UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

STERLING MISANIN, *et al.*,

Plaintiffs,

v.

ALAN WILSON, *et al.*,

Defendants.

No. 2:24-cv-4734-RMG

REPLY IN FURTHER SUPPORT OF PLAINTIFFS' MOTION FOR CLASS CERTIFICATION PURSUANT TO FED. R. CIV. P. 23

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INTRODUCTION

H 4624 imposes a statewide prohibition on the provision of gender-affirming medical care ("GAMC") to any person under the age of 18 (the Healthcare Ban) and to any person whose GAMC is state-funded (the Public Funds Restriction and the Medicaid Restriction).[1] The Healthcare Ban violates the federal constitutional and statutory rights of hundreds of transgender South Carolinians under the age of 18 and the parents who direct their medical care. The Public Funds and Medicaid Restrictions violate the federal constitutional and statutory rights of hundreds of transgender South Carolinians who receive care through MUSC, South Carolina's public hospital system, and/or who receive health insurance through state-funded insurance plans.

In pursuit of meaningful relief for the South Carolinians whose rights the law impermissibly infringes, Plaintiffs have moved to certify four classes of individuals impacted by H 4624 to preliminarily and permanently enjoin the Healthcare Ban and Public Funds Restriction. *See* Dkt. 6 ("Class Mot.") 2. The Healthcare Ban applies to the Minor and Parent Classes, and the Public Funds Restriction applies to the Insurance and MUSC Classes.

Despite Defendants' improper attempts to narrowly define the injuries caused by H 4624 and fabricate hypothetical class conflicts—which are not supported by the law or facts—Plaintiffs have met their burden of showing that (1) Plaintiffs have standing to seek classwide relief; (2) the numerosity, commonality, typicality, and adequacy requirements of Federal Rule of Civil Procedure 23(a) are met for each class; and (3) H 4624's provisions are applicable to each class as a whole and the injunctive and declaratory relief sought will provide relief to each class member. The Court should therefore certify the proposed Classes pursuant to Federal Rule of Civil Procedure 23(b)(2).

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[1] All capitalized terms not defined herein have the same meaning as defined in Plaintiffs' opening Motion for Preliminary Injunction, Docket 7 ("Mot.").

ARGUMENT

I. Plaintiffs Have Standing to Seek Their Requested Relief

As an initial matter, Defendants claim that certain Plaintiffs lack Article III standing for various aspects of their claims. Dkt. 47 ("Class Opp.") 5. As explained more fully in Plaintiffs' accompanying Reply in Further Support of their Motion for a Preliminary Injunction ("PI Reply"), that is wrong.

Minor and Parent Plaintiffs. Defendants argue that the Minor and Parent Plaintiffs have failed to show redressability because they have not sought an injunction against every party with a right of enforcement under H 4624. Class Opp. 5-6. But that is not the test. PI Reply §I.A. Instead, the redressability requirement is satisfied where the relief sought "remov[es] an obstacle to the exercise of one's rights, even if other barriers remain." *Disability Rts. S.C. v. McMaster,* 24 F.4th 893, 903 (4th Cir. 2022) (citations omitted). Enjoining enforcement by the Attorney General ("AG") "significant[ly] increase[s] . . . the likelihood that [the plaintiffs] would obtain relief that directly redresses the injury suffered." *Reed v. Goertz*, 598 U.S. 230, 234 (2023) (citations omitted); *see also* PI Reply § I.A.

Defendants also argue, relying on Justice Gorsuch's concurrence in *Labrador v. Poe*, 144 S. Ct. 921 (Mem.) (2024), that Plaintiffs lack standing to obtain injunctive relief as to specific GAMC treatments that they themselves do not seek. Class Opp. 6-7. But that is also not the test. The test is whether the Class shares a common contention. *See, e.g.*, *Carolina Youth Action Project v. Wilson*, 60 F.4th 770, 780 (4th Cir. 2023). H 4624 applies equally to each of the classes regardless of the specific treatment each individual obtained or seeks. Plaintiffs representing each class challenge South Carolina's limitations on GAMC in the same way that those within their Class challenge the law. PI Reply § I.B; *see also infra* § II.B.

Defendants' reliance on *Labrador v. Poe* is further misplaced because, in contrast to this case, plaintiffs in that case *did not* seek to certify a class. Justice Gorusch in *Labrador v. Poe* specifically instructed that plaintiffs "seek[ing] relief for a larger group of persons . . . must join those individuals to the suit **or win class certification**." 144 S. Ct. at 927 (emphasis added); *see*

also id. at 932 ("Even if a district court enjoins a new federal statute or state law only as to the particular plaintiffs, that injunction could still have widespread effect. For example, . . . the plaintiffs might file a class action."). That is exactly what Plaintiffs have done here.

Plaintiff Misanin. Defendants argue that no Plaintiff has standing to support a class action against MUSC. Class Opp. 7. Not so. MUSC denied Plaintiff Misanin surgical care; this is an injury in fact. Misanin was forced to delay treatment, interrupt his work schedule, switch providers to a location he felt less comfortable visiting, and obtain care at clinics which are less able to protect his privacy, disrupting his intended and desired care plan. PI Reply § I.D.

Having established standing, "whether [Plaintiffs] will be able to represent the putative class[es] depends solely on whether [they are] able to meet the additional criteria encompassed in Rule 23." *Peters v. Aetna, Inc.*, 2 F.4th 199, 241 n.22 (4th Cir. 2021) (citation and alterations omitted). As discussed in their Motion for Class Certification and further below, Plaintiffs meet each of those requirements.

II. Each Proposed Class Satisfies Rule 23(a)

A. Each Proposed Class, Including the Minor and Parent Classes, Satisfies Numerosity

Defendants' argument that the Minor and Parent Classes are not sufficiently numerous, Class Opp. 8-11, is wrong for several reasons.[2]

First, Defendants attempt to subdivide the putative classes according to specific types of GAMC, using Justice Gorsuch's concurrence in *Labrador* as a purported justification. Class Opp. 8-11. But *Labrador* does not mandate that, or govern class certification at all, much less the numerosity or construction of classes for class certification. 144 S. Ct. at 927. Moreover, the proposed classes share a common question of law not because the proposed class members share

[2] Other than adults receiving surgeries (addressed *infra*, n.3), Defendants do not contest the numerosity of the Insurance Class or MUSC Class. From May 21, 2019, to date, at least 245 individuals insured by PEBA and 125 individuals insured by SC Medicaid have received GAMC. Dkt. 47-4 (PEBA Defendants' Responses to Plaintiffs' First Set of RFAs and Interrogatories) 7; Dkt. 47-3 (DHHS Defendants' Responses to Plaintiffs' First Set of RFAs and Interrogatories) 7.

individualized health plans, but rather because of the nature of the injury this law inflicts upon them: each class member suffers a *discrimination* injury, and that injury, not the denial of one particular treatment or another, is the basis for liability under these legal claims. *See infra* § II.B. Defendants' approach is in irreconcilable tension with the purposes of Rule 23: if Defendants had their way, South Carolina courts would be inefficiently laden with a multiplicity of lawsuits from individuals seeking specific forms of care even though those legal claims would be indistinguishable from those brought here. For these reasons, Defendants' attempt to subdivide the Minor and Parent Classes based on particular treatment or procedure sought does not bear on the validity of those classes.[3]

Second, Defendants mischaracterize Plaintiffs' burden by suggesting that they must prove numerosity with "their own" specific facts. Class Opp. 8. There is no such requirement. As discussed below, the facts *do* demonstrate numerosity. But even if they did not, "it is not required that the exact size of a class be established . . . . [W]here general knowledge and common sense would indicate that it is large, the numerosity requirement is satisfied." *Harris v. Rainey*, 299 F.R.D. 486, 489 (W.D. Va. 2014) (internal quotation omitted). As Plaintiffs already briefed, the Williams Institute estimates that thousands of transgender young people live in South Carolina. *See* Class Mot. 12. It is a reasonable inference that of those thousands of individuals, at least 40 are now seeking, or might intend to seek, GAMC. *See Fitzgerald v. Schweiker*, 538 F. Supp. 992, 1000 (D. Md. 1982) (allowing a reasonable statistical estimate based on percentages to satisfy numerosity); *In re Marriott Int'l, Inc., Customer Data Sec. Breach Litig.*, 341 F.R.D. 128, 147 (D. Md. 2022) (allowing for a "reasonable estimate" to meet numerosity requirement based on approximations from data).

[3] Likewise for the adults in the Insurance and MUSC Classes. Defendants argue that the Court should "deny class certification with respect to adults" because Defendants DHHS and MUSC respectively identified 16 and 17 patients who received GAMC surgery over a several-year period. This argument is inherently flawed because it includes only those who received surgery, and not other GAMC patients covered by the very same provision of the statute. It also ignores individuals whose current, medically-indicated treatment will include surgical care.

In any case, discovery from Defendants clearly shows that the Minor and Parent Classes are sufficiently numerous. The insurer Defendants (PEBA and DHHS) disclosed in their discovery responses that as many as 713 minors in the state have been diagnosed with gender dysphoria based on Defendants' records alone, and at least 72 of those have received care.[4] Defendant MUSC has further disclosed that, within MUSC, 167 minor patients under the age of 18 have been diagnosed with gender dysphoria, and 14 have received treatment.[5] These numbers do not even include the many adolescents who may be receiving insurance or treatment from non-Defendants. Given that there is at least one Parent for each member of the Minor Class, both classes are sufficiently numerous. *See In re Zetia (Ezetimibe) Antitrust Litig*., 7 F.4th 227, 234 (4th Cir. 2021) (40 or more class members is sufficiently numerous).

Third, to prove the supposed deficiency of the Minor and Parent Classes' numerosity, Defendants rely on distortions of non-exhaustive statistics. Class Opp. 9-11. For example, Defendants rely on their discovery responses stating that MUSC, DHHS, and PEBA have only provided care or coverage for respectively 9, 7, and 19 different transgender minors to receive hormone therapy and/or puberty blockers. *Id.* at 9 (citing PEBA, MUSC, and DHHS Defendants' Responses to Plaintiffs' First Set of RFAs and Interrogatories). This is misleading: the number from DHHS does not include the 44 adolescent claims for hormone therapy reported by minors, which Defendants inexplicably address as a separate category. *Id.* at 9-10; *see also* Dkt. 47-3 (DHHS Defendants' Responses to Plaintiffs' First Set of RFAs and Interrogatories), Responses to Interrogatory No. 5. Even so, those Defendants are not the only providers of GAMC and/or health insurance in the state: Plaintiffs Grant Goe and Nina Noe, for example, receive healthcare from a provider other than MUSC, thus they would not be included in the MUSC category. *See* Ex. 1

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[4] Dkt. 47-4 (PEBA Defendants' Responses to Plaintiffs' First Set of RFAs and Interrogatories), Responses to Interrogatories No. 4, 5 (counting 109 and 19 individuals); Dkt. 47-3 (DHHS Defendants' Responses to Plaintiffs' First Set of RFAs and Interrogatories), Responses to Interrogatory No. 4, 5 (counting 604 and 53 individuals).

[5] Dkt. 47-2 (MUSC Defendants' Responses to Plaintiffs' First Set of RFAs and Interrogatories), Responses to Interrogatories No. 4, 5.

(Noe Tr.) at 49:20-50:4; Ex. 2 (Goe Tr.) at 74:12-18 (explaining that both Noe and Goe receive endocrinology care through Prisma Health). Considering that the number of minor patients identified by Defendants already approaches or exceeds traditional measures of sufficient numerosity, and that number is the floor, not the ceiling, there are sufficient facts to establish the numerosity of the Minor and Parent Classes.

Finally, even leaving aside that the estimated number of class members and method of estimation both demonstrate numerosity, the Classes are sufficiently numerous because joinder is impracticable. In the Fourth Circuit, a small number of identified claimants satisfy numerosity requirements when circumstances make it difficult or impossible to identify all potential claimants. *See Cypress v. Newport News Gen. & Nonsectarian Hosp. Ass'n*, 375 F.2d 648, 653 (4th Cir. 1967) ("We further are of the opinion that eighteen is a sufficiently large number to constitute a class in the existing circumstances."); *In re Zetia*, 7 F.4th at 234 (4th Cir. 2021) (class of 40 or more raises "a presumption of impracticability of joinder based on numbers alone" but does not foreclose on smaller group) (citing Newberg on Class Actions § 3:12 (5th ed. 2021)). Plaintiffs represent a class of persons who have a special interest in protecting their anonymity. *See Doe v. City of Detroit*, No. 18-cv-11295, 2018 WL 3434345, at *2 (E.D. Mich. July 17, 2018) (explaining the need for transgender plaintiffs to proceed anonymously because of the "social stigma" attached to transgender identity). This special status, combined with the obvious difficulty of polling every person in the state to see whether they (or their children) have accessed or plan to access GAMC, makes joinder impracticable.

B. Each Proposed Class Satisfies Commonality

Defendants next argue that the proposed Classes do not meet Rule 23(a)'s commonality requirement because gender affirming care is "individualized." Class Opp. 11-13. But this argument misses the mark because the injuries suffered by each plaintiff and class member—which Defendants admit "need not be identical," *id.* at 11—were caused by statutory prohibition common to all of them. Moreover, Plaintiffs' claims rest on the common contention that H 4624, either

through its Healthcare Ban or Public Funds Restriction, discriminates against them on the basis of transgender status and sex. The question of law common to the Minor class is whether the Healthcare Ban violates their equal protection rights; the question common to the Parent class is whether the Healthcare Ban violates their due process rights; the questions common to the MUSC and Insurance classes are whether the Public Funds Provision violates their equal protection rights, the ACA, the ADA, and the Rehabilitation Act.

Across each class, the common contention is that Plaintiffs and class members have been denied healthcare on a *discriminatory basis*. *See Fain v. Crouch*, 540 F. Supp. 3d 575, 584–85 (S.D.W. Va. 2021) ("In the discrimination context, the common contention acts as the 'glue' which holds each of the claims together and ensures that examination of all the class members' claims for relief will produce a common answer to the crucial question *why was I disfavored*." (citation omitted) (emphasis original)).

H 4624 does not differentiate between proposed "individualized" care plans; it categorically bars care for minors and South Carolinians who rely on public funds for their care. The Court's decision in this case will generate a common answer for each class: whether they are permitted to resume seeking GAMC or not. *See Carolina Youth Action Project*, 60 F.4th at 780 (holding commonality exists when the relevant questions of law or fact "ha[ve] potential to generate 'common *answers*'" (quoting *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 350 (2011))).

C. Each Proposed Class Satisfies Typicality

Defendants next argue that the various kinds of GAMC sought by class members "preclude[] a finding of typicality" under Rule 23(a)(3). Class Opp. 14-15. Again, this argument is misguided: Plaintiffs in this case seek relief from a *categorical* ban of "gender transition procedures" for minors and South Carolinians receiving publicly-funded GAMC. H 4624 does not operate on a medication-by-medication or procedure-by-procedure basis. Nor are Plaintiffs seeking affirmative access *to* any specific procedure, which must be prescribed and provided on an individualized basis. In other words, "all the claims arise from defendants' enforcing" H 4624's

blanket prohibition, "and the relief sought simply seeks to allow the class members the right to individually seek treatment based on medical necessity, free from enforcement of" H 4624. *Flack v. Wis. Dep't of Health Servs.*, 331 F.R.D. 361, 369 (W.D. Wis. 2019) (finding typicality requirement satisfied in challenge to categorical insurance exclusion of GAMC). Differences among class members as to which kind of GAMC they seek do not foreclose a finding of typicality. *See Ealy v. Pinkerton Gov't Servs., Inc.*, 514 F. App'x 299, 304–05 (4th Cir. 2013) (a class "representative's claims and the claims of other members of the class need not be perfectly identical or perfectly aligned" to be typical (quotations omitted)). South Carolina has not enacted a statute that differentiates between the provision of puberty blockers and the provision of gender-affirming hormones. S.C. Code Ann. § 44-42-320. It has not enacted a statute that mandates physicians providing GAMC to follow a specific protocol. *Id*. And it has not enacted a statute that even allows for, let alone requires, the consideration of transgender minors' individual circumstances. *Id.* Rather, "each named plaintiff has the same interest and has suffered the same injury as the class the named plaintiff will represent:" the interest in "appropriate medical care related to transgender identity and, for the parents, [in] direct[ing] their children's medical care" and the injury of H 4624's "restrictions on that care." *Doe v. Ladapo*, No. 4:23cv114-RH-MAF, 2023 WL 8271764, at *3 (N.D. Fla. Oct. 18, 2023) (citing *Wal-Mart Stores*, 564 U.S. at 348-49); *see also Century 21 McDaniel & McDaniel Co., Inc. v. Bus. Telecom. Inc.*, 2007 WL 9735029, at *4 (D.S.C. Feb. 6, 2007) ("The requirement of typicality may be satisfied even though varying fact patterns support the claims . . . of individual class members." (citations omitted)).

For the same reasons, Defendants' argument that Plaintiffs do not meet the typicality requirement because "determining whether any particular intervention is 'medically necessary'" is an "individualized process" also fails. Class Opp. 14-15. Indeed, it "mischaracterizes the issue" to focus on the case-by-case nature of GAMC, since a "doctor providing someone an individualized assessment determining whether" gender-affirming "treatment would be appropriate would not be meaningful when . . . care to treat gender dysphoria is not available to

any" patients. *Id.* at 114.[6] "The determination of whether [gender-affirming] care is appropriate for a patient is still individualized," since "Plaintiffs merely ask the Court to preclude Defendants from asserting" H 4624 "as a reason to deny" this care. *Fain v. Crouch*, 342 F.R.D. 109, 115 (S.D.W. Va. 2022), *aff'd sub nom. Kadel v. Folwell*, 100 F.4th 122 (4th Cir. 2024) (finding typicality requirement satisfied).[7] It simply does not matter that "[t]he determination of whether[] care is appropriate" for each class member is "individualized," for Plaintiffs seek an injunction "preclud[ing] Defendants from asserting the [system-wide] exclusion as a reason to deny coverage." *Id.*

D. Each Proposed Class Satisfies Adequacy

Finally, Plaintiffs have shown by a preponderance of the evidence that the Class Representatives and their counsel will "fairly and adequately protect the interests of the class," satisfying Federal Rule of Civil Procedure 23(a)(4). Defendants' misplaced reliance on *Amchem* and hypothetical—but nonexistent here—examples of adequacy problems do not change that.

[6] Defendants mischaracterize Dr. Shumer's expert testimony to suggest that the inclusion of nonbinary individuals in the proposed classes defeats typicality. But Dr. Shumer did not categorically declare that no nonbinary person "would satisfy the criteria for medical interventions." Class Opp. 15. Quite the contrary—Dr. Shumer explicitly clarified that "to be black and white about it is I think oversimplifying," since "you can imagine that *someone who meets the diagnosis of gender dysphoria* identifies as a masculine person, although they were assigned female at birth[,] that has distress associated with their feminine body, desire for masculine characteristics, and when you ask them what their gender identity is, they say they *identify as a nonbinary masculine person*." Dkt. 46-3 ("Shumer Tr.") 148:13-149:2 (emphasis added).

[7] Defendants take contradictory positions on determinations of the medical necessity of GAMC when contesting Plaintiffs' respective requests for a preliminary injunction and class certification. Here, Defendants place great emphasis on the fact that "whether specific interventions are 'medically indicated' for any particular individual turns on facts unique to that individual" to attack Plaintiffs' typicality argument, Class Opp. 12. Yet, in a different brief filed the same day, Defendants insist that the State has made the categorical "decision that the prohibited interventions are not, in fact, medically necessary." Dkt. 46 ("Opp.") 31; *accord id.* at 9. Defendants cannot have it both ways. Either their position is that "South Carolina does not" ever "view the prohibited interventions here as 'medically necessary,'" *id.* (emphasis omitted), or it is that there is a sufficient difference between the "gender transition procedures" that are "medically indicated" and those that are not to cast doubt upon a finding of typicality, since both are barred by H 4624.

First, as Defendants do not dispute, Plaintiffs' counsel will capably represent the proposed Classes. Class Mot. 19-21.

Second, Plaintiff Class Representatives will fairly and adequately represent each Proposed Class because (1) the individual Named Plaintiffs' claims are the same as those of their respective Classes, (2) there are no conflicts of interest between the Named Plaintiffs and the Classes they seek to represent, and (3) none of the Class Members would be harmed in any way by—and all would benefit from—an injunction against the operation of the Healthcare Ban and the Public Funds Restriction. *See* Class Mot. 18.

Defendants cite *Amchem Products, Incorporated v. Windsor*, 521 U.S. 591 (1997), to support their claim that "[t]he issue of adequacy is especially pronounced in the context of medical conditions." Class Opp. 15. But the adequacy issues in *Amchem* stemmed from the circumstances specific to the particular injury alleged: asbestos-related medical issues. *Amchem*, 521 U.S. at 625. In that case, the class was made up of two groups: individuals already suffering from asbestos-related diseases, who were motivated to seek generous upfront payments; *and* individuals who had been exposed to asbestos but were not yet suffering asbestos-related symptoms, who sought an ample, inflation-protected fund they could draw from in the future. *Id*. at 603, 626. Unlike *Amchem*, this is not a "situation where 'the interests of those within the single class are not aligned,'" and there is no "risk of trading-off relief," Class Opp. 16 (citing *Amchem*, 521 U.S. at 626-27). Here, (1) the Minor and Parent Representatives and all Minor and Parent Class members seek the same relief (*i.e.* an injunction against the Healthcare Ban and a declaration that it is unconstitutional); (2) the Insurance and MUSC Plaintiffs and all MUSC and Insurance Class members seek the same relief, regardless of the specific treatment they seek (*i.e.* an injunction against the Public Funds Restriction). Every member of the proposed Classes is already experiencing the same medical condition of gender dysphoria, and there are only drawbacks—no benefits—for them in waiting until later to claim their "portion" of any relief granted to the class: namely, access to medically necessary healthcare to treat their gender dysphoria.

Further, there is no risk of "trading-off relief" because unlike in *Amchem*, where the plaintiffs sought certification as a class under Federal Rule of Civil Procedure 23(b)(1) to establish a limited fund for all current and future claimants in an effort to conclusively settle the defendant's liability, Plaintiffs here seek to certify a class under Federal Rule of Civil Procedure 23(b)(2). This distinction is critical because the certification of Rule 23(b)(2) classes rests on whether the *defendant* "has acted or refused to act on grounds generally applicable to the class." Fed. R. Civ. P. 23(b)(2). "The key is whether [the party's] actions would affect all persons similarly situated so that [those] acts apply generally to the whole class. . . . All the class members need not be aggrieved by or desire to challenge the defendant's conduct in order for some of them to seek relief under Rule 23(b)(2)." Wright & Miller, 7AA Federal Practice and Procedure § 1775 (3d ed. 2024). Here, Defendants' actions—passage of the Healthcare Ban and the Public Funds Restriction—are "applicable to the entire class[es]." *Id.*[8]

III. Each Proposed Class Satisfies Rule 23(b)(2)

Defendants appear to argue that the Classes would require "individualized injunctions" and therefore do not satisfy Rule 23(b)(2) because, according to Justice Gorsuch's concurrence in *Labrador v. Poe*, "plaintiffs [cannot] obtain injunctive relief for interventions they were not seeking." Class Opp. 17. But as Plaintiffs have already explained, *Labrador v. Poe* has no bearing on Plaintiffs' or the prospective Classes' ability to receive classwide injunctive relief: *Labrador v. Poe* was not a class action, and Justice Gorsuch's concurrence does not alter the governing commonality or typicality standards that allow Plaintiffs to seek injunctive relief on behalf of

[8] Defendants reference a conflict between the interests of Plaintiffs (who do not have diagnoses for Autism Spectrum Disorder) and Class members who have been diagnosed with both gender dysphoria and Autism Spectrum Disorder. Class Opp. 16. This speculative hypothetical lends no support to Defendants' argument because it does not change the fact that H 4624 is premised on grounds applicable to the entire classes of parents and minors and individuals who rely on publicly-funded institutions for their gender affirming care. Adequacy is defeated only by a "fundamental," not "merely speculative or hypothetical," conflict of interest. *Ward v. Dixie Nat. Life Ins. Co.*, 595 F.3d 164, 180 (4th Cir. 2010) (citation omitted).

similarly situated Classes, even when the specific GAMC treatments sought by Class members may differ from those sought by Plaintiffs. *See* PI Reply § I.B*; see also infra* §§ I, II.A.

Date: November 18, 2024

Respectfully submitted,

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

STERLING MISANIN, et al.,

Plaintiff,

vs. CASE NUMBER
2:24-CV-04734-BHH

ALAN WILSON, in his official capacity as the Attorney General of South Carolina, et al.,

Defendants.

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The video conference deposition of NANCY NOE, a witness in the above-entitled cause, taken pursuant to Notice and agreement, before Kyle J. Saniga, Certified Court Reporter and Notary Public, with all parties at their respective locations, on the 18th day of October 2024, commencing at or about the hour of 9:01 a.m.

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1 needed as she navigated her feelings around
2 gender," and then you say, "at the
3 recommendation of colleague in my office."
4 Who is the colleague in your office
5 that you're referring to there?
6 A That's her pediatrician. That's
7 [redacted].
8 Q Okay. At this point in time, had --
9 when you received this recommendation from
10 [redacted] and you took Nina to see an
11 endocrinologist, had Nina been diagnosed with
12 gender dysphoria?
13 MX. SWAMINATHAN: Objection to
14 form.
15 THE WITNESS: Before she saw the
16 endocrinologist?
17 BY MS. MOSS:
18 Q Yes.
19 A No.
20 Q Okay. What did you do to ensure,
21 determine that you were taking Nina to an
22 endocrinologist who is knowledgeable and cared
23 for transgender children?
24 MX. SWAMINATHAN: Objection to
25 form.

1 THE WITNESS: I trust her
2 pediatrician to refer to the correct
3 specialist, and I also trust Prisma
4 Children's Hospital.
5 BY MS. MOSS:
6 Q When you met with the endocrinologist
7 in -- the pediatric endocrinologist in July of
8 2017, did you discuss the possibility of puberty
9 blockers for Nina?
10 A We did not.
11 Q Did you discuss the possibility of
12 puberty blockers for Nina at any point in time
13 after that?
14 A We discussed that she may need them
15 down the road.
16 Q And after first taking Nina to the
17 pediatric endocrinologist in July 2017, when was
18 the next time that Nina saw an endocrinologist?
19 A We had follow-ups about every six
20 months.
21 Q When is the first time that you recall
22 discussing puberty blockers with the
23 endocrinologist?
24 A Can you clarify that?
25 Q Sure. If you had follow-ups every six

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

STERLING MISANIN, et al.,
Plaintiffs,
vs. No. 2:24-cv-04734-BHH
ALAN WILSON, in his
official capacity as the
Attorney General of
South Carolina, et al.,

Defendants.

REMOTE VIDEOTAPED DEPOSITION OF GARY GOE
Greenville, South Carolina
Thursday, October 17, 2024

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REPORTED BY: DEBRA-LYNN BAKER, RPR, CSR

MAGNA LEGAL SERVICES

1 UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF SOUTH CAROLINA
3 CHARLESTON DIVISION
4
5 STERLING MISANIN, et al.,
6 Plaintiffs,
7 vs. No. 2:24-cv-04734-BHH
8 ALAN WILSON, in his
official capacity as the
9 Attorney General of
South Carolina, et al.,
10
Defendants.
11 ____
12
13
14
15 Remote deposition of GARY GOE, taken
16 on behalf of Defendants, at Greenville,
17 South Carolina, beginning at 8:06 a.m. and ending
18 at 10:42 a.m. on Thursday, October 17, 2024,
19 before Debra-Lynn Baker, RPR, CSR, a Notary
20 Public for the Commonwealth of Virginia at Large.
21
22
23
24
25

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23 RICHARD LOFTUS
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25

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5 By Ms. Carolan 103

6

7 EXHIBITS

8 (None)

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1 A I don't remember the date.
2 Q Do you recall the year?
3 A No, I don't.
4 Q Do you know whether it was before or
5 after Grant first began HRT?
6 A To the best of my knowledge, I
7 believe it was before, because we had to have
8 blood work and all that stuff done before he
9 could start any kind of hormone therapy.
10 Q Do you know what -- what practice or
11 hospital the endocrinologist is associated with?
12 A I believe it's through Prisma Health.
13 I would have to look at the bill to see for sure.
14 Q And what about [REDACTED], what is
15 the name of his practice?
16 A I know he works for Prisma Health.
17 I'm not sure what -- I don't recall the name of
18 his practice.
19 Q And where is it located, where is
20 [REDACTED] practice located?
21 A In [REDACTED], South Carolina.
22 Q Approximately how far away from your
23 home is [REDACTED] office?
24 MS. CAROLAN: Objection to form.
25 THE WITNESS: Somewhere between 40