 A I don't know how to say this. It's,  
 16 basically, what I just said.  
 17 Q Okay. So with regard to your physical  
 18 health, your response is similar to or the same as  
 19 with regard to your mental health. Is that fair?  
 20 A Yes.  
 21 Q Paragraph 19 of your declaration, it states  
 22 that you see health professionals at Riley Children's  
 23 Hospital, and you have been diagnosed with gender  
 24 dysphoria.  
 25 Do you know who made that diagnosis for you

Page 17

1 for gender dysphoria?  
 2 A I'm not sure.  
 3 Q Do you know when you received that  
 4 diagnosis?  
 5 A What do you mean exactly?  
 6 Q Was there some point in time where your  
 7 doctor said, "Hey, I diagnosed you with gender  
 8 dysphoria"? Have they ever shared that information  
 9 with you?  
 10 A I believe, yes.  
 11 Q And do you know when they shared that  
 12 information with you?  
 13 A No, I don't.  
 14 Q Okay. What is your understanding,  
 15 recognizing you're not a psychiatrist or a  
 16 psychologist or a medical professional, what is your  
 17 understanding of what gender dysphoria is?  
 18 A That I don't feel comfortable in my body.  
 19 Like, I -- like, I feel like a guy, and I am.  
 20 Q Paragraph 21 states that, "The girls'  
 21 bathrooms and health office bathroom that I'm allowed  
 22 to use are not suitable alternatives for the boys'  
 23 facilities I want to use."  
 24 When you say that the girls' bathrooms and  
 25 the health office aren't suitable alternatives to use,

Page 18

1 why is that?  
 2 A Because that health room is like far away  
 3 from our classes. We're like outcasts because other  
 4 kids like know.  
 5 Q Anything else?  
 6 A Not -- not that I can think of right now.  
 7 Q In Paragraph 27, there's a reference to  
 8 avoiding accidents because of medical issues and  
 9 getting to the health office bathroom quickly enough.  
 10 I understand that you have had some  
 11 gastrointestinal issues since you were a baby. Is  
 12 that true?  
 13 A Yes.  
 14 Q And have you had occasions in high school  
 15 where you have had accidents?  
 16 A Yes.  
 17 Q And how often has that occurred?  
 18 A Well, in the past, it's been like a lot.  
 19 Q When you say "in the past," do you mean in  
 20 high school or all the way back to elementary school?  
 21 A High school.  
 22 Q So in high school, how many accidents have  
 23 you had in high school?  
 24 A I'm not exactly sure.  
 25 Q Was it one time, two times, three times? If

Page 19

1 you had to estimate, what would you estimate?  
 2 A Maybe a few times a week.  
 3 Q A few times a week where you have had an  
 4 accident.  
 5 A Yes.  
 6 Q And what do you do to sort of deal with the  
 7 accident when it occurs?  
 8 A Can you repeat that?  
 9 Q Sure. In the times where you have had an  
 10 accident, how -- what do you do in that situation? Do  
 11 you change your clothes? What do you do in response  
 12 to that?  
 13 A I -- I'm not really sure.  
 14 Q When was the last time you recall having an  
 15 accident at school?  
 16 A I'm not exactly sure, but I think it's been  
 17 a while since then.  
 18 Q Do you recall any specifics about any  
 19 accidents that you have had while you have been at  
 20 school in high school?  
 21 A No.  
 22 Q So you don't recall when your -- one  
 23 happening recently. Is that true?  
 24 A Can you repeat that?  
 25 Q Do you recall having an accident at school

Page 20

1 recently?  
 2 MS. BENSBERG: I'm going to object to  
 3 form. What do you mean by "recently"?  
 4 BY MR. ZIMMERLY:  
 5 Q In the past three weeks, have you had an  
 6 accident at school?  
 7 A I'm not sure.  
 8 Q Do you recall having an accident in school  
 9 in November of 2021?  
 10 A Yes.  
 11 Q What do you recall about that accident?  
 12 A Just that I had an accident.  
 13 Q So you recall in general average accidents  
 14 in the past, but you don't recall any specifics about  
 15 when that occurred or what was involved in that  
 16 accident. Is that fair?  
 17 MS. BENSBERG: Objection, asked and  
 18 answered, mischaracterizes testimony, he testified  
 19 that he has had a number of accidents, not one.  
 20 BY MR. ZIMMERLY:  
 21 Q Let me ask it again in a different way then.  
 22 So although you have testified that you may have had  
 23 more than that accident, do you recall the specifics  
 24 of any of those accidents?  
 25 A Just that it is on my pants sometimes.

Page 21

1 Q Do you recall any other specifics other than  
 2 that?  
 3 A It's uncomfortable.  
 4 Q Have you used the health office to go to the  
 5 restroom?  
 6 A Yes.  
 7 Q And is that something that you have used on  
 8 a daily basis, the health office restroom?  
 9 A Yes.  
 10 Q Is it something that you have used multiple  
 11 times a day, the health office bathroom?  
 12 A Yes.  
 13 Q Have their times or has there been any  
 14 occasion where you have gone to the health office and  
 15 it's been locked?  
 16 A Yes.  
 17 Q And how often has that occurred?  
 18 A In the morning, after school, and sometimes,  
 19 during school.  
 20 Q And how many times have you gone to that  
 21 restroom and had it been locked?  
 22 A A few times.  
 23 Q And what did you do in response to it being  
 24 locked?  
 25 A I just wait or like I just don't -- yeah.

Page 22

1 Q Were you then able to use the restroom, the  
 2 health office restroom after somebody unlocked the  
 3 door?  
 4 A Can you repeat that?  
 5 Q Were then able to use the health office  
 6 restroom after someone unlocked the door?  
 7 A Like, later in the day, like --  
 8 Q Yes, later in the day.  
 9 A Yeah.  
 10 Q Are your current teachers using your legal  
 11 name, S.E.?  
 12 A Yes.  
 13 Q Are they using male pronouns with you?  
 14 A Yes.  
 15 Q At some point in time, did you use the  
 16 "they" pronoun?  
 17 A Yes.  
 18 Q When did you most recently use the "they"  
 19 pronoun?  
 20 A Maybe in the past year or two, I'm not sure.  
 21 Q Could it have been as recently as August of  
 22 this year?  
 23 A Yeah.  
 24 Q And what is your understanding of the use of  
 25 the "they" pronoun? Why would you ask people to use

Page 23

1 "they" instead of "he" or "him" or "she" or "her"?  
 2 A I'm not exactly sure, like because I felt  
 3 comfortable with it because -- yeah.  
 4 Q So, you, at one point in time, you felt  
 5 comfortable with the use of the "they" pronoun.  
 6 A Yeah.  
 7 Q And why did you feel comfortable with that?  
 8 A I just felt comfortable with myself.  
 9 Q Okay. Turning back to your declaration,  
 10 Paragraph 33, the very first part of that paragraph  
 11 you make the statement that your regular teachers this  
 12 year are supportive and have tried to address you  
 13 correctly.  
 14 Is that true, that your regular teachers  
 15 have been supportive and have tried to address you  
 16 properly?  
 17 A Yes.  
 18 Q In Paragraph 35, you state that, "Some  
 19 substitute teachers do insist on using a birth name  
 20 and female pronouns." When has that happened?  
 21 A Like, in gym, just -- yeah.  
 22 Q Was that -- that was with your gym teacher,  
 23 a substitute gym teacher.  
 24 A Yeah.  
 25 Q And I believe when I asked -- do you have

Page 24

1 gym class with B.E.?  
 2 A Yes.  
 3 Q And I believe it was B.E.'s testimony that  
 4 the substitute teacher was corrected and then began  
 5 using the names that you wanted the teacher to use and  
 6 the pronouns.  
 7 Is that true? Is that what happened, or do  
 8 you have a different recollection?  
 9 A Yes.  
 10 Q That's what happened; you corrected the gym  
 11 teacher, and that gym teacher then used the pronouns  
 12 and names that asked the gym teacher to use.  
 13 A Yeah.  
 14 Q Are there any instances where substitute  
 15 teachers have not followed your direction to use your  
 16 chosen name or pronouns?  
 17 A Can you -- can you repeat that?  
 18 Q Are there any occasions where you asked a  
 19 substitute teacher to call you "S.E." and -- or to use  
 20 male pronouns and that substitute teacher said, "No,  
 21 I'm not going to do that. I'm going to refer to you  
 22 differently," than what you have asked them to refer  
 23 to you as?  
 24 A No.  
 25 Q So in any occasion where that's come up, the

Page 25

1 teacher has complied with your request.  
 2 A Yes.  
 3 Q Paragraph 37 of your declaration, there's a  
 4 statement. "Recently, after a substitute teacher  
 5 called my birth name, other students told the class  
 6 that I am transgender and that I'm really a girl.  
 7 "The substitute used my birth name and  
 8 female pronouns for the rest of the class and made me  
 9 participate on the girls' team for a class activity."  
 10 What were you referring to in that paragraph if you  
 11 recall?  
 12 A Can -- can you repeat that?  
 13 Q Sure. Do you recall after a substitute  
 14 teacher calling your birth name, other students  
 15 telling the class that you were transgender and that  
 16 you were really a girl?  
 17 A Yeah, I -- yeah.  
 18 Q What class did that happen in?  
 19 A Gym.  
 20 Q Did the substitute then continue to use your  
 21 birth name and female pronouns for the rest of the  
 22 class?  
 23 A No.  
 24 Q Did the substitute make you participate on  
 25 the girls' team for a class activity?

Page 26

1 A Oh, that was actually with my actual gym  
 2 teacher on a different day.  
 3 Q Okay. And so what was the class activity  
 4 that the actual gym teacher asked you to be on the  
 5 girls' team for that activity?  
 6 A I believe basketball.  
 7 Q Have you ever been bullied at school?  
 8 A I mean, with words but not physically.  
 9 Q And who has bullied you with words at the  
 10 high school?  
 11 A A few people like that like we had in middle  
 12 school.  
 13 Q And when you say "a few people," how many  
 14 students is that?  
 15 A Like, maybe two or three.  
 16 Q And what sort of words have they used to  
 17 bully you?  
 18 A Well, one of them said like that they --  
 19 they said like a dead name, and, "They go by other  
 20 names."  
 21 Q Did they say anything else?  
 22 A They said like -- well, I believe he said  
 23 like that, "They are actually a girl."  
 24 Q And was this a boy student making these  
 25 comments?

Page 27

1 A Yes.  
 2 Q And did that boy student make any other  
 3 comments?  
 4 A No.  
 5 Q And you said that there was maybe one to two  
 6 other individuals that participate in the bullying.  
 7 And what did they say, or what did they do?  
 8 A Like, basically, the same thing the other  
 9 kids say.  
 10 Q And were those students, were they boy  
 11 students, female students?  
 12 A Boy.  
 13 Q Okay. Did you tell anyone at the school  
 14 about those students making unkind comments towards  
 15 you?  
 16 A I'm not sure.  
 17 Q How recently did that occur?  
 18 A Like, maybe in the last couple weeks, I --  
 19 I'm not sure.  
 20 Q Is it something that's occurred again since  
 21 then?  
 22 A No.  
 23 Q Okay. Are you involved in the ROTC program?  
 24 I think you already told me that you are.  
 25 A Yes.

Page 28

1 Q In speaking with B.E., my understanding is  
 2 that there's only one time a week where you have to  
 3 change into your uniform on Fridays. Is that true?  
 4 A Yes, but -- well, yeah, yeah.  
 5 Q Do you have to change for ROTC other than  
 6 changing into your uniforms on Fridays?  
 7 A I mean, we have to wear another uniform, but  
 8 we don't have to change in it at school. So, no.  
 9 Q Okay. And when you change for ROTC when  
 10 you're at your school, do you change in the health  
 11 office for that?  
 12 A Yes.  
 13 Q Had you ever changed for ROTC class in one  
 14 of the restrooms other than the health office?  
 15 A Yes.  
 16 Q And was that in one of the male restrooms or  
 17 one of the female restrooms or one of -- or both?  
 18 A The -- the boys'.  
 19 Q And when you changed in the boys' restroom,  
 20 did you change in one of the individual stalls?  
 21 A Yes.  
 22 Q Do other students use the individual stalls  
 23 to change in the restroom?  
 24 A Yes.  
 25 Q For ROTC, do students change in the locker

Page 29

1 rooms at all?  
 2 A No.  
 3 Q For gym class, do you have to change for gym  
 4 class?  
 5 A Yes.  
 6 Q And would you change for gym class in the  
 7 health office then?  
 8 A Can you repeat that?  
 9 Q When you have gym class and you get changed  
 10 for gym class, do you get changed in the health office  
 11 restroom?  
 12 A Yes.  
 13 Q And do other students get changed for gym  
 14 class in the boys' restroom or the girls' restroom?  
 15 A Can you repeat that?  
 16 Q Sure. Do other students get changed for gym  
 17 class in the boys' restroom or the girls' restroom if  
 18 you know?  
 19 A No, not that I know of.  
 20 Q Do they get changed in the locker rooms for  
 21 gym class?  
 22 A Yes.  
 23 Q Is that "yes"?  
 24 Q Paragraph 38 of your declaration, on Page 7,  
 25 you make the statement that, "Many of my friends and

Page 30

1 classmates have only known me as a boy.  
 2 "Some of these classmates have found out  
 3 that I'm transgender because of my birth name getting  
 4 called in class. I never know if my peers will still  
 5 accept after finding out that I'm transgender.  
 6 "I'm worried that I will lose friendships  
 7 because of who I am." The friends that you have in  
 8 high school, you know, your circle friends, are those  
 9 the same friends that you would have had in middle and  
 10 elementary school? Or are they different friends that  
 11 you had in the past?  
 12 A Different.  
 13 Q Okay. So do you have any friends in your  
 14 high school group that were from the past in  
 15 elementary school or middle, or are they all new  
 16 friends?  
 17 A A few from middle school, but I don't think  
 18 they know. I don't know.  
 19 Q And is it your understanding that your  
 20 current group of friends believe that you are a  
 21 biological boy?  
 22 A Can you repeat that?  
 23 Q Is it your understanding that your group  
 24 friends are under the understanding that you are a  
 25 biological boy like you were born with the anatomy of

Page 31

1 a male?  
 2 A Yes.  
 3 MR. ZIMMERLY: Those are all the  
 4 questions that I have. We will reserve our right to  
 5 be able to call you later in the case.  
 6 We're limited, in our information at  
 7 this point given that it's a preliminary injunction.  
 8 Discovery has been expedited. But I don't know that  
 9 we will even need to do that.  
 10 But thank you for your time today, S.E.  
 11 It was nice to meet you. I hope you do really well in  
 12 school and have happy holidays and a happy New Year.  
 13 THE WITNESS: You, too.  
 14 MS. BENSBERG: Before we conclude, can  
 15 we just take three to five minutes so I can just  
 16 confer with my co-counsel?  
 17 MR. ZIMMERLY: Yes, that would be fine.  
 18 MS. BENSBERG: Okay.  
 19 THE REPORTER: Okay. We are now off  
 20 the record at 2:49 p.m.  
 21 (Off the record.)  
 22 THE REPORTER: We are now back on the  
 23 record at 3:01 p.m.  
 24 MR. ZIMMERLY: Thank you.  
 25 //

Page 32

1 EXAMINATION  
 2 BY MS. BENSBERG:  
 3 Q Hello, S.E. You know who I am; I am your  
 4 attorney, Kathleen Bensberg. I have a couple of very  
 5 quick questions for you.  
 6 You spoke a lot previously about having  
 7 accidents. I'm not going to ask you anything else  
 8 about those accidents. My question is, would your mom  
 9 know about those accidents?  
 10 A Yeah, some.  
 11 Q She would know about some. Would she know  
 12 about all of them?  
 13 A No, I don't think.  
 14 Q Okay. My other question is, you previously  
 15 spoke about a paragraph in your declaration about the  
 16 importance of being treated as a boy for your mental  
 17 and physical health.  
 18 And that is Paragraph 18 on Page 3. Are  
 19 there any other reasons that being treated like a boy  
 20 at school is important for your physical health?  
 21 A Yes, because like my situation like my  
 22 intestines, like I need to use the restroom. Like, I  
 23 can't just hold it.  
 24 Q Okay. And when you talk about needing to  
 25 use the restroom, how would being treated as a boy at

Page 33

1 school help with that?  
 2 A Can you repeat that?  
 3 Q Sure, of course. I will rephrase it. You  
 4 talked about, and you talked at length, about your GI  
 5 and your stomach issues.  
 6 When you say that you need to use the  
 7 restroom, why is that important that you're treated as  
 8 a boy to meet those needs?  
 9 A Because I am.  
 10 Q And so you want to go to the boys' bathroom.  
 11 A Yeah.  
 12 Q Okay. Is there any other reason that your  
 13 physical health is impacted by not being able to use  
 14 the boys' being?  
 15 A Can you repeat that?  
 16 Q Sure. Is there any other reason that it's  
 17 bad for your physical health not to be able to use the  
 18 boys' bathroom?  
 19 A Just that it's bad --  
 20 Q Okay. When you say "bad," bad for your  
 21 stomach issues?  
 22 A Yes.  
 23 MS. BENSBERG: Okay. I think that is  
 24 all I have.  
 25 MR. ZIMMERLY: Okay, no further

Page 34

1 questions here.  
 2 THE REPORTER: All right. In that  
 3 case, once again, I will go through transcripts real  
 4 quick. Mr. Zimmerly, you ordering?  
 5 MR. ZIMMERLY: Yes, condensed E-tran.  
 6 THE REPORTER: Now, Mr. Falk?  
 7 MR. ZIMMERLY: Ken, did you have that  
 8 shirt on before? I like that sweater.  
 9 MR. ZIMMERLY: No, I actually -- it's  
 10 got -- I don't want to insult you, but it's gotten  
 11 kind of draggy. So I've been changing outfits.  
 12 I got cold. It's great getting old. I  
 13 just got cold; so I have a sweater.  
 14 MR. FALK: Same thing with the  
 15 transcript for us.  
 16 THE REPORTER: Exhibit, once again,  
 17 provide it to the court reporter, Exhibit 13?  
 18 MR. ZIMMERLY: Yeah.  
 19 THE REPORTER: Okay.  
 20 MS. BENSBERG: We will review and sign  
 21 THE REPORTER: What did you say?  
 22 MS. BENSBERG: Oh, that we will review  
 23 and sign.  
 24 THE REPORTER: Okay. In that case,  
 25 we're now off the record at 3:05 p.m.

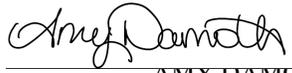
Page 35

1 (Signature reserved.)  
 2 (Whereupon, at 3:05 p.m., the  
 3 proceeding was concluded.)  
 4  
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Page 36

1 CERTIFICATE OF DEPOSITION OFFICER  
 2 I, ANDREW PRONSCHINSKE, the officer before  
 3 whom the foregoing proceedings were taken, do hereby  
 4 certify that any witness(es) in the foregoing  
 5 proceedings, prior to testifying, were duly sworn;  
 6 that the proceedings were recorded by me and  
 7 thereafter reduced to typewriting by a qualified  
 8 transcriptionist; that said digital audio recording of  
 9 said proceedings are a true and accurate record to the  
 10 best of my knowledge, skills, and ability; that I am  
 11 neither counsel for, related to, nor employed by any  
 12 of the parties to the action in which this was taken;  
 13 and, further, that I am not a relative or employee of  
 14 any counsel or attorney employed by the parties  
 15 hereto, nor financially interested in the  
 16 outcome of this action.   
 17 ANDREW PRONSCHINSKE  
 18 Notary Public in and for the  
 19 State of Indiana  
 20  
 21  Review of the transcript was requested.  
 22  
 23  
 24  
 25

Page 37

1 CERTIFICATE OF TRANSCRIBER  
 2 I, AMY DAMOTH, do hereby certify that this  
 3 transcript was prepared from the digital audio  
 4 recording of the foregoing proceeding, that said  
 5 transcript is a true and accurate record of the  
 6 proceedings to the best of my knowledge, skills, and  
 7 ability; that I am neither counsel for, related to,  
 8 nor employed by any of the parties to the action in  
 9 which this was taken; and, further, that I am not a  
 10 relative or employee of any counsel or attorney  
 11 employed by the parties hereto, nor financially or  
 12 otherwise interested in the outcome of this action.  
 13  
 14  
 15   
 16 AMY DAMOTH  
 17  
 18  
 19  
 20  
 21  
 22  
 23  
 24  
 25

Page 38

1 Veritext Legal Solutions  
 2 1100 Superior Ave  
 3 Suite 1820  
 4 Cleveland, Ohio 44114  
 5 Phone: 216-523-1313  
 6  
 7 December 30, 2021  
 8  
 9 To: Mr. Falk  
 10  
 11 Case Name: B.E. And S.E., Et Al. v. Vigo County School Corporation, Et  
 12 Al.  
 13 Veritext Reference Number: 4992729  
 14 Witness: S.E. Deposition Date: 12/21/2021  
 15  
 16 Dear Sir/Madam:  
 17  
 18 Enclosed please find a deposition transcript. Please have the witness  
 19 review the transcript and note any changes or corrections on the  
 20 included errata sheet, indicating the page, line number, change, and  
 21 the reason for the change. Have the witness' signature notarized and  
 22 forward the completed page(s) back to us at the Production address  
 23 shown  
 24 above, or email to production-midwest@veritext.com.  
 25  
 26 If the errata is not returned within thirty days of your receipt of  
 27 this letter, the reading and signing will be deemed waived.  
 28  
 29 Sincerely,  
 30  
 31 Production Department  
 32  
 33  
 34  
 35 NO NOTARY REQUIRED IN CA

Page 39

1 DEPOSITION REVIEW  
 2 CERTIFICATION OF WITNESS  
 3  
 4 ASSIGNMENT REFERENCE NO: 4992729  
 5 CASE NAME: B.E. And S.E., Et Al. v. Vigo County School  
 6 Corporation, Et Al.  
 7 DATE OF DEPOSITION: 12/21/2021  
 8 WITNESS' NAME: S.E.  
 9 In accordance with the Rules of Civil  
 10 Procedure, I have read the entire transcript of  
 11 my testimony or it has been read to me.  
 12 I have made no changes to the testimony  
 13 as transcribed by the court reporter.  
 14  
 15 \_\_\_\_\_  
 16 Date S.E.  
 17 Sworn to and subscribed before me, a  
 18 Notary Public in and for the State and County,  
 19 the referenced witness did personally appear  
 20 and acknowledge that:  
 21  
 22 They have read the transcript;  
 23 They signed the foregoing Sworn  
 24 Statement; and  
 25 Their execution of this Statement is of  
 26 their free act and deed.  
 27  
 28 I have affixed my name and official seal  
 29 this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.  
 30  
 31 \_\_\_\_\_  
 32 Notary Public  
 33 \_\_\_\_\_  
 34 Commission Expiration Date  
 35

Page 40

1 DEPOSITION REVIEW  
 2 CERTIFICATION OF WITNESS  
 3  
 4 ASSIGNMENT REFERENCE NO: 4992729  
 5 CASE NAME: B.E. And S.E., Et Al. v. Vigo County School  
 6 Corporation, Et Al.  
 7 DATE OF DEPOSITION: 12/21/2021  
 8 WITNESS' NAME: S.E.  
 9 In accordance with the Rules of Civil  
 10 Procedure, I have read the entire transcript of  
 11 my testimony or it has been read to me.  
 12 I have listed my changes on the attached  
 13 Errata Sheet, listing page and line numbers as  
 14 well as the reason(s) for the change(s).  
 15 I request that these changes be entered  
 16 as part of the record of my testimony.  
 17  
 18 I have executed the Errata Sheet, as well  
 19 as this Certificate, and request and authorize  
 20 that both be appended to the transcript of my  
 21 testimony and be incorporated therein.  
 22  
 23 \_\_\_\_\_  
 24 Date S.E.  
 25 Sworn to and subscribed before me, a  
 26 Notary Public in and for the State and County,  
 27 the referenced witness did personally appear  
 28 and acknowledge that:  
 29 They have read the transcript;  
 30 They have listed all of their corrections  
 31 in the appended Errata Sheet;  
 32 They signed the foregoing Sworn  
 33 Statement; and  
 34 Their execution of this Statement is of  
 35 their free act and deed.  
 36 I have affixed my name and official seal  
 37 this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.  
 38  
 39 \_\_\_\_\_  
 40 Notary Public  
 41  
 42 \_\_\_\_\_  
 43 Commission Expiration Date

Page 41

1 ERRATA SHEET  
 2 VERITEXT LEGAL SOLUTIONS MIDWEST  
 3 ASSIGNMENT NO: 4992729  
 4 PAGE/LINE(S) / CHANGE /REASON  
 5 \_\_\_\_\_  
 6 \_\_\_\_\_  
 7 \_\_\_\_\_  
 8 \_\_\_\_\_  
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 18 \_\_\_\_\_  
 19 \_\_\_\_\_  
 20 \_\_\_\_\_  
 21 Date S.E.  
 22 SUBSCRIBED AND SWORN TO BEFORE ME THIS \_\_\_\_\_  
 23 DAY OF \_\_\_\_\_, 20\_\_\_\_.  
 24  
 25 \_\_\_\_\_  
 26 Notary Public  
 27  
 28 \_\_\_\_\_  
 29 Commission Expiration Date

<b>&amp;</b>	<b>300</b> 2:5	<b>accommodation</b> 15:5,8,10	<b>answered</b> 20:18
<b>&amp;</b> 2:20	<b>317</b> 2:8,16,24	<b>accurate</b> 5:20,24 36:9 37:5	<b>anxiety</b> 16:1
<b>0</b>	<b>32</b> 3:4	<b>acknowledge</b> 39:11 40:16	<b>appear</b> 39:11 40:15
<b>00415</b> 1:10	<b>33</b> 23:10	<b>acknowledgeme...</b> 4:11	<b>appended</b> 40:11 40:18
<b>1</b>	<b>35</b> 23:18	<b>aclu</b> 2:12,15	<b>asked</b> 6:7,11 10:11 13:25 20:17 23:25 24:12,18,22 26:4
<b>1</b> 11:1	<b>37</b> 25:3	<b>act</b> 11:15 39:14 40:20	<b>asking</b> 16:3
<b>10</b> 13:2,14	<b>38</b> 29:24	<b>acted</b> 11:9,10,12 11:14	<b>assigned</b> 4:3
<b>1031</b> 2:13	<b>3:01</b> 31:23	<b>action</b> 36:12,16 37:8,12	<b>assignment</b> 39:2 40:2 41:2
<b>11</b> 8:23 9:8,11 11:2	<b>3:05</b> 34:25 35:2	<b>activities</b> 7:7	<b>attached</b> 40:7
<b>1100</b> 38:1	<b>4</b>	<b>activity</b> 25:9,25 26:3,5	<b>attendance</b> 4:15
<b>111</b> 2:21	<b>4</b> 8:14	<b>actual</b> 26:1,4	<b>attorney</b> 5:12 32:4 36:14 37:10
<b>12</b> 7:20 13:21	<b>44114</b> 38:2	<b>address</b> 23:12,15 38:16	<b>audio</b> 36:8 37:3
<b>12/21/2021</b> 38:9 39:3 40:3	<b>46202</b> 2:14	<b>administer</b> 4:11	<b>august</b> 22:21
<b>1200</b> 2:5	<b>46204</b> 1:21 2:22	<b>advised</b> 15:4	<b>aunt</b> 9:13,21 10:4 10:13
<b>13</b> 3:8 7:21,22,23 7:24 13:3 34:17	<b>46225</b> 2:6	<b>affect</b> 6:2	<b>aunt's</b> 9:24
<b>18</b> 15:19,20 32:18	<b>4992729</b> 1:23 38:8 39:2 40:2 41:2	<b>affixed</b> 39:15 40:21	<b>authorize</b> 40:11
<b>1820</b> 38:2	<b>5</b>	<b>afternoon</b> 4:2 5:11	<b>authorized</b> 4:10
<b>19</b> 16:21	<b>5</b> 3:3 9:7,8 11:1	<b>agree</b> 4:12	<b>ave</b> 38:1
<b>1:59</b> 1:19 4:5	<b>6</b>	<b>al</b> 4:7,8 38:6,7 39:3,3 40:3,3	<b>avenue</b> 2:5
<b>2</b>	<b>631-9410</b> 2:8	<b>alcohol</b> 6:2	<b>average</b> 20:13
<b>20</b> 39:16 40:22 41:22	<b>635-4059</b> 2:16	<b>alternatives</b> 17:22 17:25	<b>avoiding</b> 18:8
<b>2021</b> 1:18 4:8 20:9 38:4	<b>684-5000</b> 2:24	<b>amy</b> 37:2,15	<b>b</b>
<b>21</b> 1:18 4:8 17:20	<b>7</b>	<b>anatomy</b> 30:25	<b>b</b> 3:6
<b>216-523-1313</b> 38:3	<b>7</b> 3:8 29:24	<b>andrew</b> 1:22 4:3 36:2,17	<b>b.e.</b> 1:5 2:2,10 4:7 9:13,16 10:4,11,12 10:15,17,21 14:8 14:18 24:1 28:1 38:6 39:3 40:3
<b>26567</b> 37:14	<b>8</b>	<b>answer</b> 6:6,12	<b>b.e.'s</b> 9:19 24:3
<b>27</b> 18:7	<b>8</b> 11:25		<b>baby</b> 18:11
<b>2700</b> 2:21	<b>a</b>		<b>back</b> 18:20 23:9 31:22 38:16
<b>27071</b> 36:16	<b>ability</b> 36:10 37:7		<b>bad</b> 33:17,19,20 33:20
<b>2:21</b> 1:10	<b>able</b> 15:7 22:1,5 31:5 33:13,17		
<b>2:49</b> 31:20	<b>accept</b> 30:5		
<b>3</b>	<b>accident</b> 19:4,7,10 19:15,25 20:6,8,11 20:12,16,23		
<b>3</b> 32:18	<b>accidents</b> 18:8,15 18:22 19:19 20:13 20:19,24 32:7,8,9		
<b>30</b> 38:4			

[basically - day]

Page 2

<p><b>basically</b> 16:16 27:8</p> <p><b>basis</b> 21:8</p> <p><b>basketball</b> 26:6</p> <p><b>bathroom</b> 13:5,18 13:23 14:1,4 17:21 18:9 21:11 33:10,18</p> <p><b>bathrooms</b> 13:4,8 13:11,14 17:21,24</p> <p><b>began</b> 8:17 9:9 10:23 11:3,6 12:1 24:4</p> <p><b>beginning</b> 4:16 11:25 13:4 15:15 15:20</p> <p><b>behalf</b> 2:2,10,18 4:21,23</p> <p><b>believe</b> 6:20 17:10 23:25 24:3 26:6 26:22 30:20</p> <p><b>bensberg</b> 2:3 3:4 4:18,18 7:21 20:2 20:17 31:14,18 32:2,4 33:23 34:20,22</p> <p><b>best</b> 36:10 37:6</p> <p><b>better</b> 16:12</p> <p><b>biological</b> 30:21 30:25</p> <p><b>birth</b> 23:19 25:5,7 25:14,21 30:3</p> <p><b>bit</b> 6:15</p> <p><b>body</b> 17:18</p> <p><b>born</b> 8:15 9:6 30:25</p> <p><b>bose</b> 2:20</p> <p><b>boselaw.com</b> 2:23</p> <p><b>boy</b> 8:16,21 9:3,9 9:10,12 10:24 11:3,4,7,8,10 13:6</p>	<p>15:21 16:5,9,14 26:24 27:2,10,12 30:1,21,25 32:16 32:19,25 33:8</p> <p><b>boys</b> 13:4,7,10,14 13:17,23 14:4 17:22 28:18,19 29:14,17 33:10,14 33:18</p> <p><b>break</b> 6:9,13</p> <p><b>briefly</b> 5:18</p> <p><b>brother</b> 9:13,15 14:1</p> <p><b>bullied</b> 26:7,9</p> <p><b>bully</b> 26:17</p> <p><b>bullying</b> 27:6</p> <hr/> <p style="text-align: center;"><b>c</b></p> <hr/> <p><b>c</b> 2:1 4:1</p> <p><b>ca</b> 38:25</p> <p><b>call</b> 24:19 31:5</p> <p><b>called</b> 5:5 13:25 25:5 30:4</p> <p><b>calling</b> 25:14</p> <p><b>capacity</b> 1:13</p> <p><b>case</b> 1:9 31:5 34:3 34:24 38:6 39:3 40:3</p> <p><b>causes</b> 16:1</p> <p><b>caveat</b> 6:11</p> <p><b>certificate</b> 36:1 37:1 40:11</p> <p><b>certification</b> 39:1 40:1</p> <p><b>certify</b> 36:4 37:2</p> <p><b>change</b> 19:11 28:3 28:5,8,9,10,20,23 28:25 29:3,6 38:14,15 40:8 41:3</p> <p><b>changed</b> 28:13,19 29:9,10,13,16,20</p>	<p><b>changes</b> 38:13 39:7 40:7,9</p> <p><b>changing</b> 28:6 34:11</p> <p><b>children</b> 1:5</p> <p><b>children's</b> 16:22</p> <p><b>chosen</b> 24:16</p> <p><b>circle</b> 2:21 30:8</p> <p><b>civil</b> 39:5 40:5</p> <p><b>class</b> 15:5,6,14,15 24:1 25:5,8,9,15 25:18,22,25 26:3 28:13 29:3,4,6,9 29:10,14,17,21 30:4</p> <p><b>classes</b> 18:3</p> <p><b>classmates</b> 12:17 30:1,2</p> <p><b>clear</b> 7:23</p> <p><b>cleveland</b> 38:2</p> <p><b>clothes</b> 11:8,10 19:11</p> <p><b>club</b> 7:11</p> <p><b>cold</b> 34:12,13</p> <p><b>come</b> 9:4 13:25 24:25</p> <p><b>comfortable</b> 13:5 17:18 23:3,5,7,8</p> <p><b>coming</b> 8:24 10:17</p> <p><b>comments</b> 26:25 27:3,14</p> <p><b>commission</b> 39:19 40:25 41:25</p> <p><b>committee</b> 7:11</p> <p><b>completed</b> 38:16</p> <p><b>complied</b> 25:1</p> <p><b>conclude</b> 31:14</p> <p><b>concluded</b> 35:3</p> <p><b>condensed</b> 34:5</p> <p><b>confer</b> 31:16</p>	<p><b>consistently</b> 15:11 15:16</p> <p><b>continue</b> 25:20</p> <p><b>continuing</b> 13:13</p> <p><b>conveniently</b> 13:16</p> <p><b>corporation</b> 1:10 2:18 4:8,22 5:13 38:6 39:3 40:3</p> <p><b>correct</b> 13:5</p> <p><b>corrected</b> 24:4,10</p> <p><b>corrections</b> 38:13 40:17</p> <p><b>correctly</b> 23:13</p> <p><b>counsel</b> 3:10 7:21 31:16 36:11,14 37:7,10</p> <p><b>county</b> 1:10 2:18 4:7,21 5:12 38:6 39:3,10 40:3,15</p> <p><b>couple</b> 5:17 27:18 32:4</p> <p><b>course</b> 33:3</p> <p><b>court</b> 1:1 34:17 39:7</p> <p><b>crazy</b> 11:18,23</p> <p><b>creek</b> 6:17</p> <p><b>current</b> 22:10 30:20</p> <p><b>currently</b> 6:25</p> <p><b>cut</b> 11:8</p> <p><b>cv</b> 1:10</p> <hr/> <p style="text-align: center;"><b>d</b></p> <hr/> <p><b>d</b> 3:1 4:1</p> <p><b>daily</b> 21:8</p> <p><b>damoth</b> 37:2,15</p> <p><b>date</b> 1:18 38:9 39:3,9,19 40:3,13 40:25 41:20,25</p> <p><b>day</b> 21:11 22:7,8 26:2 39:16 40:22</p>
---	---	--	--

<p>41:22  <b>days</b> 38:19  <b>dead</b> 26:19  <b>deal</b> 19:6  <b>dear</b> 38:10  <b>december</b> 1:18 4:8  38:4  <b>declaration</b> 3:8  7:19 8:13 13:2  15:19 16:21 23:9  25:3 29:24 32:15  <b>deed</b> 39:14 40:20  <b>deemed</b> 38:20  <b>defendant</b> 2:18  4:21  <b>defendants</b> 1:14  <b>department</b> 38:22  <b>deposition</b> 1:16  4:6 5:15 36:1 38:9  38:12 39:1,3 40:1  40:3  <b>depressed</b> 16:2  <b>description</b> 3:7  <b>designated</b> 8:15  <b>diagnosed</b> 16:23  17:7  <b>diagnosis</b> 16:25  17:4  <b>different</b> 9:5,17,22  10:7 20:21 24:8  26:2 30:10,12  <b>differently</b> 24:22  <b>difficult</b> 15:25  <b>digital</b> 36:8 37:3  <b>direction</b> 24:15  <b>discomfort</b> 8:18  <b>discovery</b> 31:8  <b>district</b> 1:1,2  <b>division</b> 1:3  <b>doctor</b> 16:8 17:7</p>	<p><b>document</b> 8:2  <b>door</b> 22:3,6  <b>draggy</b> 34:11  <b>drugs</b> 6:1  <b>duly</b> 5:5 36:5  <b>dysphoria</b> 16:24  17:1,8,17</p> <hr/> <p style="text-align: center;"><b>e</b></p> <hr/> <p><b>e</b> 2:1,1 3:1,6 4:1,1  34:5  <b>early</b> 15:5  <b>east</b> 2:13  <b>elementary</b> 6:16  6:19 8:16,20 9:3  12:1,6,9,13 13:7  18:20 30:10,15  <b>email</b> 38:17  <b>emotionally</b> 15:25  <b>employed</b> 36:11  36:14 37:8,11  <b>employee</b> 13:22  14:3 36:13 37:10  <b>enclosed</b> 38:12  <b>entered</b> 40:9  <b>entire</b> 39:5 40:5  <b>errata</b> 38:14,19  40:7,10,18 41:1  <b>es</b> 36:4  <b>esquire</b> 2:3,11,19  <b>estimate</b> 19:1,1  <b>et</b> 4:7,8 38:6,6  39:3,3 40:3,3  <b>evans</b> 2:20  <b>exactly</b> 12:20 17:5  18:24 19:16 23:2  <b>examination</b> 3:2  5:9 32:1  <b>examined</b> 5:7  <b>executed</b> 40:10  <b>execution</b> 39:14  40:19</p>	<p><b>exhibit</b> 3:8 7:20,21  7:22,23,24 13:3  34:16,17  <b>exhibits</b> 3:10  <b>expedited</b> 31:8  <b>expiration</b> 39:19  40:25 41:25  <b>extracurricular</b>  7:7  <b>extracurriculars</b>  7:9,16  <b>extremely</b> 15:22  16:5,9,14</p> <hr/> <p style="text-align: center;"><b>f</b></p> <hr/> <p><b>facilities</b> 17:23  <b>fair</b> 6:7,13 16:19  20:16  <b>falk</b> 2:11 4:23,23  34:6,14 38:5  <b>family</b> 9:9 11:3  <b>far</b> 18:2  <b>feel</b> 6:10 8:17  16:12 17:18,19  23:7  <b>feels</b> 10:21  <b>felt</b> 9:22 10:7 23:2  23:4,8  <b>female</b> 8:15 14:16  23:20 25:8,21  27:11 28:17  <b>financially</b> 36:15  37:11  <b>find</b> 38:12  <b>finding</b> 30:5  <b>fine</b> 31:17  <b>first</b> 5:5 8:12 9:14  10:14,15 16:4  23:10  <b>five</b> 31:15  <b>followed</b> 24:15</p>	<p><b>follows</b> 5:7  <b>foregoing</b> 36:3,4  37:4 39:13 40:18  <b>forgot</b> 6:22  <b>form</b> 20:3  <b>forward</b> 38:16  <b>found</b> 30:2  <b>free</b> 6:10 39:14  40:20  <b>freshman</b> 6:25  13:4  <b>fridays</b> 28:3,6  <b>friend</b> 1:7  <b>friends</b> 29:25 30:7  30:8,9,10,13,16,20  30:24  <b>friendships</b> 30:6  <b>further</b> 33:25  36:13 37:9</p> <hr/> <p style="text-align: center;"><b>g</b></p> <hr/> <p><b>g</b> 4:1  <b>gastrointestinal</b>  18:11  <b>gender</b> 12:2 16:23  17:1,7,17  <b>general</b> 20:13  <b>getting</b> 18:9 30:3  34:12  <b>gi</b> 33:4  <b>girl</b> 8:18 25:6,16  26:23  <b>girls</b> 14:24 17:20  17:24 25:9,25  26:5 29:14,17  <b>give</b> 14:15  <b>given</b> 5:14 31:7  <b>go</b> 5:17 6:16,18,23  15:6,14 16:2 21:4  26:19 33:10 34:3  <b>going</b> 5:17 6:5  7:18 13:21 14:7</p>
---	--	--	---

[going - middle]

Page 4

20:2 24:21,21 32:7 <b>good</b> 4:2 5:11 <b>gotten</b> 8:19 34:10 <b>great</b> 34:12 <b>ground</b> 5:18 <b>group</b> 30:14,20,23 <b>guardian</b> 1:6 <b>guy</b> 9:18,23 10:7 10:21,21 11:14,16 17:19 <b>gym</b> 23:21,22,23 24:1,10,11,12 25:19 26:1,4 29:3 29:3,6,9,10,13,16 29:21	18:22,23 19:20 26:10 30:8,14 <b>hold</b> 32:23 <b>holidays</b> 31:12 <b>hope</b> 31:11 <b>hospital</b> 16:23	<b>intestines</b> 32:22 <b>involved</b> 7:6,10,15 20:15 27:23 <b>issues</b> 18:8,11 33:5 33:21	<b>listed</b> 40:7,17 <b>listing</b> 40:7 <b>little</b> 6:15 <b>live</b> 9:10 10:23 11:4,6 <b>llp</b> 2:20 <b>located</b> 13:16 <b>location</b> 1:20 <b>locked</b> 21:15,21,24 <b>locker</b> 28:25 29:20 <b>lose</b> 30:6 <b>lost</b> 6:17 <b>lot</b> 18:18 32:6
<b>h</b>	<b>i</b>	<b>j</b>	<b>m</b>
<b>h</b> 3:6 <b>hair</b> 11:8 <b>haircut</b> 11:10 <b>hand</b> 5:2 <b>happen</b> 25:18 <b>happened</b> 23:20 24:7,10 <b>happening</b> 19:23 <b>happy</b> 31:12,12 <b>haute</b> 1:3,11 <b>health</b> 15:23 16:6 16:6,10,14,18,19 16:22 17:21,25 18:2,9 21:4,8,11 21:14 22:2,5 28:10,14 29:7,10 32:17,20 33:13,17 <b>hearing</b> 4:25 <b>hello</b> 32:3 <b>help</b> 33:1 <b>hereto</b> 36:15 37:11 <b>hey</b> 17:7 <b>high</b> 1:12 7:1,3,15 13:18 18:14,20,21	<b>identification</b> 7:25 <b>identify</b> 4:15 <b>ils.net</b> 2:7 <b>impacted</b> 33:13 <b>importance</b> 32:16 <b>important</b> 15:22 16:9,14 32:20 33:7 <b>in.org</b> 2:15 <b>included</b> 38:14 <b>incorporated</b> 40:12 <b>increased</b> 8:18 <b>indiana</b> 1:2 2:4,12 4:11 36:19 <b>indianapolis</b> 1:21 2:6,14,22 <b>indicating</b> 38:14 <b>individual</b> 13:15 13:18 28:20,22 <b>individuals</b> 27:6 <b>influence</b> 6:1 <b>information</b> 10:12 10:18 14:23 17:8 17:12 31:6 <b>initial</b> 8:10 <b>initials</b> 8:8 <b>injunction</b> 31:7 <b>insist</b> 23:19 <b>instances</b> 24:14 <b>insult</b> 34:10 <b>interested</b> 36:15 37:12	<b>job</b> 1:23 <b>jrs</b> 1:10 <b>k</b> <b>kathleen</b> 2:3 4:18 32:4 <b>kathleen.bensberg</b> 2:7 <b>ken</b> 4:23 34:7 <b>kenneth</b> 2:11 <b>kfalk</b> 2:15 <b>kids</b> 18:4 27:9 <b>kind</b> 9:25 10:1 34:11 <b>knew</b> 9:5,25 <b>know</b> 6:10 10:14 16:15,25 17:3,11 18:4 29:18,19 30:4,8,18,18 31:8 32:3,9,11,11 <b>knowledge</b> 36:10 37:6 <b>known</b> 12:4 30:1 <b>l</b> <b>l.e.</b> 1:7 2:2,10 4:13 <b>lazy</b> 11:17,19,20 11:23,24 <b>leave</b> 15:5 <b>legal</b> 1:6 2:4 22:10 38:1 41:1 <b>length</b> 33:4 <b>letter</b> 38:20 <b>limited</b> 31:6 <b>line</b> 38:14 40:7 41:3	<b>marked</b> 7:19,24 <b>matter</b> 4:7 <b>mckinney</b> 2:20 <b>mean</b> 9:3 10:24 11:7,7,12,15 16:11 17:5 18:19 20:3 26:8 28:7 <b>medical</b> 17:16 18:8 <b>medication</b> 6:2 <b>meet</b> 5:14 31:11 33:8 <b>meeting</b> 14:1,7,14 14:18,20 <b>mental</b> 15:22 16:6 16:10,19 32:16 <b>mg</b> 1:10 <b>middle</b> 6:23 7:6 12:4,15,15,22

<p>13:10 15:6,14 26:11 30:9,15,17 <b>midwest</b> 38:17 41:1 <b>mind</b> 7:20 <b>minor</b> 1:5 <b>minutes</b> 31:15 <b>mischaracterizes</b> 20:18 <b>mom</b> 9:13 10:6,13 32:8 <b>mom's</b> 10:9 <b>monument</b> 2:21 <b>morning</b> 21:18 <b>mother</b> 1:6 10:3 13:25 14:8,20 <b>mother's</b> 12:3 <b>mouth</b> 11:23 <b>move</b> 9:7 <b>multiple</b> 21:10</p>	<p><b>notarized</b> 38:15 <b>notary</b> 1:22 4:10 36:18 38:25 39:10 39:18 40:15,23 41:23 <b>note</b> 38:13 <b>noticed</b> 13:22 <b>noticing</b> 14:3 <b>november</b> 20:9 <b>number</b> 20:19 38:8,14 <b>numbers</b> 40:7 <b>nurse's</b> 14:16,23</p>	<p><b>okay</b> 6:18,25 7:18 8:12 9:7,8,20 10:1 10:10,11 11:15,25 12:11 13:2 14:17 15:4 16:17 17:14 23:9 26:3 27:13 27:23 28:9 30:13 31:18,19 32:14,24 33:12,20,23,25 34:19,24 <b>old</b> 8:21,23 9:9,11 11:3 34:12 <b>older</b> 8:19 <b>once</b> 34:3,16 <b>option</b> 14:16 <b>ordering</b> 34:4 <b>outcasts</b> 18:3 <b>outcome</b> 36:16 37:12 <b>outfits</b> 34:11 <b>outlined</b> 4:12</p>	<p><b>participate</b> 25:9 25:24 27:6 <b>parties</b> 4:12 36:12 36:14 37:8,11 <b>peers</b> 30:4 <b>people</b> 10:14 22:25 26:11,13 <b>personally</b> 39:11 40:15 <b>perspective</b> 16:8 16:13 <b>pertaining</b> 14:10 <b>phil</b> 4:20 5:12 <b>philip</b> 2:19 <b>phone</b> 38:3 <b>physical</b> 15:22 16:6,14,17 32:17 32:20 33:13,17 <b>physically</b> 15:24 26:8 <b>plaintiff</b> 4:19 <b>plaintiffs</b> 1:8 2:2 2:10 4:24 <b>please</b> 4:15 5:1 38:12,12 <b>point</b> 6:9 17:6 22:15 23:4 31:7 <b>preliminary</b> 31:7 <b>prepared</b> 37:3 <b>present</b> 9:10 10:23 11:4,6,11 <b>presented</b> 11:13 <b>presume</b> 6:5 <b>previous</b> 4:13 <b>previously</b> 32:6,14 <b>principal</b> 1:11 13:24 14:8 <b>prior</b> 36:5 <b>procedure</b> 39:5 40:5</p>
<p><b>n</b></p>	<p><b>o</b></p>	<p><b>p</b></p>	
<p><b>n</b> 2:1 3:1 4:1 <b>name</b> 4:2 5:11 6:22 12:2,12,17 22:11 23:19 24:16 25:5,7,14,21 26:19 30:3 38:6 39:3,4 39:15 40:3,4,21 <b>names</b> 12:6 24:5 24:12 26:20 <b>need</b> 6:9 31:9 32:22 33:6 <b>needed</b> 15:5 <b>needing</b> 32:24 <b>needs</b> 33:8 <b>neither</b> 36:11 37:7 <b>never</b> 30:4 <b>new</b> 30:15 31:12 <b>nice</b> 5:14 31:11 <b>north</b> 1:11 7:3</p>	<p><b>o</b> 4:1 <b>oath</b> 5:19 <b>oaths</b> 4:11 <b>object</b> 20:2 <b>objection</b> 5:1 20:17 <b>obligation</b> 5:19 <b>occasion</b> 21:14 24:25 <b>occasions</b> 13:17 15:13 18:14 24:18 <b>occur</b> 27:17 <b>occurred</b> 18:17 20:15 21:17 27:20 <b>occurs</b> 19:7 <b>office</b> 14:16,23 17:21,25 18:9 21:4,8,11,14 22:2 22:5 28:11,14 29:7,10 <b>officer</b> 36:1,2 <b>official</b> 1:13 39:15 40:21 <b>oh</b> 11:20 26:1 34:22 <b>ohio</b> 38:2</p>	<p><b>p</b> 2:1,1 4:1 <b>p.m.</b> 1:19 4:5 31:20,23 34:25 35:2 <b>page</b> 3:2,7 8:5,6,12 10:25 11:1 29:24 32:18 38:14,16 40:7 41:3 <b>pants</b> 20:25 <b>paragraph</b> 8:14 9:7,8 10:22,25 11:1,25 13:2,13,14 13:21 15:19,20 16:21 17:20 18:7 23:10,10,18 25:3 25:10 29:24 32:15 32:18 <b>part</b> 11:1 23:10 40:9</p>	

[proceed - school]

Page 6

<p><b>proceed</b> 5:8</p> <p><b>proceeding</b> 1:20 4:4 35:3 37:4</p> <p><b>proceedings</b> 36:3 36:5,6,9 37:6</p> <p><b>production</b> 38:16 38:17,22</p> <p><b>professional</b> 17:16</p> <p><b>professionals</b> 16:22</p> <p><b>program</b> 27:23</p> <p><b>pronoun</b> 22:16,19 22:25 23:5</p> <p><b>pronouns</b> 12:2,6 12:12,17 22:13 23:20 24:6,11,16 24:20 25:8,21</p> <p><b>pronschinske</b> 1:22 4:3 36:2,17</p> <p><b>properly</b> 23:16</p> <p><b>provide</b> 5:20,24 34:17</p> <p><b>provided</b> 15:8,11</p> <p><b>psychiatrist</b> 16:8 17:15</p> <p><b>psychologist</b> 16:7 17:16</p> <p><b>public</b> 1:22 36:18 39:10,18 40:15,23 41:23</p> <p><b>pulling</b> 7:20</p> <p><b>put</b> 11:22</p> <p><b>pzimmerly</b> 2:23</p>	<p><b>quick</b> 32:5 34:4</p> <p><b>quickly</b> 18:9</p> <p style="text-align: center;"><b>r</b></p> <p><b>r</b> 2:1 4:1</p> <p><b>raise</b> 5:2</p> <p><b>read</b> 39:5,6,12 40:5,6,17</p> <p><b>reading</b> 38:20</p> <p><b>real</b> 34:3</p> <p><b>realization</b> 8:22 8:25 9:4</p> <p><b>realized</b> 8:16,20 9:2</p> <p><b>really</b> 10:16 12:10 19:13 25:6,16 31:11</p> <p><b>reason</b> 5:23 33:12 33:16 38:15 40:8 41:3</p> <p><b>reasons</b> 32:19</p> <p><b>recall</b> 10:13,17 12:5,11,25 14:3,7 14:17,22 19:14,18 19:22,25 20:8,11 20:13,14,23 21:1 25:11,13</p> <p><b>receipt</b> 38:19</p> <p><b>received</b> 17:3</p> <p><b>recognizing</b> 17:15</p> <p><b>recollection</b> 12:21 24:8</p> <p><b>record</b> 4:4,5,15 7:23 31:20,21,23 34:25 36:9 37:5 40:9</p> <p><b>recorded</b> 36:6</p> <p><b>recording</b> 36:8 37:4</p> <p><b>reduced</b> 36:7</p> <p><b>refer</b> 24:21,22</p>	<p><b>reference</b> 18:7 38:8 39:2 40:2</p> <p><b>referenced</b> 39:11 40:15</p> <p><b>referring</b> 12:12 25:10</p> <p><b>reflect</b> 12:2</p> <p><b>regard</b> 16:17,19</p> <p><b>regular</b> 23:11,14</p> <p><b>related</b> 36:11 37:7</p> <p><b>relative</b> 36:13 37:10</p> <p><b>remember</b> 6:21 8:24 10:20 14:13 14:14 15:2</p> <p><b>remote</b> 1:20</p> <p><b>repeat</b> 15:12 19:8 19:24 22:4 24:17 25:12 29:8,15 30:22 33:2,15</p> <p><b>rephrase</b> 33:3</p> <p><b>reported</b> 1:22</p> <p><b>reporter</b> 4:2,3,25 5:8 31:19,22 34:2 34:6,16,17,19,21 34:24 39:7</p> <p><b>request</b> 12:3,5,8 12:16,22 25:1 40:9,11</p> <p><b>requested</b> 36:21</p> <p><b>required</b> 38:25</p> <p><b>reserve</b> 31:4</p> <p><b>reserved</b> 35:1</p> <p><b>response</b> 9:19,24 10:9 14:22,25 16:18 19:11 21:23</p> <p><b>rest</b> 25:8,21</p> <p><b>restate</b> 9:1</p> <p><b>restroom</b> 14:11,24 14:24 15:6,14,16 21:5,8,21 22:1,2,6</p>	<p>28:19,23 29:11,14 29:14,17,17 32:22 32:25 33:7</p> <p><b>restrooms</b> 28:14 28:16,17</p> <p><b>retained</b> 3:10</p> <p><b>returned</b> 38:19</p> <p><b>review</b> 34:20,22 36:21 38:13 39:1 40:1</p> <p><b>right</b> 5:2,11 18:6 31:4 34:2</p> <p><b>riley</b> 16:22</p> <p><b>room</b> 18:2</p> <p><b>rooms</b> 29:1,20</p> <p><b>rotc</b> 7:17 27:23 28:5,9,13,25</p> <p><b>rules</b> 5:18 39:5 40:5</p> <p style="text-align: center;"><b>s</b></p> <p><b>s</b> 2:1 3:6 4:1 38:16 40:8,8 41:3</p> <p><b>s.e.</b> 1:5,17 2:2,10 4:6,7,17,17,19 5:4 5:11 8:2,8 22:11 24:19 31:10 32:3 38:6,9 39:3,4,9 40:3,4,13 41:20</p> <p><b>says</b> 9:8 15:21</p> <p><b>school</b> 1:10,12 2:18 4:8,21 5:13 6:15,16,21,23 7:1 7:3,6,15 8:16,21 9:3 12:1,4,6,9,13 12:15,16,22 13:7 13:10,15,16,18,22 13:25 14:3 15:21 15:25 16:2,5 18:14,20,20,21,22 18:23 19:15,20,20 19:25 20:6,8</p>
<p style="text-align: center;"><b>q</b></p> <p><b>qualified</b> 36:7</p> <p><b>question</b> 6:6,6,7 6:12,12 11:5 32:8 32:14</p> <p><b>questions</b> 7:18 31:4 32:5 34:1</p>			

<p>21:18,19 26:7,10 26:12 27:13 28:8 28:10 30:8,10,14 30:15,17 31:12 32:20 33:1 38:6 39:3 40:3 <b>schools</b> 6:18 <b>seal</b> 39:15 40:21 <b>second</b> 11:1 <b>see</b> 8:6 16:22 <b>seen</b> 8:2 <b>sentence</b> 15:20 16:4 <b>service</b> 7:11 <b>services</b> 2:4 <b>seventh</b> 8:5,6 <b>shared</b> 10:12 17:8 17:11 <b>sharing</b> 10:18 <b>sheet</b> 38:14 40:7 40:10,18 41:1 <b>shirt</b> 34:8 <b>shocked</b> 10:1 <b>shown</b> 38:16 <b>sign</b> 34:20,23 <b>signature</b> 35:1 36:16 37:14 38:15 <b>signed</b> 39:13 40:18 <b>signing</b> 38:20 <b>similar</b> 16:18 <b>sincerely</b> 38:21 <b>sir</b> 38:10 <b>sitting</b> 12:24 <b>situation</b> 19:10 32:21 <b>skills</b> 36:10 37:6 <b>soccer</b> 7:12 <b>solutions</b> 38:1 41:1 <b>somebody</b> 22:2</p>	<p><b>sorry</b> 7:22 <b>sort</b> 7:9 10:11 19:6 26:16 <b>southern</b> 1:2 <b>speak</b> 14:20 <b>speaking</b> 28:1 <b>specifically</b> 16:3 <b>specifics</b> 19:18 20:14,23 21:1 <b>spoke</b> 32:6,15 <b>stalls</b> 13:15,19 28:20,22 <b>state</b> 11:25 13:14 23:18 36:19 39:10 40:15 <b>stated</b> 9:2 <b>statement</b> 8:15 13:3,22 16:3 23:11 25:4 29:25 39:13,14 40:19,19 <b>states</b> 1:1 16:21 17:20 <b>stipulations</b> 4:12 <b>stomach</b> 33:5,21 <b>stop</b> 13:23 14:5 <b>street</b> 2:13 <b>student</b> 26:24 27:2 <b>students</b> 12:1,11 25:5,14 26:14 27:10,11,11,14 28:22,25 29:13,16 <b>subscribed</b> 39:10 40:14 41:21 <b>substitute</b> 23:19 23:23 24:4,14,19 24:20 25:4,7,13,20 25:24 <b>suitable</b> 17:22,25 <b>suite</b> 2:5,21 38:2 <b>superior</b> 38:1</p>	<p><b>supportive</b> 23:12 23:15 <b>sure</b> 9:2 10:16 12:10,14,20 14:6 14:19,21 15:1,13 17:2 18:24 19:9 19:13,16 20:7 22:20 23:2 25:13 27:16,19 29:16 33:3,16 <b>swear</b> 5:1 <b>sweater</b> 34:8,13 <b>sworn</b> 5:5 36:5 39:10,13 40:14,18 41:21</p> <p style="text-align: center;"><b>t</b></p> <p><b>t</b> 3:6 <b>take</b> 4:4,10 6:9,13 31:15 <b>taken</b> 4:6 36:3,12 37:9 <b>talk</b> 6:15 32:24 <b>talked</b> 33:4,4 <b>teacher</b> 23:22,23 24:4,5,11,11,12,19 24:20 25:1,4,14 26:2,4 <b>teachers</b> 12:1,11 12:16 15:16 22:10 23:11,14,19 24:15 <b>team</b> 25:9,25 26:5 <b>tell</b> 5:6 9:11,14,16 9:21 14:13 27:13 <b>telling</b> 14:4 25:15 <b>terre</b> 1:3,11 <b>testified</b> 5:7 20:18 20:22 <b>testifying</b> 36:5 <b>testimony</b> 5:20,24 6:3 20:18 24:3 39:6,7 40:6,9,12</p>	<p><b>thank</b> 4:13,25 5:13 31:10,24 <b>theater</b> 7:11 <b>thing</b> 10:12 27:8 34:14 <b>think</b> 8:23 9:25 10:1 14:6 18:6 19:16 27:24 30:17 32:13 33:23 <b>thirty</b> 38:19 <b>three</b> 18:25 20:5 26:15 31:15 <b>time</b> 1:19 4:14 9:8 11:2 14:25 17:6 18:25 19:14 22:15 23:4 28:2 31:10 <b>times</b> 18:25,25 19:2,3,9 21:11,13 21:20,22 <b>today</b> 5:13,18,24 12:25 31:10 <b>toilets</b> 13:15 <b>told</b> 9:9 10:3,4 11:3 13:23 25:5 27:24 <b>totally</b> 6:10 <b>tran</b> 34:5 <b>transcribed</b> 39:7 <b>transcriber</b> 37:1 <b>transcript</b> 34:15 36:21 37:3,5 38:12,13 39:5,12 40:5,11,17 <b>transcriptionist</b> 36:8 <b>transcripts</b> 34:3 <b>transgender</b> 25:6 25:15 30:3,5 <b>treated</b> 8:18 15:21 16:5,9,13 32:16,19 32:25 33:7</p>
--	---	--	--

[tried - zoom]

Page 8

<b>tried</b> 23:12,15	<b>verification</b> 8:6	<b>x</b>
<b>true</b> 6:3,4 18:12 19:23 23:14 24:7 28:3 36:9 37:5	<b>veritext</b> 4:4 38:1,8 41:1	<b>x</b> 3:1,6 36:21
<b>truth</b> 5:6,6,7	<b>veritext.com.</b> 38:17	<b>y</b>
<b>truthful</b> 5:20,24	<b>vice</b> 13:24 14:8	<b>yeah</b> 6:8,20 10:8 11:11,19,21 12:7 13:1 15:3 21:25 22:9,23 23:3,6,21 23:24 24:13 25:17 25:17 28:4,4 32:10 33:11 34:18
<b>tuesday</b> 1:18	<b>videoconference</b> 1:16 2:3,11,19	<b>year</b> 13:4 22:20,22 23:12 31:12
<b>turn</b> 8:12	<b>vigo</b> 1:10,12 2:18 4:7,21 5:12 7:4 38:6 39:3 40:3	<b>years</b> 9:9,11 11:2
<b>turning</b> 23:9	<b>vs</b> 4:7	<b>z</b>
<b>two</b> 18:25 22:20 26:15 27:5	<b>w</b>	<b>zimmerly</b> 2:19 3:3 4:20,20 5:10,12 7:22 8:1 20:4,20 31:3,17,24 33:25 34:4,5,7,9,18
<b>type</b> 10:18	<b>wait</b> 21:25	<b>zoom</b> 4:9
<b>typewriting</b> 36:7	<b>waived</b> 38:20	
<b>u</b>	<b>want</b> 11:22 16:2 17:23 33:10 34:10	
<b>uncomfortable</b> 8:17 15:24 21:3	<b>wanted</b> 24:5	
<b>understand</b> 5:18 5:21 16:7 18:10	<b>washington</b> 2:13	
<b>understanding</b> 17:14,17 22:24 28:1 30:19,23,24	<b>way</b> 12:25 15:2 18:20 20:21	
<b>understood</b> 6:7	<b>we've</b> 7:19	
<b>uniform</b> 28:3,7	<b>wear</b> 28:7	
<b>uniforms</b> 28:6	<b>week</b> 19:2,3 28:2	
<b>united</b> 1:1	<b>weeks</b> 20:5 27:18	
<b>unkind</b> 27:14	<b>wilson</b> 6:24	
<b>unlocked</b> 22:2,6	<b>witness</b> 4:13,16 5:1,5 31:13 36:4 38:9,12 39:1,4,11 40:1,4,15	
<b>urinals</b> 13:15	<b>witness'</b> 38:15	
<b>use</b> 12:2,5,17 13:3 13:7,10,18 14:2,10 15:14,16 17:22,23 17:25 22:1,5,15,18 22:24,25 23:5 24:5,12,15,19 25:20 28:22 32:22 32:25 33:6,13,17	<b>woodrow</b> 6:24	
<b>v</b>	<b>words</b> 11:22 26:8 26:9,16	
<b>v</b> 1:9 38:6 39:3 40:3	<b>wore</b> 11:8	
	<b>world</b> 9:10 10:23 11:4,6	
	<b>worried</b> 30:6	

Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate.

The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.

THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

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COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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DEPOSITION REVIEW  
CERTIFICATION OF WITNESS

ASSIGNMENT REFERENCE NO: 4992729

CASE NAME: B.E. And S.E., Et Al. v. Vigo County School Corporation, Et Al.

DATE OF DEPOSITION: 12/21/2021

WITNESS' NAME: S.E.

In accordance with the Rules of Civil Procedure, I have read the entire transcript of my testimony or it has been read to me.

I have listed my changes on the attached Errata Sheet, listing page and line numbers as well as the reason(s) for the change(s).

I request that these changes be entered as part of the record of my testimony.

I have executed the Errata Sheet, as well as this Certificate, and request and authorize that both be appended to the transcript of my testimony and be incorporated therein.

1-20-22                      S.E.  
Date                                      S.E.

Sworn to and subscribed before me, a Notary Public in and for the State and County, the referenced witness did personally appear and acknowledge that:

- They have read the transcript;
- They have listed all of their corrections in the appended Errata Sheet;
- They signed the foregoing Sworn Statement; and
- Their execution of this Statement is of their free act and deed.

I have affixed my name and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

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Notary Public

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Commission Expiration Date

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ERRATA SHEET  
VERITEXT LEGAL SOLUTIONS MIDWEST  
ASSIGNMENT NO: 4992729

PAGE/LINE(S) / CHANGE /REASON  
7:11 "committee" should read "community" transcription error

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1-20-22 S.E.  
Date S.E.

SUBSCRIBED AND SWORN TO BEFORE ME THIS \_\_\_\_\_  
DAY OF \_\_\_\_\_, 20\_\_\_\_\_.

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Notary Public

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Commission Expiration Date

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
TERRE HAUTE DIVISION

B.E., <i>et al.</i> ,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	No. 2:21-cv-415-JRS-MG
	)	
VIGO COUNTY SCHOOL	)	
CORPORATION, <i>et al.</i> ,	)	
	)	
Defendants.	)	

**Supplemental Declaration of James D. Fortenberry, M.D., M.S.**

James D. Fortenberry, M.D., M.S., being duly sworn says that:

1. I have been retained by counsel for plaintiffs as an expert in connection with the above-captioned litigation. I have actual knowledge of the matters stated in this declaration. My professional background, experience, and qualifications are detailed in my November 22, 2021 declaration submitted in this matter.
2. I submit this supplemental declaration in response to the defendants' position that it will not allow the plaintiffs access to the restrooms or locker rooms consistent with their male gender absent "surgical or anatomical change."
3. In preparing this declaration, I have relied on the additional materials listed in Exhibit A in addition to my professional experience and the materials listed in my November 22, 2021 declaration.
4. As explained in my previous declaration, treatment for gender dysphoria varies based on individualized assessments and medical need. Treatment is not a single process,

nor are there specific steps that all individuals will complete. Instead, the principal treatment goal of gender dysphoria is to allow the person full expression of their experienced gender, which may involve various medical interventions or no medical interventions.

5. Puberty blockers and gender affirming hormone therapy are treatments for specific contributors to gender dysphoria appropriate for some, but not all, young people.

6. Puberty blockers are used at the beginning of puberty to suspend development of secondary sex characteristics such as facial hair, breasts, genital hair, growth of penis and testicles, and initiation of menses. No pubertal development occurs as long as puberty blockers are provided. Hormone therapy initiates anatomical and physiological changes in body contour, appearance, and sex-based characteristics to match that of the individual's experienced gender. Hormone therapy may follow use of puberty blockers, or may be initiated after puberty has already progressed.

7. Specifically, for transgender or gender nonbinary teenage boys assigned female at birth, puberty blockers stop breast development, inhibit development of menstrual cycles, and maintains the pre-pubertal appearance of the genitals. Gender affirming hormone therapy with testosterone produces secondary sex characteristics such as voice deepening, beard growth, fat redistribution and increased muscularity, and enlargement of the clitoris. Testosterone does not affect breast size – many transmasculine young people therefore bind their chest, especially in public. For transgender teenage girls assigned male at birth, puberty blockers suppress facial and body hair growth, and maintains the pre-pubertal appearance of genitals. Gender affirming hormone therapy

including estrogen (along with a medication to block the effects of testosterone from the testicles) causes skin softening, reduction in facial and body hair growth, and nipple and breast development.

8. As noted in my November 22, 2021 declaration, I have reviewed the medical records of the plaintiffs in this case, and participated in their care received at the Riley Gender Health Clinic. Both plaintiffs began testosterone administration in November 2021. As a result of testosterone, the plaintiffs have begun to experience the onset of masculinizing effects of their hormone therapy.

9. Physical changes will continue over time as the plaintiffs continue testosterone administration. Expected physical changes during the first year of testosterone therapy include the cessation of menstruation, fat redistribution, facial and body hair growth, increased muscle mass, deepening of the voice, clitoral enlargement, and vaginal atrophy. Thus, the plaintiffs have already experienced anatomical changes and these changes may continue for up to two years, or more.

10. While the plaintiffs are experiencing and will continue to experience anatomical changes from hormone therapy, surgical interventions are not a treatment option until they are 18 years old.

11. Gender affirming surgery refers to any of several procedures—including facial surgeries, mastectomies, hysterectomy/ovariectomy, vaginectomy, and genital construction surgeries. Two major genital construction surgeries are phalloplasty and metoidioplasty, which differ in surgical approach and complexity. Lengthening of the urethra may also be accomplished. All of these procedures may be appropriate to treat

gender dysphoria in some individuals age 18 or older. Like all treatment for gender dysphoria, the propriety of any gender affirming surgery depends on individualized assessments of medical need.

12. Some surgical interventions such as chest surgery may be considered for patients under the age of 18. Published results of chest surgeries for people less than 18 demonstrates marked improvement in dysphoria. However, in practice surgery is often delayed until age 18 or older, and there are no published data regarding the outcomes of gender affirming genital surgery in younger people.

13. Consistent with the standards of care, gender affirming surgeries are not performed in Indiana or most other states on patients under the age of 18. In particular, absent extenuating circumstances and approval of the hospital ethics committee, to my knowledge, no physicians practicing in Indiana would perform gender affirming genital surgery on the minor plaintiffs in this case.

14. Consistent with the WPATH Standards of Care that I and my colleagues follow and that are recognized as the authoritative standards by leading medical and mental health organizations, surgical interventions for individuals under 18 years old are, in general, contrary to the standards of care because many surgeons recommend initiation of gender affirming hormone therapy for up to a year prior to surgery.

15. The diverse types of surgery contribute to significant reductions in gender dysphoria, and often to improved physical and mental health. However, many people feel their gender dysphoria is sufficiently addressed with other gender affirming

therapies. Therefore, only a small minority of transgender and gender diverse people choose to pursue all available surgical options.

16. In particular, fewer than 30% of transmasculine or gender nonbinary people choose genital surgery. Those that choose genital surgery most often choose hysterectomy/ovariectomy without additional procedures necessary to create a phallus. This demonstrates that gender dysphoria is often best treated by surgical therapies that remove body areas associated with dysphoria, rather than create new genitals.

17. In addition, genital procedures are technically complex, requiring substantial surgical skills and significant periods for recovery. The expense and technical challenges of the surgeries are among the reasons many people decide against surgical procedures to create a phallus.

18. For these reasons, the Standards of Care of the World Professional Association for Transgender Health recommend a high standard for consideration of genital surgeries. For example, the standards of care consider the following as minimum criteria for metoidioplasty or phalloplasty, two genital surgeries that may be chosen by transgender and gender nonbinary people:

- Two referrals from qualified mental health professionals;
- Persistent, well documented gender dysphoria;
- Capacity to make a fully informed decision and to consent for treatment;
- Age of majority in a given country;
- If significant medical or mental health concerns are present, they must be well controlled.
- 12 continuous months of hormone therapy as appropriate to the patient's gender goals (unless the patient has a medical contraindication or is otherwise unable or unwilling to take hormones).
- 12 continuous months of living in a gender role that is congruent with their gender identity.

19. Note that exclusion from toilet and locker room facilities consistent with one's experienced gender contradicts the possibility of fulfilling the WPATH recommendation of 12 continuous months of living in one's affirmed gender. For these reasons and those in my November 22, 2021 declaration, it remains my opinion that the plaintiffs' health and wellbeing is best served through free access to the restroom and locker room facilities at school as consistent with their male gender. It is also my opinion that predicating access to restrooms and locker rooms consistent with students' gender identity on receiving surgery – in particular, genital surgery – violates current standards of medical care, is medically imprecise in that the required procedures are not specified, mandates expensive and complex procedures, and mandates potentially involuntary sterilization. The stipulation of surgery of any kind contradicts current standards of care and creates regulatory standards impossible to satisfy for these plaintiffs.

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**Verification**

I verify under the penalties for perjury that the foregoing representations are true.

Executed on: 01-27-2022  
Date

  
James D. Fortenberry, M.D., M.S.

Prepared by:

Kathleen Bensberg  
Attorney No.: 35437-49  
Indiana Legal Services, Inc.

**Supplemental citations**

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
TERRE HAUTE DIVISION

B.E. and S.E., minor children by their	)	
mother and next friend, L.E.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	No. 2:21-cv-00415-JRS-MG
	)	
VIGO COUNTY SCHOOL CORPORATION;	)	
PRINCIPAL, TERRE HAUTE NORTH VIGO	)	
HIGH SCHOOL, in his official capacity,	)	
	)	
Defendants.	)	

**SUPPLEMENTAL DECLARATION OF B.E.**

B.E., being duly sworn upon his oath, says that:

1. I am a plaintiff in this action.
2. This declaration supplements my previous declaration in this case.
3. In my previous declaration, I explained that I use the restroom in the health office at school because my school will not let me use the boys' restrooms.
4. One problem with the health office restroom is that it is far away from many of my classes, while there are boys' restrooms close to all my classes. In the first half of the 2021-2022 school year, I had classes in Rooms 80, 145, 168, 216, 308, 309, and the auxiliary gym. For this term that began on January 3, 2022 I have classes in Rooms 80, 145, 153, 208, 216, 308, and 309.

5. I also use the health office restroom to change for gym and ROTC classes because my school will not let me use the boys' locker room.

6. I understand that the boys' locker room has toilets with stalls where I or other students could change privately. I also understand that the boys' locker room has common showers. Based on my conversations with classmates and my observations of other students after gym class, students do not use the locker room showers during the school day.

7. I do not intend to use the showers in the boys' locker room. But if a shower was ever needed, I would not have one to use because the health office restroom does not have a shower.

### Verification

I verify, under the penalty of perjury, that the forgoing is true and correct.

Executed on: 1/25/22

B.E.

B.E.

Prepared by:

Kathleen Bensberg  
No. 35437-49  
Indiana Legal Services, Inc.  
1200 Madison Ave., Suite 300  
Indianapolis, IN 46225

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
TERRE HAUTE DIVISION

B.E. and S.E., minor children by their )  
mother and next friend, L.E., )

Plaintiffs, )

v. )

No. 2:21-cv-00415-JRS-MG

VIGO COUNTY SCHOOL CORPORATION; )  
PRINCIPAL, TERRE HAUTE NORTH VIGO )  
HIGH SCHOOL, in his official capacity, )

Defendants. )

**SUPPLEMENTAL DECLARATION OF S.E.**

S.E., being duly sworn upon his oath, says that:

1. I am a plaintiff in this action.
2. This declaration supplements my previous declaration in this case.
3. In my previous declaration, I explained that I use the restroom in the health office at school because my school will not let me use the boys' restrooms.
4. One problem with the health office restroom is that it is far away from many of my classes, while there are boys' restrooms close to all my classes. In the first half of the 2021-2022 school year, I had classes in Rooms 80, 145, 168, 216, 308, 309, and the auxiliary gym. For this term that began on January 3, 2022 I have classes in Rooms 80, 125, 145, 153, 208, 216, 308, and 309.

5. I also use the health office restroom to change for gym and ROTC classes because my school will not let me use the boys' locker room.

6. I understand that the boys' locker room has toilets with stalls where I or other students could change privately. I also understand that the boys' locker room has common showers. Based on my conversations with classmates and my observations of other students after gym class, students do not use the locker room showers during the school day.

7. I do not intend to use the showers in the boys' locker room. But if a shower was ever needed, I would not have one to use because the health office restroom does not have a shower.

### Verification

I verify, under the penalty of perjury, that the forgoing is true and correct.

Executed on: 1-25-22

S.E.

S.E.

Prepared by:

Kathleen Bensberg  
No. 35437-49  
Indiana Legal Services, Inc.  
1200 Madison Ave., Suite 300  
Indianapolis, IN 46225

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
TERRE HAUTE DIVISION

B.E. and S.E., minor children by their )  
mother and next friend, L.E., )

Plaintiffs, )

v. )

No. 2:21-cv-00415-JRS-MG

VIGO COUNTY SCHOOL CORPORATION; )  
PRINCIPAL, TERRE HAUTE NORTH VIGO )  
HIGH SCHOOL, in his official capacity, )

Defendants. )

**SUPPLEMENTAL DECLARATION OF L.E.**

L.E., being duly sworn upon her oath, says that:

1. I am the mother of the plaintiffs, B.E. and S.E., and I represent them in this action as their mother, next friend, and legal guardian. This declaration supplements the declaration I previously submitted in this case.
2. On December 2, 2021, the Vigo Superior Court granted my petitions to legally change B.E. and S.E.'s names and gender markers and ordered that their birth certificates be amended to reflect their masculine names and their male gender.
3. I received their amended birth certificates from the Indiana State Department of Health on January 27, 2022. True and accurate copies of their amended birth certificates are attached to this declaration as Exhibits 1 and 2.

**Verification**

I verify, under the penalty of perjury, that the forgoing is true and correct.

Executed on: 1-31-22

L.E.  
L.E.

Prepared by:

Kathleen Bensberg  
No. 35437-49  
Indiana Legal Services, Inc.  
1200 Madison Ave., Suite 300  
Indianapolis, IN 46225

STATE OF INDIANA

# Certificate of Birth

**This Certifies** that according to the records of the State of Indiana

Name E [REDACTED] E [REDACTED] Gender Male

Was born in INDIANAPOLIS, Indiana, on [REDACTED]

Child of L [REDACTED] E [REDACTED]

Birthplace \_\_\_\_\_ Birthplace Indiana

Record was filed [REDACTED] Certificate Number [REDACTED]



State Form 35431 (R3/2-07)

Issuing Authority: Indiana State Department of Health

Issued By: [REDACTED]

Issued Date: [REDACTED]

*Alpa Adishwari*  
STATE

IT IS UNLAWFUL TO REPRODUCE THIS RECORD

**WARNING:** ORIGINAL DOCUMENT HAS A MULTICOLORED BACKGROUND ON SPECIAL WHITE SECURITY PAPER AND THE GREAT SEAL OF THE STATE OF INDIANA ON BACK THAT TURNS FROM ORANGE TO YELLOW WHEN RUBBED. ORIGINAL DOCUMENT HAS HIDDEN VOID ON FRONT THAT APPEARS WHEN PHOTO COPIED.

STATE OF INDIANA

### Certificate of Birth

**This Certifies** that according to the records of the State of Indiana

Name S [REDACTED] E [REDACTED] Gender Male

Was born in [REDACTED], Indiana, on [REDACTED]

Child of L [REDACTED] E [REDACTED]

Birthplace [REDACTED] Birthplace Indiana

Record was filed [REDACTED] Certificate Number [REDACTED]



Issuing Authority: Indiana State Department of Health

Issued By: [REDACTED]

Issued Date: [REDACTED]

*Albani*

IT IS UNLAWFUL TO REPRODUCE THIS RECORD

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STATE OF INDIANA