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13 **UNITED STATES DISTRICT COURT**
14 **FOR THE DISTRICT OF ARIZONA**

15 Helen Roe, a minor, by and through her
16 parent and next friend Megan Roe; et al.,

17 Plaintiffs,

18 v.

19 Jennie Cunico, in her official capacity as
20 State Registrar of Vital Records and
Director of the Arizona Department of
21 Health Services,

22 Defendant.

Case No. 4:20-cv-00484-JAS

**STATEMENT OF CONTROVERTED AND
ADDITIONAL FACTS IN SUPPORT OF
PLAINTIFFS’ OPPOSITION TO
DEFENDANT’S MOTION FOR SUMMARY
JUDGMENT**

ORAL ARGUMENT REQUESTED

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Pursuant to Rule 56 of the Federal Rules of Civil Procedure and Local Rule 56.1(a), Plaintiffs Helen Roe, James Poe, and Carl Voe, by and through their parents and next friends Megan Roe, Laura Poe, and Rachel Voe, and each of the individuals in the class of people they represent (collectively, “Plaintiffs”), hereby submit the following Statement of Controverted and Additional Facts (“SCAF”) in support of their Opposition to Defendant’s Motion for Summary Judgment.

I. PLAINTIFFS’ STATEMENT OF CONTROVERTED FACTS

Counsel for Plaintiffs and Defendant (each a “Party” and together the “Parties”) met and conferred regarding the statements of fact each submitted with their cross-motions for summary judgment. (Dkts. 231, 233.) The Parties agree that, while each Party has certain disagreements with and objections to the opposing Party’s statement of facts, any such disputes and objections are about each party’s interpretation of or characterization of the evidence. The Parties agree that there are no disputes that would require a fact-finding or evidentiary hearing before the Court. Thus, the Parties are each filing a controverting Statement of Facts to preserve their arguments and present their view of the other party’s evidence, but nevertheless, the Parties believe that the record permits the Court to resolve their cross-motions as a matter of law.

Defendant’s Statement of Facts¹	Plaintiffs’ Response²
1. Some transgender people do not pursue any form of surgery as part of their transition process. (Exhibit 1, Report of Dr. Daniel Shumer, ¶ 37.)	Undisputed.
2. The “sex” field on an Arizona birth certificate can be reported as either “male,” “female,” or “not yet determined.” (Exhibit 2, Deposition of Krystal Colburn, R.T. 4/10/23, at 53.)	Disputed. Krystal Colburn also testified that there are Arizona birth certificates that list “non-binary.” (Ex. 5 (184:2–3.)) However, this is not a material fact that would preclude granting

¹ Exhibit numbers cited in this column correspond with Defendant’s Exhibits.

² Exhibit numbers cited in this column correspond with Plaintiffs’ Exhibits.

1		Plaintiffs' motion for summary judgment.
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3	3. That requirement comports with the U.S. Standard Certificate of Live Birth, issued by the Centers for Disease Control and Prevention, National Center for Health Statistics ("NCHS"). (Ex. 2 at 49–50, 54–55.)	Undisputed.
4	<i>See</i> https://www.cdc.gov/nchs/data/dvs/birth-edit-specifications.pdf , at Item 3, Page 1 (instructions for completing "sex" of the child on birth certificate) (App. 11); https://www.cdc.gov/nchs/nvss/facility-worksheets-guide/31.htm (defining "[s]ex of child" on birth certificate as "[t]he sex of the infant based on physical characteristics presented at birth") (App. 12).	
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10	4. The NCHS's Model State Vital Statistics Act and Regulations states that the state registrar shall change a person's name on a birth certificate upon receipt of a court order, and further states that a state registrar shall prescribe by regulation the fee to be paid for amending a vital record. (Exhibit 3, ADHS000198, §§ 21(c), 25(a)(4).)	Undisputed.
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15	5. The NCHS's Model State Vital Statistics Act and Regulations states that amendments to vital records may be made "in accordance with ... regulations adopted by the State Agency." (Ex. 3, § 21(a).)	Undisputed.
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18	6. The NCHS's Model State Vital Statistics Act and Regulations states: "Upon receipt of a certified copy of an order of (a court of competent jurisdiction) indicating the sex of an individual born in this State has been changed by surgical procedure and whether such individual's name has been changed, the certificate of birth of such individual shall be amended as prescribed by regulation." (Ex. 3, § 21(d).)	Undisputed.
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23	7. The Department has assisted with procuring, received, and honored court orders to change the sex marker on a person's birth certificate. (Ex. 2 at 58–59, 89; Dkt. 23-1, ¶ 7.)	Undisputed.
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26	8. In 2017, a state court Administrative Law Judge ruled that the documentation required by § 36-337(A)(3) and R9-19-208(O) is not required to secure a court order under § 36-337(A)(4) and R9-19-208(B), which the Director adopted. (Exhibit 4, ADHS000294–303.)	Disputed. The decision Defendant references does not state that Ariz. Rev. Stat. § 36-337(A)(3) and R9-19-208(O) are not required to secure a court
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	<p>order under Ariz. Rev. Stat. § 36-337(A)(4) and R9-19-208(B) in all instances. Nor does the decision Defendant references demonstrate that the Department has adopted it.</p> <p>However, this is a legal dispute and not a material fact that would preclude granting Plaintiffs’ motion for summary judgment.</p>
<p>9. The parties agree that the sex field on a birth certificate does not document a baby’s gender identity. (Ex. 1, ¶¶ 22, 24; Ex. 2 at 52–53; Exhibit 5, Expert Report of Dr. Randi Ettner, ¶¶ 16, 18–19.)</p>	<p>Disputed. The parties agree that, when the sex field is completed on a birth certificate, the baby’s gender identity is not yet known.</p> <p>However, this is not a material fact that would preclude granting Plaintiffs’ motion for summary judgment.</p>
<p>10. “Gender identity” is not anatomical, but rather “a person’s inner sense of belonging to a particular sex, such as male or female,” which is only “detectible by self-disclosure.” (Ex. 5, ¶¶ 19–20.)</p>	<p>Partially disputed. While gender identity is “a person’s sense of belonging to a particular sex” and is “detectible by self-disclosure,” there is also evidence that it has a biological foundation and is immutable. (Ex. 1 at ¶ 24; Ex. 2 at ¶¶ 19, 25.)</p> <p>However, this is not a material fact that would preclude granting Plaintiffs’ motion for summary judgment.</p>

1	11. For transgender persons, “there is a divergence between anatomy and identity,” and the former “does not align with” the latter. (Ex. 5, ¶¶ 16–20.)	Undisputed.
2		
3	12. “Like non-transgender people, transgender people do not simply ... behave consistently with their gender identity.” (Ex. 5, ¶ 21.)	Disputed. This is an out-of-context quote from Dr. Ettner’s expert report, which in full actually states that “[l]ike non-transgender people, transgender people do not simply have a ‘preference’ to act or behave consistently with their gender identity.” Ex. at ¶ 21.
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11		However, this is not a material fact that would preclude granting Plaintiffs’ motion for summary judgment.
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14	13. Not all transgender persons “align their physical characteristics, voice, mannerisms, and appearance to match their gender identity.” (<i>See</i> Ex. 5, ¶ 50 [opining only that “[m]any” transgender individuals do]; <i>see also</i> Ex. 1, ¶ 32 [opining only that the transition process “typically” includes a “social transition”].)	Undisputed.
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19	14. Individuals born with an intersex condition, such as “Congenital Adrenal Hyperplasia,” which can result in “ambiguous genitalia,” may seek out a “sex change operation.” (Ex. 1, ¶¶ 8, 41–42; Ex. 2 at 125.)	Undisputed.
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22	15. Eleanor Eisenberg, Executive Director of the Arizona Civil Liberties Union, supported the 2004 amendments to the vital records laws. (Exhibit 6, Feb. 5, 2004, Committee on Health, Minutes on Meeting (H.B. 2200).)	Undisputed.
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25	16. The sex marker on a birth certificate is information that is used for Arizona vital statistics and related reports. <i>See, e.g.</i> , https://pub.azdhs.gov/health-stats/report/ahs/ahs2020/pdf/ahs2020.pdf (Arizona Health Status and Vital Statistics Annual Report) (App. 13); https://pub.azdhs.gov/health-stats/menu/info/pop/index.php (population statistics)	Undisputed.
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<p>(App. 14); https://www.azdhs.gov/documents/prevention/womens-childrens-health/reports-fact-sheets/child-fatality-review-annual-reports/cfr-annual-report-2022.pdf (child fatality review report) (App. 15); https://www.azdhs.gov/documents/preparedness/public-health-statistics/cancer-registry/adhs-acr-arizona-cancer-report-2016-2020.pdf (Arizona cancer report) (App. 16); https://pub.azdhs.gov/health-stats/report/ahs/ahs2020/pdf/1b2.pdf (trends) (App. 17); https://pub.azdhs.gov/health-stats/menu/info/sources.php (source data) (App. 18).</p>	
<p>17. The sex marker on a birth certificate is information that is used to prepare national vital statistics and for other statistical or research purposes. <i>See, e.g.</i>, https://www.cdc.gov/nchs/data/nvsr/nvsr72/nvsr72-12.pdf (National Center for Health Statistics National Vital Statistics Report, Life Tables) (App. 19); https://www.cdc.gov/nchs/data/nvsr/nvsr72/nvsr72-11.pdf (National Center for Health Statistics National Vital Statistics Report, Infant Mortality) (App. 20).</p>	<p>Undisputed.</p>
<p>18. Identity theft is pervasive in the United States. <i>See</i> https://bjs.ojp.gov/document/vit21.pdf (U.S. Dept. of Justice, Bureau of Justice Statistics, Victims of Identity Theft, 2021) (App. 21); https://oig.hhs.gov/oei/reports/oei-07-99-00570.pdf (Dept. of Health and Human Services, Office of Inspector General, Birth Certificate Fraud, 2000) (App. 22). In 1977, the U.S. Public Health Service revised its Model State Vital Statistics Act, in part, “to strengthen [sic] efforts to reduce birth certificate fraud.” <i>See</i> https://oig.hhs.gov/oei/reports/oai-02-86-00001.pdf (Dept. of Health and Human Services, Office of Inspector General, Birth Certificate Fraud, 1988), at 1 (App. 23). “Almost all perpetrators of birth certificate fraud go through a two-step process. ... (1) to fraudulently use a birth certificate to obtain false ID documents and thus create a false identity; and (2) to use one or more of these false ID documents to obtain government benefits or privileges to which one is not entitled, or to commit other crimes under an assumed name. The first step is to use a birth certificate as a ‘breeder’ document, and the second step is to use the</p>	<p>Undisputed.</p>

<p>resulting false identity as a modus operandi, or method of operating, to defraud business or Government, and/or avoid legal sanctions.” <i>Id.</i> at 4.</p>	
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II. PLAINTIFFS’ STATEMENT OF ADDITIONAL FACTS IN SUPPORT OF THEIR OPPOSITION TO DEFENDANT’S MOTION FOR SUMMARY JUDGMENT

1. ADHS has never disavowed its previous position, that the Surgical Requirement applied to court orders issued under Subsection (A)(4), either publicly or to the Arizona judiciary directly. *See* Ex. 5 (108:8–15, 173:19–22, 178:19–22); *see also* Ex.22 at 3–7 (arguing *inter alia* that, “[a]bsent specific authority, the Court lacks original jurisdiction to amend or correct birth certificates” and “where this specific authority does exist, the courts are limited in the changes they are able to order to birth [] certificates,” and stating that ADHS would not accept court-orders unless applicants also “present the physician’s written statement as required” by the Surgical Requirement); Ex. 27 (instructing individuals that they “may use these forms” to petition for a court order to correct information on a birth certificate if, among other things, “[t]he Arizona Office of Vital Records was unable to make the correction”).³

2. Defendant for years asserted in Arizona state court that the Surgical Requirement was an essential prerequisite to *any* request to change a sex marker on an Arizona birth certificate, even when an individual petitioned a court for such a change. *See* Ex. 5 (177:21–178:3); Ex. 22 at 3–7.

3. An Arizona state court judge denied Helen Roe’s request to seal her petition for a court order changing her sex marker, leaving Helen Roe’s real name and other identifying information available to the public. *See* Ex. 7 (102:20–105:14).

4. To seal her petition and identifying information, Helen Roe was required to ask an attorney to prepare a new request to seal those documents, which only happened years later, after her identity had already been made public. *See* Ex. 7 (109:4–21).

³ Defined terms “ADHS,” “Subsection (A)(3),” “Subsection (A)(4),” and “Surgical Requirement” as used in this SCAF are the same as those defined in Plaintiffs’ Opposition to Defendant’s Motion for Summary Judgment.

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12 Additional counsel listed on following page

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15 **FOR THE DISTRICT OF ARIZONA**

16 Helen Roe, a minor, by and through her
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17 Plaintiffs,

18 v.

19 Jennie Cunico, in her official capacity as
20 State Registrar of Vital Records and
Director of the Arizona Department of
21 Health Services,

22 Defendant.

Case No. 4:20-cv-484-JAS

**DECLARATION OF COLIN M. PROKSEL
IN SUPPORT OF PLAINTIFF’S
OPPOSITION TO DEFENDANT’S MOTION
FOR SUMMARY JUDGMENT**

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17 *Attorneys for Plaintiffs and the Class*

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1 I, Colin M. Proksel, declare:

2 1. I am a lawyer at Osborn Maledon, P.A., attorneys of record for Plaintiffs
3 Helen Roe, James Poe, and Carl Voe, and the Class (collectively, "Plaintiffs"). The
4 following statements are true and to the best of my knowledge, information, and belief,
5 formed after a reasonable inquiry under the circumstances. If called to testify about them,
6 I would competently testify the same.

7 2. Attached hereto as Exhibit 36 is a true and correct copy the transcript of the
8 deposition of Nicole Heath, the former Deputy Bureau Chief and Fraud Manager of
9 ADHS's Bureau of Vital Records, taken on April 7, 2023.

10 3. Attached hereto as Exhibit 37 is a true and correct copy of the printed copy
11 of Arizona Revised Statute Section 36-377 handed to Laura Poe by an Arizona state court
12 judge at the hearing on the petition for a court order to change the sex on James Poe's birth
13 certificate, produced by Laura Poe in this litigation bearing Bates range POE01308 through
14 POE01309.

15 4. Attached hereto as Exhibit 38 is a true and correct copy of the printed copy
16 of Arizona Revised Statute Section 36-377 handed to Megan Roe by an Arizona state court
17 judge at the hearing on the petition for a court order to change the sex on Helen Roe's birth
18 certificate, produced by Megan Roe in this litigation bearing Bates stamp ROE00030.

19 I declare under penalty of perjury of the laws of the United States that the foregoing
20 is true and correct.

21
22 Dated: December 22, 2023

23 /s/ Colin M. Proksel

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EXHIBIT 36

In the Matter of:

Roe

vs

Herrington

Nicole Heath [CONFIDENTIAL]

April 7, 2023



**GRIFFIN GROUP
INTERNATIONAL**

3200 East Camelback Road, Suite 177
Phoenix, Arizona 85018

I N D E X

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2	WITNESS	PAGE
3	NICOLE HEATH	
4	Examination by Ms. Taylor	4

E X H I B I T S

5		
6	Deposition	
7	Exhibits:	Description
		Page
8	1	Information from LinkedIn (5 pages) ROE00292-296
9		10
10	2	Email chain (3 pages) ADHS-ESI0034705-34707
		54
11	3	Email chain (7 pages) ADHS-ESI0035506-35512
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1 VIDEO RECORDED VIDEOCONFERENCE DEPOSITION
2 OF NICOLE HEATH was taken on April 7, 2023, commencing
3 at 9:02 a.m. at [REDACTED]
4 [REDACTED], Arizona, before JENNIFER HANSSEN, RPR, a
5 Certified Reporter in the State of Arizona, appearing
6 via videoconference.

7
8 COUNSEL APPEARING:

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NICOLE HEATH,

called as a witness herein, having been first duly sworn, was examined and testified as follows:

EXAMINATION

BY MS. TAYLOR:

Q. Good morning, Ms. Heath.

A. **Morning.**

Q. My name is Jessica Taylor and I'm with Cooley LLP. I'm one of the attorneys for plaintiff.

A. **Okay.**

Q. Can you please state and spell your name for the record?

A. **Yes. My name is Nicole Heath. First name N-I-C-O-L-E, Heath, H-E-A-T-H.**

Q. Thank you.

And where are you located today?

A. **I am at my home in [REDACTED]. Did you need the address for the record?**

Q. No, we don't need your address.

A. **Okay.**

Q. Is there anyone else in the room with you?

A. **In the room, I am alone.**

Q. Okay. Perfect. And do you understand the oath



1 that the court reporter just gave you?

2 **A. Yes.**

3 Q. And you understand that that's the same oath
4 that you would take in court?

5 **A. Yes.**

6 Q. Perfect. Have you ever been deposed before?

7 **A. No.**

8 Q. Have you ever given other testimony under oath?

9 **A. Yes.**

10 Q. When did you give testimony under oath?

11 **A. In my role with the Department of Health, there**
12 **were various administrative hearings that I was a part**
13 **of.**

14 Q. Okay. And you understand that this deposition
15 is being recorded and it's being transcribed by the
16 court reporter?

17 **A. Yes.**

18 Q. Perfect. So we want to create a clear
19 transcript, so we need to try to not interrupt each
20 other. I just ask that you let me finish my questioning
21 before you answer and I'll let you finish your answers
22 before I begin my next question. Fair?

23 **A. Sounds good. Thank you.**

24 Q. Perfect. And then also, the court reporter
25 needs verbal answers, so try not to answer with head



1 nods or gestures or anything like that.

2 A. Okay. I'll do that. If I do, I apologize.

3 Just nudge me and I'll do my best.

4 Q. Yeah, definitely. No worries.

5 A. Okay.

6 Q. And then as far as clarification, if you're not
7 clear on anything that I'm asking, let me know, but if
8 you answer, I'm going to assume that you understood the
9 question. Okay?

10 A. Okay.

11 Q. I'm going to show you some exhibits today. The
12 court reporter is going to mark the exhibits and then
13 you should be able to view them on your screen.

14 A. Okay.

15 Q. If you have any issues, just let us know.

16 A. Okay.

17 Q. And we don't expect your memory to be perfect.
18 If you can't remember something or you don't know the
19 answer, you don't need to guess, but please give us your
20 best estimate.

21 A. Okay.

22 Q. And then I'm going to try to take some periodic
23 breaks, but if at any point you feel like you need to
24 take a break, just let me know and we'll find a good
25 stopping point. I just ask if there's a pending



1 question, that you answer it before we take the break.

2 **A. Okay.**

3 Q. And then at times, your attorney might object,
4 something like "objection to form." If -- that's just
5 for the record, so if they object, you still need to
6 answer the question unless they instruct you not to.

7 **A. Okay.**

8 Q. Do you have any notes with you today?

9 **A. I do not.**

10 Q. Okay. How did you prepare for your deposition?

11 **A. I had conversations with my attorney**

12 **Ms. LaMagna and we went over the information that is**
13 **probably going to be entered as an exhibit and we had**
14 **conversations of what I recall.**

15 Q. Okay. Did you review any documents in
16 preparation for your deposition?

17 **A. The ones that have been provided by**

18 **Ms. LaMagna.**

19 Q. And did you speak with anyone other than your
20 attorney?

21 **A. No.**

22 Q. And was there anyone else present when you
23 spoke with your attorney regarding this deposition?

24 **A. [REDACTED]**

25 **[REDACTED] but they don't have the ability to**



1 conceptualize what we were discussing.

2 Q. Okay. Sounds good. And approximately, how
3 long did you spend preparing for your deposition today?

4 A. Several hours. I didn't keep track of the
5 time, though.

6 Q. Okay. No problem. Is there anything else that
7 you've done to prepare for your deposition aside from
8 meeting with your attorney?

9 A. Meeting with the attorney and reviewing the
10 documents that were provided.

11 Q. And before your work on this case, have you
12 ever worked with the Office of the Attorney General for
13 the State of Arizona before?

14 A. Did you ask if I've worked at the Office of the
15 Attorney General?

16 Q. No, I'm sorry. Have you ever worked with them?

17 A. Oh. Yes, I have worked with them.

18 Q. In what capacity?

19 A. They have been the legal counsel representing
20 the bureaus within the department that I worked, so any
21 time there's an administrative hearing, they represented
22 us.

23 Q. Okay. And are you being compensated for your
24 work in this case?

25 A. No.



1 Q. Okay. All right. So just a little bit of
2 background. What city and state do you currently live
3 in?

4 A. [REDACTED]
5 [REDACTED]
6 [REDACTED].

7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]

11 Q. Okay. And then if we can put up Tab 1.

12 THE REPORTER: Are you asking me because I
13 have no exhibits?

14 MS. TAYLOR: Hold on one minute. We can
15 go off the record for a minute.

16 (Recessed from 9:08 a.m. until 9:20 a.m..)

17 MS. TAYLOR: Okay. Chris, can you pull up
18 Tab 1, please?

19 Actually, Chris, you can take that down.
20 I'll just screen share from my computer. I think that
21 will be easier.

22 Okay. Can everybody see that?

23 A. Yes.

24 MS. LaMAGNA: Yes.

25 MS. TAYLOR: Okay. Perfect.



1 Q. BY MS. TAYLOR: So, Nicole, have you seen this
2 document before?

3 A. Yes.

4 Q. Okay. And what is this?

5 A. It is -- I don't know how it's compiled, but
6 it's what I have posted on my LinkedIn account, kind of
7 my resume.

8 Q. Okay. And did you write the contents of this
9 LinkedIn profile?

10 A. Yes.

11 Q. Okay. Do you see this part here that says
12 Education?

13 A. Yes.

14 Q. Okay. We're just going to walk through your
15 education history. So it says here you attended
16 Deer Valley High School from 1999 to 2003?

17 A. Yes.

18 Q. And did you receive your high school diploma
19 from that high school?

20 A. Yes.

21 Q. Okay. And then you attended Northern Arizona
22 University from 2003 to 2006?

23 A. Yes.

24 Q. And what degree did you receive?

25 A. I got a bachelor's in psychology, bachelor's of



1 science.

2 Q. Okay. And then you attended Arizona State
3 University from 2017 to 2019?

4 A. Yes.

5 Q. And what degree did you receive from ASU?

6 A. I received a master's in public administration
7 with a certificate in participatory governments.

8 Q. Okay. What is a certificate in participatory
9 governments?

10 A. It's kind of a specialization in communities
11 getting involved, engaging with their local governments
12 and getting them to -- I'm having a difficult time
13 explaining, but it's really getting community
14 involvement in local governments for community
15 improvement projects.

16 Q. Okay. Is there anything else education-wise
17 that's missing from here?

18 A. That is my education.

19 Q. Okay. Perfect. All right. So now I'm going
20 to move on to your employment history. I apologize. It
21 looks like this is cut between pages, but do you see
22 here where it says [REDACTED]

23 A. Yes.

24 Q. Okay. Perfect. So what position did you hold
25 at [REDACTED]?



1 A. I had a few, but the primary one was a team
2 lead.

3 THE REPORTER: I'm sorry. I didn't hear
4 what you said.

5 A. Oh, sure. My position -- I had a few
6 positions, but my primary one, I was a team lead.

7 Q. BY MS. TAYLOR: And what does [REDACTED] do?

8 A. They are a subsidiary of [REDACTED]
9 or -- yeah, [REDACTED] So
10 [REDACTED] they did home loan originations and I was
11 in the default valuation appraisal department.

12 Q. Okay. And you had this position from -- or you
13 worked from [REDACTED] to
14 [REDACTED]?

15 A. Yes.

16 Q. Okay. And why did you leave this position?

17 A. I moved.

18 Q. Okay. And then most recently, [REDACTED]
19 [REDACTED]?

20 A. Yes.

21 Q. Okay. And what does [REDACTED] do?

22 A. They are a [REDACTED].

23 Q. Okay. And what does that mean? What is a
24 [REDACTED]?

25 A. What the company does is [REDACTED]



1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED] [REDACTED]
6 [REDACTED]

7 Q. Okay. And what are your job responsibilities
8 in that part-time role?

9 A. Primarily, [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]

14 Q. Okay.

15 A. And I [REDACTED]
16 [REDACTED]

17 Q. Okay. And then moving on to your Certification
18 section up here, do you see that?

19 A. Yes.

20 Q. Okay. Perfect. It says here that you have a
21 national certification in Investigator and Inspector
22 Training Basic. What does that mean?

23 A. Yes. It is a course that you can take where
24 you go through and learn some basics on conducting
25 inspections and conducting investigations in various



1 agencies.

2 Q. And what type of investigations do you learn
3 about?

4 A. Quality of care primarily, but also
5 investigations around -- if I remember correctly, it's
6 been a little bit, I do believe there was some
7 investigation information of financial crimes.

8 Q. Okay.

9 A. I don't recall a lot from that training. It's
10 been a little while.

11 Q. Okay. Fair enough. And then it also says here
12 that you have a Certified Fraud Examiner certification.
13 What does that mean?

14 A. Yes. A Certified Fraud Examiner is someone
15 that -- you see them mostly with accounting firms, but
16 the fraud examiner is somebody who can review documents,
17 conduct investigations regarding any kind of fraud,
18 healthcare fraud, financial fraud, to catch white collar
19 and blue collar crimes, primarily white collar crimes,
20 but also you gain skills in document examination to see
21 if something is a fraudulent document.

22 Q. Okay. And how do they train you to see if
23 something is a fraudulent document?

24 A. They -- it's -- currently, because of COVID,
25 it's now online, but they did have in-person classes as



1 well as a large self-study text.

2 Q. Okay. And what did they teach you in those
3 classes specifically?

4 A. To look for signs that documents have been
5 altered. It's been a while since I've used it so I
6 really can't -- it wouldn't be fair for me to go into
7 great detail about that.

8 Q. Okay. Fair enough. And why did you get this
9 certification?

10 A. It was helping me -- it would have helped me in
11 my role, my final role with the Department of Health.

12 Q. Okay. Did you utilize the certification in
13 your final role with the Department of Health?

14 A. Not really.

15 Q. Okay. And do you currently hold this
16 certification?

17 A. Yes, I have kept it.

18 Q. Okay. Is it up for renewal at some point?

19 A. End of the year, yes. It expires
20 December 31st.

21 Q. Okay. And do you plan on renewing it?

22 A. At this time, no.

23 Q. Okay. All right. So I'm going to jump to your
24 history working with the Department of Health.

25 A. Okay.



1 Q. So let's start with your first position there.
2 Okay. Do you see down here where it says, "State
3 licensing surveyor"?

4 A. Yes.

5 Q. Did you want to take a minute to review that?

6 A. No, that's okay.

7 Q. Okay. Perfect. So just starting broad, what
8 is the Arizona Department of Health Services?

9 A. It's an Arizona state agency that is
10 responsible for protecting the health and wellness of
11 Arizonans.

12 Q. Okay. And approximately, how long total did
13 you work with the Department of Health?

14 A. Gosh. 10 yearsish. I'd have to look at the
15 dates on there to be exact, but it was close to 10.

16 Q. Okay. Fair enough. And what was your first
17 position with the Department of Health?

18 A. I was a state licensing surveyor.

19 Q. Okay. And what is a state licensing surveyor?

20 A. That individual would -- you conduct surveys,
21 basically. What that is is they would go on site
22 into -- into facilities needing licensure. I conduct
23 surveys and licensure inspections of healthcare
24 institutions.

25 Q. And it looks here like you started that



1 position around February 2011; is that correct?

2 **A. Yes.**

3 Q. Okay. And how did you get this job?

4 **A. I interviewed and competed.**

5 Q. How did you find out about this position?

6 **A. I worked for a prior state agency and I found**
7 **it on the AZ state jobs website.**

8 Q. Okay. Did you have any special qualifications
9 for this job?

10 **A. I had a bachelor's degree.**

11 Q. Okay. And was that bachelor's degree required
12 to be in any subject or specific subjects?

13 **A. I don't recall at the time.**

14 Q. Okay. Fair enough. Did this job require any
15 special certifications?

16 **A. No.**

17 Q. Okay. Were you the only person in this
18 position or were you --

19 **A. No.**

20 Q. -- one of many?

21 **A. One of many.**

22 Q. Okay. Did you have a supervisor in this
23 position?

24 **A. Yes.**

25 Q. Do you recall the name of that person?



1 **A. Yes.**

2 **Q. What is that person's name?**

3 **A. At the time, my direct supervisor was [REDACTED]**

4 **[REDACTED].**

5 **Q. Okay. Were you in charge of any other**
6 **employees in this position?**

7 **A. No.**

8 **Q. Okay. And did you receive any on-the-job**
9 **training to help you in your responsibilities in this**
10 **position?**

11 **A. Yes.**

12 **Q. Okay. What did that training consist of?**

13 **A. Rules, regulations, statutes for the facilities**
14 **we were licensing. Also, shadowing peer training, so**
15 **another surveyor I would shadow through -- I believe the**
16 **training was five months long.**

17 **Q. Okay. And was this your first experience**
18 **reading statutes for your job?**

19 **A. No.**

20 **Q. What other jobs did you hold that you had**
21 **responsibility for reading statutes?**

22 **A. Position prior to this one, which is not listed**
23 **on LinkedIn, I was an inspector for another state agency**
24 **for developmental disabilities for group homes. It's**
25 **group homes for developmentally disabled individuals.**



1 Q. Do you see here where it says that you
2 conducted on-site compliance complaint surveys and
3 investigations for facilities within the Bureau of
4 Residential Facility Licensing?

5 A. Yes.

6 Q. Okay. What did those investigations consist
7 of?

8 A. The -- the complaint investigation or
9 compliance investigations?

10 Q. Both. You can do maybe one and then the other.

11 A. Okay. Compliance is going into a licensed
12 healthcare institution or a business who wishes to get
13 licensed and determining based on what you're able to
14 observe and documentation you're able to review, do they
15 meet the minimum standards identified in statute and
16 rule.

17 Complaint is based on if we received a
18 complaint from a member of the public or family, from
19 another entity and going on site to review paperwork,
20 make observations to see did that incident occur and did
21 it violate a rule or statute.

22 Q. Okay. And why did you end up leaving this
23 position in July 2011?

24 A. I moved.

25 Q. Okay. And it looks like you maybe moved [REDACTED]



1 [REDACTED] Is that accurate?

2 **A. That is correct.**

3 Q. Okay. Perfect. Okay. And then do you see
4 here where it says, "State licensing surveyor and
5 wellness ambassador"?

6 **A. Yes.**

7 Q. Perfect. What brought you back to the
8 Department of Health after your position with
9 [REDACTED] ended?

10 **A. I moved back to Arizona.**

11 Q. Okay. And you wanted to come back to the
12 department because you enjoyed it?

13 **A. Yeah, it was a good department to work with and
14 it was a role I was learning and wanted to continue to
15 learn.**

16 Q. Okay. And it looks like you started this
17 position August 2013. Is that accurate?

18 **A. Yes.**

19 Q. Okay. And is -- is that three different
20 positions, surveyor, trainer and wellness ambassador, or
21 is it one role?

22 **A. It is one role with additional duties.**

23 Q. Okay. And what were those additional duties?

24 **A. As a trainer, I was responsible for teaching
25 new surveyors how to do the job, here's the rules, the**



1 regulations, and then come and shadow.

2 A wellness ambassador was a volunteer
3 program that the department had to engage its workforce
4 to improve their individual health outcomes.

5 Q. Okay. Were there any other job
6 responsibilities?

7 A. For which one?

8 Q. For -- well, for -- actually, strike that
9 question.

10 What were your qualifications for this
11 job?

12 A. Same as prior, I had a bachelor's degree.

13 Q. Okay. And did you require any -- were you
14 required to hold any special credentials for this job?

15 A. No.

16 Q. No special certifications?

17 A. No.

18 Q. Okay. Did you have a supervisor in this
19 position?

20 A. Yes.

21 Q. Do you recall the name of that person?

22 A. Yes. It was [REDACTED].

23 Q. Okay. Perfect. And were you -- I know you
24 said you did some training, but were you in charge of
25 supervising other employees?



1 **A. No.**

2 Q. Okay. And why did you end up leaving this
3 position in April 2015?

4 **A. I took on a new position within the department.**

5 Q. Okay. And that new position would be the state
6 licensing team leader; right?

7 **A. Yes.**

8 Q. Okay. Beginning in April 2015; correct?

9 **A. Yes.**

10 Q. Okay. And what did the team leader do?

11 **A. Primary role is they were the supervisor for**
12 **the licensing surveyors.**

13 Q. Okay. And were you in charge of supervising
14 employees in that role?

15 **A. Yes.**

16 Q. How many employees did you supervise
17 approximately?

18 **A. Approximately, six.**

19 Q. Okay. And were you responsible for training
20 those employees as well?

21 **A. Yes.**

22 Q. Okay. And what responsibilities did you have
23 as the team leader?

24 **A. In addition to supervisory requirements or**
25 **everything that goes in with supervising an individual,**



1 I would be involved in high-profile investigations, so
2 oftentimes if an issue in a facility hit the news, I was
3 involved in that survey. If we ended up in an
4 administrative hearing with any of our licensed
5 facilities, I would occasionally be the department's
6 witness regarding that. I also helped develop some
7 trainings for our department for surveyors, our
8 administrative staff, and then also helped revamp and
9 create additional trainings for members of the public
10 who wanted to become a licensed entity.

11 Q. Okay. And did any of those investigations
12 include fraud investigations?

13 A. No.

14 Q. Okay. And then it looks like you left this
15 position in March 2019; is that correct?

16 A. That is correct.

17 Q. Okay. And why did you leave this position?

18 A. I obtained a new position with the Department
19 of Health.

20 Q. Okay. And that would be as the deputy bureau
21 chief and fraud manager; is that correct?

22 A. That is correct. The position when I left
23 initially had a different name, but the role has
24 remained the same.

25 Q. And what was the name when you left?



1 A. The position when I obtained it, it was an
2 office chief and fraud manager --

3 Q. Okay.

4 A. -- but through the department's choosing for
5 whatever reason, I don't know, it was changed to deputy
6 bureau chief and fraud manager.

7 Q. Okay. And were those two different roles?

8 A. No.

9 Q. Okay. So it was all one role?

10 A. Correct.

11 Q. Okay. So just to go a little bit broad again,
12 what is the Bureau of Vital Records?

13 A. With the State of Arizona, the Bureau of Vital
14 Records is responsible for the overall system of vital
15 records in Arizona, so their registration, amendment,
16 issuance for vital events. And a vital event is birth,
17 deaths and fetal deaths that occur in the state of
18 Arizona. So the Bureau of Vital Records houses all of
19 that information and ensures its preservation.

20 Q. Okay. Why does the Bureau of Vital Records
21 exist, in your opinion?

22 A. I don't know if I really have an opinion about
23 that. Do you want me to form one?

24 Q. No, that's okay.

25 A. Okay.



1 Q. And so this position you started in March 2019
2 was your first position with the Bureau of Vital
3 Records; right?

4 A. That is correct.

5 Q. Okay. And how did you find out about this job?

6 A. It was posted on the AZstatejobs.gov website.
7 I applied and competed for it.

8 Q. Okay. And what interested you about this job?

9 A. The leadership opportunity.

10 Q. Okay. And what were your qualifications for
11 this job?

12 A. I had a bachelor's degree and I had prior
13 supervisory experience.

14 Q. Okay. So did the job require any special
15 certifications?

16 A. No.

17 Q. Okay. Were you the only person in this
18 specific role with the Bureau of Vital Records?

19 A. People held it before me, but I was the only
20 person in that position at the time I held it.

21 Q. Okay. And if you know, who had this position
22 before you?

23 A. The individual's name prior to me was [REDACTED]

24 [REDACTED].

25 Q. Okay. And what were your job responsibilities



1 in this role?

2 A. This role had two areas within the Bureau of
3 Vital Records that it was responsible for. We had been
4 a part of the medical marijuana program for Arizona and
5 that was the issuance of cards for caregivers. For the
6 vital records itself, I oversaw the daily operations of
7 that statewide system, so I was responsible for the
8 staff who worked on registrations and amendments and
9 issuance of records.

10 Q. And what is registration?

11 A. Registration is when an event occurs, so a
12 vital event such as a birth occurs or a death occurs,
13 our partners in the community, whether it's a hospital
14 or funeral home, begins that registration process. The
15 system will register that event and then it ends up
16 getting registered.

17 Q. Okay. And what is an issuance?

18 A. Issuance is when somebody who's eligible to
19 receive a copy of a record requests it, completes an
20 application, and then the department will produce a copy
21 of that birth or death or fetal death record.

22 Q. Okay. And what is an amendment?

23 A. When an actual -- it's a change to information
24 listed in a birth, death or fetal death record.

25 Q. Okay. And a minute ago you mentioned that



1 there's a system that the hospitals or the funeral homes
2 use for this information. What system is that?

3 **A. There are different -- well, I don't know**
4 **currently, but at the time, there were different**
5 **systems.**

6 Q. And what do you mean by "different systems"?
7 Could you explain?

8 **A. So birth was in one computer system, one**
9 **program, for the submission of that information to the**
10 **state. Acronym was EBRS, but I don't remember what that**
11 **stands for. It's been a little while since I've been in**
12 **there. Death was registered and submitted to the state**
13 **through a system called DAVE, and I don't know the full**
14 **acronym what that stands for, I don't recall. It was**
15 **death something.**

16 Q. That's okay. All right. So did you have a
17 supervisor in this role with the department?

18 **A. I did.**

19 Q. Who was that supervisor?

20 **A. Her name was Krystal Colburn.**

21 Q. Okay. And did you work pretty closely with
22 Krystal?

23 **A. Yes.**

24 Q. And you said that you had a supervisory role in
25 this position; correct?



1 A. Yes.

2 Q. Okay. How many employees, roughly, did you
3 supervise?

4 A. Direct supervision of four. Our team had 40 to
5 45 at any given time.

6 Q. Okay. And if you recall, what were the names
7 of the four individuals that you directly supervised?

8 A. [REDACTED] who was replaced
9 later by [REDACTED]. Another was [REDACTED].

10 And then the other position, there were a couple of
11 different people that held that role.

12 Q. Who was the last person that you remember
13 holding that role?

14 A. [REDACTED].

15 Q. Okay. And what were you in charge of -- were
16 you in charge of training those individuals?

17 A. Yes.

18 Q. What did supervising those individuals entail,
19 the direct?

20 A. The direct four?

21 Q. Yes.

22 A. Ensuring that they maintained all of their
23 required department and state trainings, reviewing the
24 work that they completed, because I came in and many of
25 them were already operating so there wasn't new that I



1 had to give them necessarily, but reviewing the work
2 they were completing. Then reviewing state statutes and
3 rules and ensuring that what they were completing met
4 those requirements for what they produced.

5 For new coming in, it was providing them
6 what's in our statutes and rules and giving it to them,
7 ensuring that they understood where we can operate
8 within. And then showing them how we go about -- how we
9 go through the registration and amendment and issuance
10 process.

11 Q. Okay. And what -- what sort of department
12 training did those individuals receive?

13 A. It's standard Department of Health training
14 with HIPAA compliance, state employee, generic state
15 employee things with what's benefits. It's been a
16 while. I don't recall.

17 Q. That's okay. Did they receive any anti-fraud
18 training?

19 A. Not through the department, no. And anything I
20 had provided to them, it would have been applicable to
21 the role they were in.

22 Q. Okay. What do you mean by "applicable to the
23 role that they were in"?

24 A. Many -- most of them were not in a position
25 where they needed fraud training because it wasn't part



1 of their duties.

2 Q. Okay. And you also said that they were
3 responsible for state -- they had state training. What
4 did that consist of?

5 A. The same as the department. It's standard
6 state employee trainings. Specifics, it's been a while,
7 I can't recall.

8 Q. Okay. That's okay. And then you also said
9 that you reviewed the work of the individuals that were
10 already working in the department. What do you mean by
11 that?

12 A. So if they were working on -- one of my
13 employees worked with funeral homes on amending death
14 records. If an error was made or families needed to
15 make an amendment to a death record, I would review the
16 work that individual completed to ensure that the
17 information she was receiving and what she was
18 processing was correct.

19 Q. Okay. And did you do that with every amendment
20 or application case, however you define it, that they
21 worked on or was it just kind of on a randomly selected
22 basis?

23 A. Not every single one, that -- that wouldn't
24 have been possible, but it was intermittent.

25 Q. And how did you decide which cases you were



1 going to review?

2 A. It was random selection unless for some reason
3 there was a high-profile situation in which I would get
4 involved.

5 Q. Okay. And what would be a high-profile
6 situation?

7 A. If a member of the public maybe made a
8 complaint to the governor's office for something, the
9 governor's office then would forward the complaint to
10 the Department of Health, and then I would begin -- I
11 would receive it and figure out what happened.

12 Q. Okay. All right. So do you see here on the
13 highlighted portion of your resume where it says,
14 "Provide leadership training and instruction to ensure
15 the Bureau follows state regulations and national
16 recommendations for fraud prevention"?

17 A. Yes.

18 Q. Okay.

19 A. I apologize. Did you want me to speak to that?

20 Q. I'm going to ask you a question about it.
21 Sorry. I'm just trying to orient you in the document.

22 A. Okay.

23 Q. So what -- what does it mean here when you say
24 "national recommendations for fraud prevention"?

25 A. Vital records is not unique to Arizona. Every



1 single state and U.S. territory has a vital records and
2 the collection of that information, so births, deaths,
3 fetal deaths, that occur in each and every state and
4 U.S. territory is -- it needs to have some sort of --
5 some kind of consistency because public health programs
6 are created often off of death statistics. So if
7 Arizona has 60,000 death in a year, what are the
8 statistics behind that.

9 And so there is a national group, it's the
10 National Center for Health Statistics that Department of
11 Health in Arizona as well as the other state territories
12 are involved with in providing data that the CDC, the
13 Centers for Disease Control, utilizes.

14 Q. Okay. And what kind of fraud prevention is
15 included in that?

16 A. A birth record itself is something that can be
17 utilized to create an identity. So if somebody is born,
18 it gives them -- I mean, you can establish citizenship,
19 you can establish and obtain drivers' licenses. You
20 can -- you can do a lot of things with a birth record.
21 And so fraud prevention is a tool or a thing that you go
22 through to ensure that those registrations for births
23 and deaths are accurate and we don't have records that
24 exist for events that did not occur or events that
25 are -- and you ensure that those registrations are



1 accurate.

2 Q. Okay. And then do you see here where it says,
3 "Serves as the fraud manager to investigate potentially
4 fraudulent cases, including falsely established records
5 or falsely submitted or altered documents"?

6 A. Yes.

7 Q. Okay. What makes a case potentially
8 fraudulent?

9 A. We partnered a lot with various federal
10 organizations and we would receive information from the
11 consulate, consulate in Nogales, U.S. Passport that have
12 suspicions that an identity was established
13 fraudulently. So it was often with a delayed birth
14 registration and they believed that the person was not
15 actually born in the state of Arizona. And so that's a
16 whole fraudulent federal case that they're working, but
17 they do provide us that information so we can look and
18 investigate to determine if the registration was
19 established incorrectly.

20 Q. Okay. And what is a delayed birth?

21 A. I'll try to keep it short, but a delayed birth
22 is if someone was born and they're registered -- and
23 they weren't registered in Arizona's system within the
24 first year of life. So people who were maybe born at
25 home, maybe they're tribal and they weren't -- for



1 whatever various reasons, their births weren't
2 registered at the time. You know, maybe the parents had
3 opinions and didn't want their children to get
4 registered. You know, various reasons they were not
5 registered within the first year of life. There is a
6 process that someone can go through with the State of
7 Arizona to prove that they were born in Arizona and then
8 get registered.

9 Q. Okay. And what does that process consist of?

10 A. It depends what category they're in because
11 depending on year of birth, year of birth and are they
12 Native American, but overall, it's going to require an
13 application and then evidentiary documentation to prove
14 that they were born where they say they were born.

15 From what I recall, one of the evidentiary
16 documentations would have been maybe a medical record,
17 so did the mother get transported by EMS after giving
18 birth, that could potential qualify.

19 Q. Okay. And what does it mean to investigate
20 potentially fraudulent cases in this role?

21 A. We would pull a delayed birth file that we kept
22 which would have included things like evidentiary
23 documents that was provided to the department, and we
24 would look at those documents to see, you know, at the
25 time of registration, could we determine if they were



1 falsified.

2 Q. Did you investigate potentially fraudulent
3 cases outside of the delayed birth realm?

4 A. I'm pausing because I'm trying to recall.
5 Delayed birth was the primary -- primary fraud that I
6 was involved with. Occasionally, we would have issues
7 with sovereign citizens trying to remove their birth
8 certificate registration from Arizona, but that's --
9 that wasn't common, and that's really the only other
10 thing I can think of that had anything to do with fraud.

11 MS. TAYLOR: I think I'm going to take a
12 quick break here if everyone is okay with that.

13 A. Yes.

14 (Recessed from 10:05 a.m. until
15 10:15 a.m.)

16 Q. BY MS. TAYLOR: Okay. So back to your time
17 with the BVR. Can you explain what it means for a
18 document to be altered?

19 A. If a document -- it could be as simply as
20 someone utilizing Wite-Out on a document, writing over
21 it and submitting it to the department. So an altered
22 document is a document that its original state has been
23 changed to reflect some other information.

24 Q. Okay. And what did the department do or what
25 did you do specifically to ensure that a document wasn't



1 altered?

2 A. How do you mean?

3 Q. If you got a document that you suspected was
4 altered, how did you confirm whether or not it was
5 altered?

6 A. I mean, by reviewing the document itself, if --
7 most people don't pay attention to details such as font
8 size, something being handwritten, print, handwriting
9 changes, ink colors, the paper had been washed out and
10 written over. So evaluating the document and then with
11 those suspicions and beliefs based on my training,
12 providing that to leadership to indicate this appears to
13 be a fraudulent document and here's why and having that
14 discussion with that leadership.

15 Q. Okay. Did the employees that you supervised,
16 was it part of their job to flag documents that they
17 thought were potentially altered and give them to you?

18 A. Yes, if anyone had a concern regarding that,
19 they would flag it in some manner, as you state, and
20 they would provide that to me.

21 Q. And how would they flag that document for you?

22 A. It could be anything from -- if it was an
23 electronic document that was submitted to us via email,
24 they would forward me that information. If it was the
25 actual document itself, it was provided to me directly



1 and I would have it for review.

2 Q. Did you review any documents for any kind of
3 alteration if they weren't flagged? Like was there any
4 kind of quality control basically with the document
5 review process that you participated in?

6 A. Yes.

7 Q. Okay. And how was that -- how was that set up?

8 A. When a record was going to be established,
9 let's say a delayed birth, the customer service
10 representatives, the CSRs, would gather all the
11 information, put it together in a packet and submit it
12 to review. And it would go to their supervisor and it
13 would work up the chain to each person would review that
14 file; first, to see does it have what's required for
15 that registration and then do the documents look
16 appropriate for what's required in rule and statute.

17 If, you know, a document appeared possibly
18 fraudulent, they would mark it, not on an original
19 document, but they would highlight it on a photocopy of
20 one with notes indicating their concern. And
21 ultimately, every single one of those files would come
22 to my desk.

23 Q. Okay. Were those files -- then were those
24 files shored only in hard copy?

25 A. Delayed birth, yes. Well, I believe so, but



1 I'm not 100 percent positive. My memory is fuzzy on
2 that.

3 Q. That's okay. So were there certain types of
4 applications that you would receive that were more
5 likely to have some sort of alteration or fraud
6 associated with them that were automatically flagged
7 like delayed birth?

8 A. The type of registration didn't really make it
9 because, like, that wasn't an automatic flag. It was
10 just part of our process that that's how records got
11 processed. The majority of the fraud was delayed birth.

12 THE REPORTER: I'm sorry. Say that last
13 sentence again.

14 A. Sure. The majority of the fraud was delayed
15 birth.

16 THE REPORTER: Sorry. It's kind of
17 cutting in and out.

18 A. I'm in a little more of a [REDACTED] so our --
19 our internet isn't always 100 percent. I apologize.

20 MS. TAYLOR: That's okay.

21 Q. BY MS. TAYLOR: So then the packets that they
22 would put together to actually do the review process,
23 was that done for every type of vital record, so for,
24 like, death certificate, birth certificate, delayed
25 birth, fetal death?



1 A. No. A typical run-of-the-mill someone born in
2 a hospital, that's a registration process through the
3 electronic system. Same as with a typical
4 run-of-the-mill death registration, that's initiated
5 with the funeral home and that's submitted
6 electronically. So those being that they're the
7 originators of that information, it wasn't -- there's
8 not a paper, anything to wrap up. It was a thing like
9 delayed birth or amendments to the record that would get
10 submitted.

11 Q. Okay. And then for something like delayed
12 birth or amendment, it was every -- every case would be
13 submitted?

14 A. Delayed birth, yes, absolutely. It depended on
15 the amendment type and when that person was born based
16 on year because of the records themselves. And I
17 don't -- I can't remember, you know, the differences of
18 years. It was really very specific and I don't -- I
19 don't recall because I haven't been in that role for a
20 while.

21 Q. That's okay. All right. So moving on on your
22 resume here, it also lists that you step in to lead as
23 bureau chief in times of the chief's absence, including
24 making policy decisions. What does that mean?

25 A. If the bureau chief was ever absent for



1 anything, any reason, what that means is I was in
2 charge. I was -- it was not within my authority to
3 approve or deny any kind of application, but I could,
4 you know, if we have a facilities issue, I can make a
5 decision to call in the -- I don't know, an
6 exterminator. If I had an employee issue, I have the
7 authority to take action to help out that employee.

8 Q. And then what does -- what policy decisions
9 would you be making?

10 A. Whether or not we maintain a snack cart. Any
11 policy decision that was to how we serve the public,
12 that was not within my authority because I was not the
13 state registrar, assistant state registrar. They're the
14 ones that would establish those decisions.

15 Q. Okay. And how often did you have to step into
16 this role, if you recall?

17 A. It was infrequent. Any time of extended leave,
18 if there was any, you know, if she was out for vacation,
19 which was not common.

20 Q. Okay.

21 A. I mean like more than just a day or two.

22 Q. And if you recall, what email address did you
23 use when you had this role?

24 A. It was my state email address. Do you need
25 that?



1 Q. If you -- if you remember.

2 A. I believe [REDACTED], but I'm not
3 positive if there was a period between my first and my
4 last name.

5 Q. Okay. No problem. And was that the email
6 address where you would receive all communications
7 regarding -- associated with your position as the deputy
8 bureau chief?

9 A. Electronic communication all came through that
10 email address, correct.

11 Q. Okay. Did you have a government-issued
12 cellphone?

13 A. No.

14 Q. Did you utilize any sort of chat platform on
15 your work computer?

16 A. It would have been what was needed to
17 (inaudible) so the State of Arizona --

18 THE REPORTER: I'm sorry. I can't -- I
19 didn't hear you. "What was needed" to what?

20 A. Whatever platform we were using. So when I
21 started with the state, we were using Microsoft
22 products, but then most state agencies moved to Google
23 and Google has a native messaging system, and so that
24 was already part of our email communication. So it
25 wasn't a separate app or anything I'd log into, it would



1 just be within my email account.

2 Q. BY MS. TAYLOR: Okay. And what did your
3 day-to-day look like in this role? What was an average
4 day like for you in this role?

5 A. Well, we had two programs so -- I had two
6 programs I was responsible for, so I was split between
7 working the medical marijuana and everything that was
8 happening with that department, which was quite a bit.
9 So vital records, it was ensuring staff members were
10 where they were supposed to be, working any HR issues,
11 reviewing where our numbers are for statistics, how
12 quickly we're processing these applications, what are
13 our barriers if we're not able to process something and
14 it delays that timeliness for the public, what can we do
15 to remove that barrier to provide better service to the
16 people of Arizona that are needing our services.
17 Ensuring that, you know, if we had any incoming
18 appointments, that we were able to meet those people,
19 serve those needs.

20 I guess -- I mean, there were other things
21 that I do day-to-day, but kind of that's really what I
22 recall.

23 Q. Okay. In your role with the medical marijuana
24 section, did you have any sort of fraud prevention role
25 with that -- that aspect of your job?



1 A. I don't know if I'd call it fraud prevention
2 necessarily. I mean, if someone were to submit
3 identification that was a non -- based on the rules with
4 medical marijuana, an initial application that would
5 require, let's say, a state ID, if the state ID didn't
6 appear to be accurate or it looked wrong or it was for a
7 thing that didn't exist, let's say, I would get involved
8 in those cases.

9 My role with medical marijuana was more
10 on, you know, if someone -- if we were going to deny an
11 application or to revoke that application if somebody
12 broke one of the regulations.

13 Q. Okay. And then it looks like you left this
14 position in March of 2022. Is that correct?

15 A. Yes.

16 Q. What would you say, roughly, like what
17 percentage of your work did fraud investigations or
18 investigating altered documents make up?

19 A. 10 percent.

20 Q. 10 percent.

21 A. At the most.

22 Q. Okay. And what percentage of your work
23 consisted of fraud investigations into gender marker
24 amendments, roughly?

25 A. I don't know. I don't know if I -- I can't say



1 if I ever did a fraud investigation on gender marker
2 changes.

3 Q. Okay. And why did you end up leaving this
4 position in March 2022?

5 A. A couple of reasons. Primarily, I moved out of
6 Phoenix and it's not a remote -- a position that can be
7 done remote.

8 Q. And do you know who took the position over
9 after you left?

10 A. Yes.

11 Q. What's that person's name?

12 A. [REDACTED].

13 Q. Okay. And was that someone you had worked with
14 in the department?

15 A. Yes.

16 Q. So would you say that ADHS or, sorry, the
17 Department of Health has a specific fraud department?

18 A. No.

19 Q. Okay.

20 A. Well, I don't know, you know -- per my
21 knowledge, no. I don't know currently.

22 Q. Okay. To your knowledge, were you the only one
23 that was -- had any sort of role in potentially
24 fraudulent cases inspecting altered documents?

25 A. I know we had an internal audit, there were a



1 couple of people, but I don't know what they did.

2 Q. Okay. Do you happen to know those people --
3 like any of the names of those people?

4 A. Oh, gosh. One, I know of him, but I don't know
5 him. His name was [REDACTED].

6 Q. Okay.

7 A. But I don't know if he's still in the position
8 or what he actually did.

9 Q. So in your position as the deputy bureau chief
10 and fraud manager, what types of fraud were you looking
11 for?

12 A. Is some record that has been established
13 genuine. Is it an actual valid registration.

14 Q. And were you concerned about potential fraud
15 with respect to altered death certificates?

16 A. It was -- it was a possibility that someone
17 would, but it was not -- it was not something I had ever
18 seen, but I would -- you know, if there was a death
19 amendment of some kind that I had the paperwork for, I'd
20 review it the same way with the same steps to see is
21 what's submitted accurate.

22 Q. Okay. And so primarily, the way that you would
23 learn about potential fraud or altered documents was
24 through this routine inspection process; right?

25 A. Yeah, the same as with birth. We didn't --



1 even though it was different computer system that the
2 information was housed in, the process was the same.

3 Q. Okay. So the process was the same for birth
4 amendments, death certificate amendments, delayed birth?

5 A. Generally. I mean, you had to have an
6 application and you had to have evidentiary documents
7 for whatever you're amending.

8 Q. Okay. And just to clarify, was your review
9 process different for, like, amendments to birth
10 certificates, amendments to death certificates and
11 delayed birth registration?

12 A. Substantially, no. The system for death just
13 had better functionality in that documents could be
14 housed in the system and so there wasn't as much paper.

15 Q. Okay. Would you say that you ever opened a
16 fraud investigation?

17 A. On?

18 Q. Into anything.

19 A. Yes.

20 Q. Okay. And how would you define a fraud
21 investigation?

22 A. I feel that's kind of a broad question, but
23 fraud investigation is upon receiving some sort of --
24 whether it's observation of a document or information
25 from an outside source, you have to see something isn't



1 what it's purported to be, and so investigate that to
2 determine is it real or has it been created or modified
3 for a purpose.

4 Q. Okay. So earlier you talked about delayed
5 birth, for example, an employee would put together that
6 packet for you to review. Is there some point where if
7 you're reviewing documents in that packet, you suspect
8 there's an altered or potentially fraudulent document,
9 would that then initiate a different process to
10 ascertain the authenticity of that document?

11 A. No.

12 Q. Okay. When you were trying to determine
13 whether or not a document had been altered or a document
14 was fraudulent, what factors would you consider in
15 reviewing that document?

16 A. It's been a long time, I don't want to give
17 incorrect information. I mean, ultimately, without
18 seeing it and really looking at it and being familiar
19 with it, it's really just looking at does this document
20 look changed.

21 Q. Okay.

22 A. But beyond that level of detail, I don't have
23 the memory to give that.

24 Q. Do you remember roughly how often you would
25 consider -- strike that.



1 If you recall, how often did you come
2 across a document that you thought may be altered? Was
3 it a regular occurrence?

4 A. Oh, I don't -- I don't recall. It wasn't
5 daily, no, but I can't quantify that.

6 Q. Okay. Fair enough. If you suspected that a
7 document was altered, was there anybody else that you
8 would work with to determine authenticity of that
9 document?

10 A. I mean, it depends -- it depends on the
11 document. If it's a state-issued document like a
12 driver's license, I had fraud contacts with the
13 Department of Transportation to see is this --

14 THE REPORTER: I'm sorry, you're cutting
15 out. "To see" what?

16 A. Sure. It depends what the document was. I
17 could outreach to another state agency. For example, if
18 it was a driver's license, I had fraud contacts with the
19 Department of Transportation and I could see -- work
20 with them to determine if what I was provided is
21 original.

22 Q. BY MS. TAYLOR: Do you recall any specific
23 department policies regarding potential fraud or altered
24 documents?

25 A. I don't recall.



1 Q. And what would happen if you reviewed a
2 document and you determined that it was fraudulent or
3 altered?

4 A. It depends what -- what it was for. If a
5 person was applying for something, we would end up
6 denying that application. If we determined that this
7 person already has a registered certificate and let's
8 say it was fraudulently established delayed birth, we
9 would have to go through a process of -- I don't know
10 the correct -- I don't remember the correct word for it,
11 but essentially canceling that certificate.

12 Q. Okay. And would there be a record kept of
13 that -- that -- the findings that the document was
14 altered?

15 A. I know we did keep -- I mean, through the
16 administrative process, someone -- if we're going to
17 take action, deny, cancel, revoke, anything like that,
18 that person has administrative hearing rights and so we
19 keep everything through that. Once something's been
20 canceled, I believe -- I don't know. I don't recall.

21 Q. That's okay. Earlier, you mentioned that there
22 were two different systems for the births and the
23 deaths. I think you said it was the EBRS was for
24 births?

25 A. Yes.



1 Q. If there were any -- if there was ever a
2 finding that a document was altered, would it be --
3 would that finding be recorded in that system anywhere?

4 A. From what I recall of EBRS, if something was
5 fraudulent and the record got canceled, it's no longer
6 in the registration system because we canceled it. And
7 I believe it gets sealed, but I'm not positive. But
8 there's no -- at the time, I don't know now, but at the
9 time, there wasn't functionality to upload anything and
10 identify that it's a fraudulent document.

11 Q. Okay. When you were reviewing case packets,
12 did you keep notes regarding that application?

13 A. No, I never kept any separate notes. Anything
14 would have been with the file.

15 Q. Okay. And was the file ever kept
16 electronically or was it --

17 MS. LaMAGNA: Foundation objection.
18 Sorry, Nicole.

19 A. Just so I'm clear, I continue to answer?

20 MS. LaMAGNA: (Nods head.)

21 A. Okay. Then can you repeat the question? I
22 just want to make sure I understood.

23 Q. BY MS. TAYLOR: Earlier, you said that some
24 files were kept in hard copy.

25 A. Yes.



1 Q. Do you remember? Was there any type of file
2 that was stored electronically?

3 A. Yes. And the hard copies primarily were older
4 records before the system. I mean, Arizona -- Arizona
5 vital records has birth and death records dating to the
6 late 1800s, so there's not -- there was no computer
7 system back then. In Arizona, we preserve that
8 paperwork, so we still have it and we could issue it
9 electronically, but we still maintain those original
10 records.

11 Q. Okay. So more recent records, then, could be
12 stored electronically?

13 A. Yes.

14 Q. And in your experience, were they typically
15 stored electronically?

16 A. A record -- every record that gets established
17 after a certain date, so if someone was born today,
18 everything would be electronic.

19 Q. Okay. And do you recall if any of those
20 electronic records had notes from people who had
21 reviewed the application packet?

22 A. I don't recall.

23 Q. Okay. Okay. Was it part of your job to
24 investigate potential fraud in regards to gender marker
25 corrections?



1 A. Any kind of fraud on a record, I would -- it
2 was my responsibility, so I suppose if there was fraud
3 on that, I would.

4 Q. Do you recall ever looking into potential fraud
5 in regards to a gender marker correction?

6 A. No.

7 MS. LaMAGNA: Objection to form and
8 foundation.

9 Go ahead.

10 A. My answer to that is I don't recall.

11 Q. BY MS. TAYLOR: Okay. Do you recall reviewing
12 any potentially fraudulent documents submitted as part
13 of a gender marker amendment?

14 A. I thought I had already answered that, but no.

15 Q. Okay. Were gender marker corrections one of
16 the types of birth certificate changes that would be
17 subject to that review process you discussed earlier
18 when we were talking about delayed birth?

19 MS. LaMAGNA: Objection to form.

20 A. A correction or amendment? In vital records,
21 that's different. A correction is not part of that
22 process.

23 Q. BY MS. TAYLOR: Why is a correction not part of
24 that process?

25 A. A correction is an error made. So if the birth



1 registrar at a hospital registers a birth and they make
2 an error like spelling of a record, they make the
3 correction and that's a different process. An amendment
4 is an actual change.

5 Q. Which portions of a birth certificate could you
6 amend?

7 A. From what I recall, we could amend -- a person
8 can apply to amend anything they wanted on their birth
9 record (inaudible.)

10 THE REPORTER: Or what?

11 A. A person can apply to amend what they needed on
12 a record. I don't recall there being exceptions.

13 Q. BY MS. TAYLOR: Okay.

14 (Discussion off the record.)

15 MS. LaMAGNA: So are you marking that
16 exhibit?

17 MS. TAYLOR: Yes, we'll mark that exhibit.

18 Q. BY MS. TAYLOR: So if you received an
19 application to amend a birth certificate, how would you
20 go through reviewing that application?

21 A. Once the record or the application packet was
22 assembled by our customer service reps, it -- it goes
23 through the escalation process from -- originating with
24 the CSRs. When it would get to me, I basically look at
25 what is submitted, does it fit with what's required in



1 the rule and statute, yes or no. And then does what was
2 submitted look to be a real document.

3 Q. And that would apply to -- would that apply to
4 any sort of birth certificate amendment?

5 A. Anything that came across my desk, yes.

6 Q. Are you familiar with ARS 36-337(A)(3)?

7 A. To speak competently on it, I'd need to have it
8 in front of me, but I do have a vague recollection of
9 it.

10 Q. Okay. What do you recall the purpose of that
11 statute being?

12 A. 36-337?

13 Q. Yes, Section (A)(3).

14 A. Oh, (A)(3), I'm not positive. I know generally
15 that section was about the amendment of a birth record.

16 Q. Okay. Okay. I'm going to put up another
17 exhibit here real quick.

18 Okay. Can you see this exhibit that I put
19 up here?

20 A. Yes.

21 Q. Okay. What does this document look like to
22 you?

23 A. An email.

24 Q. Okay. Have you seen this document before?

25 A. Yes.



1 Q. Can you tell me what the date is at the top of
2 this email?

3 A. At the top of the email, the date is
4 January 15th, 2020.

5 Q. Okay. And who are the parties to this email?

6 A. It was sent from me. The "to" line, it's got a
7 name of [REDACTED], and I don't know why, but it was to a
8 customer, and Cc'd is another department employee.

9 Q. Okay. And what's his name?

10 A. [REDACTED].

11 Q. And what was his role in the department?

12 A. He was the manager over the birth registration
13 team.

14 Q. Okay. And do you recognize that as your
15 official government email address?

16 A. Yes. [REDACTED]

17 Q. Okay. Perfect. And then just for the record,
18 this document is Bates stamped ADHS-ESI0034705.

19 A. Yes.

20 Q. Would you regularly receive emails like this to
21 your ADHS email address?

22 A. It was not regular, but I would regularly
23 receive emails.

24 Q. Okay. Do you remember this communication at
25 all? You can take a minute to read through this if you



1 want to.

2 A. Sure. I -- I remember, not in great detail,
3 but I do remember this. And I can recall as best as
4 possible, but I do have some recollection of it.

5 Q. Okay. And what do you remember about this
6 communication?

7 A. It was outreach done to a customer. So the
8 customer did not have a positive experience with our
9 office and made a complaint to the governor's office.
10 The governor's office forwarded that complaint and which
11 that complaint then was my responsibility to address.

12 And so the way that this document is, if
13 you scroll from the bottom, you'll have the earliest
14 communication where I'm outreaching to the person. It's
15 going to have their response and it's going to have the
16 back and forth. What's at the top of the page is the
17 last communication.

18 Q. Okay. Perfect. Do you remember why you were
19 involved in this communication?

20 A. It was a complaint received from the governor's
21 office.

22 Q. And you were -- were you involved in every
23 complaint received from the governor's office?

24 A. If it was related to services we provided, "we"
25 being my bureau, yes.



1 Q. Okay. And then do you see here at the bottom
2 of page 2 this highlighted portion, "I will begin
3 investigating what occurred and will get back to you no
4 later than tomorrow with an update"?

5 A. Correct.

6 Q. What were you investigating there?

7 A. What he expressed his issues and concerns were
8 with the department.

9 Q. Okay. And do you remember what issues he was
10 concerned about with the department?

11 A. He submitted an application for an amendment to
12 his record. He wasn't given clear information and he
13 indicated that he felt that the person he was working
14 with was not respectful to him.

15 Q. Okay. And then do you see here in the middle
16 of the page where he -- he said that he was asked for
17 originals versus copies of his documents?

18 A. I do.

19 Q. What's the purpose of requiring original
20 documents?

21 A. Original documents to look at -- to make sure
22 that what evidentiary documentation a person has is real
23 because you can make a photocopy of something, modify
24 it, make another photocopy and it looks legitimate, so
25 we needed to see the original document. And if I



1 remember correctly, there's a rule in the regulations
2 regarding that, but I couldn't -- at this point being so
3 long, I couldn't recall where that is.

4 Q. In your experience, was it easier to determine
5 whether a document had been altered if it was an
6 original?

7 A. Yes.

8 Q. And then do you see here also in the middle it
9 looks like he called two times and was told that there
10 were no notes or anything on his case?

11 A. I do see that.

12 Q. Yeah. Was it -- was it atypical for there to
13 be no notes on a case?

14 A. If -- if we had received an application and we
15 had been working it, it would have been atypical to not
16 have notes.

17 Q. Where would the notes have been kept with the
18 application?

19 A. With the application itself.

20 Q. Okay. And if the application was kept
21 electronically?

22 A. The amendment he was seeking is something we
23 would have needed paper for.

24 Q. Okay. So would the notes have been then
25 handwritten notes?



1 **A. Likely, yes.**

2 Q. Okay. And they would have been kept with that
3 paper application file?

4 **A. Correct.**

5 (Discussion off the record.)

6 Q. BY MS. TAYLOR: Do you know what would happen
7 to the handwritten notes after the application had been
8 processed?

9 **A. If there were handwritten notes and it was an
10 amendment, anything related to that amendment and
11 evidentiary documentation would be sealed.**

12 Q. I'm sorry. Did you say would be sealed?

13 **A. Correct.**

14 Q. Okay. Okay. And then you see here at the
15 bottom of page 1, you say, "I will be looking into the
16 matter, your amendment request, as well as the
17 department's procedures moving forward"?

18 **A. Yes.**

19 Q. What procedures were you referencing there?

20 **A. His entire experience with the application for
21 his amendment generically. I didn't have anything
22 specific.**

23 Q. Do you remember if you did look into those
24 procedures?

25 **A. I did review our procedures on amendments.**



1 Q. Okay. Do you remember what those procedures
2 were?

3 A. I don't recall. I do know we have a policy and
4 procedure on amendments, but specifics are beyond my
5 memory at this point.

6 Q. Okay. Where would that policy have been found?

7 A. Within the department, we had it kept
8 electronically. And we would also provide it and make
9 it accessible to staff.

10 Q. Okay. And do you remember if there was still a
11 policy and procedure at the time that you left the
12 department in March '22?

13 A. There was.

14 Q. Okay. Okay. And then at the top of this
15 document here, you let the applicant know that his
16 application was being denied because the physician's
17 letter that you received didn't meet the statute and
18 rule requirements; is that correct?

19 A. I see that, yes.

20 Q. Okay. Do you remember what about the letter
21 didn't meet those requirements?

22 MS. LaMAGNA: Objection, foundation.

23 A. Specifically, I don't remember his letter. I
24 would have only written that if what the letter he
25 provided to us didn't meet what was written in the rule



1 or statute, but I don't -- I don't make it a habit of
2 sending that kind of detail in a letter as far as, you
3 know, letter specifics didn't meet A, B, C. I just say
4 that "the letter you submitted doesn't meet rules," and
5 that's why I wrote it that way.

6 Q. BY MS. TAYLOR: Okay. And then a little bit
7 further down, you say that the applicant had mentioned
8 that he had a new letter from his physician that could
9 meet the requirements. Do you see that?

10 A. Yes.

11 Q. If an applicant had a letter rejected because
12 it didn't meet the statutory requirements and then they
13 brought in a letter that they believed would meet the
14 statutory requirements, would you have any suspicion
15 that that letter might be fraudulent?

16 MS. LaMAGNA: Form and foundation.

17 A. Not necessarily. I wouldn't have treated it
18 any differently. Physicians make errors on letters that
19 people go back to physicians for a letter saying this
20 didn't cut it. You know, it was a very neutral
21 approach, and I would treat the new letter the same way
22 I treated the old letter.

23 Q. BY MS. TAYLOR: Okay. Do you recall why you
24 provided this applicant with the statutory language of
25 (A) (3)?



1 A. It was applicable to the application itself and
2 the denial. And I -- in the phone conversation with
3 him, I indicated I would provide it to him and so that's
4 me following up.

5 Q. Okay. Was that something that you typically
6 did when you denied a letter?

7 A. The denial letters we give to people has the
8 references in it, so ARS whatever. As far as putting it
9 in an email to a customer, it was only if -- if it was
10 this --

11 THE REPORTER: I'm sorry, you cut out.
12 "It was only" what?

13 A. It was applicable for this situation only, I
14 mean this kind of situation in which it was a complaint
15 resolution. A typical person that we deny, we don't put
16 a detailed email together. This was an escalated
17 complaint from the governor's office that I was working
18 to resolve.

19 Q. BY MS. TAYLOR: Okay. Would you regularly
20 communicate with applicants regarding gender amendment
21 applications?

22 A. No. I mean, only if needed. The majority of
23 applicants I never spoke to for any kind of amendment.

24 Q. Okay. When -- when would it be needed for you
25 to speak to an applicant?



1 A. If there was an escalated issue. If they had a
2 disagreement with someone they'd been working with
3 previously and there was a complaint that our director
4 received or the governor's office or a legislative
5 individual received, you know, those complaints would
6 come to us and it would be my role to resolve that.

7 Q. Okay. Did your department have any specific
8 procedures in place to prevent fraudulent gender marker
9 amendments?

10 A. Nothing specific, no.

11 MS. LaMAGNA: Counsel, are you done with
12 that exhibit?

13 MS. TAYLOR: Yes.

14 MS. LaMAGNA: Are you going to mark it?

15 MS. TAYLOR: Yes, we'll mark that exhibit
16 as well.

17 MS. TAYLOR: I think I'm going to take a
18 short break here also. We can go off the record.

19 (Recessed from 11:09 a.m. until
20 11:16 a.m.)

21 Q. BY MS. TAYLOR: Okay. I'm going to put up
22 another exhibit. And we'll mark this one as well.

23 And then, Ms. Heath, you can take a minute
24 to review this if you'd like. And I can scroll down to
25 the beginning so you can start -- or the bottom so you



1 can start at the bottom if you'd like me to.

2 A. Yeah, I haven't seen this.

3 Q. Okay. Okay. I think this is all signature
4 blocks. Let me find where it starts. Sorry.

5 Okay. Just let me know when you're ready
6 for me to scroll up.

7 A. Okay. Okay. Okay. Okay.

8 Q. Okay. So prior to right now, have you seen
9 this document before?

10 A. I was part of -- I mean, I sent some of the
11 emails, but I've never actually seen it put into a
12 document.

13 Q. Okay. What does this document look like to
14 you?

15 A. Email communication back and forth with a
16 customer.

17 Q. Okay. What's the date at the top of this
18 document?

19 A. The very top, July 19th, 2021.

20 Q. Okay. And who were the parties to this
21 communication?

22 A. I sent it, so it's from me, and it's to a name
23 of [REDACTED].

24 Q. Okay. And this is the same email address that
25 you received your work emails on; correct?



1 A. Correct. Yes.

2 Q. Do you remember this communication?

3 A. I do.

4 Q. What is this communication about?

5 A. An individual whose significant other, I don't
6 remember their relationship, but his sex was different
7 than what was requested on the birth certificate, and it
8 was his partner, significant other, who was
9 communicating on his behalf to find out how to amend
10 that birth certificate.

11 Q. Okay. And do you remember why you were
12 involved in this communication?

13 A. This -- it was an escalated issue --

14 MS. LaMAGNA: I'm sorry to interrupt the
15 answer. I'm having a really hard time hearing. I can
16 hear noise, maybe from you, Ms. Hanssen. Is there any
17 way you can mute it? I don't know if that's possible
18 given you're the court reporter, but -- I'm sorry to
19 interrupt, but I'm just having a hard time.

20 (Discussion off the record.)

21 Q. BY MS. TAYLOR: Ms. Heath, do you remember why
22 you were involved in this communication?

23 A. Yes. There was -- it was an escalated customer
24 concern. I don't recall which direction it came,
25 meaning was it a complaint from, let's say, governor's



1 office or if it was our customer service representatives
2 were struggling to resolve the matter with the customer,
3 so it could have come from either direction, but either
4 way, it was an escalation that came to my desk.

5 Q. Okay. And because it was escalated, that's why
6 you were involved?

7 A. Correct.

8 MS. TAYLOR: Okay. All right. I'm done
9 with this. We'll mark this exhibit.

10 I'm just going to take a break to talk to
11 my co-counsel real quick and then I probably just have a
12 couple more questions.

13 (Recessed from 11:23 a.m. until
14 11:30 a.m.)

15 Q. BY MS. TAYLOR: I just have a couple more
16 questions, Ms. Heath. Thank you so much for your
17 patience. I really appreciate it.

18 A. Sure.

19 Q. Did you receive work-related texts or chats on
20 your personal phone?

21 A. I don't recall any work-related other than a
22 staff might call and say, "I'm going to be sick."

23 Q. Okay. And then we talked earlier about your
24 role with fraud prevention. How did you communicate
25 with other BVR employees regarding any potential fraud?



1 A. It would have been via email or in person.

2 Q. Okay. Were you aware of this lawsuit while you
3 worked with the Department of Health?

4 A. I became aware of it.

5 Q. If you recall, when did you become aware of
6 this lawsuit?

7 A. I have no idea.

8 Q. Okay. Do you remember how you became aware of
9 this lawsuit?

10 A. It would have been communication with
11 Ms. LaMagna.

12 Q. Okay. And do you recall any changes in any of
13 the department's anti-fraud procedures that occurred
14 after this lawsuit was filed in November 2020?

15 A. No.

16 Q. Okay. And did anything about your day-to-day
17 work change after November of 2020?

18 MS. LaMAGNA: Objection, form and
19 foundation.

20 A. I mean, we got -- you know, regulations may
21 have changed after -- did you say November 2020?

22 MS. TAYLOR: Yes.

23 A. There may have been some changes in regulations
24 related to other things in vital records, but nothing
25 day-to-day changed.



1 MS. TAYLOR: Okay. I think that's all the
2 questions that I have for you, Ms. Heath. Thank you so
3 much.

4 THE WITNESS: Sure. Thank you.

5 (Exhibit Nos. 1-3 were marked upon receipt
6 by the court reporter.)

7 (11:32 a.m.)
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NICOLE HEATH



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CERTIFICATE OF CERTIFIED REPORTER

BE IT KNOWN that the foregoing proceedings were taken before me; that the witness before testifying was duly sworn by me to testify to the whole truth; that the foregoing pages are a full, true and accurate record of the proceedings, all done to the best of my skill and ability; that the proceedings were taken down by me in shorthand and thereafter reduced to print under my direction.

I CERTIFY that I am in no way related to any of the parties hereto nor am I in any way interested in the outcome hereof.

Review and signature was requested; any changes made by the witness will be attached to the original transcript.

Review and signature was waived/not required.

I CERTIFY that I have complied with the ethical obligations set forth in ACJA 7-206(F)(3) and ACJA 7-206 J(1)(g)(1) and (2). Dated at Phoenix, Arizona, this 15th of April, 2023.

/s/ Jennifer Hanssen
Jennifer Hanssen, RPR
Certified Reporter
Arizona CR No. 50165

* * * *

I CERTIFY that GRIFFIN GROUP INTERNATIONAL has complied with the ethical obligations set forth in ACJA 7-206 (J) (1) (g) (1) through (6).

/s/ Pamela A. Griffin

GRIFFIN GROUP INTERNATIONAL
Registered Reporting Firm
Arizona RRF No. R1005



Roe vs Herrington

Nicole Heath [CONFIDENTIAL]

1 GRIFFIN GROUP INTERNATIONAL -ERRATA SHEET - CHANGES IN TESTIMONY
 2 3200 East Camelback Road Suite 177 Phoenix, Arizona 85018
 3 Roe vs Herrington-Nicole-Heath [CONFIDENTIAL]-April 07, 2023
 4 Errata & Signature due no later than the May 26, 2023.

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SIGNATURE OF WITNESS

DATE



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**Roe vs
Herrington**

Nicole Heath [CONFIDENTIAL]

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EXHIBIT 37

36-337. Amending birth certificates

A. The state registrar shall amend the birth certificate for a person born in this state when the state registrar receives any of the following:

1. Except as provided in subsection D of this section, an adoption certificate or a court order for adoption required pursuant to section 36-336.

2. A voluntary acknowledgment of paternity pursuant to section 25-812.

3. For a person who has undergone a sex change operation or has a chromosomal count that establishes the sex of the person as different than in the registered birth certificate, both of the following:

(a) A written request for an amended birth certificate from the person or, if the person is a child, from the child's parent or legal guardian.

(b) A written statement by a physician that verifies the sex change operation or chromosomal count.

4. A court order ordering an amendment to a birth certificate.

B. The state registrar shall change the name of the father on a registered birth certificate if:

1. The state registrar receives an administrative order or a court order ordering the state registrar to change the father's name on the registered birth certificate.

2. Paternity is established through a voluntary acknowledgement of paternity pursuant to section 25-812.

C. If a registered birth certificate does not exist for a person born in this state who is requesting to amend a birth certificate the person making that request shall comply with the requirements established by rule.

D. The state registrar shall retain the information on a person's registered birth certificate after the person's adoption if all of the following documents are submitted to the state registrar:

1. A written request to retain the information signed by the adoptive parent or a court order containing a request to retain the information on the registered birth certificate.

2. A written statement agreeing to retain the mother's name on the person's registered birth certificate, signed by the mother, or if the mother is deceased, a certified copy of a registered death certificate for the mother.

3. If there is a father's name stated on the registered birth certificate, a written statement agreeing to retain the father's name on the person's registered birth certificate, signed by the father, or if the father is deceased, a certified copy of a registered death certificate for the father.

E. If the state registrar amends a registered birth certificate following adoption, the birth certificate shall state the city or county of birth stated on the existing registered birth certificate and the date of birth stated on the existing registered birth certificate. The state registrar may omit the exact location of birth on the registered birth certificate.

F. If a local registrar or deputy local registrar amends a registered birth certificate, the local registrar or deputy local registrar shall forward all evidentiary documents provided to create the new birth certificate to the state registrar.

G. If the state registrar amends a registered birth certificate, the state registrar shall seal the previously registered birth certificate and the evidentiary documents provided to amend the registered birth certificate. The state registrar shall provide access to a sealed certificate or evidentiary documents only pursuant to section 36-322, a court order issued in this state or as prescribed by rule.

H. If the state registrar receives a court order annulling an adoption, the state registrar shall unseal the sealed registered birth certificate and shall seal the new birth certificate and evidentiary documents.

EXHIBIT 38

36-337. Amending birth certificates

A. The state registrar shall amend the birth certificate for a person born in this state when the state registrar receives any of the following:

1. Except as provided in subsection D of this section, an adoption certificate or a court order for adoption required pursuant to section 36-336.
2. A voluntary acknowledgment of paternity pursuant to section 25-812.
3. For a person who has undergone a sex change operation or has a chromosomal count that establishes the sex of the person as different than in the registered birth certificate, both of the following:
 - (a) A written request for an amended birth certificate from the person or, if the person is a child, from the child's parent or legal guardian.
 - (b) A written statement by a physician that verifies the sex change operation or chromosomal count.
4. A court order ordering an amendment to a birth certificate.

B. The state registrar shall change the name of the father on a registered birth certificate if:

1. The state registrar receives an administrative order or a court order ordering the state registrar to change the father's name on the registered birth certificate.
2. Paternity is established through a voluntary acknowledgement of paternity pursuant to section 25-812.

C. If a registered birth certificate does not exist for a person born in this state who is requesting to amend a birth certificate the person making that request shall comply with the requirements established by rule.

D. The state registrar shall retain the information on a person's registered birth certificate after the person's adoption if all of the following documents are submitted to the state registrar:

1. A written request to retain the information signed by the adoptive parent or a court order containing a request to retain the information on the registered birth certificate.
2. A written statement agreeing to retain the mother's name on the person's registered birth certificate, signed by the mother, or if the mother is deceased, a certified copy of a registered death certificate for the mother.
3. If there is a father's name stated on the registered birth certificate, a written statement agreeing to retain the father's name on the person's registered birth certificate, signed by the father, or if the father is deceased, a certified copy of a registered death certificate for the father.

E. If the state registrar amends a registered birth certificate following adoption, the birth certificate shall state the city or county of birth stated on the existing registered birth certificate and the date of birth stated on the existing registered birth certificate. The state registrar may omit the exact location of birth on the registered birth certificate.