

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

BRIANNA BOE, *et al.*,)
)
Plaintiffs,)
)
and)
)
UNITED STATES OF AMERICA,)
) NO. 2:22-CV-00184-LCB-CWB
Plaintiff-Intervenor,) HON. LILES C. BURKE
)
v.)
)
STEVE MARSHALL, IN HIS)
OFFICIAL CAPACITY AS)
ATTORNEY GENERAL OF THE)
STATE OF ALABAMA, *ET AL.*,)
)
Defendants.)

**PRIVATE PLAINTIFFS' RESPONSE TO DEFENDANTS' MOTION TO
AMEND SCHEDULING ORDER**

Plaintiffs Brianna Boe, individually and on behalf of her minor son, Michael Boe; Megan Poe, individually and on behalf of her minor daughter, Allison Poe; Kathy Noe, individually and on behalf of her minor son, Christopher Noe; Rachel Koe, M.D.; Rebecca Roe, individually and on behalf of her minor daughter, Melissa Roe; Heather Austin, Ph.D.; and Robert Moe, individually and on behalf of his minor

daughter, April Moe (collectively, “the Private Plaintiffs”) respond to Defendants’ Motion to Amend Scheduling Order.

First, and to be clear, Private Plaintiffs and their Counsel fully complied with the Court’s March 27, 2023 Order and have collected and produced all responsive medical records in their custody, possession or control, as well as tendered all of the Plaintiff Parents for deposition, in time for the parties to be able to meet all deadlines outlined in this Court’s current scheduling order. Moreover, Private Plaintiffs have served their experts’ Rule 26 reports, tendered one of their experts for deposition, and agreed to tender their remaining experts for deposition weeks before the current discovery deadline. To the extent Defendants seek an extension of the Court’s deadlines, including the August 21, 2023 trial date, the basis for their requested extension in no way can reasonably rely upon any conduct on the part of Private Plaintiffs or their counsel.

Second, while Defendants’ requested discovery extension hinges on discovery issues related to either parties or non-party entities other than Private Plaintiffs, Private Plaintiffs do not object to a modest extension of the current deadlines. Private Plaintiffs have grave concerns, however, about the suggested six-month extension and the dates outlined in Defendants’ Proposed Fifth Amended Scheduling Order. For example, Private Plaintiffs respectfully suggest that Defendants should be able to disclose their experts’ Rule 26 Reports under the current schedule and

then later supplement the Reports, if needed. Once the Court provides guidance on what extension, if any, the Court views reasonable after the May 22 hearing, Private Plaintiffs are happy to work with counsel to prepare a proposed scheduling order for the Court's consideration, if desired.

Respectfully submitted this 16th day of May, 2023.

/s/ Melody H. Eagan

Melody H. Eagan (ASB-9780-D38M)
Jeffrey P. Doss (ASB-4212-R62D)
Amie A. Vague (ASB-4113-Q46I)
LIGHTFOOT, FRANKLIN & WHITE LLC
The Clark Building
400 20th Street North
Birmingham, AL 35203
205.581.0700
meagan@lightfootlaw.com
jdoss@lightfootlaw.com
avague@lightfootlaw.com

J. Andrew Pratt (ASB-3507-J56P)
Adam Reinke (GA Bar No. 510426) (*pro hac vice*)
Misty L. Peterson (GA Bar No. 243715) (*pro hac vice*)
KING & SPALDING LLP
1180 Peachtree Street Northeast, Suite 1600
Atlanta, GA 30309
404.572.4600
apratt@kslaw.com
areinke@kslaw.com
mpeterson@kslaw.com

Brent P. Ray (IL Bar No. 6291911) (*pro hac vice*)
Abigail Hoverman Terry (IL Bar No. 6327057) (*pro hac vice*)

KING & SPALDING LLP
110 North Wacker Drive, Suite 3800
Chicago, IL 60606
312.995.6333
bray@kslaw.com
ahoverman@kslaw.com

Michael B. Shortnacy (CA Bar No. 277035) (*pro hac vice*)

KING & SPALDING LLP
633 West Fifth Street, Suite 1600
Los Angeles, CA 90071
213.443.4355
mshortnacy@kslaw.com

Asaf Orr (CA Bar No. 261650) (*pro hac vice*)
NATIONAL CENTER FOR LESBIAN RIGHTS
870 Market Street, Suite 370
San Francisco, CA 94102
415.392.6257
aorr@nclrights.org

Jennifer L. Levi (MA Bar No. 562298) (*pro hac vice*)
GLBTQ LEGAL ADVOCATES & DEFENDERS
18 Tremont, Suite 950
Boston, MA 02108
617.426.1350
jlevi@glad.org

Scott D. McCoy (FL Bar No. 1004965) (*pro hac vice*)
SOUTHERN POVERTY LAW CENTER
P.O. Box 12463
Miami, FL 33101
334.224.4309
scott.mccoy@splcenter.org

Diego A. Soto (ASB-3626-Y61S)
SOUTHERN POVERTY LAW CENTER
400 Washington Avenue
Montgomery, AL 36104
334.604.1414
diego.soto@splcenter.org

Jessica L. Stone (GA Bar No. 275567) (*pro hac vice*)
SOUTHERN POVERTY LAW CENTER
150 E. Ponce de Leon Ave., Suite 340
Decatur, GA 30030
404.221.5837
jessica.stone@splcenter.org

Sarah Warbelow (MI Bar No. P66690) (*pro hac vice*)
Cynthia Weaver (NY Bar No. 5091848) (*pro hac vice*)
HUMAN RIGHTS CAMPAIGN FOUNDATION
1640 Rhode Island Ave., NW
Washington, DC 20036
202.628.4160
sarah.warbelow@hrc.org
cynthia.weaver@hrc.org

CERTIFICATE OF SERVICE

I certify that I electronically filed this document using the Court's CM/ECF system on May 16, 2023, which will serve all counsel of record.

s/ Melody H. Eagan _____