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Labrador, in his official capacity as
Attorney General of the State of Idaho;
Brad Little, in his official capacity as
Governor of the State of Idaho, Josh
Tewalt, in his official capacity as the
Director of the Idaho Department of
Corrections; and Bree Derrick, in her
official capacity as the Deputy Director
of IDOC*

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO**

ROBINSON, *et al.*

Plaintiffs,

v.

RAÚL LABRADOR, in his official
capacity as Attorney General of the
State of Idaho; *et al.*,

Defendants.

Case No. 1:24-cv-00306-DCN

**DEFENDANTS JOSH TEWALT
AND BREE DERRICKS'
ANSWER TO AMENDED CLASS
ACTION COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF**

DEFENDANTS JOSH TEWALT AND BREE DERRICKS' ANSWER TO AMENDED CLASS ACTION
COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Defendants Josh Tewalt, in his official Capacity as the Director of the Idaho Department of Corrections and Bree Derrick, in her official capacity as the Deputy Director of IDOC (“State Defendants”) answer and respond to the Amended Class Action Complaint for Declaratory and Injunctive Relief (Dkt. 65) (“Amended Complaint”) as follows:

I. GENERAL RESPONSE

Unless specifically admitted, State Defendants deny all allegations, claims, and requests for relief contained in the Amended Complaint.¹

II. SPECIFIC RESPONSES

Regarding the specific allegations, claims, and requests for relief contained in the specific paragraphs in the Amended Complaint, State Defendants respond as follows:

INTRODUCTION

1. State Defendants deny the allegations in paragraph 1.
2. State Defendants deny the allegations in paragraph 2.
3. State Defendants admit that the language of IDOC’s Standard Operating Procedure, “Gender Dysphoria: Healthcare for Inmates with” speaks for itself. State Defendants deny the remaining allegations in paragraph 3.
4. State Defendants admit the allegations in paragraph 4.

¹ While State Defendants are using Plaintiffs’ headings for ease of reference, this use should not be construed as an admission of any allegations in the headings.

5. State Defendants lack information sufficient to form a belief about the truth of the allegations in paragraph 5 and therefore deny.

6. State Defendants deny the allegations in paragraph 6.

7. State Defendants admit that HB 668 became effective July 1, 2024, and that HB 668's language speaks for itself. State Defendants deny the remaining allegations in paragraph 7.

8. State Defendants admit the allegations in paragraph 8.

9. State Defendants admit the allegations in paragraph 9.

10. State Defendants deny the allegations in paragraph 10.

11. State Defendants deny the allegations in paragraph 11.

JURISDICTION AND VENUE

12. State Defendants deny that this Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1341. The remaining statements in this paragraph are not factual allegations to which State Defendants are obligated to respond. To the extent they are construed as such, State Defendants deny.

13. State Defendants admit the allegations in paragraph 13.

PARTIES

I. Class of Incarcerated Persons

14. State Defendants admit the language of the Rules speaks for itself. State Defendants deny the remaining allegations in paragraph 14.

15. State Defendants deny the allegations in paragraph 15.

16. State Defendants deny the allegations in paragraph 16.

17. State Defendants lack information sufficient to form a belief about the truth of the allegations in paragraph 17 and therefore deny.

18. State Defendants lack information sufficient to form a belief about the truth of the allegations in paragraph 18 and therefore deny.

19. State Defendants admit that the language of the Rules, HB 668 speaks for itself. State Defendants deny the remaining allegations in paragraph 19.

20. State Defendants deny the allegations in paragraph 20.

21. State Defendants deny the allegations in paragraph 21.

22. State Defendants deny the allegations in paragraph 22.

23. State Defendants admit the allegations in paragraph 23.

24. State Defendants admit that the language of the Rules, HB 668, and Idaho Code speaks for itself. State Defendants deny the remaining allegations in paragraph 24.

II. Named Plaintiffs

25. State Defendants lack information sufficient to form a belief about the truth of the allegations in paragraph 25 and therefore deny.

26. State Defendants admit the allegations in paragraph 26.

27. State Defendants lack information sufficient to form a belief about the truth of the allegations in paragraph 27 and therefore deny.

28. State Defendants admit Plaintiff was diagnosed with gender dysphoria. State Defendants deny the remaining allegations in paragraph 28.

29. State Defendants lack information sufficient to form a belief about the truth of the allegations in paragraph 29 and therefore deny.

30. State Defendants lack information sufficient to form a belief about the truth of the allegations in paragraph 30 and therefore deny.

31. State Defendants lack information sufficient to form a belief about the truth of the allegations in paragraph 31 and therefore deny.

32. State Defendants lack information sufficient to form a belief about the truth of the allegations in paragraph 32 and therefore deny.

33. State Defendants lack information sufficient to form a belief about the truth of the allegations in paragraph 33 and therefore deny.

34. State Defendants lack information sufficient to form a belief about the truth of the allegations in paragraph 34 and therefore deny.

35. State Defendants admit that HB 668 went into effect on July 1, 2024. State Defendants deny the remaining allegations in paragraph 35.

36. State Defendants lack information sufficient to form a belief about the truth of the allegations in paragraph 36 and therefore deny.

37. State Defendants lack information sufficient to form a belief about the truth of the allegations in paragraph 37 and therefore deny.

38. State Defendants lack information sufficient to form a belief about the truth of the allegations in paragraph 38 and therefore deny.

39. State Defendants lack information sufficient to form a belief about the truth of the allegations in paragraph 39 and therefore deny.

40. State Defendants lack information sufficient to form a belief about the truth of the allegations in paragraph 40 and therefore deny.

41. State Defendants admit the allegations in paragraph 41, except that Plaintiff is currently incarcerated in ISCI.

42. State Defendants lack information sufficient to form a belief about the truth of the allegations in paragraph 42 and therefore deny.

43. State Defendants lack information sufficient to form a belief about the truth of the allegations in paragraph 43 and therefore deny.

44. State Defendants admit the allegations in paragraph 44.

45. State Defendants lack information sufficient to form a belief about the truth of the allegations in paragraph 45 and therefore deny.

46. State Defendants lack information sufficient to form a belief about the truth of the allegations in paragraph 46 and therefore deny.

47. State Defendants lack information sufficient to form a belief about the truth of the allegations in paragraph 47 and therefore deny.

48. State Defendants lack information sufficient to form a belief about the truth of the allegations in paragraph 48 and therefore deny.

49. State Defendants lack information sufficient to form a belief about the truth of the allegations in paragraph 49 and therefore deny.

50. State Defendants deny the allegations in paragraph 50.

51. State Defendants lack information sufficient to form a belief about the truth of the allegations in paragraph 51 and therefore deny.

III. Defendants

52. State Defendants deny the allegations in this paragraph, except that Defendant Raúl Labrador is the current Attorney General of the State of Idaho and that the language of HB 668 the Idaho Code speaks for itself.

53. State Defendants deny the allegations in this paragraph, except that Defendant Brad Little is the current Governor of the State of Idaho and that the language of the Idaho Constitution and Idaho Code speaks for itself.

54. State Defendants deny the allegations in this paragraph, except that Defendant Josh Tewalt is the current Director of IDOC, which is the highest-level official in IDOC and that IDOC is the State agency responsible for incarceration of adult inmates sentenced by the courts.

55. State Defendants deny the allegations in this paragraph, except that Defendant Bree Derrick is the current Deputy Director of IDOC and is a member of IDOC's executive leadership team.

56. State Defendants admit the allegations in paragraph 56.

57. State Defendants lack information sufficient to form a belief about the truth of the allegations in paragraph 57 and therefore deny.

58. State Defendants lack information sufficient to form a belief about the truth of the allegations in paragraph 58 and therefore deny.

FACTUAL ALLEGATIONS

Gender Dysphoria is a Serious Medical Condition Requiring Treatment

59. The allegations in this paragraph are the proper subject of expert testimony and therefore no response is required. To the extent a response is required, State Defendants deny the allegations of paragraph 59.

60. The allegations in this paragraph are the proper subject of expert testimony and therefore no response is required. To the extent a response is required, State Defendants deny the allegations of paragraph 60.

61. The allegations in this paragraph are the proper subject of expert testimony and therefore no response is required. To the extent a response is required, State Defendants deny the allegations of paragraph 61.

62. The allegations in this paragraph are the proper subject of expert testimony and therefore no response is required. To the extent a response is required, State Defendants deny the allegations of paragraph 62.

Treatment for Gender Dysphoria

63. The allegations in this paragraph are the proper subject of expert testimony and therefore no response is required. To the extent a response is required, State Defendants deny the allegations of paragraph 63.

64. The allegations in this paragraph are the proper subject of expert testimony and therefore no response is required. To the extent a response is required, State Defendants deny the allegations of paragraph 64.

65. The allegations in this paragraph are the proper subject of expert testimony and therefore no response is required. To the extent a response is required, State Defendants deny the allegations of paragraph 65.

66. State Defendants lack information sufficient to form a belief about the truth of the allegations in paragraph 66 and therefore deny.

67. The allegations in this paragraph are the proper subject of expert testimony and therefore no response is required. To the extent a response is required, State Defendants deny the allegations of paragraph 67.

68. State Defendants deny the allegations in paragraph 68.

69. The allegations in this paragraph are the proper subject of expert testimony and therefore no response is required. To the extent a response is required, State Defendants deny the allegations of paragraph 69.

70. The allegations in this paragraph are the proper subject of expert testimony and therefore no response is required. To the extent a response is required, State Defendants deny the allegations of paragraph 70.

71. The allegations in this paragraph are the proper subject of expert testimony and therefore no response is required. To the extent a response is required, State Defendants deny the allegations of paragraph 71.

72. State Defendants deny the allegations in paragraph 72.

73. The allegations in this paragraph are the proper subject of expert testimony and therefore no response is required. To the extent a response is required, State Defendants deny the allegations of paragraph 73.

Incarcerated People with Gender Dysphoria are Entitled to Access Medically Necessary Treatment for their Dysphoria, Including Hormone Therapy

74. State Defendants admit that the language of IDOC's Policy 401, "Clinical Services and Treatment" speaks for itself. State Defendants deny the remaining allegations in paragraph 74.

75. State Defendants admit that the language of IDOC's Standard Operating Procedure, "Gender Dysphoria: Healthcare for Inmates with" speaks for itself. State Defendants deny the remaining allegations in paragraph 75.

76. State Defendants deny the allegations in paragraph 76.

77. The allegations in this paragraph are the proper subject of expert testimony and therefore no response is required. To the extent a response is required, State Defendants deny the allegations of paragraph 77.

78. The allegations in this paragraph are the proper subject of expert testimony and therefore no response is required. To the extent a response is required, State Defendants deny the allegations of paragraph 78.

79. The allegations in this paragraph are the proper subject of expert testimony and therefore no response is required. To the extent a response is required, State Defendants deny the allegations of paragraph 79.

The Idaho State Legislature Passed H.B. 668

80. State Defendants admit that the language of HB 668 speaks for itself and that Governor Little signed HB 668 into law on March 27, 2024. State Defendants deny the remaining allegations in paragraph 80.

81. State Defendants deny the allegations in paragraph 81.

82. State Defendants admit that the language of HB 668 and the Idaho Code speaks for itself. State Defendants deny the remaining allegations in paragraph 82 and therefore deny same.

83. State Defendants deny the allegations in paragraph 83.

84. State Defendants admit that the language of Plaintiffs' counsel's demand letter speaks for itself. State Defendants deny the remaining allegations in paragraph 84.

85. State Defendants admit that the language of IDOC's reply speaks for itself. State Defendants deny the remaining allegations in paragraph 85.

86. State Defendants admit that the language of Plaintiffs' June 17 correspondence speaks for itself. State Defendants deny the remaining allegations in paragraph 86.

87. State Defendants admit that the June 21 video call occurred. State Defendants agree that State Defendants would not agree to suspend enforcement of the law. State Defendants deny all other allegations in this paragraph.

CLAIM FOR RELIEF

Denial of Necessary Medical Treatment (8th Amendment; 42 U.S.C. § 1983)

Against ALL Defendants

88. Paragraph 88 contains no factual assertions to admit or deny and no response is required. To the extent a response is required, State Defendants deny.

89. State Defendants lack information sufficient to form a belief about the truth of the allegations in paragraph 89 and therefore deny.

90. State Defendants lack information sufficient to form a belief about the truth of the allegations in paragraph 90 and therefore deny.

91. State Defendants admit that they are responsible for providing medical care to Plaintiffs sufficient to comply with obligations under the Eighth Amendment. State Defendants deny the remaining allegations in paragraph 91.

92. State Defendants admit that the language of HB 668 speaks for itself and that Governor Little signed HB 668 into law on March 27, 2024. State Defendants deny the remaining allegations in paragraph 92.

93. State Defendant's admit that HB 668 went into effect on July 1, 2024 and that the language of HB 668 speaks for itself. State Defendants deny the remaining allegations in paragraph 93.

94. State Defendants deny the allegations in paragraph 94.

95. State Defendants deny the allegations in paragraph 95.

96. State Defendants deny the allegations in paragraph 96.

97. State Defendants deny the allegations in paragraph 97.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

Plaintiffs' Amended Complaint and each and every allegation contained therein fails to state a claim against State Defendants upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

That the allegations contained in Plaintiffs' Amended Complaint do not rise to the level of a deprivation of rights that are protected by the Constitution or any of the legal provisions referred to in the Amended Complaint.

THIRD AFFIRMATIVE DEFENSE

State Defendants are immune, or have qualified immunity, to the allegations contained in Plaintiffs' Amended Complaint, including immunity under the 11th Amendment of the U.S. Constitution, which is not waived.

FOURTH AFFIRMATIVE DEFENSE

State Defendants are not liable under 42 U.S.C. § 1983 for any injury caused by the act or omission of another person under the theory of respondeat superior and because State Defendants are not "persons" under 42 U.S.C. § 1983.

FIFTH AFFIRMATIVE DEFENSE

Plaintiffs' claims are barred as Plaintiffs have failed to exhaust all administrative remedies.

SIXTH AFFIRMATIVE DEFENSE

Regarding the matters alleged in Plaintiffs' Amended Complaint, State Defendants' conduct was justifiable, reasonable, authorized by law, and performed in good faith with the belief that such acts were proper, legal, and appropriate.

SEVENTH AFFIRMATIVE DEFENSE

Plaintiffs' request for injunctive relief does not show or sufficiently allege the likelihood of future injury or irreparable harm.

EIGHTH AFFIRMATIVE DEFENSE

Plaintiffs' request for injunctive relief does not show or sufficiently allege the existence of a reasonable likelihood of success.

NINTH AFFIRMATIVE DEFENSE

Plaintiffs' claims are barred as Plaintiffs lack standing to bring the claims in Plaintiffs' Amended Complaint.

RESERVATION OF DEFENSES

State Defendants reserve the right to supplement these defenses with any additional defenses that subsequently become available during discovery or trial.

WHEREFORE, having fully answered the Amended Complaint, State Defendants request that the Court enter an order and judgment:

1. That dismisses the Amended Complaint with prejudice;
2. That dissolves and dismisses the preliminary injunction;
3. That enters judgment in favor of Defendants and against Plaintiffs;
4. That awards State Defendants their costs and attorney's fees; and
5. That provides all other relief that is just.

JURY-TRIAL DEMAND

State Defendants demand a jury-trial on all claims so triable.

Dated: October 15, 2024

Office of the Attorney General

By: /s/ James J. Simeri
JAMES J. SIMERI
Deputy Attorney General

CERTIFICATE OF SERVICE

I certify that on October 15, 2024, the foregoing was electronically filed with the Clerk of the Court using the CM/ECF system, which sent a Notice of Electronic Filing to the following persons:

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