No. 25A__

In the Supreme Court of the United States

STATE OF SOUTH CAROLINA; SOUTH CAROLINA STATE BOARD OF EDUCATION; SOUTH CAROLINA DEPARTMENT OF EDUCATION; BERKELEY COUNTY SCHOOL DISTRICT; ELLEN WEAVER, IN HER OFFICIAL CAPACITY AS SOUTH CAROLINA SUPERINTENDENT OF EDUCATION; ANTHONY DIXON, IN HIS OFFICIAL CAPACITY AS SUPERINTENDENT OF BERKELEY COUNTY SCHOOL DISTRICT,

Applicants,

v.

JOHN DOE, A MINOR, BY HIS PARENTS AND NEXT FRIENDS; JIM DOE, PARENTAL NATURAL GUARDIAN; JANE DOE, PARENTAL NATURAL GUARDIAN,

Respondents.

TO THE HONORABLE JOHN G. ROBERTS, JR., CHIEF JUSTICE OF THE UNITED STATES AND CIRCUIT JUSTICE FOR THE FOURTH CIRCUIT

APPLICATION FOR A STAY OF INJUNCTION PENDING APPEAL IN THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT AND FURTHER PROCEEDINGS IN THIS COURT

Thomas T. Hydrick
Solicitor General
Joseph D. Spate*
Deputy Solicitor General
Benjamin M. McGrey
Assistant Deputy Solicitor General
SOUTH CAROLINA OFFICE OF THE ATTORNEY GENERAL
1000 Assembly St.
Columbia, SC 29201
(803) 734-3371
josephspate@scag.gov

*Counsel of Record

Counsel for Applicants State of South Carolina; South Carolina State Board of Education; South Carolina Department of Education; and Ellen Weaver, in her official capacity as South Carolina Superintendent of Education

Miles E. Coleman
NELSON MULLINS RILEY & SCARBOROUGH LLP
2 West Washington Street / Suite 400
Greenville, SC 29601
(864) 373-2300
miles.coleman@nelsonmullins.com

Counsel for Applicants South Carolina State Board of Education; South Carolina Department of Education; Ellen Weaver, in her official capacity as South Carolina Superintendent of Education; Berkeley County School District; and Anthony Dixon, in his official capacity as Superintendent of Berkeley County School District

PUBLIC COPY—SEALED MATERIALS REDACTED

PARTIES TO THE PROCEEDING BELOW

Applicants (Defendants-Appellees below) are the State of South Carolina; South Carolina State Board of Education; South Carolina Department of Education; Berkeley County School District; Ellen Weaver, in her Official Capacity as South Carolina Superintendent of Education; and Anthony Dixon, in his Official Capacity as Superintendent of Berkeley County School District (collectively, "Applicants").

Respondents (Plaintiffs-Appellants below) are John Doe, a Minor, by his Parents and Next Friends; Jim Doe, Parental Natural Guardian; and Jane Doe, Parental Natural Guardian (collectively, "Respondents").

RELATED PROCEEDINGS

This application arises from these proceedings:

Doe v. *State of South Carolina*, C.A. No. 2:24-6420-RMG, ECF No. 92 (D.S.C. Jul. 8, 2025) (order staying case pending the Supreme Court's decision in *West Virginia* v. *B.P.J.*, No. 24-43 and denying pending motions without prejudice and with leave to restore and/or supplement after a decision in *B.P.J.* or the end of the Supreme Court's 2025–2026 term, whichever is sooner);

Doe v. *State of South Carolina*, C.A. No. 2:24-6420-RMG, ECF No. 93 (D.S.C. Jul. 8, 2025) (reference order denying pending motions without prejudice and with leave to restore and/or supplement);

Doe v. *State of South Carolina*, C.A. No. 2:24-6420-RMG, ECF No. 103 (D.S.C. Jul. 23, 2025) (order denying Respondents' motion for preliminary injunction pending appeal);

Doe v. *State of South Carolina*, No. 25-1787, Dkt. 42 (4th Cir. Aug. 12, 2025) (order granting Respondents' motion for injunction pending appeal);

Doe v. *South Carolina*, No. 25-1787, Dkt. 43, 2025 WL 2375386 (4th Cir. Aug. 15, 2025) (amended order granting Respondents' motion for injunction pending appeal); and

Doe v. *South Carolina*, No. 25-1787, Dkt. 47 (4th Cir. Aug. 25, 2025) (order denying Applicants' motion to reconsider or stay the injunction pending appeal).

TABLE OF CONTENTS

INTRODUCTION 1
STATEMENT 4
A. Background 4
B. Proceedings Below 6
ARGUMENT 10
I. *Skrmetti*, not *Grimm*, controls the outcome of this case. 11
A. *Skrmetti* undercuts *Grimm*'s precedential value. 11
B. *Grimm* is distinguishable from this case. 15
II. Applicants will likely prevail on appeal. 18
A. This Court has traditionally applied a strong presumption in favor of allowing challenged legislative acts to remain in force pending final review in this Court. 18
B. The Proviso doesn't violate Equal Protection. 19
C. The Proviso comports with Title IX. 27
III. The equities warrant a stay. 32
A. The injunction unjustifiably disrupts the status quo. 32
B. The injunction intrudes upon the sovereignty, will, and public interest of South Carolina citizens. 33
C. The balance of harms supports staying the injunction. 34
IV. This Court is likely to grant review. 38
CONCLUSION 40

TABLE OF AUTHORITIES

Cases **Page(s)**

A.C. by M.C. v. *Metro. Sch. Dist. of Martinsville*,
75 F.4th 760 (7th Cir. 2023) 29, 39
Adams by & through Kasper v. *Sch. Bd. of St. Johns Cnty.*,
57 F.4th 791 (11th Cir. 2022) ..... passim
Alabama v. *U.S. Sec'y of Educ.*,
No. 24-12444, 2024 WL 3981994 n.8 (11th Cir. Aug. 22, 2024) 30
Am. Fed'n of Lab. v. *Watson*,
327 U.S. 582 (1946) 34
Andino v. *Middleton*,
141 S. Ct. 9 (2020) 32, 40
Armour v. *City of Indianapolis*,
566 U.S. 673 (2012) 19
Att'y Gen. of Okla. v. *Tyson Foods, Inc.*,
565 F.3d 769 (10th Cir. 2009) 32
B.P.J. v. *West Virginia*,
98 F.4th 542 (4th Cir. 2024) 3, 8
Bostock v. *Clayton Cnty., Georgia*,
590 U.S. 644 (2020) 25, 31
Brannum v. *Overton Cnty. Sch. Bd.*,
516 F.3d 489 (6th Cir. 2008) 21
Bridge v. *Oklahoma State Dep't of Educ.*,
711 F. Supp. 3d 1289 (W.D. Okla. 2024) 17, 28, 29, 39
Brock v. *Pierce Cnty.*,
476 U.S. 253 (1986) 22
Brown v. *Gilmore*,
533 U.S. 1301 (2001) 10, 33
Communist Party of Ind. v. *Whitcomb*,
409 U.S. 1235 (1972) 33
D.H. v. *Williamson Cnty. Bd. of Educ.*,
No. 3:22-CV-00570, 2024 WL 4046581 (M.D. Tenn. Sept. 4, 2024) 17, 29, 39
D.P. by A.B. v. Mukwonago Area Sch. Dist.,
No. 23-2568, 2025 WL 1794428 (7th Cir. June 30, 2025) 29, 39
Davies Warehouse Co. v. *Bowles*,
321 U.S. 144 (1944) 18
Dep't of Educ. v. *Louisiana*,
603 U.S. 866 (2024) 14, 31, 39
Doe No. 1 v. *Bethel Loc. Sch. Dist. Bd. of Educ.*,
No. 3:22-cv-337, 2023 WL 5018511 (S.D. Ohio Aug. 7, 2023) 36
Elgin v. *Dep't of Treasury*,
567 U.S. 1 (2012) 37

F.C.C. v. *Beach Commc'ns, Inc.*,
508 U.S. 307 (1993) 25
Faulkner v. *Jones,*
10 F.3d 226 (4th Cir. 1993) 4
Folwell v. *Kadel*,
No. 24-99, 2025 WL 1787687 (U.S. June 30, 2025) 8, 11
Forts v. *Ward*,
621 F.2d 1210 (2d Cir. 1980) 21
Frontiero v. *Richardson*,
411 U.S. 677 (1973) 25
G.G. ex rel. Grimm v. *Gloucester Cnty. Sch. Bd.*,
822 F.3d 709 (4th Cir. 2016) 20
Gloucester Cnty. Sch. Bd. v. *Grimm*,
141 S. Ct. 2878 (2021) 38, 39
Grimm v. *Gloucester County School Board*,
972 F.3d 586 (4th Cir. 2020) ..... passim
Hoohuli v. *Ariyoshi*,
631 F. Supp. 1153 (D. Haw. 1986) 17, 25
Kadel v. *Folwell*,
100 F.4th 122 (4th Cir. 2024) 7
Labrador v. *Poe by & through Poe*,
144 S. Ct. 921 (2024) 10
LaShawn A. v. *Barry*,
87 F.3d 1389 (D.C. Cir. 1996) 15
Lowe v. *Raemisch*,
864 F.3d 1205 (10th Cir. 2017) 16
Lux v. *Rodrigues*,
561 U.S. 1306 (2010) 10
Mahmoud v. *Taylor*,
145 S. Ct. 2332 (2025) 36
Maryland v. *King*,
567 U.S. 1301 (2012) 2, 34
McGee v. *Va. High Sch. League, Inc.*,
801 F. Supp. 2d 526 (W.D. Va. 2011) 35
McHenry v. *Texas Top Cop Shop*, Inc.,
145 S. Ct. 1 (2025) 9
Merrill v. *Milligan*,
142 S. Ct. 879 (2022) 38
Metro. Sch. Dist. of Martinsville v. *A. C.*,
144 S. Ct. 683 (2024) 38
Nken v. *Holder*,
556 U.S. 418 (2009) 10, 32
Oklahoma v. *Cardona*,
No. CIV-24-00461-JD, 2024 WL 3609109 (W.D. Okla. July 31, 2024) 30

Parents for Priv. v. *Barr*,
949 F.3d 1210 (9th Cir. 2020) 36
Peeples v. *Brown*,
444 U.S. 1303 (1979) 35
Pharm. Rsch. & Mfrs. of Am. v. *Walsh*,
538 U.S. 644 (2003) 18
Respect Maine PAC v. *McKee*,
562 U.S. 996 (2010) 10
Rizzo v. *Goode*,
423 U.S. 362 (1976) 11
Roe v. *Critchfield*,
137 F.4th 912 (9th Cir. 2025) ..... passim
Roe v. *Critchfield*,
2023 WL 6690596 (D. Idaho Oct. 12, 2023) 26
Roman v. *Wolf*,
977 F.3d 935 (9th Cir. 2020) 32
Ry. Co. v. *Sys. Fed'n No. 40*,
300 U.S. 515 (1937) 34
Sampson v. *Murray*,
415 U.S. 61 (1974) 35
Strange v. *Searcy*,
574 U.S. 1145 (2015) 38
Strickler v. *Waters*,
989 F.2d 1375 (4th Cir. 1993) 21
Students & Parents for Priv. v. *Sch. Dirs. of Twp. High Sch. Dist. 211*,
377 F. Supp. 3d 891 (N.D. Ill. 2019) 3, 36
Tennessee v. *Becerra*,
739 F. Supp. 3d 467 (S.D. Miss. 2024) 31
Texas v. *Becerra*,
739 F. Supp. 3d 522 (E.D. Tex. 2024) 31
Trump v. *CASA, Inc.*,
145 S. Ct. 2540 (2025) 9
Turner Broadcasting System, Inc. v. *FCC*,
507 U.S. 1301 (1993) 18, 33
U.S. Dep't of Agric. v. *Moreno*,
413 U.S. 528 (1973) 22
United States v. *Skrmetti*,
145 S. Ct. 1816 (2025) ..... passim
United States v. *Virginia*,
518 U.S. 515 (1996) 3, 4, 21, 25
Walters v. *Nat'l Ass'n of Radiation Survivors*,
468 U.S. 1323 (1984) 18, 38
Webster v. *Fall*,
266 U.S. 507 (1925) 16

West Virginia v. *B.P.J.*,
No. 24-43, 2025 WL 1829164 (U.S. July 3, 2025) 8, 11, 12
Winter v. *Nat. Res. Def. Council, Inc.*,
555 U.S. 7 (2008) ..... passim
Wise v. *Circosta*,
978 F.3d 93 (4th Cir. 2020) 32
York v. *Story*,
324 F.2d 450 (9th Cir. 1963) 20

Statutes

20 U.S.C. § 1681 6
20 U.S.C. § 1681(a) 27
20 U.S.C. § 1686 27
28 U.S.C. § 1651 1

Other Authorities

Behind Closed Doors: Public Restrooms and the Fight for Women's Equality,
24 TEX. REV. L. & POL. 1 (2019) 20
Exec. Order No. 14168 28
H. 4025 6
H. 5100 6
H 5100 26
SB1 ..... passim
Sexism in the "Bathroom Debates": How Bathrooms Really Became Separated by Sex,
37 YALE L. & POL'Y REV. 227 (2018) 20

TO THE HONORABLE JOHN G. ROBERTS, JR., CHIEF JUSTICE OF THE UNITED STATES AND CIRCUIT JUSTICE FOR THE FOURTH CIRCUIT:

INTRODUCTION

Pursuant to Rule 23 of the Rules of this Court and the All Writs Act, 28 U.S.C. § 1651, the Applicants respectfully apply to stay the injunction pending appeal entered on August 12, 2025, by a panel of the United States Court of Appeals for the Fourth Circuit, see App. 32a–33a, and explained more fully in its order of August 15, 2025, see App. 3a–31a.

This case involves "the unremarkable—and nearly universal—practice of separating school bathrooms based on biological sex." *Adams by & through Kasper* v. *Sch. Bd. of St. Johns Cnty.*, 57 F.4th 791, 796 (11th Cir. 2022). In recent years, a growing judicial consensus has recognized that this practice of "separating school bathrooms based on biological sex passes constitutional muster and comports with Title IX." *Id.* The Fourth Circuit disregarded that growing consensus and enjoined a South Carolina budget proviso prohibiting the use of opposite-sex multi-occupancy restrooms in public schools as applied to the minor Respondent pending appeal. In doing so, it reverted to its discredited outlier opinion in *Grimm* v. *Gloucester County School Board*, 972 F.3d 586 (4th Cir. 2020), *cert. denied* 141 S. Ct. 2878 (2021).

As Judge Agee urged in his reluctant concurrence below, "*Grimm* was wrongly decided" and "[o]ne can only hope that the Supreme Court will take the opportunity with all deliberate speed to resolve these questions of national importance." App. 30a-31a (Agee, J., concurring) (cleaned up). This Court should stay the injunction pending appeal because the exceedingly high burden for relief was not met.

An emergency stay of the Fourth Circuit's injunction is warranted not only because *Grimm* was wrongly decided and should (and may soon) be overturned, but because in the absence of this Court's immediate intervention, the State, the school district, and its students are suffering actual, ongoing, material harms—all from a mandatory injunction that disrupts the status quo in a preliminary posture in a case where the Plaintiffs are unlikely ultimately to prevail. Start with the State.[1] In our federal system, States have a vital, sovereign interest in preserving their plenary authority against unwarranted federal incursions. And "any time a State is enjoined by a court from effectuating statutes enacted by representatives of its people, it suffers a form of irreparable injury." *Maryland* v. *King*, 567 U.S. 1301, 1303 (2012) (Roberts, C.J., in chambers) (cleaned up).

And consider the school district that the Fourth Circuit enjoined. It's now stuck between an impossible rock and hard place. On the one hand, the Executive Branch demands, on pain of loss of federal funding, that schools apply Title IX as originally understood. See U.S. DEP'T OF ED., *U.S. Dep't of Ed. Finds Five Northern Virginia School Districts in Violation of Title IX* (July 25, 2025) (https://tinyurl.com/bv97zrdd). On the other hand, the Fourth Circuit has required Applicant Berkeley County School District to do exactly the opposite. Other schools within the Fourth Circuit are already pointing to the Fourth Circuit's injunction in this case as a basis for refusing

[1] Of course, most Respondents, including the State, shouldn't be parties to this proceeding as they are immune from suit under the Eleventh Amendment and/or qualified immunity. *Doe* v. *State of South Carolina*, C.A. No. 2:24-6420-RMG, ECF No. 51 at 21–23, 42–43. Respondents have preserved and not waived those arguments.

to protect sex-designated intimate areas. See Alexandria City Public Schools letter to U.S. Department of Education, at 2 n.1, Aug. 15, 2025 (https://tinyurl.com/yexer5s3).

And what of other students (or their parents) who are classmates of Minor Respondent but who, as a matter of their long-recognized privacy interests, cannot share intimate spaces with a member of the opposite sex? "That some students in a state of partial undress may experience embarrassment, shame, and psychological injury in the presence of students of a different sex is neither novel nor implausible." *Roe* v. *Critchfield*, 137 F.4th 912, 925 (9th Cir. 2025) (cleaned up) (citing *United States* v. *Virginia*, 518 U.S. 515, 550 n.19 (1996) ("Admitting women to VMI would undoubtedly require alterations necessary to afford members of each sex privacy from the other sex in living arrangements.")). These harms are real, material, and unnecessary, especially in a preliminarily postured case under the backdrop of this Court's review of *B.P.J.* v. *West Virginia*, 98 F.4th 542 (4th Cir. 2024), *cert granted* No. 24-43, 2025 WL 1829164 (U.S. July 3, 2025). See, *e.g.*, *Students & Parents for Priv.* v. *Sch. Dirs. of Twp. High Sch. Dist. 211*, 377 F. Supp. 3d 891, 894–96 (N.D. Ill. 2019) (students required to share facilities with transgender identifying students reported suffering "embarrassment, humiliation, anxiety, fear, apprehension, stress," and "loss of dignity," leading to "avoid[ance of] getting undressed in locker rooms" and wearing "soiled, sweaty gym clothes under ... school clothes.").

This Court should stay the injunction pending appeal.

STATEMENT

A. Background

"[I]t has been commonplace and universally accepted—across societies and throughout history—to separate on the basis of sex those public restrooms, locker rooms, and shower facilities that are designed to be used by multiple people at a time." *Grimm*, 972 F.3d at 634 (Niemeyer, J., dissenting). As both this Court and the Fourth Circuit have acknowledged, a primary reason for this biology-rooted convention is the promotion of privacy. See *United States* v. *Virginia*, 518 U.S. 515, 533, 550 n.19 (1996) (recognizing the "enduring" "[p]hysical differences between men and women" and acknowledging, when ordering an all-male Virginia college to admit female students, that such a remedy "would undoubtedly require alterations necessary to afford members of each sex privacy from the other sex" (cleaned up)); *Faulkner* v. *Jones,* 10 F.3d 226, 232 (4th Cir. 1993) (noting "society's undisputed approval of separate public rest rooms for men and women based on privacy concerns").

Privacy is "especially important for school-aged children who are still developing mentally, physically, emotionally, and socially." *Roe* v. *Critchfield*, 137 F.4th 912, 924 (9th Cir. 2025). "No one questions that students have a privacy interest in their body when they go to the bathroom." *Grimm*, 972 F.3d at 613. "[A]sking them to expose their bodies to students of the opposite sex (or to be exposed to the bodies of the opposite sex) brings heightened levels of stress." *Critchfield*, 137 F.4th at 924 (cleaned up).

But recent social developments have sought to change that. Over the past fifteen years, the number of children and adolescents experiencing gender dysphoria

has skyrocketed. In fact, "recorded prevalence of gender dysphoria in people aged 18 and under increased over 100-fold between 2009 and 2021." H. Cass, Independent Review of Gender Identity Services for Children and Young People: Final Report 87 (Apr. 2024) (https://tinyurl.com/mry83mm6).

Because "the concept of gender dysphoria as a medical condition is relatively new," treatments for the condition are "subject to a rapidly evolving debate that demonstrates a lack of medical consensus over their risks and benefits." *United States* v. *Skrmetti*, 145 S. Ct. 1816, 1841 (2025) (Thomas, J., concurring) (cleaned up).

"Under these conditions, it is imperative that courts treat state legislation with a strong presumption of validity" and "protect States' ability to enact high-stakes" legal provisions in this arena "in which compassion for the child points in both directions." *Id.* (cleaned up).

In the wake of the recent surge of gender dysphoria among children and adolescents, states have pumped the brakes on efforts to facilitate pediatric gender transition. For example, 28 states have proscribed *medical* gender transition for children and adolescents. MOVEMENT ADVANCEMENT PROTECTION, "Equality Maps," accessed Aug. 15, 2025 (https://tinyurl.com/39ae2uza). And in *Skrmetti*, this Court recently upheld their right to do so. 145 S. Ct. at 1837. Additionally, 19 states have enacted legislation to prevent *social* gender transition in public schools and promote student privacy by preserving the biology-based designation of public-school multi-occupancy bathroom use by sex. MOVEMENT ADVANCEMENT PROJECTION, "Equality Maps," accessed Aug. 15, 2025 (https://tinyurl.com/y6cz7nhs). South Carolina is one of them.

Over a year ago, South Carolina's General Assembly ratified a General Appropriations Bill for Fiscal Year 2024–2025. The bill included a proviso—Proviso 1.120—that conditioned a portion of each public school district's state funding on the district's compliance with a requirement that it designate its multi-occupancy public school restrooms for use only by members of one sex, and that it limit entry into such restrooms to members of the designated sex. See H. 5100, General Appropriations Bill for Fiscal Year 2024–2025, Part IB § 1.120(B)–(C)(1) (https://tinyurl.com/yr6asnw7). That Proviso expired on June 30, 2025.

In June 2025, the South Carolina General Assembly passed a General Appropriations Bill for Fiscal Year 2025–2026. See H. 4025, General Appropriations Bill for Fiscal Year 2025–2026 (https://tinyurl.com/y429yczf). It contained a new proviso—Proviso 1.114—with language that mirrored Proviso 1.120 from the prior fiscal year. *Id.* at Part IB § 1.114. That new proviso took effect on July 1, 2025. *Id.*

B. Proceedings Below

Respondents, styled "John Doe, a minor, by his parents and next friends; Jim Doe, parental natural guardian; Jane Doe, parental natural guardian," App. 1a, sued Applicants on November 12, 2024, alleging "the restroom-related provision" of Proviso 1.120 violates the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution and Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681. *Doe*, C.A. No. 2:24-6420-RMG, ECF No. 1 at 18–21.

Two days after filing suit, Minor Respondent filed a motion for preliminary injunction as to Proviso 1.120, along with a motion for class certification. *Id.* at ECF

No. 9 at 1; *id.* at ECF No. 10 at 6–8. After limited discovery, Defendants responded to the Complaint, the motion for preliminary injunction, and the motion for class certification. *Id.* at ECF Nos. 38, 39, 51, 61, 73.

On June 25, 2025, due to the impending expiration of Proviso 1.120 and enactment of Proviso 1.114, Respondents moved for leave to amend their Complaint to allege purported facts and claims relating to Proviso 1.114. *Id.* at ECF No. 85. Respondents' motion to amend the Complaint hasn't been granted. Respondents also realized they needed a new motion for preliminary injunction if they wanted to seek an injunction as to the new proviso. So, on June 26, 2025, Minor Respondent filed a motion for leave to amend the motion for preliminary injunction or, alternatively, to expedite briefing on a new motion. *Id.* at ECF No. 86. Rather than wait for a ruling on the motions for leave, Minor Respondent filed a new motion for preliminary injunction five days later. *Id.* at ECF No. 88.

Against this backdrop, this Court decided *United States* v. *Skrmetti*, 145 S. Ct. 1816 (2025) on June 18, 2025. In that case, this Court declined to apply heightened scrutiny to Tennessee's prohibition on the use of certain medical procedures for gender transition of minors, reasoning that the law classified "on the basis of age …[and] medical use" and was thus subject only to rational basis review. *Id.* at 1829.

On June 30, 2025, this Court vacated the Fourth Circuit's decision in *Kadel* v. *Folwell*, 100 F.4th 122 (4th Cir. 2024) (*en banc*), which had applied intermediate scrutiny in holding that limitations on the use of medical procedures for gender transition by persons covered by certain health plans violated the Equal Protection Clause and

Title IX. *Folwell* v. *Kadel*, No. 24-99, 2025 WL 1787687 (U.S. June 30, 2025). This Court remanded the case for further consideration in light of *Skrmetti*. *Id.*

On July 3, 2025, the Supreme Court granted certiorari in *West Virginia* v. *B.P.J.*, No. 24-43, 2025 WL 1829164 (U.S. July 3, 2025), which had held that a state statute designating participation in public school sports by biological sex violated the rights of transgender students under the Equal Protection Clause and Title IX. See *B.P.J.* v. *West Virginia*, 98 F.4th 542 (4th Cir. 2024).

The Fourth Circuit's decisions in *Kadel* and *B.P.J.* applied heightened scrutiny for state enactments that mention sex and allegedly discriminated against transgender individuals. That standard was first set forth in *Grimm*. Respondents in the present case have relied upon *Kadel*, *B.P.J.*, and *Grimm* throughout the litigation.

Considering this Court's recent decisions, the district court stayed this case due to "considerable overlap regarding the proper legal standard to be applied to claims of transgender minors" in "challenges to school policies relating to bathroom access and school sports participation under the Equal Protection Clause and Title IX." App. 43a–44a n.2. The district court also denied "pending" motions "without prejudice and with leave to restore and/or supplement once the United States Supreme Court rules in *B.P.J.* or the Supreme Court's 2025-2026 term ends, whichever is sooner." App. 42a n.3; see also App. 37a (same).

On July 9, 2025, Minor Respondent appealed those orders to the Fourth Circuit, *id.* at ECF No. 94. The next day, Minor Respondent asked the district court for an injunction of Proviso 1.114 pending appeal as applied to Minor Respondent. *Id.* at

ECF No. 95. On July 15, 2025, without waiting for the district court to rule on the requested injunction, Minor Respondent moved the Fourth Circuit for an injunction pending appeal. *Doe*, No. 25-1787, Dkt. 14-1.

On July 23, 2025, the district court denied the motion for injunction pending appeal because Minor Respondent was "unable to meet" the "demanding standard" of making a "clear showing" of likelihood of success on the merits. App. 37a. That's "in light of the significant recent legal developments in the Supreme Court which have brought into question the proper legal standards to apply when addressing the rights of transgender students under the Equal Protection Clause and Title IX." *Id.*

On August 12, 2025, the day before the start of school, the Fourth Circuit granted an injunction pending appeal as applied to Minor Respondent. App. 32a–33a. On August 15, 2025, the Fourth Circuit entered an amended order that provided its reasoning for the August 12 order. App. 3a–31a. Rather than preserve the status quo, the injunction upsets the status quo that has existed in South Carolina for over a year (or as a practical matter, "throughout history," *Grimm*, 972 F.3d at 634 (Niemeyer, J., dissenting)). On August 22, 2025, Applicants moved the Fourth Circuit to reconsider or stay the injunction pending appeal. *Doe*, No. 25-1787, Dkt. 46. On August 25, 2025, the Fourth Circuit denied that motion. App. 1a–2a.

To restore the pre-injunction status quo, the Applicants now ask this Court to stay the Fourth Circuit panel's extraordinary injunction. See *Trump* v. *CASA, Inc.*, 145 S. Ct. 2540 (2025) (granting applications for partial stays of injunctions pending appeal in the First, Fourth, and Ninth Circuits); *McHenry* v. *Texas Top Cop Shop*,

Inc., 145 S. Ct. 1 (2025) (granting application for stay of an injunction pending appeal in the Fifth Circuit); *Labrador* v. *Poe by & through Poe*, 144 S. Ct. 921 (2024) (granting application for partial stay of an injunction pending appeal in the Ninth Circuit).

ARGUMENT

When considering stay applications, this Court applies a "familiar" and "traditional" stay test by asking: "(1) whether the stay applicant has made a strong showing that it is likely to succeed on the merits, (2) whether it will suffer irreparable injury without a stay, (3) whether the stay will substantially injure other parties interested in the proceedings, and (4) where the public interest lies." *Labrador*, 144 S. Ct. at 922–23 (Gorsuch, J., concurring) (citing *Nken* v. *Holder*, 556 U.S. 418, 434 (2009)). Those factors overwhelmingly support a stay here.

An injunction "is an extraordinary remedy never awarded as of right." *Winter* v. *Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 24 (2008) (cleaned up). A court may issue an injunction only "upon a *clear showing* that the plaintiff is entitled to such relief." *Id.* at 22 (cleaned up) (emphasis added). Even more so when the plaintiff seeks to enjoin the "enforcement of a presumptively valid state statute." *Brown* v. *Gilmore*, 533 U.S. 1301, 1303 (2001) (Rehnquist, C.J., in chambers). Such a request "demands a significantly higher justification than that required for a stay"; the plaintiff's right to relief must be "indisputably clear." *Lux* v. *Rodrigues*, 561 U.S. 1306, 1306–07 (2010) (Roberts, C.J., in chambers) (cleaned up). That's because an injunction of that sort "does not simply suspend judicial alteration of the status quo but grants judicial intervention that has been withheld" by a lower court. *Respect Maine PAC* v. *McKee*, 562

U.S. 996, 996 (2010) (cleaned up). Put another way, in cases like these, courts afford states the "widest latitude." *Rizzo* v. *Goode*, 423 U.S. 362, 378–79 (1976) (cleaned up).

I. *Skrmetti*, not *Grimm*, controls the outcome of this case.

The Fourth Circuit based its injunction on its prior opinion in *Grimm*, 972 F.3d 586. In that case, a public school in Virginia prohibited Grimm (a biological female) from using boys' restrooms. *Id.* at 597–600. Relying on standards of care promulgated by the World Professional Association for Transgender Health (WPATH), the Fourth Circuit held that the school policy violated the Equal Protection Clause and Title IX because the policy allegedly discriminated "on the basis of sex." *Id.* at 593–95. In so doing, *Grimm* also created a quasi-suspect classification for transgender persons and held that the bathroom policy failed heightened scrutiny. *Id.* at 607. But *Skrmetti* rejected *Grimm*'s view of discrimination "on the basis of sex," 145 S. Ct. at 1829–35; applied rational basis rather than heightened scrutiny to a law that mentioned but did not classify or discriminate on the basis of sex, *id.* at 1835–37; and refused to defer to WPATH's discredited standards, *id.* at 1825; see also *id.* at 1843–49. *Grimm* is irreconcilable with *Skrmetti*. Even if *Grimm* were precedential for the Fourth Circuit, the facts and science underlying *Grimm* are not analogous to this case, nor are they persuasive. This Court should not allow the Fourth Circuit to apply *Grimm* here.

A. *Skrmetti* undercuts *Grimm*'s precedential value.

1. *Kadel* and *B.P.J.*, both of which rely on *Grimm*, have been called into question by this Court in light of *Skrmetti*.

Days after *Skrmetti* was decided, this Court vacated and remanded *Kadel* and granted certiorari in *B.P.J.* See *Kadel*, 2025 WL 1787687; see also *B.P.J.*, 2025 WL

1829164. What do *Kadel* and *B.P.J.* have in common? Both are extensions of the Fourth Circuit's misguided reasoning from *Grimm*: that transgender individuals form a quasi-suspect class, that classifications mentioning sex fail to satisfy heightened scrutiny by impermissibly discriminating against transgender individuals under the Equal Protection Clause, and that classifications mentioning sex discriminated against transgender individuals on the basis of sex. This Court's grant of certiorari in *B.P.J.* and its remand of *Kadel* for reconsideration in light of *Skrmetti* materially undercuts the *Grimm* decision upon which *Kadel* and *B.P.J.* are based.

2. Unlike *Grimm*, *Skrmetti* declined to create a quasi-suspect classification based on transgender status or gender identity.

Grimm invented a quasi-suspect classification based on transgender status for purposes of Equal Protection claims. *Grimm*, 972 F.3d at 607. *Skrmetti* declined to recognize such a classification. *Skrmetti*, 145 S. Ct. at 1832–33. Instead, *Skrmetti* considered the nature of the law's classification before deciding the appropriate level of scrutiny to apply. *Id.* at 1829–33. That approach prevents premature assumptions regarding the appropriate level of scrutiny. And it defuses *Grimm*'s assumption that laws impacting transgender individuals are subjects to heightened scrutiny because they compose a quasi-suspect class. A law that prohibits both sexes from accessing an opportunity intended for the other sex doesn't implicate transgender status even if it were a legally cognizable status. *Id.* at 1832–34.

While it was not necessary in *Skrmetti* to reach the question of whether a transgender classification exists, *id.* at 1832–33, the obsolescence of *Grimm* is further highlighted by the concurring opinions in *Skrmetti*. Consider Justice Alito's

concurrence: "[N]either transgender status nor gender identity should be treated as a suspect or 'quasi-suspect' class." *Id.* at 1860 (Alito, J., concurring). And as Justice Alito further noted, what this Court's "equal protection precedents" have "always meant by 'sex' is the status of having the genes of a male or female." *Id.* at 1856 (Alito, J., concurring). As a result, "a party claiming that a law violates the Equal Protection Clause because it classifies on the basis of sex cannot prevail simply by showing that the law draws a distinction on the basis of gender identity." *Id.* (cleaned up).

Or consider Justice Barret's concurrence, joined by Justice Thomas: "The Equal Protection Clause does not demand heightened judicial scrutiny of laws that classify based on transgender status. Rational-basis review applies, which means that courts must give legislatures flexibility to make policy in this area." *Id.* at 1855 (Barret, J., concurring). Transgender status doesn't comprise a quasi-suspect class.

3. *Skrmetti* corrected *Grimm*'s erroneous definition of discrimination "on the basis of sex" and applied rational basis.

Grimm mistakenly asserted that *Bostock*'s interpretation of "on the basis of sex" under Title VII applies in the Title IX context. *Grimm*, 972 F.3d at 616. In doing so, the Fourth Circuit reasoned that a school policy prohibiting Grimm from using an opposite-sex restroom necessarily discriminated "on the basis of sex" because it was enforced by "referencing" the sex marker on Grimm's birth certificate. *Id.* In the Equal Protection context, *Grimm* concluded that "Grimm was similarly situated to other boys, but was excluded from using the boys restroom facilities based on his sex-assigned-at-birth." *Id.* at 610. But *Skrmetti* corrected *Grimm*'s mistakes.

In *Skrmetti*, SB1 prevented healthcare providers from administering to biological boys drugs for medical conditions experienced by biological girls, and vice versa. *Skrmetti*, 145 S. Ct. at 1830–31. The Court held that the law did not classify on the basis of sex for purposes of the Equal Protection clause because "changing a minor's sex or transgender status does not alter the application of SB1." *Id.* at 1834. And the Court applied rational basis because, even though the law mentioned sex, the effect of the law was to classify based on medical use and age rather than on sex. *Id.* at 1829. And the law satisfied rational basis. *Id.* at 1835–37.

In so holding, *Skrmetti* declined to apply *Bostock* to claims of transgender discrimination under the Equal Protection Clause. Instead, *Skrmetti* clarified that discrimination "on the basis of sex" is not implicated by a law's reference to sex but only if the law "prohibit[s] conduct for one sex that it permits for the other." *Skrmetti*, 145 S. Ct. at 1831. And the Court held that even applying *Bostock* to a law that merely referenced sex would not result in a finding of discrimination because "sex is simply not a but-for cause of" the law's operation. *Id.* at 1835. That contradicts *Grimm*, which took for granted that a policy separating school bathrooms by biological sex discriminates "on the basis of sex" and is thus entitled to heightened scrutiny. *Dep't of Educ.* v. *Louisiana*, 603 U.S. 866, 867 (2024) (declining to apply *Bostock* to Title IX).

4. Unlike *Grimm*, *Skrmetti* declined to substitute WPATH's discredited opinions for a state's legislative judgment.

Grimm deferred to the WPATH Standards of Care over the judgment of policymakers. 972 F.3d at 595. But this Court declined to do so in *Skrmetti*. Instead, the Court highlighted basic problems with WPATH's standards, including WPATH's

recent recognition of "known risks associated with the provision of sex transition treatments to adolescents, including potential adverse effects on fertility and the possibility that an adolescent will later wish to detransition." *Skrmetti*, 145 S. Ct. at 1825 (cleaned up). Additionally, the Court noted the limitations on WPATH's data regarding "the optimal timing of sex transition treatments or the long-term physical, psychological, and neurodevelopmental outcomes in youth." *Id.* (cleaned up).

Further, "[r]ecent revelations suggest that WPATH, long considered a standard bearer in treating pediatric gender dysphoria, bases its guidance on insufficient evidence and allows politics to influence its medical conclusions." *Id.* at 1847 (Thomas, J., concurring) (cleaned up). "States are never required to substitute expert opinion for their legislative judgment, and, when the experts appear to have compromised their credibility, it makes good sense to chart a different course." *Id.* at 1849. Indeed, "whether 'major medical organizations' agree with the result of [a state]'s democratic process is irrelevant. To hold otherwise would permit elite sentiment to distort and stifle democratic debate under the guise of scientific judgment, and would reduce judges to mere spectators in construing our Constitution." *Id.* at 1840 (cleaned up). As the premises of *Grimm*'s decision have been undercut, so too have its conclusions.

B. *Grimm* is distinguishable from this case.

Even if *Grimm* were viable, this case is materially distinguishable. Precedent only requires a court to "act alike in all cases of like nature." *LaShawn A.* v. *Barry*, 87 F.3d 1389, 1393 (D.C. Cir. 1996). It doesn't require a court to act alike in cases

with different facts, arguments, or legal issues. See *Webster* v. *Fall*, 266 U.S. 507, 511 (1925); *Lowe* v. *Raemisch*, 864 F.3d 1205, 1209 (10th Cir. 2017).

Start with the factual and procedural distinctions between *Grimm* and this case. The policy in *Grimm* did not apply to all students equally; it purportedly singled out Grimm. 972 F.3d at 619. The Proviso did no such thing. The Proviso and its exceptions apply equally to all students, regardless of their gender identity. And, unlike *Grimm*, the restrooms made available to Minor Respondent weren't constructed explicitly for students with gender incongruity. Further, the plaintiff in *Grimm* was "medically confirmed" and "clinically diagnosed with gender dysphoria," and the plaintiff's "treatment provider identified using the boys' restrooms as part of the appropriate treatment." *Grimm*, 972 F.3d at 610, 619. Those facts aren't alleged in this case.

The legal arguments in *Grimm* differed as well. In that case, the school board primarily argued that the policy was valid because it did not discriminate based on sex and because the plaintiff was not similarly situated to gender congruent boys. 972 F.3d at 608–10. While Applicants maintain these arguments here and suggest that intervening legal developments have bolstered them, Applicants have also presented new arguments. For one, Applicants argue that Minor Respondent's claims aren't true discrimination claims under the Equal Protection Clause or Title IX. Minor Respondent doesn't appear to challenge—and, in fact, endorses—the notion that public schools may provide separate facilities for male and female students. Minor Respondent instead challenges a school's recognition of Minor Respondent as one sex versus the other. Such "parameters of the beneficiary class" are typically examined under

rational basis review. *Hoohuli* v. *Ariyoshi*, 631 F. Supp. 1153, 1159 (D. Haw. 1986).

Additionally, Applicants in this case offer different—and substantiated—government interests. Not only does Proviso 1.114 protect the safety and privacy of gender-congruent students, but it also protects the safety and privacy of gender-incongruent students. Single-stall gender-neutral bathrooms are the best choice for vulnerable students with gender incongruence and gender dysphoria. See App. 92a–95a (Expert Witness Declaration of Dr. Geeta Nangia, M.D.). *Grimm* didn't address that argument and thus cannot be viewed as precedential towards it.

Further, as the scientific evidence has come into clearer view, the legal tide has changed. When *Grimm* was decided, the Fourth Circuit alluded to a "growing consensus of courts" that have struck down single-sex school bathroom policies under the Equal Protection Clause and Title IX. *Grimm*, 972 F.3d at 593. But today, *Grimm* is the outlier, joined only by the Seventh Circuit. In contrast, the Eleventh Circuit, Ninth Circuit, and courts in the Sixth and Tenth Circuits take the view that single-sex bathrooms and locker rooms do *not* violate the Equal Protection Clause or Title IX. *Adams by & through Kasper* v. *Sch. Bd. of St. Johns Cnty.*, 57 F.4th 791 (11th Cir. 2022); *Critchfield*, 137 F.4th at 926 (Ninth Circuit); *D.H.* v. *Williamson Cnty. Bd. of Educ.*, No. 3:22-CV-00570, 2024 WL 4046581 (M.D. Tenn. Sept. 4, 2024); *Bridge* v. *Oklahoma State Dep't of Educ.*, 711 F. Supp. 3d 1289 (W.D. Okla. 2024).

In sum, *Grimm* is neither factually analogous nor analytically persuasive. It doesn't establish that Minor Respondent is likely to succeed on the merits, particularly when this Court's recent rulings have undermined *Grimm*'s reasoning.

II. Applicants will likely prevail on appeal.

A. This Court has traditionally applied a strong presumption in favor of allowing challenged legislative acts to remain in force pending final review in this Court.

When considering the constitutionality of state legislative enactments, this Court starts with the "presumption that the state statute is valid." *Pharm. Rsch. & Mfrs. of Am.* v. *Walsh*, 538 U.S. 644, 661 (2003) (plurality); *Davies Warehouse Co.* v. *Bowles*, 321 U.S. 144, 153 (1944). The presumption of constitutionality is "a factor to be considered in evaluating success on the merits." *Walters* v. *Nat'l Ass'n of Radiation Survivors*, 468 U.S. 1323, 1324 (1984) (Rehnquist, J., in chambers). In reviewing emergency applications, this Court has traditionally applied a strong presumption that legislative enactments "should remain in effect pending a final decision on the merits by this Court." *Turner Broadcasting System, Inc.* v. *FCC*, 507 U.S. 1301 (1993) (Rehnquist, C.J., in chambers) (cleaned up).

Such is the case here. In its order granting the injunction pending appeal, the Fourth Circuit acknowledged that no fact finding has occurred in this case and that its decision doesn't turn on resolution of any disputed facts. App. 4a n.1. Despite the lack of factual findings, and without making any factual findings of its own, the Fourth Circuit took the extraordinary step of issuing an injunction by blindly relying on *Grimm* and bypassing the "presumption that the state statute is valid." *Walsh*, 538 U.S. at 661. That presumption of constitutionality weighs in favor of likelihood of success on the merits, and Respondents failed to overcome that presumption, especially considering this Court's decision in *Skrmetti*.

B. The Proviso doesn't violate Equal Protection.

As in *Skrmetti*, Respondents argue that a state enactment violates the Equal Protection Clause of the Fourteenth Amendment by subjecting Minor Respondent to discrimination "on the basis of sex and transgender status." *Doe*, C.A. No. 2:24-6420-RMG, ECF No. 1 at 19, ¶ 92. And as in *Skrmetti*, those arguments should be rejected.

1. Rational basis applies to the Proviso and is satisfied.

"The rational basis inquiry employs a relatively relaxed standard reflecting the Court's awareness that the drawing of lines that create distinctions is peculiarly a legislative task and an unavoidable one." *Skrmetti*, 145 S. Ct. at 1835 (cleaned up). "Under this standard, [the Court] will uphold a statutory classification so long as there is any reasonably conceivable state of facts that could provide a rational basis for the classification." *Id.* (cleaned up). "Where there exist plausible reasons for the relevant government action, our inquiry is at an end." *Id.* (cleaned up). Indeed, "a classification neither involving fundamental rights nor proceeding along suspect lines … cannot run afoul of the Equal Protection Clause if there is a rational relationship between the disparity of treatment and some legitimate governmental purpose." *Armour* v. *City of Indianapolis*, 566 U.S. 673, 680 (2012) (cleaned up).

a. The Proviso doesn't classify or discriminate on the basis of sex.

As the Ninth Circuit acknowledged three months ago, schools have an "interest in protecting students' bodily privacy," which is "especially important for school-aged children, who are still developing mentally, physically, emotionally, and socially." *Critchfield*, 137 F.4th at 924 (cleaned up). The text, history, and tradition of the Equal

Protection Clause permit the designation of restroom use by sex. Indeed, "[a]cross societies and throughout history, it has been commonplace and universally accepted to separate public restrooms, locker rooms, and shower facilities on the basis of biological sex in order to address privacy and safety concerns arising from the biological differences between males and females." *G.G. ex rel. Grimm* v. *Gloucester Cnty. Sch. Bd.*, 822 F.3d 709, 734 (4th Cir. 2016) (Niemeyer, J., concurring in part and dissenting in part), *vacated and remanded*, 580 U.S. 1168 (2017).

Such practices were recorded in the Ancient Roman, Greek, Japanese, and Egyptian baths. W. Burlette Carter, *Sexism in the "Bathroom Debates": How Bathrooms Really Became Separated by Sex*, 37 YALE L. & POL'Y REV. 227, 259–60 (2018). The restroom has long been treated as a "unique public space, not as space just like any other. The key reason for the separation was safety and privacy." *Id.* at 288.

Separating restrooms by biological sex has been an accepted practiced throughout United States history as well. *Id.* at 271–72. State laws separating bathrooms by sex "were among the earliest state-wide attempts to protect women from workplace sexual harassment." *Id.* at 279. One of the "leading reasons behind women's demands for separate restrooms" was that "women needed a physically safe public space." Kevin Stuart & DeAnn Barta Stuart, *Behind Closed Doors: Public Restrooms and the Fight for Women's Equality*, 24 TEX. REV. L. & POL. 1, 28 (2019).

More fundamentally, "[t]he desire to shield one's unclothed figure from view of strangers, and particularly strangers of the opposite sex, is impelled by elementary self-respect and personal dignity." *York* v. *Story*, 324 F.2d 450, 455 (9th Cir. 1963);

see also *Brannum* v. *Overton Cnty. Sch. Bd.*, 516 F.3d 489, 494 (6th Cir. 2008) (recognizing constitutional right to "shield one's body from exposure to viewing by the opposite sex" in school locker rooms); *Forts* v. *Ward*, 621 F.2d 1210, 1217 (2d Cir. 1980) (noting privacy interest "entitled to protection concerns the involuntary viewing of private parts of the body by members of the opposite sex"); *Strickler* v. *Waters*, 989 F.2d 1375, 1387 (4th Cir. 1993) ("[W]hen not reasonably necessary, exposure of a prisoner's genitals to members of the opposite sex violates his constitutional rights.").

Public school is no different. "That some students in a state of partial undress may experience embarrassment, shame, and psychological injury in the presence of students of a different sex is neither novel nor implausible." *Critchfield*, 137 F.4th at 925 (cleaned up) (citing *United States* v. *Virginia*, 518 U.S. 515, 550 n.19 (1996)).

As with SB1, Proviso 1.114 "does not prohibit conduct for one sex that it permits for the other." *Skrmetti*, 145 S. Ct. at 1831. Under the Proviso, both sexes are equally prohibited from using restrooms of the opposite sex, and both sexes are equally permitted to use restrooms that are designated for use by their sex. See General Appropriations Bill for Fiscal Year 2025–2026, Part IB § 1.114 (https://tinyurl.com/y429yczf). As with SB1, Proviso 1.114 *mentions* sex but doesn't *discriminate* on the basis of sex. That distinction matters. The Supreme Court "has never suggested that mere reference to sex is sufficient to trigger heightened scrutiny." *Skrmetti*, 145 S. Ct. at 1829. Accordingly, to the extent Respondents' Equal Protection claim rests on alleged discrimination based on sex, the claim necessarily fails because the "application of [the Proviso] does not turn on sex." *Id.* at 1831.

The Proviso also lacks an "invidious discriminatory purpose." *Skrmetti*, 145 S. Ct. at 1832 (cleaned up). The South Carolina General Assembly continued historical precedent, motivated by longstanding concerns about the need for privacy and safety in restrooms, by enacting the Proviso. The very title of the Proviso section in question is "Student Physical Privacy." See General Appropriations Bill for Fiscal Year 2025–2026, Part IB § 1.114 (https://tinyurl.com/y429yczf). And the language of the Proviso provides that public schools are to "take reasonable steps to ensure that all restrooms and changing facilities provide its users with *privacy from members of the opposite sex*." *Id.* at § 1.114(C)(1) (emphasis added); see also *id.* at § 1.114(C)(3) (referring repeatedly to the need for and protection of "private areas" of schools). Importantly, this Proviso "does *not* prohibit districts from providing reasonable accommodation to a student when the student's parent has requested on the student's behalf, such as access to a single-occupancy staff restroom." See Memorandum, *Guidance on Budget Proviso 1.120* (July 23, 2024) (https://tinyurl.com/3j9wcmr7).

Even Minor Respondent admits that legislators who spoke in favor of the Proviso on the Senate Floor "explained the purpose of Proviso 1.120" as being "safety and privacy."[2] *Doe*, C.A. No. 2:24-6420-RMG, ECF No. 9-1 at 11. Clearly, privacy is at the

[2] Minor Respondent later claimed such statements were rooted in "baseless gender-based, anti-transgender stereotypes." *Doe*, C.A. No. 2:24-6420-RMG, ECF No. 9-1 at 25. But as in *Skrmetti*, the statements "to which the plaintiffs point do not themselves evince sex-based stereotyping." *Skrmetti*, 145 S. Ct. at 1832. Even if the Court agrees with Minor Respondent's characterization of individual legislators' comments on the Proviso, the statements of a few individuals do not show animus more broadly throughout the state legislature. *Brock* v. *Pierce Cnty.*, 476 U.S. 253, 263 (1986). They certainly cannot show that the reason for the law's passage was the "bare desire" to harm transgender people. *U.S. Dep't of Agric.* v. *Moreno*, 413 U.S. 528, 535 (1973).

heart of the Proviso. And protecting students' privacy in school bathrooms is a reasonable (and important) governmental objective.

b. The Proviso doesn't discriminate on the basis of transgender status.

"[B]eyond the treatment of gender dysphoria, transgender status implicates several other areas of legitimate regulatory policy," including "access to restrooms." *Skrmetti*, 145 S. Ct. at 1852–53 (Barret, J., concurring). "[L]egislatures have many valid reasons to make policy in these areas, and so long as a statute is a rational means of pursuing a legitimate end, the Equal Protection Clause is satisfied." *Id.* at 1853.

Just as SB1 applied to all minors in Tennessee, *id.* at 1829, so, too, Proviso 1.114 applies to all students in South Carolina public school districts, regardless of their sex or gender identity. Proviso 1.114 prevents all biological boys—regardless of their gender identity—from going into girls' restrooms, and vice versa. It is designed to protect the privacy and safety of all students in a space that has historically been recognized as intimate and vulnerable. See *supra* at 19–23. That transgender individuals are incidentally affected by this restriction doesn't alter the analysis because "there is a 'lack of identity' between transgender status and the" Proviso's restroom restrictions. *Skrmetti*, 145 S. Ct. 1833.

Consistent with *Skrmetti*, the Proviso validly prohibits a form of gender transition as a treatment for gender dysphoria. Respondents' expert witness stated in her expert witness declaration that social gender transition is a form of treatment for gender dysphoria and often includes using restrooms that align with gender identity. *Doe*, C.A. No. 2:24-6420-RMG, ECF No. 9-3 at 12–13, ¶ 35. But just as states can

prohibit *medical* gender transition as a treatment for gender dysphoria, *Skrmetti*, 145 S. Ct. at 1831, they can also prohibit *social* gender transition (including multi-occupancy single-sex restrooms) as a treatment for gender dysphoria in public schools.

Specifically, *Skrmetti* found that a "prohibition on the prescription of puberty blockers and hormones to '[e]nabl[e] a minor to identify with, or live as, a purported identity inconsistent with the minor's sex,' is simply a prohibition on the prescription of puberty blockers and hormones to treat gender dysphoria, gender identity disorder, or gender incongruence." *Id*. at 1831 (cleaned up). Importantly, SB1 "does not exclude any individual from medical treatments on the basis of transgender status but rather removes one set of diagnoses—gender dysphoria, gender identity disorder, and gender incongruence—from the range of treatable conditions." *Id.* at 1833.

In the same way, Proviso 1.114 does not exclude any individual from using multiple occupancy single-sex bathrooms on the basis of transgender status but rather removes a use of bathrooms—social gender transition—from the range of appropriate uses. The state has wide latitude to do so.

Even if the Court finds that Proviso 1.114 classifies on the basis of biological sex, only the parameters of that classification are under review here, and such parameters are rationally related to a legitimate governmental interest. Indeed, an under-inclusiveness challenge to the contours of the Proviso's purported sex classifications warrants rational basis review. Minor Respondent does not dispute the ability of the South Carolina legislature to classify on the basis of biological sex. Minor Respondent merely disputes a particular designation as belonging to one sex or the

other. *Doe*, C.A. No. 2:24-6420-RMG, ECF No. 9-3 at 17–18. Where a court "is not asked to pass on the constitutionality of [a classification] itself," but is asked instead "to examine the parameters of the beneficiary class," the court engages in "a traditional 'rational basis' inquiry as applied to social welfare legislation." *Hoohuli* v. *Ariyoshi*, 631 F. Supp. 1153, 1159 (D. Haw. 1986).

And this Court has always taken a biological understanding of sex for granted. See, *e.g.*, *United States* v. *Virginia*, 518 U.S. 515, 533 (1996); *Frontiero* v. *Richardson*, 411 U.S. 677, 686 (1973) (plurality op.); *Bostock* v. *Clayton Cnty., Georgia*, 590 U.S. 644, 655 (2020). That should be enough. *Cf. F.C.C.* v. *Beach Commc'ns, Inc.*, 508 U.S. 307, 313–14 (1993) ("Where there are plausible reasons for Congress' action, our inquiry is at an end. This standard of review is a paradigm of judicial restraint." (citation and quotation marks omitted)). The Proviso satisfies rational basis review.

2. The Proviso survives even heightened scrutiny.

Even if this Court subjects the Proviso to heightened scrutiny, it easily passes. It does so by "advanc[ing] the important governmental objective of protecting students' privacy in school bathrooms and do[oing] so in a manner substantially related to that objective." *Adams*, 57 F.4th at 803; see also *Critchfield*, 137 F.4th at 924 ("[T]he State's interest in protecting students' bodily privacy is an important objective for purposes of intermediate scrutiny."). Indeed, "school policies that allow access to gender neutral single occupancy bathrooms are appropriate and provide a reasonable and compassionate solution to the bathroom needs of both gender congruent and gender incongruent students," including privacy for both. App. 109a (Expert Witness

Declaration of Dr. Geeta Nangia, M.D.).

The Proviso "does not include any of the hallmarks of sex discrimination. It doesn't prefer one sex over the other; include one sex and exclude the other; provide benefits to one sex and not the other; or apply one rule to one sex and not the other. It distinguishes between the two sexes, but it does not advantage, or disadvantage, either." *Roe* v. *Critchfield*, 2023 WL 6690596, at *7 n.11 (D. Idaho Oct. 12, 2023). It doesn't stop schools from making accommodations for transgender students, such as gender-neutral single-occupancy restrooms, as at Minor Respondent's middle school. As such, "there is no evidence of purposeful discrimination against transgender students" by the legislature, and "any disparate impact that the bathroom policy has on those students does not violate the Constitution." *Adams*, 57 F.4th at 811.

This Proviso resoundingly reflects the will of the South Carolina General Assembly, and therefore the will of the people of South Carolina, due to near unanimous approval in both chambers of the legislature. When Proviso 1.120 was introduced as Amendment 48 to the final budget bill (H. 5100) and was debated in the Senate, it survived a motion to table by a decisive vote margin of 30-7. South Carolina Legislature, "Vote History: H 5100 - Session 125 (2023-2024)" (https://tinyurl.com/zt3769bb). Immediately thereafter, the Senate held a third reading of the Budget Bill that passed without any votes in objection. *Id.* The conference report including Proviso 1.120 passed the Senate with a vote of 41-0 and the House with a vote of 96-13. *Id.*

Ultimately, this policy choice is one in which the Court must defer to the appropriate legislative body. "[W]e leave questions regarding its policy to the people,

their elected representatives, and the democratic process." *Skrmetti*, 145 S. Ct. at 1837. Otherwise, "[t]he prospect of courts second-guessing legislative choices in this area should set off alarm bells." *Id.* at 1852 (Barrett, J. concurring).

C. The Proviso comports with Title IX.

1. Title IX does not prohibit the Proviso.

Under Title IX, "[n]o person in the United States shall, *on the basis of sex*, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance." 20 U.S.C. § 1681(a) (emphasis added). And as this Court observed in *Skrmetti*, a law "clearly does not classify *on the basis of sex*" when it "does not prohibit conduct for one sex that it permits for the other." *Id.* at *9–10 (emphasis added). Proviso 1.114 does not prohibit conduct for one sex that it permits for another (both sexes are equally permitted to use restrooms designated for their respective sex), so Proviso 1.114 clearly does not discriminate or even classify on the basis of sex under Title IX.

But even if the Proviso classified on the basis of sex, Section 1686 of Title IX expressly permits educational institutions to "maintain[] separate living facilities for the different sexes." 20 U.S.C. § 1686. Respondents do not dispute that Title IX allows schools to maintain separate restrooms for different sexes; they only dispute the parameters of what "sex" means. Yet "from the time of the enactment of Title IX and its implementing regulations, the scheme has authorized schools to maintain sex-segregated facilities, and contemporary dictionary definitions commonly defined 'sex' in terms that refer to students' sex assigned at birth." *Critchfield*, 137 F.4th at 929; see

also *Bridge*, 711 F. Supp. 3d at 1299 ("At the time Title IX was enacted, the ordinary public meaning of 'sex' was understood to mean the biological, anatomical, and reproductive differences between male and female. It is up to Congress to change that meaning, not this Court.").

Because "Title IX funding is distributed to the states pursuant to the Spending Clause of the Constitution," Congress must attach any conditions to the acceptance of such federal funds "unambiguously." *Critchfield*, 137 F.4th at 928–29 (cleaned up). To the extent any Applicants received any Title IX funds, they did not have "adequate notice, when they accepted federal funding, that Title IX prohibits the exclusion of transgender students from restrooms, locker rooms, shower facilities, and overnight lodging corresponding to their gender identity." *Id.* at 929.

Applicants' reasonable understanding of Title IX is supported by recent actions of the current presidential administration. Since January 20, 2025, the Executive branch has issued Executive Orders and actions putting federal funding at risk if schools do not designate such facilities for use based on biological sex or "sex assigned at birth."[3] Applicants plain reading of the statutory language was reasonable.

---

[3] See, *e.g.*, "U.S. Department of Education Finds Five Northern Virginia School Districts in Violation of Title IX," U.S. Department of Education Press Release, July 25, 2025 (where "OCR determined that the Divisions' policies, which allow students to access intimate, sex-segregated facilities based on the students' subjective 'gender identity,' violate Title IX of the Education Amendments of 1972.") (https://tinyurl.com/bv97zrdd) (last visited August 18, 2025); see also Exec. Order No. 14168, 90 Fed. Reg. 8615 (Jan. 20, 2025) ("Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government") (concluding that Title IX doesn't "require[] gender identity-based access to single-sex spaces" and instructing that "Federal funds shall not be used to promote gender ideology.") (https://tinyurl.com/bdet337y) (last visited August 25, 2025).

2. The Fourth Circuit's view of Title IX has been widely rejected by other federal courts, including this Court.

In its order enjoining the Proviso as to Minor Respondent pending appeal, the Fourth Circuit asserted that Title IX prevents South Carolina from separating bathrooms based on biological sex and that the Proviso violates Title IX by unlawfully discriminating on the basis of sex. App. 10a. But most federal courts to consider that issue disagree. The Eleventh Circuit affirmatively held that a single-sex bathroom policy did not violate Title IX. *Adams by & through Kasper* v. *Sch. Bd. of St. Johns Cnty.*, 57 F.4th 791 (11th Cir. 2022). A court in the Tenth Circuit recently came to the same conclusion. *Bridge*, 711 F. Supp. 3d at 1299. As did a court in the Sixth Circuit. *Williamson Cnty. Bd. of Educ.*, 2024 WL 4046581, at *5. And the Ninth Circuit recently affirmed a lower court's denial of a preliminary injunction under Title IX as to a state statute requiring single-sex bathrooms and locker rooms in public schools. *Critchfield*, 137 F.4th at 932. The Fourth and Seventh Circuits are outliers. See *Grimm*, 972 F.3d 586; see also *A.C. by M.C.* v. *Metro. Sch. Dist. of Martinsville*, 75 F.4th 760 (7th Cir. 2023), *cert. denied sub nom. Metro. Sch. Dist. of Martinsville* v. *A. C.*, 144 S. Ct. 683 (2024). Yet even those circuits are currently facing appeals that call their outlier positions into question. *Doe*, No. 25-1787 (4th Cir.); *D.P. by A.B. v. Mukwonago Area Sch. Dist.*, No. 23-2568, 2025 WL 1794428, at *1 (7th Cir. June 30, 2025) (granting rehearing to consider whether Seventh Circuit caselaw similar to *Grimm* should be overturned in light of *Skrmetti*).

Additionally, the U.S. Department of Education previously attempted to require all public schools to abandon single-sex bathroom policies under its

interpretation of Title IX. But earlier this year, that requirement was vacated by court order, making the agency rule invalid nationwide. *Tennessee* v. *Cardona*, 2:24-cv-00072-DCR-CJS, ECF No. 143 (E.D. KY Jan. 9, 2025). Even before that order, the Title IX rule was already enjoined in every state where it was challenged. See *Alabama* v. *U.S. Sec'y of Educ.*, No. 24-12444, 2024 WL 3981994, at *7 n.8 (11th Cir. Aug. 22, 2024); *Oklahoma* v. *Cardona*, No. CIV-24-00461-JD, 2024 WL 3609109 (W.D. Okla. July 31, 2024); *Arkansas* v. *DOE*, No. 4:24-cv-636, Doc. 54 (E.D. Mo. July 24, 2024); *Tennessee* v. *Cardona*, Doc. 41-1, No. 24-5588 (6th Cir. July 17, 2024); *Louisiana* v. *DOE*, No. 24-30399 (5th Cir. July 17, 2024); *Texas* v. *USA*, No. 2:24-cv-86, Doc. 48, Op. at 8–15 (N.D. Tex. July 11, 2024); *Carroll Indep. Sch. Dist.* v. *DOE*, No. 4:24-cv-461, Doc. 43, Op. at 4-11 (N.D. Tex. July 11, 2024); *Kansas* v. *Dep't of Educ.*, No. 5:24-cv-04041, Docs. 53-54 (D. Kan. July 2, 2024).

In its opinion enjoining the Title IX rule in South Carolina and other states pending appeal, a reason given for granting the injunction was the existence of state bathroom laws that would conflict with the rule. *Alabama*, 2024 WL 3981994, at *7 n.8. And even the U.S. Department of Education historically "has interpreted 'sex' in Title IX to mean biological sex and has allowed schools to have separate bathrooms based on biological sex for five decades." *Id.* at *7.

Further, this Court has said the gender-identity-based bathroom provision of the Title IX Rule is likely unlawful. "Importantly, all Members of the [Supreme] Court today accept that the plaintiffs were entitled to preliminary injunctive relief as to

three provisions of the rule," including § 106.31(a)(2) of the Rule addressing Title IX's application in sex-separated spaces. *Louisiana*, 603 U.S. at 867.

Other courts have considered the scope of Title IX outside of the bathroom context and still concluded that it does not apply to gender identity. See, *e.g.*, *Texas* v. *Becerra*, 739 F. Supp. 3d 522, 533 (E.D. Tex. 2024), *modified on reconsideration*, No. 6:24-CV-211-JDK, 2024 WL 4490621 (E.D. Tex. Aug. 30, 2024);*Tennessee* v. *Becerra*, 739 F. Supp. 3d 467, 482 (S.D. Miss. 2024). Title IX does not cover gender identity.

3. *Skrmetti* provides further support for Title IX's moorings in biological sex.

Skrmetti also informs the analysis of Minor Respondent's Title IX claim. The Court reaffirmed that sex is distinct from gender identity—biologically and legally. Indeed, this Court has consistently recognized that "sex" refers to biological sex and not gender identity. See, *e.g.*, *Louisiana*, 603 U.S. at 867 (unanimously agreeing to preliminarily enjoin a federal agency rule that "newly defines sex discrimination to include discrimination on the basis of sexual orientation and gender identity."); *Bostock*, 590 U.S. at 669 ("We agree that homosexuality and transgender status are distinct concepts from sex."). *Skrmetti* agreed. The Court defined "transgender" to mean that a person's "gender identity does not align with their biological sex." 145 S. Ct. at 1824. Thus, "a transgender boy" refers to an individual "whose biological sex is female but who identifies as male," and a "transgender girl" is an individual "whose biological sex is male but who identifies as female." *Id.* at 1830 n.2.

Skrmetti's analysis of *Bostock* is in accord. As the Court explained, SB1 allowed a biological girl to pursue medical treatment for a diagnosis consistent with the needs

associated with her biological sex, and changing the patient's sex to biological male does not change the analysis. *Skrmetti*, 145 S. Ct. at 1834. That's because, under SB1, a biological male can pursue medical treatment for a diagnosis consistent with the needs associated with his biological sex. *Id.* So too here. Proviso 1.114 permits a biological female student to use a multi-occupancy public school restroom in a manner that promotes privacy consistent with her sex, and changing the student's sex to male doesn't change the analysis. Even "[u]nder the logic of *Bostock*, then, sex is simply not a but-for cause of [Proviso 1.114's] operation." *Id.* at 1835.

III. The equities warrant a stay.

A. The injunction unjustifiably disrupts the status quo.

Minor Respondent sought an "injunction pending appeal"—not a stay. *Doe*, No. 25-1787, Dkt. 14-1. A stay "suspend[s] judicial alteration of the status quo," while an injunction judicially alters the status quo. *Nken* v. *Holder*, 556 U.S. 418, 430 (2009) (cleaned up). And the district court's earlier denial of motions without prejudice pending the outcome of *B.P.J.* did not set the status quo, state law did. After all, "it is the state's action—not any intervening federal court decision—that establishes the status quo." *Wise* v. *Circosta*, 978 F.3d 93, 98 (4th Cir. 2020) (*en banc*) (citing *Andino* v. *Middleton*, 141 S. Ct. 9 (2020) (mem.)). As lower courts have recognized, "[i]njunctions that alter the status quo are not granted unless extreme or very serious damage will result and are not issued in doubtful cases." *Roman* v. *Wolf*, 977 F.3d 935, 941 (9th Cir. 2020) (cleaned up); see also, *e.g.*, *Att'y Gen. of Okla.* v. *Tyson Foods, Inc.*, 565 F.3d 769, 776 (10th Cir. 2009) (requiring a "heightened showing"). That's especially true when, as here, the district court has already refused an injunction pending appeal—

in such cases, the movant's request becomes one for a "partial summary reversal." *Communist Party of Ind.* v. *Whitcomb*, 409 U.S. 1235, 1235 (1972) (Rehnquist, J., in chambers) (refusing injunction even for statute later found unconstitutional).

This application seeks to *restore* the status quo, thereby preserving voters' will and protecting the privacy of South Carolina public school students while this case is litigated on appeal. Indeed, because Applicants have been ordered to affirmatively allow Minor Respondent to use opposite-sex restrooms, the Fourth Circuit's order constitutes a disfavored "mandatory" injunction. *Id.* at 1235. In addition to what was already a heavy burden for Minor Respondent, this type of injunction issues properly "only in the most unusual case," where "the applicants' right to relief [is] indisputably clear." *Id.*; see also *Turner Broad. Sys., Inc.*, 507 U.S. at 1301 (Rehnquist, J., in chambers) ("By seeking an injunction, applicants request that I issue an order *altering* the legal status quo. Not surprisingly, they do not cite any case in which such extraordinary relief has []been granted, either by a single Justice or by the whole Court.") (emphasis added). This case does not hit that mark. The Fourth Circuit had no basis to upend the status quo pending appeal.

B. The injunction intrudes upon the sovereignty, will, and public interest of South Carolina citizens.

Any injunction is an "extraordinary" event. *Winter*, 555 U.S. at 24. It should be even rarer when the injunction prevents a state from enforcing a validly enacted law. Indeed, courts are rightly hesitant to enjoin the "enforcement of a presumptively valid state statute." *Brown*, 533 U.S. at 1301. That's because "any time a State is enjoined by a court from effectuating statutes enacted by representatives of its people, it

suffers a form of irreparable injury." *Maryland* v. *King*, 567 U.S. 1301, 1303 (2012) (Roberts, C.J., in chambers) (cleaned up). The result here is that South Carolina voters suffer every day the Proviso is enjoined for no lawful reason. *Va. Ry. Co.* v. *Sys. Fed'n No. 40*, 300 U.S. 515, 551 (1937) (explaining how legislation is "the judgement" of elected representatives as "deliberately expressed in [the challenged] legislation").

And it overlooked that the Proviso, like similar presumptively constitutional state laws, reflects the policy preferences of the people on a challenging and sensitive issue. See *supra* at 22–23 (highlighting the privacy concerns explicitly addressed by the Proviso); see also *Adams*, 57 F.4th at 806–07 (highlighting public concerns addressed by bathroom restrictions).

The bottom line: the Proviso is a validly enacted law representing the people of South Carolina's considered judgment about the harms of allowing male students to use female restrooms and vice versa. After much debate, lawmakers chose to protect privacy and safety for students. The Fourth Circuit ignored the people's judgment and failed to defer to the public interest in favor of the preferences of one student.

C. The balance of harms supports staying the injunction.

"Where a federal court of equity is asked to interfere with the enforcement of state laws, it should do so only to prevent irreparable injury which is clear and imminent." *Am. Fed'n of Lab.* v. *Watson*, 327 U.S. 582, 593 (1946) (cleaned up). Here, evidence of purported harm *supporting* the injunction largely focused on fear of not having the opportunity to use the restroom Minor Respondent prefers. *Doe*, No. 25-1787, Dkt. 14-1 at 11–12. But not being permitted to use a preferred public-school facility

is not an irreparable harm.[4] See, *e.g.*, *McGee* v. *Va. High Sch. League, Inc.*, 801 F. Supp. 2d 526, 531 (W.D. Va. 2011) (noting lower courts "have routinely rejected the notion that a student suffers irreparable harm by not being permitted to participate in interscholastic athletics."). The district court was right in declining to tinker with South Carolina law because of Minor Respondent's fears of that harm.

Even without an injunction, Minor Respondent has access to multi-occupancy girls' restrooms at school. And the accommodation of a single-stall restroom mitigates claims of irreparable harm. *Adams*, 57 F.4th at 810 ("The School Board sought to accommodate transgender students by providing them with an alternative—i.e., sex-neutral bathrooms," which "did not place a special burden on transgender students."). Potential stigma is also not a valid ground for an injunction. See, *e.g.*, *Peeples* v. *Brown*, 444 U.S. 1303, 1305 (1979) (Rehnquist, J., in chambers) (holding that fear of being "stigmatized" and "traumatic rejection" did not establish "the necessary irreparable injury" for an injunction); *Sampson* v. *Murray*, 415 U.S. 61, 91 (1974) (holding that "humiliation" and other alleged harms did not support injunction). So, even if Minor Respondent demonstrated a likelihood of success on the merits, the claim of irreparable harm was not enough for an injunction, either.

On the other hand, consider the harm the injunction causes to the privacy of opposite-sex students who must share a restroom with Minor Respondent.[5] After all,

---

[4] Minor Respondent also failed to demonstrate that any alleged harassment or distress experienced at a prior school on account of gender identity was caused by the Proviso. See App. 51a-63a; see also App. 102a-109a.

[5] Enjoining the Proviso also conflicts with parents' ability to direct the upbringing of their children. "Due to financial and other constraints, … many parents have no

"courts have long found a privacy interest in shielding one's body from the opposite sex in a variety of legal contexts." *Adams*, 57 F.4th at 805. Protecting "students' privacy interest in school bathrooms" is "an important governmental objective." *Id.*

Additionally, students required to share facilities with transgender identifying students have reported suffering "embarrassment, humiliation, anxiety, fear, apprehension, stress," and "loss of dignity"—so much so that they have "avoid[ed] getting undressed in locker rooms" and worn "soiled, sweaty gym clothes under ... school clothes." *Students & Parents for Priv.* v. *Sch. Dirs. of Twp. High Sch. Dist. 211*, 377 F. Supp. 3d 891, 894–96 (N.D. Ill. 2019); see also, *e.g.*, *Parents for Priv.* v. *Barr*, 949 F.3d 1210, 1219 (9th Cir. 2020) ("As a consequence of their fear of exposure to [a biological girl identifying as a boy], some cisgender boys began using the restroom as little as possible while at school."); *Doe No. 1* v. *Bethel Loc. Sch. Dist. Bd. of Educ.*, No. 3:22-cv-337, 2023 WL 5018511, at *5 (S.D. Ohio Aug. 7, 2023) (to avoid encountering members of the opposite sex in school bathrooms, a female student "avoid[ed] using the bathroom," which "cause[ed] her anxiety and emotional distress.").

Moreover, students who dare to express discomfort with sharing a restroom with members of the opposite sex face possible discipline, which could follow them on

---

choice but to send their children to a public school." *Mahmoud* v. *Taylor*, 145 S. Ct. 2332, 2351 (2025). As a result, "the right of parents to direct the religious upbringing of their children would be an empty promise if it did not follow those children into the public school classroom." *Id.* That's why this Court has "recognized limits on the government's ability to interfere with a student's religious upbringing in a public school setting." *Id.* Here, the injunction "present[s] as a settled matter a hotly contested view of sex and gender that sharply conflicts with the religious beliefs that [many] parents wish to instill in their children." *Id.* at 2354. For this additional reason, the Court should stay the injunction pending appeal.

their academic records. For example, just this past week, two teen boys in the Fourth Circuit were reportedly suspended from a public high school after questioning why a female student who identifies as male was in the boys' locker room. FOX NEWS, Michael Dorgan, "Virginia teens suspended for questioning transgender student about being in boys locker room," Aug. 19, 2025 (https://tinyurl.com/bp64xp9r). And another school district in the Fourth Circuit recently cited the injunction pending appeal in this case to support its enforcement of Title IX as understood by *Grimm*. Alexandria City Public Schools letter to U.S. Department of Education, at 2 n.1, Aug. 15, 2025 (https://tinyurl.com/yexer5s3). Such fears are not hypothetical.

And while Minor Respondent asks for a lone exception, the underlying rule has no limiting principle. See *Elgin* v. *Dep't of Treasury*, 567 U.S. 1, 15 (2012) (declining to adopt a rule that depended on "amorphous distinctions" between "facial and as-applied challenges"). If this Court does not stay the injunction, what should schools say to a male student who identifies as female but takes no other steps to reflect that identity? The injunction offers no reason to exclude such students if Applicants must offer an exception to Minor Respondent. And given the injunction, other schools may be driven to allow students to use opposite-sex restrooms. Choices like these could in turn deter gender congruent students from using the restroom *anywhere* in public schools. This Court should consider all "the public consequences" that leaving the injunction in place would bring. *Winter*, 555 U.S. at 24 (cleaned up). The best balance comes from applying the Proviso consistently to everyone while the appeal is pending.

Moreover, "the presumption of constitutionality" of legislative enactments is "an equity to be considered in favor of applicants in balancing hardships." *Walters*, 468 U.S. at 1324 (Rehnquist, J., in chambers). And this Court's "ordinary practice" "[w]hen courts declare state laws unconstitutional and enjoin state officials from enforcing them … is to suspend those injunctions from taking effect pending appellate review." *Strange* v. *Searcy*, 574 U.S. 1145 (2015) (Thomas, J., dissenting from denial of the application for a stay). Yet the Fourth Circuit gave no weight to how States "take care" to "comply with the Constitution … when they enact their laws." *Id.* (cleaned up). This Court should correct that error.

IV. This Court is likely to grant review.

A stay is also warranted to the extent the Court considers whether there is "a reasonable probability" that it would grant certiorari if the lower court's judgment were affirmed on appeal. *Merrill* v. *Milligan*, 142 S. Ct. 879, 880 (2022) (Kavanaugh, J., concurring, joined by Alito, J.). In the past four years, this Court has twice declined to grant certiorari in challenges to school policies designating restroom use by biological sex. *Gloucester Cnty. Sch. Bd.* v. *Grimm*, 141 S. Ct. 2878 (2021); see also *Metro. Sch. Dist. of Martinsville* v. *A. C.*, 144 S. Ct. 683 (2024). But in *Grimm*, Justices Thomas and Alito would have granted cert. *Grimm*, 141 S. Ct. at 2878. And Justice Barrett's recent concurrence in *Skrmetti* (joined by Justice Thomas) voiced the belief that transgender "access to restrooms" is an area of "legitimate regulatory policy" that should be subject to rational basis review. *Skrmetti*, 145 S. Ct. at 1852–53. More fundamentally, the logic of the majority opinion in *Skrmetti* is irreconcilable with

Grimm, making this Court's review of the Fourth Circuit's holding in *Grimm* timely. Certiorari will ultimately grant clarity to school districts that refuse to comply with the U.S. Department of Education's guidance on Title IX. See, *e.g.*, *supra* at 39.

Moreover, a circuit split warrants this Court's ultimate review on the merits. As of this date, the courts of appeals are split 2-2 as to whether policies that separate sex-specific spaces by biological sex violate Equal Protection and Title IX. See *Adams*, 57 F.4th 791 (Eleventh Circuit found no violation); *Critchfield*, 137 F.4th at 932 (Ninth Circuit found no violation); *Martinsville*, 75 F.4th 760 (Seventh Circuit found violation); *Grimm*, 972 F.3d 586 (Fourth Circuit found violation). The two outliers are both facing current challenges at the Fourth Circuit and the Seventh Circuits, respectively. *Doe*, No. 25-1787 (Fourth Circuit); *D.P. by A.B.*, 2025 WL 1794428, at *1 (Seventh Circuit). And district courts in the Sixth and Tenth Circuits found no violation. *Bridge*, 711 F. Supp. 3d at 1299 (Tenth Circuit); *Williamson Cnty. Bd. of Educ.*, 2024 WL 4046581, at *5 (Sixth Circuit).

Additionally, seven months after declining to grant cert in *Martinsville*, this Court unanimously enjoined a provision of a federal agency rule that "newly defines sex discrimination [under Title IX] to include discrimination on the basis of sexual orientation and gender identity." *Louisiana*, 603 U.S. at 867. The *Martinsville* and *Grimm* holdings (indeed, the Fourth Circuit's ruling in this case), conflict with this Court's view of Title IX. And it conflicts with other federal courts that enjoined the Title IX rule before it even reached this Court, including the Fifth, Sixth, and Eleventh Circuits, and district courts in the Eighth and Tenth Circuits. See *supra* at 30.

This Court should restrain the Fourth Circuit to the lawful exercise of its equitable power with a stay pending appeal. Doing so would protect South Carolina's sovereignty, the privacy of public school students in South Carolina, and the public interest of those whose voiced was heard by passage of the Proviso. If the Fourth Circuit later rules for Respondents on the merits of their claims, then this case—on a developed testimonial record that includes expert testimony—would present an optimal vehicle for the Court to resolve the important constitutional questions at issue.

* * * *

This case implicates a question fraught with emotions and differing perspectives. That is all the more reason to defer to state lawmakers pending appeal. *Andino*, 141 S. Ct. at 10 (Kavanaugh, J., concurring). The decision was the South Carolina legislature's to make. The end of this litigation will confirm that it made a valid one. In the meantime, the Court should set aside the Fourth Circuit's injunction and allow South Carolina's validly enacted law to go back into effect.

The role of judges "is not 'to judge the wisdom, fairness, or logic' of the law before [them], but only to ensure that it does not violate" protections under the law. *Skrmetti*, 145 S. Ct. at 1837 (cleaned up). Because Proviso 1.114 does not, this Court should "leave questions regarding its policy to the people, their elected representatives, and the democratic process." *Id.*

CONCLUSION

The Court should stay the Fourth Circuit's injunction pending appeal.

[Signatures on following page]

Respectfully submitted,

Thomas T. Hydrick
Solicitor General
Joseph D. Spate*
Deputy Solicitor General
Benjamin M. McGrey
Assistant Deputy Solicitor General
SOUTH CAROLINA OFFICE OF THE ATTORNEY GENERAL
1000 Assembly St.
Columbia, SC 29201
(803) 734-3371
josephspate@scag.gov
*Counsel of Record

Counsel for Applicants State of South Carolina; South Carolina State Board of Education; South Carolina Department of Education; and Ellen Weaver, in her official capacity as South Carolina Superintendent of Education

Miles E. Coleman
NELSON MULLINS RILEY & SCARBOROUGH LLP
2 West Washington Street / Suite 400
Greenville, SC 29601
(864) 373-2300
miles.coleman@nelsonmullins.com

Counsel for Applicants South Carolina State Board of Education; South Carolina Department of Education; Ellen Weaver, in her official capacity as South Carolina Superintendent of Education; Berkeley County School District; and Anthony Dixon, in his official capacity as Superintendent of Berkeley County School District

August 26, 2025

No. 25A__

In the Supreme Court of the United States

STATE OF SOUTH CAROLINA; SOUTH CAROLINA STATE BOARD OF EDUCATION; SOUTH CAROLINA DEPARTMENT OF EDUCATION; BERKELEY COUNTY SCHOOL DISTRICT; ELLEN WEAVER, IN HER OFFICIAL CAPACITY AS SOUTH CAROLINA SUPERINTENDENT OF EDUCATION; ANTHONY DIXON, IN HIS OFFICIAL CAPACITY AS SUPERINTENDENT OF BERKELEY COUNTY SCHOOL DISTRICT,

Applicants,

v.

JOHN DOE, A MINOR, BY HIS PARENTS AND NEXT FRIENDS; JIM DOE, PARENTAL NATURAL GUARDIAN; JANE DOE, PARENTAL NATURAL GUARDIAN,

Respondents.

TO THE HONORABLE JOHN G. ROBERTS, JR., CHIEF JUSTICE OF THE UNITED STATES AND CIRCUIT JUSTICE FOR THE FOURTH CIRCUIT

APPENDIX TO APPLICATION FOR A STAY PENDING APPEAL IN THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT AND FURTHER PROCEEDINGS IN THIS COURT

Joseph D. Spate
Deputy Solicitor General
SOUTH CAROLINA OFFICE OF THE ATTORNEY GENERAL
1000 Assembly St.
Columbia, SC 29201
(803) 734-3371
josephspate@scag.gov

Counsel for Applicants State of South Carolina; South Carolina State Board of Education; South Carolina Department of Education; and Ellen Weaver, in her official capacity as South Carolina Superintendent of Education

Miles E. Coleman
NELSON MULLINS RILEY & SCARBOROUGH LLP
2 West Washington Street / Suite 400
Greenville, SC 29601
(864) 373-2300
miles.coleman@nelsonmullins.com

Counsel for Applicants South Carolina State Board of Education; South Carolina Department of Education; Ellen Weaver, in her official capacity as South Carolina Superintendent of Education; Berkeley County School District; and Anthony Dixon, in his official capacity as Superintendent of Berkeley County School District

PUBLIC COPY—SEALED MATERIALS REDACTED

TABLE OF APPENDICES

Court of appeals order denying motion to reconsider or stay injunction pending appeal (4th Cir. Aug. 25, 2025)……..1a

Court of appeals amended order granting motion for an injunction pending appeal (4th Cir. Aug. 15, 2025)……3a

Court of appeals order granting motion for an injunction pending appeal (4th Cir. Aug. 12, 2025)……..……..32a

District court order denying motion for an injunction pending appeal (D.S.C. Jul. 23, 2025)……34a

District court reference order denying pending motions without prejudice (D.S.C. Jul. 8, 2025)……..39a

District court order staying case and denying pending motions without prejudice (D.S.C. Jul. 8, 2025)……41a

Excerpts from deposition of Dr. Geeta Nangia, M.D. (Feb. 10, 2025)……45a

Supplemental Declaration of Joseph D. Spate (Feb. 10, 2025)……64a

Expert witness declaration of Dr. Geeta Nangia, M.D. (Jan. 13, 2025)……66a

Declaration of Joseph D. Spate (Jan. 13, 2025)……..412a

FILED: August 25, 2025

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 25-1787
(2:24-cv-06420-RMG)

JOHN DOE, a minor, by his parents and next friends; JIM DOE, parental natural guardian; JANE DOE, parental natural guardian

Plaintiffs - Appellants

and

THE ALLIANCE FOR FULL ACCEPTANCE

Plaintiff

v.

STATE OF SOUTH CAROLINA; SOUTH CAROLINA STATE BOARD OF EDUCATION; SOUTH CAROLINA DEPARTMENT OF EDUCATION; BERKELEY COUNTY SCHOOL DISTRICT; ELLEN WEAVER, in her official capacity as South Carolina Superintendent of Education; ANTHONY DIXON, in his official capacity as Superintendent of Berkeley County School District

Defendants - Appellees

O R D E R

Upon consideration of appellees' motion for reconsideration or alternatively

a stay of the injunction pending appeal, the court denies the motion.

Entered at the direction of Judge Agee with the concurrence of Chief Judge Diaz and Judge Harris.

For the Court

/s/ Nwamaka Anowi, Clerk

FILED: August 15, 2025

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 25-1787
(2:24-cv-06420-RMG)

JOHN DOE, a minor, by his parents and next friends; JIM DOE, parental natural guardian; JANE DOE, parental natural guardian,

Plaintiffs – Appellants,

and

THE ALLIANCE FOR FULL ACCEPTANCE,

Plaintiff,

v.

STATE OF SOUTH CAROLINA; SOUTH CAROLINA STATE BOARD OF EDUCATION; SOUTH CAROLINA DEPARTMENT OF EDUCATION; BERKELEY COUNTY SCHOOL DISTRICT; ELLEN WEAVER, in her official capacity as South Carolina Superintendent of Education; ANTHONY DIXON, in his official capacity as Superintendent of Berkeley County School District,

Defendants – Appellees.

A M E N D E D O R D E R

Upon consideration of the submissions relative to appellants' motion for an injunction pending appeal and motion to expedite the appeal, the court grants the motion for an injunction pending appeal and denies the motion to expedite the appeal. Appellees

are enjoined from enforcing compliance with the ban on transgender students using restrooms that match their gender identities during the pendency of this appeal only as it applies to appellant Doe. Further, upon consideration of appellees' motion to dismiss the appeal, the court denies the motion.

On August 12, 2025, we entered an order resolving three motions that had been filed in this case that is still in the merits briefing stage. In this amended order, we explain the basis for our decision.

I.

In its 2024–2025 and 2025–2026 budget appropriations bills, the South Carolina legislature included substantively identical provisos that, in relevant part, provide that public school multi-stall restrooms "designated for one sex shall be used only by members for one sex" ("the Proviso").[1] *Compare* H. 5100, Appropriation Bill 2024–2025, Part IB § 1.120 (Act No. 226, 2024 S.C. Acts), *with* H. 4025, Appropriation Bill 2025–2026, Part IB § 1.114 (Act No. 69, 2025 S.C. Acts). The Proviso further defines "sex" to mean "a person's biological sex, either male or female, as objectively determined by anatomy and genetics existing at the time of birth." *Compare* H. 5100, Appropriation Bill 2024–2025, Part IB §

[1] No factfinding has occurred yet in this case, nor does our decision to grant a preliminary injunction pending appeal turn on resolution of any disputed facts. *See Elrod v. Burns*, 427 U.S. 347, 250 n.1 (1976) (stating, that for purposes of resolving a motion for a preliminary injunction, courts take as true "all of the well-pleaded allegations of [the] complaint and uncontroverted affidavits filed in support"). We therefore recite the underlying events as presented in the complaint and related district court filings.

1.120 (Act No. 226, 2024 S.C. Acts), *with* H. 4025, Appropriation Bill 2025–2026, Part IB § 1.114 (Act No. 69, 2025 S.C. Acts). The Proviso incentivizes school districts to comply with the Proviso by withholding 25% of state funds appropriated to them if they fail to do so. *Compare* H. 5100, Appropriation Bill 2024–2025, Part IB § 1.120 (Act No. 226, 2024 S.C. Acts), *with* H. 4025, Appropriation Bill 2025–2026, Part IB § 1.114 (Act No. 69, 2025 S.C. Acts). The Governor signed both bills, and the South Carolina Department of Education has issued guidance instructing school districts about the Proviso and reminding them that the Proviso will be enforced against non-compliant schools.[2]

When the Proviso was first enacted last year, "John Doe," a minor, was an eighth-grade student enrolled at a public school in Berkeley County, South Carolina.[3] Under the Proviso's definitions, Doe was classified as a "female" and thus prohibited from using the boys' multi-stall restrooms in public school. But early in the last school year Doe, whose "gender identity is male" and "now lives consistently with his male gender identity in all aspects of life," used the boys' multi-stall restrooms. App. 24 (Compl. ¶ 46). For that conduct, Doe was reprimanded by teachers and administrators and eventually suspended

[2] The challenged Proviso was first enacted as part of the appropriations bill for the 2024–2025 fiscal year, which ran from July 1, 2024, to June 30, 2025. *See* S.C. Code § 11-9-80. At that time, the challenged language was found at Proviso 1.120. H. 5100, Appropriation Bill 2024–2025, Part IB § 1.120 (Act No. 226, 2024 S.C. Acts). The 2025–2026 appropriations bill (July 1, 2025, to June 30, 2026) contains the substantively identical challenged language at Proviso 1.114. H. 4025, Appropriation Bill 2025–2026, Part IB § 1.114 (Act No. 69, 2025 S.C. Acts).

[3] The district court granted Doe and Doe's parents ("Jim and Jane Doe") leave to proceed pseudonymously, and we use the same names they have adopted for purposes of this litigation.

for one day. Doe and Doe's parents were informed that, should Doe continue to use the boys' multi-stall restrooms, penalties would continue to be assessed or Doe could be expelled.

In light of those actions, Doe's parents withdrew Doe from in-person public school and pursued online educational opportunities for the remainder of the academic year. Doe's performance suffered and the family considered the educational and social opportunities afforded through the online school experience to be inferior to attending public school in person.

After weighing their options, the Does have decided to re-enroll Doe in public high school for the 2025–2026 academic year. Based on representations to the Court, the first day of Doe's school year was this past Wednesday, August 13, 2025.

This litigation began shortly after Doe withdrew from public school in the fall of 2024. Doe, "through his parents," filed a complaint in the U.S. District Court for the District of South Carolina alleging that the Proviso violated Title IX and the Equal Protection Clause by "forbid[ding] transgender students from using restrooms consistent with their gender identities." App. 14 (Compl. ¶ 1).[4] As support for these claims, the complaint points

[4] A co-plaintiff in the case is a South Carolina advocacy group the Alliance for Full Acceptance, and the complaint was filed as a putative class action. The appeal pending before this Court—and thus the motion we now consider—has been filed solely by the Does. Docketing Statement, Docket No. 1.

The named defendants are the State of South Carolina, the State Board of Education, the State Department of Education, the Berkeley County School District, the Superintendent of the South Carolina Department of Education (official capacity), and the Superintendent of the Berkeley County School District (official capacity). For simplicity, we refer to them collectively as "South Carolina" or "the State."

to this Court's 2020 decision in *Grimm v. Gloucester County School Board.* 972 F.3d 586 (4th Cir. 2020), *cert. denied* 141 S. Ct. 2878 (2021), which held that a public school board's policy of requiring transgender students to use multi-stall "restrooms matching their 'biological gender'" violated Title IX and the Equal Protection Clause. *Id.* at 593–94. Two days after filing the complaint, Doe moved for a preliminary injunction to enjoin enforcement of the Proviso. Briefing on that motion was completed by February 2025. Briefing on the State's motion to dismiss the complaint wrapped up in late March 2025.

By June 2025, the district court had yet to rule on either motion, and Doe moved to file an amended complaint and amended motion for a preliminary injunction. The proposed amendments to both filings did not add new claims or alter the substance of Doe's arguments, but instead updated the factual allegations to refer to the 2025–2026 iteration of the Proviso and note Doe's decision to re-enroll in a Berkeley County public high school for the upcoming school year. On the first day of the new fiscal year, Doe filed a renewed motion for a preliminary injunction, which Doe clarified was being filed in an abundance of caution given the court's failure to act on any of the pending motions, as well as the fact that the 2025–2026 budget contained the now-operative Proviso that Doe sought to challenge and enjoin in this litigation.

On July 8, 2025, the district court stayed the entire case. In its view, the Supreme Court's July 1 decision to grant *certiorari* in *West Virginia v. B.P.J.*, No. 24-43, as well as other developments in this area of the law over the past year rendered *Grimm* "unsettled" precedent. App. 293 (Dist. Ct. ECF No. 92, at 2). Given that the Supreme Court could be poised to issue a decision within the coming year that had "the potential of bringing clarity

and providing guidance" in this case, the district court concluded that staying the action best promoted judicial economy. *Id.* Consistent with that decision, it ordered that "[a]ll pending motions (Dkt. Nos. 51, 80, 85, 86, 87, 88, and 90) are denied without prejudice and with leave to restore and/or supplement once the United States Supreme Court rules in *B.P.J.* or the Supreme Court's 2025-2026 term ends, whichever is sooner." App. 295 (Dist. Ct. ECF No. 92, at 4 n.3). The parties were instructed to file their views of the effect of any Supreme Court action in *B.P.J.* within 15 days of a decision or the end of the court's term. *Id.* (Dist. Ct. ECF No. 92, at 4).[5]

Doe noted an appeal of the district court's order and moved for a preliminary injunction pending appeal. The district court denied the motion based substantially on the same reasoning it provided when staying the action. In its view, Doe could not meet the requirement of forecasting a "clear showing" of entitlement to the relief sought given the "significant recent legal developments in the Supreme Court" that "appear[ed] to either reject or bring into question" this Court's decision in *Grimm*. Dist. Ct. ECF No. 103, at 4.

Although our Court issued a briefing schedule that would, in the ordinary course, be completed in early October 2025, the parties filed three motions in this Court that could have altered that trajectory. Initially, Doe moved for an injunction pending appeal, for

[5] The district court issued one written order that is reflected on two separate docket entries. Docket Number 92, containing the written order, notes that the district court granted the stay. Docket Number 93 notes that it is related to the prior order and substantively reflects the footnote in the written order denying the pending motions. Since both docket entries' substance appears in the text of the sole written order and their contents do not materially differ, we refer to the district court's action being appealed from as the entry of a single order.

expedited briefing, and for a decision without oral argument. The State moved to dismiss the appeal. As reflected by our August 12 order, we granted Doe's motion for an injunction pending appeal, but denied the other two motions.

II.

A. The State's Motion to Dismiss

We first address South Carolina's motion to dismiss the appeal because, if granted, it would negate the need to consider Doe's motions. The State argued that we should dismiss this appeal on two separate grounds, first for lack of appellate jurisdiction and second because Doe lacks standing. We reject both arguments.

1. Appellate Jurisdiction

"Appellate courts generally only review 'final decisions of the district courts.'" *In re Grand Jury 2021 Subpoenas*, 87 F.4th 229, 244 (4th Cir. 2023) (quoting 28 U.S.C. § 1291). But under 28 U.S.C. § 1292(a)(1), we also have jurisdiction to consider interlocutory appeals from "orders of the district courts . . . refusing . . . injunctions." This statute confers jurisdiction over orders expressly denying an injunction as well as those orders that have the "practical effect" of doing so. *A.A.R.P. v. Trump*, 605 U.S. ---, 145 S. Ct. 1364, 1367 (2025) (quoting *Carson v. Am. Brands, Inc.*, 450 U.S. 79, 84 (1981)). In considering whether we have jurisdiction under § 1292(a)(1), we can look beyond the "label ascribed to" a district court's order to determine whether it "amounts to an injunction" insofar as it (1) has the "practical effect" of a decision about whether to award an injunction; (2) results in "serious, perhaps irreparable consequences"; and (3) could

"only be 'effectually challenged' through immediate appeal.'" *Selective Ins. Co. of Am. v. Westfield Ins. Co.*, 73 F.4th 239, 243 (4th Cir. 2023) (cleaned up).

Beyond § 1292(a)(1)'s own jurisdictional grant, we also have authority to exercise pendent appellate jurisdiction to review "issues that are not otherwise subject to immediate appeal when such issues are so interconnected with immediately appealable [ones] that they warrant concurrent review," such as when an issue is "inextricably intertwined" with an order "that is the proper subject of an immediate appeal" or when review is "'necessary to ensure meaningful review' of an immediately appealable issue." *Rainbow Sch., Inc. v. Rainbow Early Educ. Holding LLC*, 887 F.3d 610, 622 (4th Cir. 2018) (quoting *Rux v. Republic of Sudan*, 461 F.3d 461, 475 (4th Cir. 2006)); *see also NationsBank Corp. v. Herman*, 174 F.3d 424, 427 (4th Cir. 1999) (concluding that because the Court had jurisdiction over an interlocutory order granting an injunction, it could also exercise jurisdiction over the denial of summary judgment—something not ordinarily reviewable on interlocutory appeal—because it was "intimately bound up with" the decision to grant injunctive relief).

Applying these principles here, we have jurisdiction over the district court's order. By its plain terms, the district court expressly denied Doe's then-pending motions for preliminary injunctive relief when it denied "[a]ll pending motions." App. 295 (Dist. Ct. ECF No. 92, at 4 n.3). Indeed, in the same sentence, the district court specifically designated Doe's renewed motion for a preliminary injunction by docket number as one of the pending motions it was denying: "(Dkt. Nos. . . . 88". *Id.* The court's explicit denial of Doe's renewed motion satisfies the plain language of § 1292(a)(1), allowing us to exercise

appellate jurisdiction over that decision.[6] What's more, the district court's twice-repeated indication that "*[a]ll* pending motions" were "denied" provides additional basis for us to conclude that the district court (1) believed that the renewed motion superseded the original one, making it unnecessary to rule on both, or (2) also denied Doe's original motion for a preliminary injunction, an act that would also expressly be the refusal of an injunction to which §1292(a)(1) applies. App. 295 (Dist. Ct. ECF No. 92, at 4 n.3) (emphasis added).[7]

And because we have jurisdiction over the court's denial of a preliminary injunction based on § 1292(a)(1), we also have pendent jurisdiction to consider the court's "inextricably intertwined" decision to stay any additional proceedings in this action.

[6] We are also not persuaded that the district court's denial of the pending motions "without prejudice" and without expressly ruling on the merits of relief precludes us from exercising appellate jurisdiction. The district court's order makes it clear that it would not entertain a refiled motion until after the first of the two events it described. Thus, for the same reasons fleshed out in the context of a *Carson* analysis, the denial "without prejudice" here does not make the district court's order any less of a refusal to grant an injunction for purposes of § 1292(a)(1). *See Everett v. Pitt Cnty Bd. of Educ.*, 678 F.3d 281, 288 (4th Cir. 2012) (finding appellate jurisdiction under § 1292(a)(1) over the district court's order temporarily denying an injunction on procedural grounds even though the court had explicitly said it would take up the issue again on the merits in a few more months).

[7] Neither party asked the district court to clarify its order. South Carolina contends we should nonetheless conclude that the district court agrees with it that Doe's original motion for a preliminary injunction is still pending before that court because the State had, in its opposition to the motion for an injunction pending appeal, expressed its view that the original motion was still pending and the court did not say otherwise in its subsequent order. We decline to do so. Doe had asserted the exact opposite conclusion—that the district court's reference to "all" meant both motions were denied—when moving in the district court for an injunction pending appeal. The district court's order denying an injunction pending appeal did not explicitly respond to either parties' contention, so nothing more can be gleaned from its silence other than that it declined to engage with that debate.

Rainbow Sch., Inc, 887 F.3d at 622 (quoting *Rux*, 461 F.3d at 475); *see also NationsBank Corp.*, 174 F.3d at 427.

Even if there is some ambiguity in the district court's challenged actions, we would conclude under *Carson* that we have jurisdiction based on the totality of the actions denying "[a]ll pending motions" for the same period of time during which it simultaneously stayed all proceedings. The district court could not have been clearer that it would not consider the merits of any pending or re-filed motion for injunctive relief until the Supreme Court takes action in *B.P.J.* or the end of that Court's 2025–2026 term, whichever is earlier. In practical terms, the district court's order thus means that Doe cannot have any request for injunctive relief considered on the merits in the district court for most, if not all, of the 2025–2026 academic year.[8] The combined effect of a delay of this length coupled with its particular effect in this case—where Doe's claims allege a constitutional violation

[8] The Supreme Court granted *certiorari* in *B.P.J.* on July 3, 2025, and at present, merits briefing is not set to conclude until November 2025 with oral argument (as-yet unscheduled) to follow in early 2026. *West Virginia v. B.P.J.*, No. 24-43. Barring an unforeseen procedural dismissal, that places any merits decision likely to be issued in May or June 2026. Indeed, given the nature of this case and that *B.P.J.* will be considered alongside another case involving related issues, *Little v. Hecox*, No. 24-38, late June 2026 is a reasonable expectation. *Supreme Court Procedures*, https://www.uscourts.gov/about-federal-courts/educational-resources/about-educational-outreach/activity-resources/supreme-court-procedures [https://perma.cc/9CE9-KAHF] ("All opinions of the Court are, typically, handed down by the last day of the Court's term (the day in late June/early July when the Court recesses for the summer). With the exception of this deadline, there are no rules concerning when decisions must be released. . . . [S]ome controversial opinions, even if heard in October, may not be handed down until the last day of the term.") (last visited Aug. 14, 2025).

occurring daily during the school year and the injunction sought would relieve that violation—has the practical effect of refusing an injunction. In addition, the court's order imposes "serious, perhaps irreparable consequences" given the alleged harms and this Circuit's binding case law (discussed below). *Selective Ins. Co. of Am.*, 73 F.4th at 243 (cleaned up). Moreover, failing to exercise jurisdiction now would render the district court's order effectively unreviewable until as late as June 2026, too late to afford Doe any consideration of the request for an injunction during the current school year. Under similar circumstances, where the district court's refusal to act on a requested injunction in a timely manner constructively denied the motion, the Supreme Court has held that appellate jurisdiction lies under § 1292(a)(1). *See A.A.R.P.*, 145 S. Ct. at 1367 (explaining that "inaction in the face of extreme urgency . . . may have the effect of refusing an injunction").

Last, we note that even if the district court's decision to stay for some reason did not satisfy *Carson*, we could still exercise pendent appellate jurisdiction over that issue as part of our consideration of the district court's decision to deny Doe's requested preliminary injunction. Because the denial of injunctive relief cleanly falls under § 1292(a)—and thus is a decision "that is the proper subject of an immediate appeal"—we can also consider issues "inextricably intertwined," *Rainbow School*, 887 F.3d at 622, or "intimately bound up with," *NationsBank Corp.*, 174 F.3d at 427, it. Here, the district court's decision to stay meets this requirement. If it did not, then as some of our sister circuits have recognized, "the denial of the preliminary injunction would be effectively unappealable because a reversal on that issue would have no effect. Our mandate would return to a black hole. A stay should not insulate the denial of a request for preliminary injunction from appellate

review in this way. [And] the denial of the preliminary injunction and the stay must be considered together." *Proctor & Gamble Co. v. Kraft Foods Glob., Inc.*, 549 F.3d 842, 847 (Fed. Cir. 2008) (quoting *Privitera v. Cal. Bd. of Med. Quality Assurance*, 926 F.2d 890, 892–93 (9th Cir. 1991)); *see also Cedar Coal Co. v. United Mine Workers of Am.*, 560 F.2d 1153, 1162 (4th Cir. 1977) (holding that the district court's decision to indefinitely continue the matter of whether to grant an injunction was appealable under § 1292(a) because holding otherwise "would permit a plain denial of even the bare consideration of whether to consider injunctive relief to go unaccounted for").

For these reasons, we conclude that we have jurisdiction over the district court's decisions to deny Doe's requests for a preliminary injunction and to stay the action. We turn next to the State's contention that Doe lacks Article III standing.

2. Standing

Doe had Article III standing to file the complaint.[9] Under the familiar framework, to have Article III standing, a plaintiff must plausibly allege: "(1) [] an injury in fact, (2) that is fairly traceable to the challenged conduct of the defendant, and (3) that is likely to be redressed by a favorable judicial decision." *Spokeo, Inc. v. Robins*, 578 U.S. 330, 338 (2016). At this early stage of the litigation, "general factual allegations of injury resulting

[9] Doe urges us to conclude that the State has forfeited this argument by failing to develop it in its briefing and, instead, incorporating by reference arguments about standing made in the motion to dismiss filed in the district court. While the State's method is disfavored, standing goes to a federal court's power to hear a case under Article III. We must therefore consider it *sua sponte*, so we will briefly address why we believe Doe has made a sufficient showing of standing to survive a motion to dismiss the appeal. *E.g.*, *Buscemi v. Bell*, 964 F.3d 252, 258 (4th Cir. 2020).

from the defendant's conduct may suffice, for on a motion to dismiss [courts] presume that general allegations embrace those specific facts that are necessary to support the claim." *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 561 (1992) (cleaned up).

Generally speaking, standing is determined as of the day a complaint is filed. *West Virginia v. EPA*, 597 U.S. 697, 718 (2022). First, Doe alleged an injury in fact, i.e., "an invasion of a legally protected interest that is concrete and particularized and actual or imminent, not conjectural or hypothetical." *Spokeo, Inc.*, 578 U.S. at 339 (cleaned up). Doe alleged that the State's enactment and promise to enforce the Proviso restricted Doe from using the boys' multi-stall bathrooms. Further, Doe alleged that the Proviso led not only to formal punishment from school administrators, but also led Doe to withdraw and seek alternative schooling options despite a desire to re-enroll in in-person public schools without being subject to the Proviso. Last, Doe alleged that the State was actively seeking to enforce the Proviso, which demonstrates a likelihood of an ongoing or future injury in fact. *See Kenny v. Wilson*, 885 F.3d 280, 287 (4th Cir. 2018) (stating that to demonstrate standing to obtain declaratory and injunctive relief, a plaintiff must make a showing of "an ongoing or future injury in fact"). These allegations adequately demonstrated an injury in fact.[10]

[10] The State makes much of Doe's original complaint being based on the 2024–2025 iteration of the Proviso and seeking to enjoin its enforcement during that year. To be sure, the earlier Proviso did lapse at the end of the last fiscal year. But Doe sought to amend both the complaint and the motion for a preliminary injunction to include the uncontested reality that the State has enacted a substantially identical Proviso for the 2025–2026 fiscal year. The district court did not act on those motions and instead denied them as part of its order staying the action. Doe's proposed amendments would cure any perceived deficiency in (Continued)

Next, the same allegations satisfy Doe's burden of alleging "a causal connection between the injury and the conduct complained of," i.e., of showing standing's fair traceability prong. *Lujan*, 504 U.S. at 560. The Proviso is plainly linked to at least some of Doe's asserted injuries, even if enjoining the Proviso would not eliminate all potential sources of potential harassment. That's sufficient to meet this requirement.

Third, and last, Doe has adequately alleged redressability, that "it [is] likely, as opposed to merely speculative, that the injury will be redressed by a favorable decision." *Id.* at 561 (cleaned up). Given the State's past enforcement of the Proviso against Doe and its repeated commitment to its implementation throughout its public schools, Doe has adequately alleged "a real or immediate threat" of being "wronged again" absent judicial intervention upon returning to in-person public schools. *Laufer v. Naranda Hotels, LLC*, 60 F.4th 156, 161 (4th Cir. 2023). That's sufficient to allege redressability and, in turn, satisfies all three prongs for purposes of meeting Doe's burden to allege facts supporting standing at this stage of the proceedings.

The State raises one final argument in favor of its contention that the appeal should be dismissed for lack of standing. Namely, it contends that even if Doe had standing to file the operative complaint, Doe has not been aggrieved by the district court's challenged order and thus "lacks standing to pursue this appeal." Appellee's Combined Mot. to Dismiss &

---

the complaint and would therefore have the effect of curing any perceived jurisdictional deficiencies as well. *See Holloway v. City of Virginia Beach*, 42 F.4th 266, 277–78 (4th Cir. 2022). Resolution of the issues the State raises is best left to the panel considering the merits of Doe's appeal, but they are not grounds for dismissing it outright at this stage.

Response, Docket No. 36, at 13. That argument centers on distinctions between the operative complaint and the court's failure to grant leave to amend the pleading to account for the new fiscal year's budget proviso and Doe's plans for the 2025–2026 school year. The State contends that this lapse in time and the operative complaint's failure to raise sufficient allegations related to the 2025–2026 school year mean that Doe now lacks standing to appeal the district court's refusal to enter an injunction covering the current time frame. We are not persuaded that these differences cause Doe to "lose" standing for purposes of this appeal. *See, e.g.*, *Deal v. Mercer Cnty Bd. of Educ.*, 911 F.3d 183, 187–90 (4th Cir. 2018) (recognizing, in the context of a student's religious freedom claims, that the student had standing to pursue her claims even after withdrawing from public school as a result of the state defendant's allegedly unconstitutional practices in school and that she did not have to expressly state in her complaint that she would reenroll if an injunction were granted).

The State's arguments ignore that Doe moved for leave to amend to provide the very updates that it contends needed to occur, but the district court denied them as part of its decision to stay the proceedings. Even more damaging to the State's assertions, Doe's operative complaint requested relief beyond enjoining last year's iteration of the Proviso as Doe alleged that "[i]f [the school] permitted [Doe] to use restrooms that correspond with his gender identity, [then Doe] would like to re-enroll, and [Doe's] parents would support his decision." App. 28 (Compl.¶ 72). The operative complaint thus adequately forecasts how the district court's challenged decisions allegedly aggrieve Doe to this day. That's enough to show Doe possesses standing to bring this appeal—simply put, Doe has been

aggrieved by the district court's challenged order and that's sufficient under Supreme Court precedent. *West Virginia*, 597 U.S. at 718 (2022) ("In considering a litigant's standing to appeal, the question is whether it has experienced an injury 'fairly traceable to the judgment below.' If so, and a favorable ruling from the appellate court would redress that injury, then the appellant has a cognizable Article III stake [in the appeal]." (citation omitted)).

For all the reasons provided above, we deny the State's motion to dismiss the appeal.

B. Doe's Motions

We next address Doe's motions for an injunction pending appeal and to expedite the appeal.

The Court considers four factors in deciding whether to issue a preliminary injunction pending appeal: "that he is likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in his favor, and that an injunction is in the public interest." *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). The first two factors are "the most critical." *Nken v. Holder*, 556 U.S. 418, 434 (2009). The party seeking the stay bears the burden of demonstrating them. *Dep't of Educ. v. Louisiana*, 603 U.S. 866, 868 (2024).

Given our past decision in *Grimm*, Doe has made the requisite showing as to all four factors and thus shown that an injunction should issue pending the appeal. In *Grimm*, the Court held that a school board policy that was in all material respects identical to the

Proviso violated Title IX and the Equal Protection Clause.[11] *Grimm* remains the law of this Circuit and is thus binding on all the district courts within it. *Gibbons v. Gibbs*, 99 F.4th 211, 213 (4th Cir. 2024) ("When a panel of this Court decides a legal issue in a published opinion, that ruling is binding on all future panels and district courts within this circuit unless it is abrogated by the Supreme Court or an en banc decision of this Court."). On appeal, a panel of this Court would be bound to consider the parties' arguments in view of *Grimm*. This reality is sufficient to show a likelihood of success in the forthcoming appeal from the district court's order refusing preliminary injunctive relief while simultaneously staying further proceedings.

Doe has likewise shown—based on *Grimm*—"that irreparable injury is likely in the absence of an injunction." *Winter*, 555 U.S. at 22 (emphasis omitted). That's so because state action infringing constitutional rights generally constitutes irreparable harm and Doe has credibly alleged South Carolina's intent to enforce the Proviso against Doe during the pendency of this appeal. *See Ross v. Meese*, 818 F.2d 1132, 1135 (4th Cir. 1987).

[11] Mirroring the Proviso, the policy in *Grimm* required students to "use [multi-stall] restrooms matching their 'biological gender,'" which also looked to the sex the student had been assigned at birth. 972 F.3d at 593. The Court also held that the policy was subject to heightened (intermediate) scrutiny for purposes of the Equal Protection claim because it "rests on sex-based classifications *and* because transgender people constitute at least a quasi-suspect class." *Id.* at 607 (emphasis in original); *see also id.* at 607–13. Further, *Grimm* held that the policy did not survive Grimm's equal protection challenge because it was "not substantially related to its important interest in protecting students' privacy." *Id.* at 613; *see id.* at 613–15. Last, the Court held that the policy violated Grimm's rights under Title IX because it "discriminated against him 'on the basis of sex'" in a manner that caused legally cognizable harms. *Id.* at 616; *id.* at 616–19.

Last, the balance of equities and the public interest support upholding the rule of law. *Vitkus v. Blinken*, 79 F.4th 352, 368 (4th Cir. 2023) ("[T]he public undoubtedly has an interest in seeing its governmental institutions follow the law." (cleaned up)); *cf. Homans v. City of Albuquerque*, 264 F.3d 1240, 1244 (10th Cir. 2001) ("[W]e believe that the public interest is better served by following binding . . . precedent[.]"). Here, that encompasses preventing the State from enforcing a policy that directly contradicts *Grimm*—a prior, binding decision of this Court.

The State resists this conclusion on multiple grounds, none of which are persuasive. For example, it argues *Grimm* is not the analogous precedent Doe purports it to be, raising a host of subtle factual distinctions and new arguments for why the Proviso operates differently or is based on additional interests than the policy at issue in *Grimm*. In large part, these arguments ignore *Grimms*' holding, straining for a reason not to be bound by what it said. *Gibbons*, 99 F.4th at 213 (recognizing the rule that published decisions of this Court are binding unless abrogated by the Supreme Court or an en banc decision of this Court, and the controlling nature of a published opinion "does not disappear just because a future litigant identifies a fact, theory, or line of argument the previous panel could have but did not consider"). Such nuanced arguments also hold Doe to too high a standard. At present, we're focused on Doe's *likelihood* of success and *likelihood* of irreparable harm in the pending appeal, both of which *Grimm* directs in Doe's favor. *E.g.*, *U.S. Dep't of Lab. v. Wolf Run Mining Co.*, 452 F.3d 275, 280 (4th Cir. 2006) ("Because a preliminary injunction is temporary and is entered with only a preview evaluation of the merits, without resolving them, the decision to enter a preliminary injunction involves consideration of the

relative harms to the parties in maintaining a particular status between them until completion of this case."). The State also lodges multiple attacks on *Grimm* itself, faulting its internal reasoning as well as its comparative strength against decisions from other district and circuit courts that have reached opposite conclusions in cases raising Equal Protection and Title IX claims in this context. Again, those arguments are not grounds for any panel deciding the merits of this appeal because *Grimm* remains binding precedent within this Circuit. *See Gibbons*, 99 F.4th at 213.

Last, although this concern will no doubt be taken up more fully by the panel to consider Doe's appeal on the merits, we briefly note that the State discounts *Grimm*'s presently binding effect on Doe's claims by forecasting that it—or its premises—will be overruled by the Supreme Court's decision in *B.P.J.* Indeed, a similar rationale motivated the district court to deny Doe an injunction pending the appeal. Dist. Ct. ECF No. 103. Such speculation is not the proper basis for denying a preliminary injunction pending appeal when currently binding caselaw compels the conclusion that the movant has satisfied his burden. We do not know what the Supreme Court will say—or not say—in any future decision in *B.P.J.* Thus, we have no reason to know how or in what way its holding will impact *Grimm*'s precedential value or any future analysis of Doe's claims. All we know at present is that the Supreme Court has granted *certiorari* in a case that is likely to address relevant areas of the law. But granting *certiorari* does not alter the currently binding force of *Grimm*. *See Bethlehem Mines Corp. v. Henderson*, 939 F.2d 143, 151 n.7 (4th Cir. 1991) (observing that the Court's holding was required because of existing circuit precedent even though that precedent "conflicts with the views of some other circuits" and

"the Supreme Court has recently granted certiorari in this court's decision" because "[u]ntil the Supreme Court resolves this conflict, [our precedent] remains the law of this circuit").

For these reasons, we conclude that Doe has shown the propriety of enjoining enforcement of the Proviso against Doe pending the appeal. We therefore grant Doe's motion. At this time, no other parties are before us, so relief is solely limited to Doe.

Having granted Doe a preliminary injunction pending a decision in the underlying appeal, the urgency Doe points to as a basis for resolving the appeal largely dissipates. Doe can use the men's multi-stall restrooms for now as the parties submit their briefs according to the existing scheduling order. After those briefs are filed, the merits panel will determine all future courses of action. Therefore, Doe's motion to expedite the appeal is denied.

Entered at the direction of Judge Agee with the concurrence of Chief Judge Diaz and Judge Harris.

For the Court

/s/ Nwamaka Anowi, Clerk

DIAZ, Chief Judge, concurring:

I join in the panel's decision to grant John Doe's motion for injunction pending appeal, a decision that protects Doe from South Carolina's grievous attempt to infringe on his rights. Doe is a 14-year-old student who simply wishes to use the restroom. Doing so is a biological necessity. Doing so in restrooms that match his gender identity is his right under our precedent.

But South Carolina has enacted a proviso that openly defies the law. Doe first moved for an injunction last November, yet the district court didn't then decide the motion. After South Carolina reenacted the proviso for this school year, Doe renewed his motion for an injunction. This time, the district court denied it without prejudice and stayed the case, placing Doe in limbo, because the court thought the applicable law was unsettled.

Yet there's nothing unclear in our precedent. As the law stands, South Carolina's proviso is unconstitutional and violates Title IX. *Grimm v. Gloucester Cnty. Sch. Bd.*, 972 F.3d 586, 607, 619 (4th Cir. 2020).

The district court relied principally on two recent developments at the Supreme Court, but neither defeats the controlling force of *Grimm*. The Court's decision in *United States v. Skrmetti*, 145 S. Ct. 1816 (2025), has little to say about the issues *Grimm* addressed.

In *Skrmetti*, the Court rejected the argument that a ban on transition-related medical care for minors classified based on sex or transgender status since "*no* minor [could] be administered" certain treatments for certain conditions but "minors of *any* sex [could] be

administered" those treatments "for other purposes." *Id*. at 1831. The Court therefore applied rational basis review to the medical care ban.

But here, the proviso at least distinguishes based on sex because a person can *only* violate it if they use a restroom that doesn't correspond to their birth-assigned sex. *See K.C. v. Individual Members of Med. Licensing Bd.*, 121 F.4th 604, 617 (7th Cir. 2024). So *Grimm*'s conclusion that heightened constitutional scrutiny applies to a prohibition on transgender students' use of gender-affirming restrooms remains good law. As does *Grimm*'s holding that transgender people are at least a quasi-suspect class. 972 F.3d at 607. And *Skrmetti* said nothing whatsoever to cause doubt as to the vitality of *Grimm*'s Title IX holding.

The other primary basis for the district court's inaction was the Supreme Court's grant of certiorari in *B.P.J. v. West Virginia*, 98 F.4th 542, 562, 565 (4th Cir. 2024), *cert. granted sub nom.*, *West Virginia v. B.P.J.*, 2025 WL 1829164 (U.S. July 3, 2025) (No. 24-43). That case involves a challenge to a law that bars transgender girls from participating in girls' school sports. But whatever the Court decides in that case, the law today is *Grimm*. *See Bethlehem Mines Corp. v. Henderson*, 939 F.2d 143, 151 n.7 (4th Cir. 1991).

South Carolina offers little in response to *Grimm*, and what it offers doesn't persuade. The state's attempt to distinguish *Grimm* based on Doe's failure to allege a formal gender dysphoria diagnosis falls flat considering that nothing in the case turned on such a diagnosis. To the contrary, we took pains there to explain that "[b]eing transgender is . . . not a psychiatric condition." *Grimm*, 972 F.3d at 594.

Next, South Carolina's assertion of "untested arguments" can't surmount our panel precedent. *Grimm*'s precedential force "does not disappear just because [South Carolina has] identifie[d] a fact, theory, or line of argument" that the panel there didn't confront. *Gibbons v. Gibbs*, 99 F.4th 211, 213 (4th Cir. 2024).

And South Carolina's invocation of a new government interest—that "[s]ingle-stall gender-neutral bathrooms are the best choice for vulnerable students with gender incongruence and gender dysphoria"—falters at the gate. Resp. to Mot. for Prelim. Inj. Pending Appeal at 15. The state's proviso says nothing about single-occupancy restrooms, gender-neutral or otherwise. So even if South Carolina's purported interest wasn't impermissibly "invented *post hoc* in response to litigation," *United States v. Virginia*, 518 U.S. 515, 533 (1996), the proviso can't possibly be adequately tailored to the interest to survive intermediate scrutiny. Further, South Carolina's newfound concern for its transgender students isn't relevant to *Grimm*'s Title IX holding, which independently entitles Doe to relief. *See* 972 F.3d at 616–19.

The bottom line is that *Grimm* is binding until the Supreme Court tells us otherwise. When evaluating the likelihood of success, "we ask whether the [movant] is likely to prevail on the merits of the issue before us, not whether he is likely to prevail on the merits of the underlying suit." *Trump v. CASA, Inc.*, 145 S. Ct. 2540, 2562 (2025). The district court's injunction denial and stay decision were based on its view that the law is in flux, making the probability of Doe's success an issue in the appeal. Under currently applicable law, the probability is a certainty.

Meanwhile, Doe has endured—and will continue to endure—irreparable harm without an injunction. The constitutional violation is reason enough to grant relief. *Leaders of a Beautiful Struggle v. Balt. Police Dep't*, 2 F.4th 330, 346 (4th Cir. 2021) (en banc).

Yet the record teems with other harms. Last year, Doe's school suspended him and threatened him with expulsion for using the boys' restroom. A172 ¶¶ 20–21. So Doe avoided using the restroom, leading him to "feel[] physically uncomfortable from a full bladder," which caused "trouble focusing on [his] classes." A172 ¶ 22. South Carolina and the Berkeley County School District have given every indication that they intend to enforce the proviso this school year, so some combination of school discipline, restroom avoidance, and lost learning opportunities is almost certain to recur.

Then there's the shame and indignity Doe will face for being singled out based on his transgender status. The state wants Doe to go to high school branded "with a scarlet 'T.'" *Doe ex rel. Doe v. Boyertown Area Sch. Dist.*, 897 F.3d 518, 530 (3d Cir. 2018). That's a harm that can't possibly be remedied with money damages.

The remaining injunction factors likewise favor Doe. The equities strongly favor granting Doe injunctive relief. "[A] state is in no way harmed by issuance of a preliminary injunction which prevents the state from enforcing restrictions likely to be found unconstitutional," even if the government has an interest in enforcing the law generally. *Leaders*, 2 F.4th at 346 (cleaned up); *cf. Trump v. CASA, Inc.*, 145 S. Ct. 2540, 2562 (2025). And on the final factor for granting injunctive relief, "upholding constitutional rights serves

the public interest." *Newsom v. Albermarle Cnty. Sch. Bd.*, 354 F.3d 249, 261 (4th Cir. 2003).

I'm also unpersuaded that the equities and public interest are meaningfully undermined by one student's use of the restroom. For Doe, however, school is the central organizing feature of his day-to-day life. To bar him from boys' restrooms for most of his waking hours is to demean him, day-in and day-out, with no end in sight. Denying relief in these circumstances would subject Doe to humiliation by a thousand cuts.

Of course, we can grant relief only if we have jurisdiction over the appeal. But whether the district court's without-prejudice denial of Doe's injunction motion was express, or because the denial coupled with a stay was constructive, we have jurisdiction to review the district court's order "refusing" injunctive relief under 28 U.S.C. § 1292(a)(1). And whether because the district court's stay "has an injunctive impact," *Hickey v. Baxter*, 833 F.2d 1005 (4th Cir. 1987) (unpublished table decision), or because it is "intimately bound up with" the denied injunction, *NationsBank Corp. v. Herman*, 174 F.3d 424, 427 (4th Cir. 1999) (citation omitted), we have jurisdiction to review the stay.

Our sister circuit's decision in *Defense Distributed v. Attorney General of N.J.*, 972 F.3d 193 (3d Cir. 2020), on which South Carolina heavily relies, doesn't hold otherwise. The court there found no appealable order when a district court denied an injunction without prejudice and stayed the case. *Id.* 198–199. But the court noted ongoing parallel litigation that enabled the plaintiffs to seek relief elsewhere, and expressly declined to adopt a categorical rule that a without-prejudice denial of an injunction coupled with a stay

isn't appealable. *Id.* at 198–199, nn.4 & 7. The district court's actions here, by contrast, hamstring Doe's ability to seek relief.

South Carolina's claim that Doe can't litigate this appeal because he challenges a proviso not identified in the operative complaint is formalism at its finest. First, South Carolina objects to Doe's standing to challenge the new proviso. But "standing is to be determined as of the commencement of the suit." *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 570 n.5 (1992). Changes in circumstances during litigation sound in mootness, not standing. A case is only moot if "it is absolutely clear that the allegedly wrongful behavior could not reasonably be expected to recur." *West Virginia v. EPA*, 597 U.S. 697, 720 (2022). But here, the wrongful behavior here recurred: the state reenacted the proviso for this school year.

In its reply in support of its motion to dismiss, South Carolina clarifies that part of its standing challenge is directed at this appeal, since Doe must show that he "has experienced an injury fairly traceable to the judgment below." *Id.* at 718 (cleaned up). But that requirement is easily satisfied because the district court's actions prevent Doe from amending the complaint to name the new proviso, thereby prolonging Doe's injuries.

South Carolina also argues that Doe's renewed injunction motion wasn't "operative" in the district court because it challenged a proviso not identified in the complaint. The state's argument is really that the motion was a nullity, but the state cites no authority for that proposition.

True, the operative complaint governs the relief available. *See Omega World Travel, Inc. v. Trans World Airlines*, 111 F.3d 14, 16 (4th Cir. 1997). But whether a court

can grant relief is a question of remedy, not its ability to entertain the motion. Indeed, the district court cases that the state cites all denied motions for injunctive relief for the reason South Carolina presses on the merits.

In any event, the deficiencies South Carolina identifies are easily solved by Doe's proposed amended complaint, which eliminates any technical problems that arise from the operative complaint's failure to identify the new proviso. *See Holloway v. City of Virginia Beach*, 42 F.4th 266, 277 (4th Cir. 2022) (amended pleadings can solve jurisdictional defects).

* * *

The panel correctly refuses to sanction South Carolina's utter disregard for this court's precedent and gives Doe the peace of mind to perform a basic bodily function at school without the state's interference. Doe is a teenager who, during the sturm und drang typical of adolescence, has grappled with extraordinarily complex questions of identity. Rather than support Doe, South Carolina has denigrated him, and every other transgender person besides.

There's zero evidence that Doe's use of boys' restrooms presents even a remote possibility of harm to anyone. But the evidence of state hostility toward him overwhelms.

I concur in the court's order, as amended.

AGEE, Circuit Judge, concurring in the decision:

The panel's amended order explains the decision to grant Doe's motion for injunctive relief pending appeal and deny Doe's motion to expedite and the State's motion to dismiss.

Bound by *Grimm*, I write separately to note that my agreement is based on the settled principle that no panel of this Court can ignore prior, published decisions of the Court when deciding how to rule in a later case. As I have noted previously, I believe that *Grimm* was wrongly decided and, if Doe's claims were being presented on a clean slate, I would conclude that Doe has not shown a likelihood of prevailing on either the Title IX or the Equal Protection claim. *See B.P.J. ex. rel. Jackson v. West Virginia*, 98 F.4th 542, 574–80 (4th Cir. 2024) (Agee, J., concurring in part and dissenting in part). Nor am I the only member of the Court to believe so. *Grimm*, 972 F.3d at 627–37 (Niemeyer, J., dissenting). Two sister circuits have, since *Grimm*, rejected its reasoning and held that neither the Equal Protection Clause nor Title IX are violated by public school bathroom policies that require use consistent with a student's biological sex. *See Roe v. Critchfield*, 137 F.4th 912 (9th Cir. 2025); *Adams ex. rel. Kasper v. Sch. Bd. of St. Johns Cnty*, 57 F.4th 791, 796 (11th Cir. 2022) (en banc). And three members of the Supreme Court have since publicly expressed that the reasoning supporting *Grimm*'s analysis was incorrect. *See United States v. Skrmetti*, 605 U.S. ---, 145 S. Ct. 1816, 1837 (2025) (Thomas, J., concurring); *see also id.* at 1851 (Barrett, J., with whom Justice Thomas joins, concurring) (articulating the view that "transgender individuals do not constitute a suspect class" for purposes of the Equal Protection Clause); *see also id.* at 1855 (Alito, J., concurring in part and concurring in the

judgment) (assuming, without deciding, whether "the law classifies based on transgender status," and articulating the view that even so, "such a classification does not warrant heightened scrutiny").

Recently, the Supreme Court has granted *certiorari* in two cases for its upcoming term that may well provide a nationwide answer to whether the Equal Protection Clause or Title IX prohibit states from designating single-sex sports teams "based on biological sex determined at birth." *West Virginia v. B.P.J.*, No. 24-43, Petition for a Writ of Certiorari, at I–II; *see also Little v. Hecox*, No. 24–38. The Supreme Court's reasoning in those decisions will likely impact what, if anything, remains of *Grimm* for purposes of assessing public school bathroom policies that similarly designate single-sex bathrooms "based on biological sex determined at birth."

But none of this matters for purposes of deciding the issue presented by Doe's motion for an injunction pending appeal. *Grimm* binds all the judges of this Circuit, notwithstanding any expectation that the Supreme Court will adjust, if not overrule, the foundations for *Grimm* in a way that is likely to determine whether Doe will ultimately prevail in this action. The current law of this Circuit answers the question of whether Doe has satisfied the requirements for obtaining an injunction pending the appeal. For that reason, I voted to grant Doe's motion for an injunction pending appeal, but reiterate from my separate opinion in *B.P.J.*: "One can only hope that the Supreme Court will take the opportunity with all deliberate speed to resolve these questions of national importance." 98 F.4th at 580.

FILED: August 12, 2025

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 25-1787
(2:24-cv-06420-RMG)

JOHN DOE, a minor, by his parents and next friends; JIM DOE, parental natural guardian; JANE DOE, parental natural guardian

Plaintiffs - Appellants

and

THE ALLIANCE FOR FULL ACCEPTANCE

Plaintiff

v.

STATE OF SOUTH CAROLINA; SOUTH CAROLINA STATE BOARD OF EDUCATION; SOUTH CAROLINA DEPARTMENT OF EDUCATION; BERKELEY COUNTY SCHOOL DISTRICT; ELLEN WEAVER, in her official capacity as South Carolina Superintendent of Education; ANTHONY DIXON, in his official capacity as Superintendent of Berkeley County School District

Defendants - Appellees

O R D E R

Upon consideration of the submissions relative to appellants' motion for an

injunction pending appeal and motion to expedite the appeal, the court grants the motion for an injunction pending appeal and denies the motion to expedite the appeal. Appellees are enjoined from enforcing or complying with the ban on transgender students using restrooms that match their gender identities during the pendency of this appeal only as it applies to appellant Doe. Further, upon consideration of appellees' motion to dismiss the appeal, the court denies the motion.

An opinion explaining the Court's action will follow the entry of this order.

Entered at the direction of Judge Agee with the concurrence of Chief Judge Diaz and Judge Harris.

For the Court

/s/ Nwamaka Anowi, Clerk

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

John Doe, *et al*.,	)	
	)	
Plaintiffs,	)	
vs.	)	C.A. No. 2:24-6420-RMG
	)	
State of South Carolina, *et al*.,	)	
	)	
Defendants.	)	**ORDER**
	)	
	)	

This matter comes before the Court on Plaintiffs' motion for a preliminary injunction pending appeal. (Dkt. No. 95). Defendants have filed a response in opposition, and Plaintiff has filed a reply. (Dkt. Nos. 98, 99). For the reasons set forth below, the motion is denied.

Background

This action challenges a Proviso in the annual South Carolina Appropriations Act which prohibits a school district from allowing a transgender student to use a restroom aligned with the student's gender identity. Plaintiffs assert the Proviso violates their rights under the Equal Protection Clause of the Fourteenth Amendment and Title IX of the Education Amendments of 1972.

By order dated July 8, 2025, the Court entered a stay of this action because "significant legal developments have occurred over the last several weeks which potentially impact the legal foundation of Plaintiffs' Equal Protection and Title IX claims." (Dkt. No. 92). The Court noted the following:

1. The United States Supreme Court on June 18, 2025 affirmed the decision of the Sixth Circuit in *United States v. Skrmetti*, 145 S.Ct. 1816 (2025) and declined to apply a

heightened level of scrutiny to the prohibition of certain medical procedures for transgender minors, reasoning that the law classified not on the basis of transgender status but "on the basis of age . . . [and] on the basis of medical use" and was thus subject only to rational basis review. *Id.* at 1829, 1833. *Skrmetti*'s use of a rational basis standard for a gender identity-based equal protection claim appears to conflict with the heightened level of scrutiny applied by the Fourth Circuit in a key case relied upon by Plaintiff, *Grimm v. Gloucester County Board of Education*, 972 F.3d 586, 609 (4th Cir. 2020), leaving unsettled the proper legal standard to be applied to a challenge to the Proviso in this action.

2. The Supreme Court on June 30, 2025 vacated the Fourth Circuit's decision in *Kadel v. Folwell*, 100 F.4th 122 (4th Cir. 2024) (*en banc*), which applied an intermediate level of scrutiny in holding that limitations on medical care for transgender persons covered by the North Carolina state employee health plan and the West Virginia Medicaid Program violated plaintiffs' rights under the Equal Protection Clause and Title IX, reasoning that "discriminating on the basis of diagnosis *is* discriminating on the basis of gender identity and sex." *Id.* at 141-42 (emphasis in original). The Supreme Court remanded the case for further review in light of *Skrmetti*. *Folwell v. Kadel*, No. 24-99, 2025 WL 1787687 (2025).

3. Several days later, on July 3, 2025, the United States Supreme Court granted *certiorari* in *West Virginia v. B.P.J.*, No. 24-43, 2025 WL 1829164 (2025). The Defendants' petition for *certiorari* challenged the Fourth Circuit's decision in *B.P.J.. v. West Virginia*, 98 F.4th 542 (4th Cir. 2024), which found that a state statute prohibiting transgender students from participating in sports of their identified gender violated their

rights under the Equal Protection Clause and Title IX. The granting of *certiorari* in *B.P.J.*., so close in time to the Supreme Court's decisions in *Skrmetti* and *Kadel*, suggests that the Supreme Court is taking a hard look at the appropriate legal standards for transgender students under both the Equal Protection Clause and Title IX.

In light of these significant recent legal developments in the area of the rights of transgender students and the likelihood that *B.P.J.* will be decided during the Court's 2025-2026 term, this Court granted a stay of this action because of the "unsettled" nature of the law in this area and the hope and expectation that the Supreme Court will soon bring "clarity and provid[e] guidance . . . on both the Equal Protection and Title IX issues." (Dkt. No. 92 at 2). Plaintiff thereafter moved before this Court for a preliminary injunction pending appeal, arguing that the Court was bound by the Fourth Circuit's decision in *Grimm* notwithstanding the recent decisions of the United States Supreme Court which appear to draw into question the appropriate legal standard to be applied in student transgender rights claims arising under the Equal Protection Clause and Title IX. (Dkt. No. 95-1 at 17-18). Plaintiff moved before the Court for a preliminary injunction pending appeal under Rule 8(a)(1) of the Federal Rules of Appellate Practice, which provides that a plaintiff seeking a preliminary injunction pending appeal should first seek relief in the district court before seeking preliminary injunctive relief in the court of appeals.

Legal Standard

To obtain a preliminary injunction, a party must make a "clear showing" that (1) he is likely to succeed on the merits; (2) he is likely to suffer irreparable harm in the absence of preliminary relief; (3) the balance of equities tips in his favor; and (4) an injunction is in the public interest. *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 21 (2008). Plaintiff bears the burden of showing that each factor supports his request for a preliminary injunction. *Direx Israel, Ltd. v.*

Breakthrough Med. Corp., 952 F.2d 802, 811 (4th Cir. 1991). "[A]ll four requirements must be satisfied" under the *Winter* standard, and a district court need not consider all four factors if one is clearly absent. *Henderson for National Labor Relations Board v. Bluefield Hospital Co*., 902 F. 3d 432, 439 (4th Cir. 2018); *Real Truth About Obama v. Fed. Election Commission*, 575 F.3d 342, 346 (4th Cir. 2009).

Discussion

Plaintiff has the burden of making a "clear showing" of likelihood of success on the merits, a demanding standard that Plaintiff is unable to meet in light of the significant recent legal developments in the Supreme Court which have brought into question the proper legal standards to apply when addressing the rights of transgender students under the Equal Protection Clause and Title IX. Plaintiff proposes that the Court effectively ignore these major recent decisions of the highest court of the land and apply the Fourth Circuit's heightened scrutiny standard that recent Supreme Court decisions appear to either reject or bring into question. Under these circumstances, with the law plainly unsettled and in flux, Plaintiff cannot make the "clear showing" necessary of likely success on the merits which is a threshold requirement for a preliminary injunction.

The Court has directed the parties to return to the Court once the *B.P.J.* decision has been issued by the Supreme Court or the 2025-2026 term of the Supreme Court ends, whichever is sooner, and at that time consider any dispositive motions or motions for preliminary injunctive relief. (Dkt. No. 92 at 4). Until then, the Court continues to believe that maintaining the status quo promotes stability in the law and judicial economy and will afford the Court the opportunity to apply the anticipated guidance from the *B.P.J.* decision in the near future.

Conclusion

Based on the foregoing, Plaintiff's motion for a preliminary injunction pending appeal (Dkt. No. 95) is **DENIED.**

AND IT IS SO ORDERED.

s/ Richard M. Gergel
Richard Mark Gergel
United States District Judge

July 23, 2025
Charleston, South Carolina

This is an automatic e-mail message generated by the CM/ECF system. Please DO NOT RESPOND to this e-mail because the mail box is unattended.

*****NOTE TO PUBLIC ACCESS USERS*** Judicial Conference of the United States policy permits attorneys of record and parties in a case (including pro se litigants) to receive one free electronic copy of all documents filed electronically, if receipt is required by law or directed by the filer. PACER access fees apply to all other users. To avoid later charges, download a copy of each document during this first viewing. However, if the referenced document is a transcript, the free copy and 30 page limit do not apply.**

U.S. District Court

District of South Carolina

Notice of Electronic Filing

The following transaction was entered on 7/8/2025 at 12:53 PM EDT and filed on 7/8/2025

Case Name: Doe et al v. South Carolina, State of et al

Case Number: 2:24-cv-06420-RMG

Filer:

Document Number: 93(No document attached)

Docket Text:

REFERENCE ORDER [92] All pending motions [51], [80], [85], [86], [87], [88], [90] are denied without prejudice and with leave to restore and/or supplement Signed by Honorable Richard M Gergel on 7/8/2025.(sshe,)

2:24-cv-06420-RMG Notice has been electronically mailed to:

E Brandon Gaskins gaskinsb@mvalaw.com, brandon-gaskins-9790@ecf.pacerpro.com, lauraphillips@mvalaw.com, meganhickey@mvalaw.com, wendystockhausen@mvalaw.com

Harper Todd Segui hsegui@milberg.com, atyrrell@milberg.com, hsegui@ecf.courtdrive.com, hsheflin@milberg.com, jordon@wbmllp.com, kwelch@milberg.com, kwelch@wbmllp.com, kwelch@whitfieldbryson.com, spassanisi@milberg.com

Miles Edward Coleman miles.coleman@nelsonmullins.com, kaitlyn.scott@nelsonmullins.com, meg.thrasher@nelsonmullins.com, sonia.rios@nelsonmullins.com

Joseph David Spate josephspate@scag.gov

Joseph John Wardenski joe@wardenskilaw.com

Lauren Nicole Vriesinga laurenvriesinga@mvalaw.com, emilyobrien@mvalaw.com

Alexandra Zoe Brodsky abrodsky@publicjustice.net

Sean Ouellette souellette@publicjustice.net

Adele Phyllis Kimmel akimmel@publicjustice.net

Linda M Correia lcorreia@correiaputh.com

Andrew Marc Adelman aadelman@correiaputh.com

Leila Nicole Nasrolahi LNasrolahi@publicjustice.net

2:24-cv-06420-RMG Notice will not be electronically mailed to:

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

John Doe, *et al*.,	)	
	)	
Plaintiffs,	)	
vs.	)	C.A. No. 2:24-6420-RMG
	)	
State of South Carolina, *et al*.,	)	
	)	
Defendants.	)	**ORDER**
	)	
	)	

This action challenges a Proviso in the annual South Carolina Appropriations Act which prohibits a school district from allowing a transgender student from using a restroom aligned with the students' gender identity.[1] Plaintiffs assert the Proviso violates their rights under the Equal Protection Clause of the Fourteenth Amendment and Title IX of the Education Amendments of 1972.

Significant legal developments have occurred over the last several weeks which potentially impact the legal foundation of Plaintiffs' Equal Protection and Title IX claims. The United States Supreme Court on June 18, 2025 affirmed the decision of the Sixth Circuit in *United States v. Skrmetti*, 145 S.Ct. 1816 (2025) and declined to apply a heightened level of scrutiny to the prohibition of certain medical procedures for transgender minors, reasoning that the law classified not on the basis of transgender status but "on the basis of age . . . [and] on the basis of medical use" and was thus subject only to rational basis review. *Id.* at 1829, 1833. The Supreme Court on

[1] The Proviso challenged when this suit was filed in in November 2024 was Proviso 1.120 of the 2024-2025 South Carolina Appropriations Act. The Court takes judicial notice of the fact that the 2025-2026 South Carolina Appropriations Act contains the identical Proviso, now titled Proviso 1.114. Once the stay is lifted, Plaintiffs can move to amend their complaint to identify the specific Proviso then in effect.

June 30, 2025 proceeded to vacate the Fourth Circuit's decision in *Kadel v. Folwell*, 100 F.4th 122 (4th Cir. 2024) (*en banc*), which applied an intermediate level of scrutiny in holding that limitations on medical care for transgender persons covered by the North Carolina state employee health plan and the West Virginia Medicaid Program violated plaintiffs' rights under the Equal Protection Clause and Title IX, reasoning that "discriminating on the basis of diagnosis *is* discriminating on the basis of gender identity and sex." *Id.* at 141-42 (emphasis in original). The Supreme Court remanded the case for further review in light of *Skrmetti*. *Folwell v. Kadel*, 2025 WL 1787687 (2025). Several days later, on July 3, 2025, the United States Supreme Court granted *certiorari* in *West Virginia v. B.P.J.*, 2025 WL 1829164 (2025). The Defendants' petition for *certiorari* challenged the Fourth Circuit's decision in *B.P.J.. v. West Virginia*, 98 F.4th 542 (4th Cir. 2024), which found that a state statute prohibiting transgender students from participating in sports of their identified gender violated their rights under the Equal Protection Clause and Title IX. The Fourth Circuit's decisions in *Kadel* and *B.P.J.* relied on a heightened level of scrutiny for transgender persons under the Fourteenth Amendment first set forth in *Grimm v. Gloucester County School Board*, 972 F.3d 586 (4th Cir. 2020), a case heavily relied upon by Plaintiffs in this action.

The Court has pending before it a number of motions, including Defendants' motion for summary judgment (Dkt. No. 51) and Plaintiffs' renewed motion for a preliminary injunction (Dkt. No. 88). After a careful review of the recent legal developments set forth above, it is clear that the legal standards relied upon by Plaintiffs and Defendants in this action are unsettled and that a decision of the United States Supreme Court in *B.P.J.* has the potential of bringing clarity and providing guidance to this Court on both the Equal Protection and Title IX issues.

It is well settled that a district court has the inherent authority to stay a case where an issue potentially impacting the outcome of the case is presently on the docket of the United States Supreme Court. *Landis v. North America Co*., 299 U.S. 248, 254 (1936); *Hickey v. Baxter*, 833 F.2d 1005 (4th Cir. 1987) (unpublished). This discretion is not unlimited, however, and any stay should be fixed within reasonable time limits to avoid a stay of indefinite duration. *McKnight v. Blanchard*, 667 F.2d 477, 479 (5th Cir. 1982). Factors to consider in granting or denying a stay when a related matter is pending before the Supreme Court include the judicial economy likely to be conserved by waiting on a decision by the Supreme Court, whether the Supreme Court's decision will likely provide "definitive guidance on key legal questions," and the "hardship/prejudice to the party opposing the stay, given its duration." *Latta v. Dep't of Educ.*, 653 F.Supp.3d 435, 439 (S.D. Ohio 2023); *Int'l Refugee Assistance Project v. Trump*, 323 F.Supp.3d 726, 734 (D. Md. 2018); *Benisek v. Lamone*, 266 F.Supp.3d 799, 803 (D. Md. 2017).

The Court finds that a stay pending the United States Supreme Court's decision in *B.P.J.* would likely promote judicial economy, provide critical guidance on key legal questions in this case, and be resolved by the end of the Supreme Court's 2026 term. The Court has further considered the potential hardship for Plaintiff, a transgender minor, and members of the putative class the minor Plaintiff seeks to represent, and finds, weighing all factors relevant for a stay, that a stay is the proper and just course at this time. No party, including the minor Plaintiff, is benefited from producing a potential "yo-yo" effect by a decision at this time, where any potential ruling of this Court might, in the short term, be subject to reversal or modification once the United States Supreme Court issues its order in *B.P.J.*.[2]

[2] The Court recognizes that the facts involved in *B.P.J.* are not identical to the facts involved in this action, but there is considerable overlap regarding the proper legal standard to be applied to

Based on the foregoing, the Court hereby stays this action until the Supreme Court enters an order on the merits in *B.P.J.* or the Supreme Court's October 2025-June 2026 term ends, whichever is sooner. If the Supreme Court enters an order in *B.P.J.* addressing the merits of the appeal during its present term, Plaintiffs and Defendants are directed to file with this Court their views regarding the impact, if any, of the *B.P.J.* decision on the issues present in this action. The parties shall make this filing within 15 days of the Supreme Court's order.[3]

AND IT IS SO ORDERED.

s/ Richard Mark Gergel
Richard Mark Gergel
United States District Judge

July 8, 2025
Charleston, South Carolina

claims of transgender minors regarding challenges to school policies relating to bathroom access and school sports participation under the Equal Protection Clause and Title IX.

[3] All pending motions (Dkt. Nos. 51, 80, 85, 86, 87, 88, and 90) are denied without prejudice and with leave to restore and/or supplement once the United States Supreme Court rules in *B.P.J.* or the Supreme Court's 2025-2026 term ends, whichever is sooner.

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

JOHN DOE et al.,

Plaintiffs,

vs. CASE NO. 2:24-cv-06420-RMG

STATE OF SOUTH CAROLINA, et al.,

Defendants.

VIDEOTAPED VTC
DEPOSITION OF: GEETA NANGIA, MD
(Appearing by VTC)

DATE: January 17, 2025

TIME: 9:45 a.m.

LOCATION: Zoom Videoconference

TAKEN BY: Counsel for the Plaintiff

REPORTED BY: Susan M. Valsecchi, Registered Professional Reporter, CRR
(Appearing by VTC)

---

mental health. And so when I'm writing for accommodations, and, you know, I'm looking at kind of the best option, that then a single occupancy bathroom is also what I, you know, recommend for patients who are vulnerable, period, who have been bullied, period. And so for this reason, I think it's very important to give them that same and equal protection.

BY MR. WARDENSKI:

Q. So I was actually going to ask you that. So if a student with, say, a physical disability has been bullied a lot in -- in school bathrooms, would your recommendation be that they use a private gender-neutral or private single-occupancy restroom?

A. Yes.

Q. What if there was a new immigrant student who didn't know English very well and was experiencing a lot of bullying or harassment in the bathrooms and elsewhere. For that reason, would your recommendation be that that student be given the -- be assigned to a private single-occupancy restroom?

A. I -- I would say that they deserve

access to a single-occupancy bathroom should they choose to do that, absolutely. I think that's fair, it's protective, and it's a kind intervention. I say that, and I would also say to you that, simultaneously, I would recommend that teachers and school staff help -- help the situation in other ways, by helping students to learn to be kind.

Q. So if you're talking about the new immigrant student -- I'm echoing back what you said, tell me if I'm wrong -- that that student should be given the option of a private restroom but not necessarily required to use it; is that correct?

A. It should be -- it should be an option to use the multi-occupancy bathroom, that, you know, that they would use that's consistent with their -- I'm assuming we're talking about gender-congruent children. So that, yes, that we are talking about using a multi-occupancy bathroom consistent with their natal sex or having the option to use a single-occupancy gender-neutral bathroom.

Q. And now your expectation, I take it, would be that the school should also address the

bullying and harassment in the multi-occupancy restroom that is happening to that student.

A. I think bullying and harassment is a -- is an issue that's global -- a global problem that teachers need to be better at addressing. I should say school faculty and administration included.

Q. And so going back up the list, so the student with the disability, is your position the same, that they should be given the option of using a private restroom?

A. Yes.

Q. But not required to use it?

A. I think that they should be given access to it, yes.

Q. And so when we get back up to the transgender student, should they be given the option or they should -- should they be required to use a gender-neutral restroom?

A. Again, I think there are two options. There's the option to use the multi-occupancy bathroom consistent with natal sex, and then there's the option to use a -- a single -- a single-occupancy gender-neutral space.

Q. So your testimony was that, you know, transgender, gender-nonconforming students -- tell

question, okay? Two, that it was actually a survey done in adults and data in young people was extrapolated. Okay? And so -- and -- and it was done in a limited number of states in 2014 and 2015, limited. So I think that we can draw from the Herman study that there's -- there's something that we need to pay attention to, that there seems to be a rise in this answer to this one report consistent with what I'm telling you, that I do see this rise in the last several years in patients with gender dysphoria that I personally see as transient, and it remits in the vast majority, again.

But I think it's -- it's a little -- it's not fair to take that data and then extrapolate from that how many people are actually -- how many individuals, minors, are transgender in the state of South Carolina, and then to utilize that to then make policy changes.

And the reason for that -- and I say this as a doctor -- that when we're looking at a condition -- again, going back to what I had said earlier, that is transient, okay, in my opinion -- in my clinical experience, this is something that remits in children; it has been on the rise in

record. Counsel may proceed.

(EXHIBIT 6, September 17, 2024, Transcript of Audio Recording Excerpts, was marked for identification.)

BY MR. COLEMAN:

Q. We're looking now at a document that will later be marked I believe as Exhibit 4 [sic]. The court reporter will mark it for us later.

And again this is a transcript of a recording produced by Plaintiff to us after your expert report was submitted, which is why it wasn't discussed in your expert report. Let me note also that all of us who are on this Zoom are bound by the terms of the protective order that the Court has entered and that this document does contain confidential information about the Plaintiffs and it should be treated confidentially and privately.

And those of us on the call are allowed to, consistent with the terms of that order, review this information but not discuss it outside of this context.

I will draw your attention to -- scrolling down a little bit, and hopefully you can see that on your screen as well.

A. I can.

Q. The top of this page -- I'm going to stop for a moment and let you read down this page. When you get to the bottom of it, let me know, and I'll scroll down a little bit further so you can finish reading this excerpt.

A. I've read this.

Q. Okay. I'm going to scroll down. And let me know when you've finished reading that.

A. Okay.

Yes, I've -- I've finished reading that.

Q. And then there's just a few more lines in that cell.

A. And in the top box, I've read it, and then the top of the next box, just one line.

Q. So look just at that first excerpt, kind of the longer excerpt you just read. To start, does that transcript accurately reflect what you heard in the audio recording that was provided to us by the Plaintiffs?

A. Yes.

Q. And does that excerpt from that audio recording add further support to the opinion in your Declaration that [redacted]

[redacted]

A. Yes.

Q. Let me scroll down a little bit in this exhibit to that next -- it's a -- just a two-line, and let me know when you've read that.

A. I have.

Q. And, again, similar questions.

Does that accurately reflect what you heard in the audio recording provided to us by Plaintiffs?

A. Yes.

Q. And does that too add further support to your conclusion that [redacted]

A. Yes.

Q. Let me scroll down a bit further and let you read the next block of text --

A. 28:58?

Q. Yes, please.

A. I've read that.

Q. Let me go down a bit further.

A. Okay. I've read that.

Q. Okay. And, again, does that accurately reflect what you heard in the recording?

A. Yes.

Q. I want to drill down a little bit in particular on some of the text here.

The excerpts we've looked at so far include [redacted] is that right?

A. That's correct.

Q. In this excerpt we're looking at here, there are similar things, but in particular, I want to look at the top of that page. This is the assistant principal who's speaking [redacted]

And the only reason I wanted to drill down on this a little bit is it seems to me that [redacted]

[redacted] is that right?

A. That's correct.

Q. And does this further illustrate the concerns that would lead you in your report to recommend [redacted]

A. Yes.

Q. I'm going to scroll down to the next excerpt, time stamp 36. Let me know when you've had a chance to read that.

A. I have read that.

Q. And, again, does this accurately reflect the recording?

A. It does.

Q. In the middle of that block of text do you see [redacted]

Did I read that accurately?

A. Yes.

Q. Does that add further support to your opinions?

A. Yes.

Q. Let me scroll down to the bottom of that page and the top of the next. Let me know when you have read that.

A. Yes, I've read it.

Q. And it accurately reflects the recording you listened to?

A. Yes.

Q. [redacted]

A. [redacted]

Q. And is that also consistent with the opinion in your report that [redacted]

A. Yes.

Q. Let me look at the -- scroll down to the final excerpt here and let you read that, and let me know when you've finished.

A. I have read that.

Q. Is it an accurate transcript of the recording you listened to?

A. Yes.

Q. Is it your impression, from the recording memorialized in this, that [redacted]

[redacted]

A. Based on the re -- the transcript, yes.

Q. And was that also your impression from listening to the audio recording?

A. Yes, that's what I mean.

Q. Let me scroll back up. There's one other piece I wanted to touch on here before we move on.

Let me draw your attention to the bottom of Page 2, which you'll see here on the screen. At the top of that block of text the [redacted]

Did I read that correct?

A. Yes.

Q. We're talking contextually about [redacted]

[redacted]

If we then scroll down to the top of

A. Yes.

Q. [redacted]

[redacted]

Do you see where it says that?

A. Yes.

Q. And then if we move down into the next recording excerpt, it's -- the time stamp is 25 minutes and 28 seconds through 25 minutes and 38 seconds.

Do you see that?

A. Yes.

Q. And it's [redacted]

[redacted]

Do you see that?

A. I do.

Q. So does it appear that [redacted]

[redacted]

A. Yes.

Q. And we've seen that [redacted] is that correct?

A. Yes.

Q. Does that support --

MR. WARDENSKI: Objection to relevance. You -- you can answer.

BY MR. SPATE:

Q. Noted.

Does that support your conclusions and your -- your opinions in your report that [redacted]

A. Yes.

MR. WARDENSKI: Objection, foundation.

MR. SPATE: I think those are all the questions from that exhibit. I had one other exhibit I was going to ask about. I think. Let's see here. No, that's the only exhibit. I do have just a couple of other few brief questions.

BY MR. SPATE:

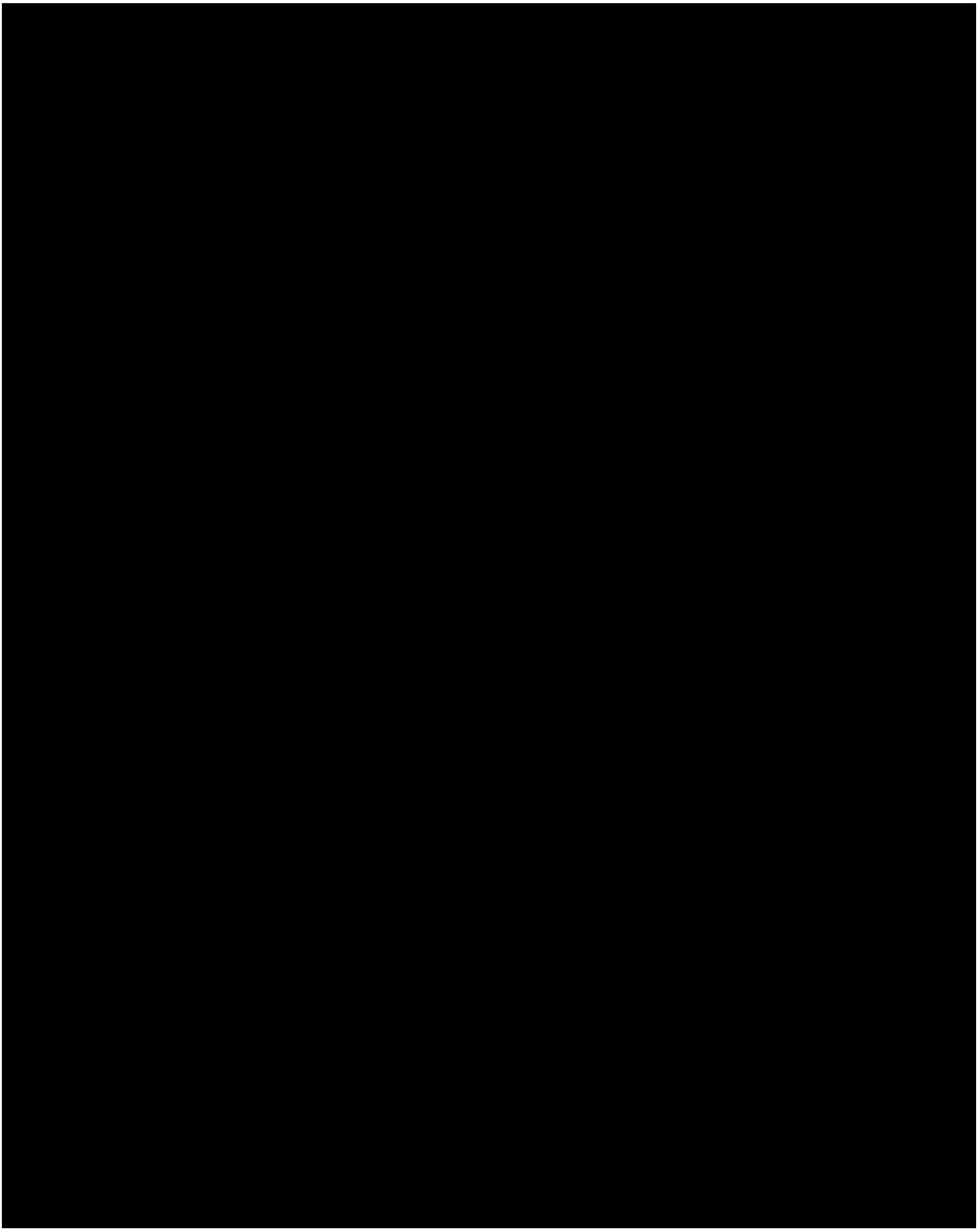
CERTIFICATE OF REPORTER

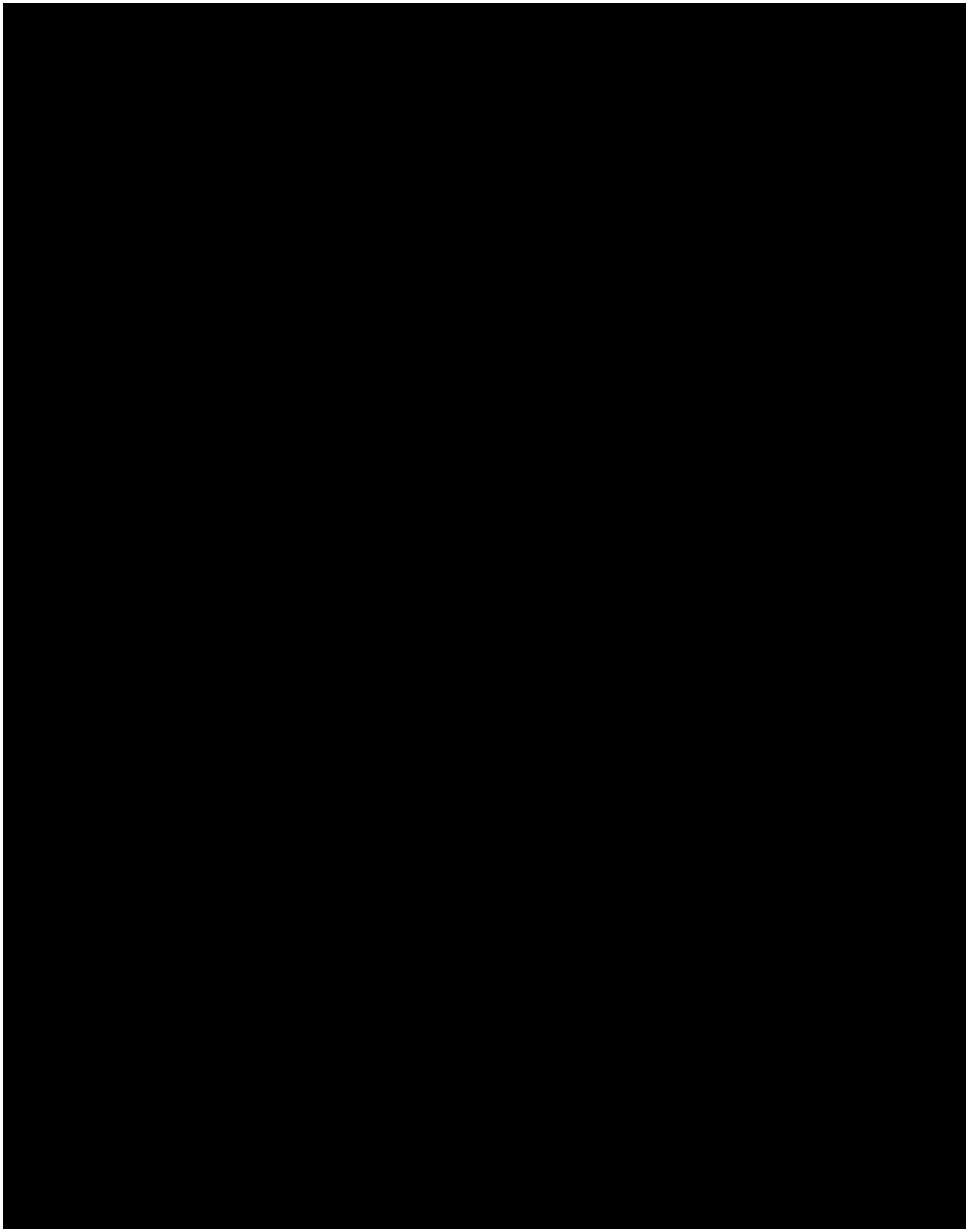
I, Susan M. Valsecchi, Registered Professional Reporter and Notary Public for the State of South Carolina at Large, do hereby certify that the foregoing transcript is a true, accurate, and complete record.

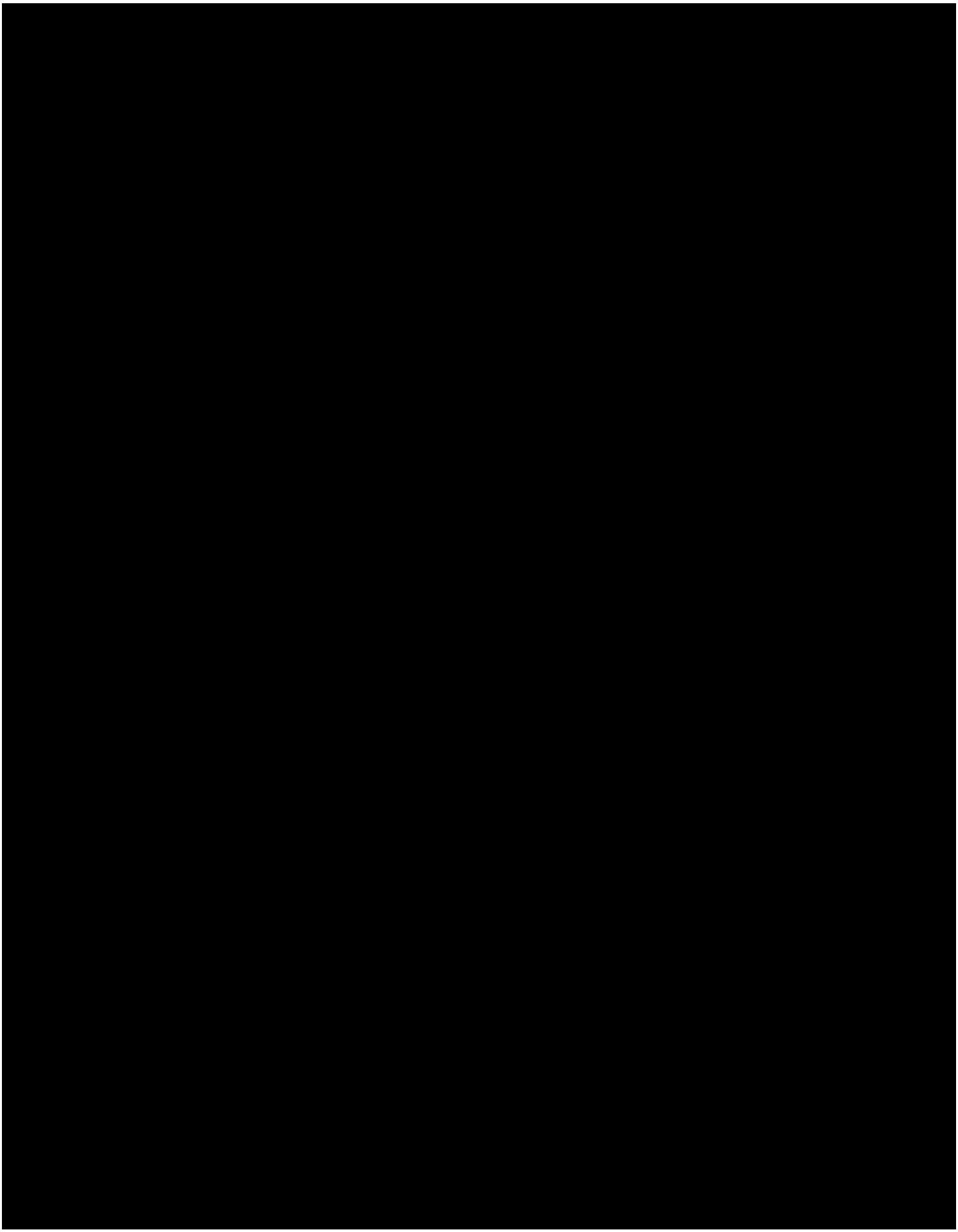
I further certify that I am neither related to nor counsel for any party to the cause pending or interested in the events thereof.

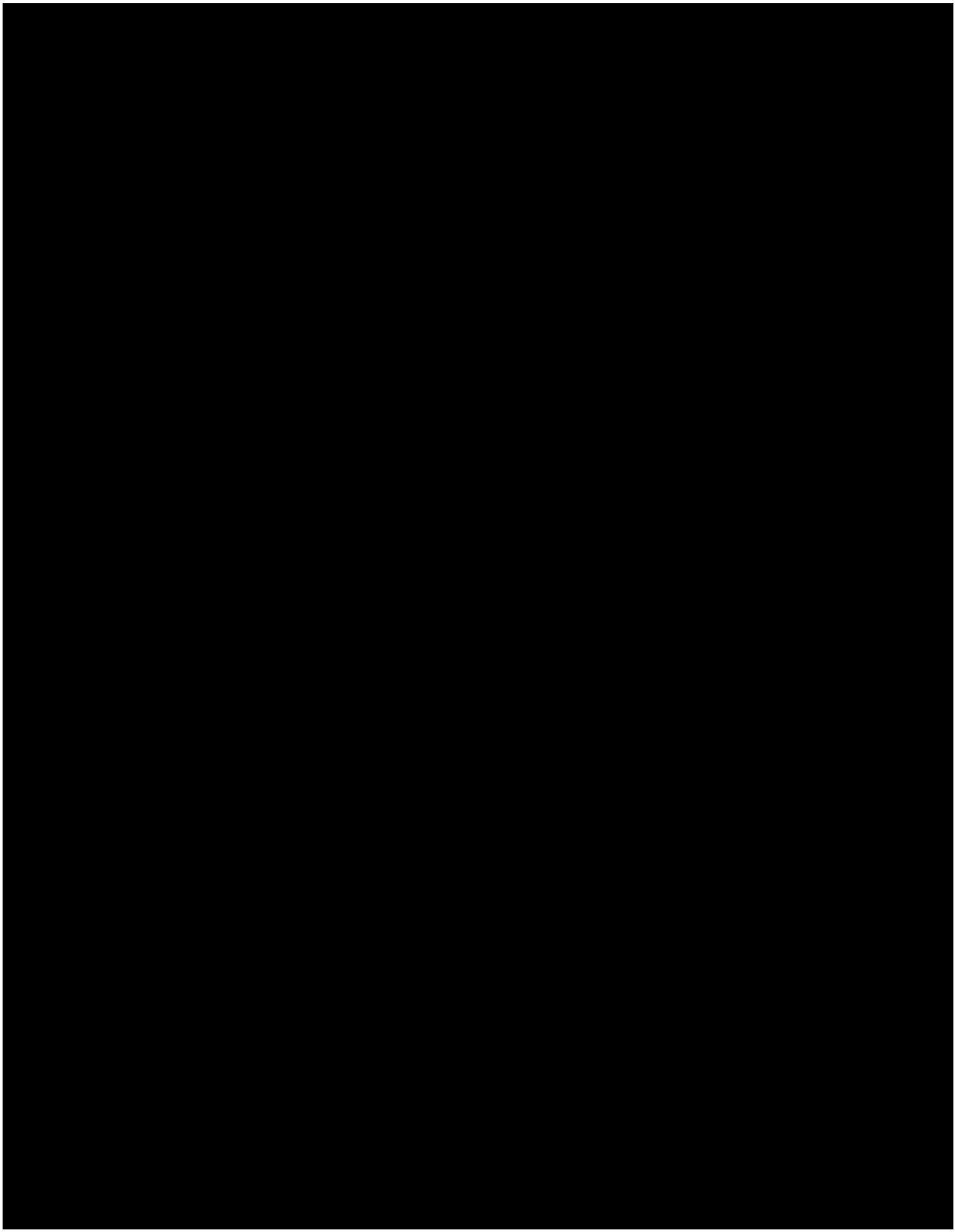
Witness my hand, I have hereunto affixed my official seal this 30th day of January, 2025, at Columbia, Richland County, South Carolina.

Susan M. Valsecchi, RPR, CRR
My Commission expires
November 12, 2034









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

John Doe, *et al.*, Plaintiffs, v. State of South Carolina, *et al.*, Defendants.	Civil Action No. 2:24-cv-06420-RMG

SUPPLEMENTAL DECLARATION OF JOSEPH D. SPATE

I, Joseph D. Spate, declare under penalty of perjury that the following is true and correct, and state:

1. I am an Assistant Deputy Solicitor General with the Office of the South Carolina Attorney General, located at 1000 Assembly Street, Columbia, South Carolina 29201. The following is true of my own personal knowledge, and, if called as a witness, I would and could testify competently thereto.

2. Attached hereto as Exhibit A is a true and accurate copy of excerpts from a transcript of the January 17, 2025, deposition testimony of Geeta Nangia, M.D. This transcript was created by the court reporting company Veritext.

3. As set forth below, I have reviewed an audio recording produced by the Minor Plaintiff, captioned as "John Doe," in discovery. Each excerpt that I reviewed is accurately described in the respective Exhibit using the timestamp of testimony available on the recording itself. I have also provided a hyperlink where the audio recording is available for review, and a password for that hyperlink is being sent to the court contemporaneously with the filing of this declaration. As of the date of this filing, the hyperlink is in working order.

4. The undersigned's knowledge of the date of the recording and identities of the speakers is based on the information provided by counsel for Minor Plaintiff, along with information contained within the filename and the recording itself, and is on information and belief. Several of the speakers are identified during the course of the audio recording, and the date of the recording is evident from the filename of the audio recording. Further, by email dated January 7, 2025, and subsequent to the submission of Defendants' Expert Witness Declaration to Minor Plaintiff on January 6, 2025, counsel for Minor Plaintiff Joseph Wardenski confirmed the date of the recording and identities of speakers based on counsel's "best understanding, at this time, of the approximate dates of the audio recordings and the relevant speakers in each one."

5. Attached to Dr. Nangia's deposition transcript as Exhibit 6 is a true and correct transcript of excerpts from a recorded conversation dated by Minor Plaintiff as occurring on or around September 17, 2024. The filename provided by Minor Plaintiff is "Note_20240917_0818." A recording of the conversation is also accessible at: [redacted] (last accessed February 7, 2025).

I declare that under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed on the 7th day of February, 2025.

Joseph D. Spate

Joseph D. Spate

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

JOHN DOE, *et al.*, Plaintiffs, v. STATE OF SOUTH CAROLINA, *et al.*, Defendants.	Civil Action No. 2:24-cv-06420-RMG

EXPERT WITNESS DECLARATION OF DR. GEETA NANGIA, M.D.

Table of Contents

I. Introduction 5

II. Background and Qualifications 5

III. Order of Report Content 7

IV. Clinical Experience with Providing Mental Health Consultations to Schools, Educational Plan Reviews, and Recommendations for Accommodations 8

V. Casting a Wider Lens: The General Role of Schools 9

VI. The Role of Educational Plans 9

VII. Bathroom Policies and Their Reason for Inclusion in 504 Plan Accommodations 11

A. Universal Bathroom Needs of All Students 12

1. Felt Safety 12
2. Privacy 13
3. Freedom to Toilet Undisturbed 13
4. Freedom to Emotionally Regroup 13

B. Common Challenges to Bathroom Needs 13

1. Challenges to Felt Safety 13
   a. Bullying 13
   b. Premature Exposure to the Opposite Sex when Sharing Bathroom Spaces 15
   c. Negative Activity 16
   d. Uncleanliness 17
2. Challenges to Privacy 17
   a. Lack of Coverage in Stalls 17
   b. Physical and Psychosocial Development of Both Sexes 17
3. Challenges to the Freedom to Toilet Undisturbed 18
   a. Exposure to Negative Peer Interactions 18
4. Challenges to the Freedom to Emotional Regroup 18
   a. Inability to Find a Quiet Space 18

C. When Accommodations Are Necessary to Meet Challenges to Bathroom Needs 18

VIII. Bathroom Accommodations for Minors with Gender Incongruence or Gender Dysphoria: Key Considerations for Schools, Clinicians, and Policymakers 19

A. Gender Incongruence and Gender Dysphoria are Not Fully Understood 19

B. Gender Identity, As Opposed to Sex, is Not Immutable 22

C. Social Transition May Have Lifelong Consequences and Alter a Child's Developmental Trajectory 23

D. Adolescence is a Period of Intense Psychosocial Development, Shifting Values, Reward Based Decision Making, and Identity Exploration 24

E. Schools Should Exercise Caution in Assessing Bathroom Accommodations 25

IX. Assessing the Best Bathroom Accommodation for Vulnerable Minors with Gender Incongruence or Gender Dysphoria 26

A. Multi-Occupancy Bathrooms Consistent with Gender Identity Do Not Meet Universal Bathroom Needs for Students with Gender Incongruence and Gender Dysphoria 27

B. Shared Bathrooms May Create Negative Outcomes for Gender Congruent Students 27

C. Single Occupancy Gender Neutral Bathrooms are the Best Choice for Vulnerable Students with Gender Incongruence and Gender Dysphoria 28

X. Assessment of Dr. Stephanie Budge's Expert Report and Deposition Transcript 29

A. Dr. Budge's Report Relies Heavily on the Controversial WPATH Guidelines 29

B. The Cass Review Shows Marked Concerns with WPATH Guideline Development 30

C. The WPATH Leaked Files Reveal Questionable Practices 31

D. Dr. Budge Does Not Provide Reliable Evidence to Show How Many Children in South Carolina Have Gender Incongruence and How Many Would Require Accommodations 32

E. Dr. Budge's Opinion on Social Transition Does Not Consider the Evidence Which Shows that Social Transition Can Alter the Course of a Child's Development 33

F. Dr. Budge Makes a Biased Assumption that Gender Congruent Students Are Being Discriminatory if They Have Concerns About Gender Incongruent

Youth Sharing Their Bathroom Space 34

G. Dr. Budge Admits that There is No Data to Show that Gender Incongruent Youth Experience Less Bullying in Multi-Occupancy Bathrooms Consistent with Their Gender Identity 34

H. Dr. Budge Asserts that Gender Determines Sex, and Gender is Fluid and Can Change, Which Would Imply that Sex Can Change 34

I. Dr. Budge Does Not Cite Evidence to Support Her Assertion that Detransitioners Detransition due to Social Pressure 35

J. Dr. Budge Acknowledges that Cited Literature in Her Report Recommends Gender Neutral Bathrooms, Yet She Objects to the Accommodation of Single Occupancy Gender Neutral Bathrooms 35

K. Dr. Budge is Unable to Provide Any Evidence to Support Her Argument that Single Stall Gender Neutral Bathrooms are Not a Reasonable Accommodation for Youth with Gender Incongruence or Gender Dysphoria 35

XI. Review of Plaintiff Records (Confidential) 36

A. [redacted] 36

B. [redacted] 37

C. [redacted] 37

D. [redacted] 37

E. [redacted] 39

F. [redacted] 42

XII. South Carolina Proviso 1.120 Reasonably and Compassionately Addresses the Bathroom Needs of All Students 43

I. Introduction

I, Geeta Nangia, MD, have been retained by counsel for the Defendants in connection with the above captioned litigation.

1. I have been asked by counsel for the Defendants to provide my opinion on the psychological effect of differing bathroom policies on children—particularly as it pertains to policies involving children and adolescents who have gender incongruence and/or gender dysphoria. I've also been asked to provide my opinion regarding the evaluation and treatment of adolescents dealing with gender identity issues, including the appropriate accommodations that should be provided in the educational setting.

2. I am over the age of 18. I have actual knowledge of the matters stated herein. If called to testify in this matter, I would testify truthfully and based on my expert opinion. I am being compensated at an hourly rate of $400.00 per hour that I devote to this case. My compensation does not depend on the outcome of this litigation, the opinions that I express, or the testimony that I provide.

II. Background and Qualifications

3. I am a Board-Certified Child and Adolescent Psychiatrist, and Board-Certified Adult Psychiatrist. I obtained my B.A. in Biochemistry and Molecular Biology from Boston University and my M.D. from Boston University School of Medicine. I graduated with the Ruth Hunter Johnson Prize in Psychiatry. My residency and fellowship training, in Psychiatry and Child and Adolescent Psychiatry, respectively, were at The Medical University of South Carolina (MUSC). I completed my fellowship in 2007. A true and accurate copy of my curriculum vitae is attached as Exhibit A.

4. I have been active in teaching medical students and residents throughout my career and received the Circle of Excellence in Teaching at MUSC and Susquehanna Health Family Medicine Teaching Award. In recent years, my clinical lectures have focused on child and adolescent development.

5. I have worked in the field of Child and Adolescent Psychiatry as a community psychiatrist in a wide range of settings, providing comprehensive psychiatric services for children and families. I chose to work as a community psychiatrist because I desired to evaluate and treat a wide range of mental health disorders and wanted to see young people in the context of their families and community "systems" (e.g., schools, extracurriculars, and local supports). This

provides me with the ability to have a more complete perspective on their development and the interventions that produce the best outcomes for their overall wellbeing.

6. I have worked in rural, urban, and suburban areas, and in outpatient, inpatient, partial, as well as residential care settings. I have served as a part of multiple interdisciplinary teams. Much of my focus has been on providing access to mental health care for youths who are underfunded and lack services due to barriers of access and cost.

7. I have been very active in school consultations and advocating on a community level for mental health accommodations for youths in school since 2007. I have always encouraged assessment of needs that drive behaviors in the classroom, and a focus on addressing those needs to change behavioral and educational outcomes. In 2014-2015, I taught kindergarten at a local school for the academic year to gain practical insight into classroom management and how school-based accommodations affect students and teachers. This was invaluable to my understanding of how schools function internally and how I could better support my patients with school-related difficulties. Simultaneously, I provided mental health consultation in a school district wherein children were struggling to be maintained in their classroom and were needing emotional and behavioral assistance.

8. Much of my career has also been spent educating, equipping, and supporting families of children who struggle with depression, anxiety, and other mental health issues by stressing the importance of attachment between parents and children. In 2021, as a response to the pandemic related mental health crisis, I was one of the founders and CEO of Known and Loved, a non-profit organization created alongside a group of physicians to improve mental health outcomes in children by supporting parent-child attachment in Upstate South Carolina. Our work centered upon the knowledge that connection and secure attachment to safe caregivers forms the foundation for healthy childhood development, allowing a child to successfully progress through the developmental trajectory toward identity consolidation.

9. Today, as part of my continued role with Known and Loved, I provide training for foster and adoptive parents to help them understand trauma and the effects of trauma on a child's ability to form secure attachment. I continue to provide community mental health care through my private practice, with a focus on more complex cases and trauma. I am also involved as an expert witness in several cases involving the care of minors with gender incongruence and gender dysphoria.

10. Given that I have extensive experience treating a wide range of psychiatric disorders, I have evaluated and treated a significant number of children and adolescents with gender incongruence and gender dysphoria. The number of youths with gender dysphoria has dramatically increased in my work over the last several years. This has led to my involvement in the below captioned litigation as well as the litigation discussed in this report.

11. I have submitted written reports in Dekker v. Marstiller, No. 4:22-cv-325-RH-MAF (N.D. Fla.), Boe v. Marshall, No. 2:22-cv-184-LCB (M.D. Al.), Doe v. Thornbury, No. 23-230 (W.D. Ky.), Loe v. Texas, No. D-1-GN-23-3616 (Texas 201st Judicial District), L.W. v. Skrmetti, No. 23-376 (M.D. Tenn.), Van Garderen v. Montana, No. DV-23-541 (Montana Fourth Judicial District Court) and M.H. v. Adams, No. 1:22-CV-409-REP (D. Idaho).

12. Of note, my previous expert witness testimony prior to those cases has been regarding trauma and interventions for children struggling with mental health disorders as pertaining to custody. I have also, throughout my career in mental health, served as a designated examiner for persons during inpatient hospitalizations, and as part of this process, I have performed numerous capacity assessments and presented them in court.

13. My medical opinion in this report is based upon my training and clinical experience as a child and adolescent psychiatrist, my experience working with approximately 200 children and adolescents with active gender incongruence and gender dysphoria over my career, my experience working with schools to address mental health needs that affect education, my knowledge of child development, and review of the literature on this subject. I may wish to supplement my opinions or the basis for them as new research is published or in response to statements made in my area of expertise.

III. Order of Report Content

14. To provide a foundation for my clinical opinion on school bathroom policies and how they affect children and adolescents (gender congruent and those with gender incongruence), I will begin by discussing my clinical and consultative experience working with schools to address the mental health needs that affect students' education. I will then cast a wider lens on the general role of schools, their mission to educate the wider student body and yet provide for the individualized needs of students who may need more assistance, the role of educational plans and accommodations for specific impairments, and a description of how bathroom policies fit into this larger picture. Within this context, I will discuss how bathroom policies affect students' education,

universal bathroom needs and challenges that I've identified in my clinical work, and the assessment of bathroom accommodations for vulnerable students with gender incongruence and gender dysphoria.

IV. Clinical Experience with Providing Mental Health Consultations to Schools, Educational Plan Reviews, and Recommendations for Accommodations

15. As a mental health provider, I regularly assess how my patients are doing in school. This assessment involves discussion of barriers to children's ability to learn effectively. I am frequently told about situations that involve bullying, lack of access to resources, negative peer/teacher interactions, and other perceived difficulties (i.e., lack of classroom structure, distractions, material complexity, or complex teaching styles).

16. If a child or adolescent is facing continual and impactful difficulties in school that are affecting mental health and learning, I aim to provide a meaningful consultation to the school that can help the child to make gains in the educational setting. I (or a therapist on my team) will reach out to the minor's school and collaborate to improve the child's social, emotional, behavioral, and learning outcomes. This collaboration involves specific recommendations for educational accommodations that are generally made part of an IEP or 504 Plan.

17. When making these recommendations, I rely on my clinical evaluation, mental health and medical records, parent and child reports, psychoeducational and neuropsychological testing results, and teacher feedback. Ideally, accommodations that I recommend should allow teachers to not feel overextended and to be able to maintain classroom balance while still providing individualized support for a student who may be struggling emotionally, behaviorally, developmentally, and/or academically. For children who are bullied at school and for whom emotional safety is an ongoing concern, I work with teachers and other faculty to find ways to address the problem and provide additional support for the child at risk.

18. Over the course of my career, I have made recommendations for school accommodations and been part of educational planning meetings for patients with depression, anxiety disorders, ADHD, bipolar disorder, autism and developmental disorders, behavioral disorders, PTSD, attachment disorders, eating disorders, gender incongruence, and gender dysphoria.

V. Casting a Wider Lens: The General Role of Schools

19. Schools have historically been trusted as spaces wherein children can: receive education and learn, grow in confidence, ascend the developmental trajectory successfully, learn to navigate social environments that are relatively controlled and supervised, engage in healthy peer to peer and student-teacher relationships, receive support from trusted adults, and know that their parents are informed of their progress.

20. The goal for schools is to ultimately achieve the best educational outcomes for each student while simultaneously addressing the needs of the entire student body at large. Naturally, given the diversity of a student body (in terms of race, ethnicity, gender, sexual orientation, interests, socioeconomic background, family history and environment, physical and mental health history, cognitive ability, and learning style), and given finite resources, schools have functional limitations on how much they can customize education and environment to accommodate the learning needs of each individual student. Considering this, the school environment must, at minimum, be fundamentally safe, provide for the general learning needs of all students, and accommodate those with special needs and/or disabilities which impact their ability to learn.

VI. The Role of Educational Plans

21. Accommodations are generally implemented for students via an Individualized Educational Plan (IEP) or a 504 Plan. A 504 Plan is for health-related accommodations and is not limited to children with learning disabilities, whereas an IEP has its primary function as helping those with learning disabilities.

22. For the purposes of this report, the 504 Plan is elaborated upon below, as accommodation for bathroom access and use are generally made part of this plan for students who have specific mental health needs.

23. According to The U.S. Department of Education:

> "Section 504 requires recipients to provide to students with disabilities appropriate educational services designed to meet the individual needs of such students to the same extent as the needs of students without disabilities are met. An appropriate education for a student with a disability under the Section 504 regulations could consist of education in regular classrooms, education in regular classes with supplementary services, and/or special education and related services." [1]

24. In order to implement a 504 Plan, a child is required to have the designated impairment or diagnosis documented for which accommodations are being made. The U.S. Department of Education states:

> "Section 504 covers qualified students with disabilities who attend schools receiving Federal financial assistance. To be protected under Section 504, a student must be determined to: (1) have a physical or mental impairment that substantially limits one or more major life activities; or (2) have a record of such an impairment; or (3) be regarded as having such an impairment. Section 504 requires that school districts provide a free appropriate public education (FAPE) to qualified students in their jurisdictions who have a physical or mental impairment that substantially limits one or more major life activities."[1]

25. In terms of what defines a physical or mental impairment that substantially limits one or more major life activities, The U.S. Department of Education states:

> "The determination of whether a student has a physical or mental impairment that substantially limits a major life activity must be made on the basis of an individual inquiry. The Section 504 regulatory provision at 34 C.F.R. 104.3(j)(2)(i) defines a physical or mental impairment as any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or any mental or psychological disorder, such as intellectual disabilities, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The regulatory provision does not set forth an exhaustive list of specific diseases and conditions that may constitute physical or mental impairments because of the difficulty of ensuring the comprehensiveness of such a list.
>
> Major life activities, as defined in the Section 504 regulations at 34 C.F.R. 104.3(j)(2)(ii), include functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working. This list is not exhaustive. Other functions can be major life activities for purposes of Section 504. In the Amendments Act (see FAQ 1), Congress provided additional

> examples of general activities that are major life activities, including eating, sleeping, standing, lifting, bending, reading, concentrating, thinking, and communicating. Congress also provided a non-exhaustive list of examples of "major bodily functions" that are major life activities, such as the functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions. The Section 504 regulatory provision, though not as comprehensive as the Amendments Act, is still valid – the Section 504 regulatory provision's list of examples of major life activities is not exclusive, and an activity or function not specifically listed in the Section 504 regulatory provision can nonetheless be a major life activity." [1]

26. Practically speaking, in my experience, the 504 Plan often makes accommodation(s) within a child's school environment or designates how the curriculum is presented to assist the child with learning. Less often, it may make modifications to the child's instruction or what is presented or taught. To clarify, accommodations change *how* a student learns or addresses specific emotional needs in order for them to learn, while modifications change *what* they learn or changes existing policies or procedures to address the child's impairment to learning. Some examples of accommodations may be: extended test taking time for a child with Attention Deficit Disorder, breaks during class for a child who suffers from Generalized Anxiety Disorder, access to a trusted adult for a child who has Post Traumatic Stress Disorder, or text to speech interventions for a child with Dyslexia. In each situation, accommodations are individualized and based on the level of impairment, the child's unique situation, the recommendations of medical or mental health providers, observations and input of school faculty, the practicality of serving the child while also serving the entire student body, and availability of school resources. Hence, a one-size-fits-all approach is generally ill advised.

VII. Bathroom Policies and Their Reason for Inclusion in 504 Plan Accommodations

27. Bathroom policies impact education because all students need to use the bathroom to learn effectively. Being able to toilet and engage in personal self-care (i.e., change menstrual products, address private bodily functions, and wash hands) allows a student to focus on learning and not on physical discomfort.

28. Interestingly, many children avoid the bathroom in school. Students who avoid the bathroom can end up struggling with bowel or bladder problems, including lower urinary tract

symptoms. As children and adolescents mature, concerns become more prominent. In a large-scale cross-sectional survey, 35% of adolescents 13–16 yrs of age reported always trying to avoid the school toilet, 25% reported never urinating, and 80% never defecating in school. A poor school toilet environment may lead adolescents to engage in unhealthy compensatory behaviors such as avoiding fluids during school hours or even using physical maneuvers to actively withhold voiding.[2-3]

29. A study using qualitative interviews with 21 high school students was conducted and analyzed using content analysis. The data revealed that school toilets were considered insecure and unpleasant, and students felt exposed. Students reported refraining from drinking during school hours and remained in constant movement or jumped up and down to withhold urine and stool.[4] "Holding" or not voiding all day can also contribute to disruptions to cognitive function,[5] and hence, the learning process.

30. It is for these reasons that research has underscored the need for schools to have policies and procedures that ensure that all students have the right to safely access bathrooms and school facilities. Because bathroom avoidance can present such a profound problem for the mental and physical wellbeing of *all* students, studies are increasingly assessing the bathroom needs of students and evaluating potential solutions.

31. In my experience, given the sheer number of students in most schools, policies must first respond to the universal bathroom needs of children and adolescents and challenges to those needs. Additionally, policies must govern timing and access to bathroom facilities to maintain order while considering classroom schedules and resource allocation. Accommodation(s), as part of educational plans, must address specific bathroom needs that arise for children and adolescents who are more vulnerable.

A. Universal Bathroom Needs of All Students

32. As a child and adolescent psychiatrist, my clinical experience leads to my opinion that there are four core needs that children and adolescents have when using the bathroom at school. These include "felt safety," privacy, freedom to use the bathroom undisturbed for physical and emotional health and development, and freedom to take a brief break and regroup physically and emotionally.

1. **Felt Safety:** Felt safety is when an individual *feels* safe in their environment.[6] For a student in school, this entails being confident or secure in the understanding that no

physical or emotional harm will occur. To establish felt safety, students need to know that they are free from bullying or disparaging comments, that they will not experience harm to themselves or witness harm toward others, that their physical safety is not threatened, and that trustworthy adult supervision will maintain safety and order if issues arise.

2. **Privacy:** Students need to know that they have privacy as they use the toilet and that no one is directly watching them. For those changing clothing in the bathroom, the same privacy need applies. The fear of being exposed can cause bathroom avoidance.

3. **Freedom to Toilet While Undisturbed:** Children and adolescents need to be able to use the bathroom without disruption. This requires time to void, defecate, change feminine products if needed, and wash hands. This also requires a lack of social and emotional pressure (i.e., bullying, being pressured to rush, and exposure to non-bathroom activities occurring in the bathroom space).

4. **Freedom to Emotionally Regroup:** Children need to be able to utilize the bathroom mid-class to take a break and regroup when they struggle with anxiety or other mental or physical impairments. Psychiatric comorbidities often make it necessary for students to have a quiet place to use coping skills. Often, when children have psychiatric comorbidities (developmental, emotional, and/or behavioral), they can receive accommodation for a "bathroom pass" or "time out." They are given permission to utilize the bathroom for a "mental reset" when they are experiencing stress due to a need to move about (i.e., severe ADHD or anxiety), are overstimulated and anxious due to other students or the environment (i.e., developmental or sensory disorders), or need to take a break secondary to medical needs. The bathroom is often a space where they can feel safe taking this break. It provides a location to briefly regroup prior to coming back and joining the classroom.

B. Common Challenges to Universal Bathroom Needs

33. Based on my clinical experience, there are several potential challenges to these universal needs being met for students in school bathrooms.

1. **Challenges to "Felt Safety":**

a. Bullying:

1) Amongst my patients, bullying is the most common threat to felt safety and the primary reason for bathroom avoidance. Bullying is a repeated and

deliberate pattern of aggressive or hurtful behavior targeting individuals perceived as less powerful. [7]

2) In Australia, meta-analyses of studies involving children and young people have indicated a lifetime prevalence for traditional bullying victimization of 25% and perpetration of 12%. Meta-analyses of international studies involving adolescents have estimated mean prevalence rates of 35% for traditional bullying victimization. The many adverse consequences of bullying during childhood can include depression, anxiety, poor health, suicidal ideation, and changes in behavior.[8-10]

3) A 2022 scoping review found forty-three studies had identified school bullying locations or 'hotspots.' Bullying occurs more frequently in unstructured locations where supervision is lacking. School bullying locations or "hotspots" identified by participants included locker areas, toilets, transition spaces (i.e., staircases, corridors, and queues), outdoor play spaces (including playgrounds and courts), changerooms, classrooms, and school buses. Although many school locations were identified as potential sites of bullying, some locations, such as lockers and toilets, were identified more frequently than others.[11]

4) Toilets were also often linked to the bullying of sexuality and gender-diverse students. In fact, school toilets have been identified by sexuality and gender diverse (SGD) students as the least safe spaces in educational institutions. They are sites of verbal, physical, and sexual victimization. The subsequent avoidance of toilets by this population may result in dehydration, urinary tract or bladder infection, urinary leakage, and poor concentration. [12]

5) Bullying can result in short and long-term mental health outcomes for victims, who often end up with worsening problems with self-confidence, depression, anxiety, anger, self-harm, and even psychotic symptoms. For many, bullying can be experienced as trauma, and PTSD symptoms can occur.[13-15] Bullying is often a result of:

a) *Lack of Supervision:* Since bathrooms are most often not well supervised, they tend to be spaces where students' behaviors go largely unchecked and unreported. Amongst other problems typically seen in this

space (i.e., drug use, vaping, smoking, sex), bullying tends to be the most prevalent.

b) *Vulnerability Due to Exposure:* It is in the bathroom that self-checking and grooming behaviors occur, and external comparison is common. Students often feel anxious due to needing to remove their garments (along with the smell and sounds of voiding) and hearing peers around them talking without an ability to necessarily leave the space until they've finished voiding. This feeling of being exposed leaves students vulnerable to teasing and bullying.

c) *Vulnerability Due to Being Within Certain "At Risk" Populations:* Bullying, at large, can occur toward any individual, though it is often targeted toward vulnerable populations. These populations historically have included individuals who may not fit the "norm" among their peers, or who appear, behave, or learn differently. This can include but is not limited to students who are: minorities, immigrants/refugees, dealing with medical issues or disabilities, deemed to be less capable of defending themselves, struggling with cognitive/behavioral/learning disabilities, younger or more defenseless (small in size), appearing different physically, coping with LUTS (lower tract urinary symptoms), or members of the LGBTQ population. [16-19]

b. Premature Exposure to the Opposite Sex when Sharing Bathroom Spaces:

1) Natal females and natal males develop at different paces. This is true physically, psychologically, socially, and neurologically.[20-21] Premature exposure to the opposite sex in shared bathrooms can have consequences that can challenge a child's "felt safety" by affecting evolving self-concept and an understanding of personal safety, boundaries, choice, and consent.

2) A great example of this takes place during the onset of menses for natal females. During puberty, adolescent males generally do not understand and appreciate menstruation or the unique changes that occur from a psychological perspective during development for their females peers.[22] Adolescent boys tend to simultaneously have heightened curiosity during this stage of development, often

leading them to say and do things that make adolescent girls uncomfortable.[22] Such statements and behaviors can challenge (intentionally or unintentionally) a female's "felt safety" while she is attending to her own physical needs, if sharing a bathroom space. This can also carry over to affecting her self-concept and view of herself.

3) A second example of how premature exposure to the opposite sex in shared bathrooms can challenge "felt safety" takes place when a natural growing curiosity of the opposite sex occurs over childhood and adolescent development. If left unfettered by any societal intervention during a vulnerable period of psychosexual and psychosocial development, this curiosity can result in violations of personal safety.

4) Society has safeguards and structures in place to help male and female children and adolescents interact appropriately as they grow to learn a sense of bodily autonomy, safety, and security. Sex specific bathrooms are one such safeguard that function to help youth learn personal boundaries and boundaries of the opposite sex, thus contributing to both sexes learning to engage one another appropriately in a healthy way that maintains personal safety and integrity. A female must be comfortable telling a male that she has physical boundaries for privacy and does not want those crossed without permission. A male also must learn to be comfortable articulating the same boundaries. Bathrooms that are separated by sex at a young age set up a natural paradigm for this mutual understanding, wherein girls and boys learn that physical separation and boundaries are normal and healthy to have. This mutual respect for one another's physical space sets the premise for understanding of choice and consent as children and adolescents grow. Premature exposure to the opposite sex during bathroom use can affect this important societal safeguard and its role in establishing personal safety, boundaries, and the evolving appreciation of choice and consent in the growing child or adolescent.

c. Negative Activity:

1) Bathrooms tend to be a prime location for other problems (i.e., fights, drug use, vaping, smoking, and sexual activity) over a child's school years due to

poor supervision.[23] These problems challenge "felt safety" and negatively impact the child and adolescent in all aspects of educational development, and growth.

d. Uncleanliness:

1) Literature shows that a lack of cleanliness within bathrooms is a key reason for bathroom avoidance and anxiety.[24]

2. Challenges to Privacy:

a. Lack of Coverage by Stalls:

1) While privacy is often assumed to be part of an individual's bathroom experience, this is often a problem in the school setting. While multi-occupancy bathrooms have stalls that create a closed-door environment that allows students to toilet privately, poorly created stalls can allow students to look at one another through cracks or under doors, whether being playful or unkind.

b. Physical and Psychosocial Development of Both Sexes:

1) For natal females, the issue of menstruation is a very private bodily function unique to their biology. In fact, menstruation is accompanied by a host of psychological changes, including a perceived need for greater privacy and a feeling of being different than males physically.[24] Females also often have physical symptoms that are bothersome with menses. Months leading up to the first menstruation are most often accompanied by emotional and mood fluctuations. Therein, natal females need proper sanitation to be available but also need privacy for an issue that is specific to their biology.[24]

2) Similarly, for the developing natal male, urinating while standing can leave him physically exposed, particularly if using a urinal.

3) In addition to physical privacy being challenged by bathrooms shared by both sexes, emotional privacy is also challenged. As natal boys and girls grow, their conversation amongst their same sex peers naturally changes also.[25] Topics often discussed in common spaces are: shared interests, emotions surrounding physical changes, appearances, peers, and the opposite sex. The bathroom becomes a place where students talk and groom themselves, engaging in a natural social discourse that often shows sex specific patterns. This privacy for boys in their own space, and for girls, likewise, is part of a societal construct across cultures that

establishes "felt safety" and privacy for males and females alike as they grow socially and bond with one another.

3. Challenges to the Freedom to Toilet Undisturbed:

a. Exposure to Negative Peer Interactions:

1) Children engaging in toileting or self-care may be subject to comments that may be disparaging from other students while using the bathroom or engaging in self-care.

4. Challenges to the Freedom to Regroup:

a. Inability to Find a Quiet Space:

1) When other peers are present in the bathroom, or when non-bathroom activities are taking place there, it can make it difficult for students to find a quiet space to privately utilize coping mechanisms.

C. When Accommodations Are Necessary to Meet Challenges to Bathroom Needs

34. Most school bathroom policies generally allow for bathroom needs to be met in traditional multi-occupancy male/female (sex specific) bathrooms. However, there are circumstances in which students are vulnerable and may need special accommodation. The most common accommodation requested for vulnerable children, when bathroom policies permit, is access to a single occupancy bathroom.

35. For example, in my clinical experience, I encounter vulnerable children and adolescents daily and find that many of them who have genitourinary or gastrointestinal disorders, medical problems with mobility, mood disorders, anxiety disorders, developmental disorders, ADHD, PTSD, eating disorders, gender incongruence, or gender dysphoria often struggle with multi-occupancy bathrooms and benefit from access to a single-occupancy bathroom so that they can be at lower risk of being exposed to potentially negative peer interactions that may worsen their mental health or self-concept. Additionally, single-occupancy bathrooms provide them with a more private space to engage in self-care, emotionally regroup, and practice coping skills undisturbed.

36. The accommodation of the single occupancy bathroom also is beneficial because it does not interrupt or interfere with the existing multi-occupancy sex specific bathrooms that the majority of the student body depend on to meet their needs. This is imperative because my

recommendation for this accommodation generally does not negatively impact school resources or resource allocation and does not interfere dramatically with classroom schedules or procedures.

37. Other examples of common bathroom accommodations that I recommend are a 5-to-10-minute bathroom pass for an "emotional break" once a day for students who suffer from anxiety, and access to a trusted adult to escort a student to (not into) the bathroom if needed for felt safety or emotional de-escalation.

38. In all of these circumstances, what I bear in mind is that children who lack safe access to toileting can suffer in their health.[3,26] Therefore, accommodations that meet bathroom needs are medically necessary.

VIII. Bathroom Accommodations for Minors with Gender Incongruence or Gender Dysphoria: Key Considerations for Schools, Clinicians, and Policymakers

39. As stated above, in recent years, I have encountered a significant rise in the number of patients presenting with gender incongruence and gender dysphoria. To understand, in detail, what bathroom accommodations are best for these students, it is important to first understand the four issues that these children and adolescents face.

A. Gender Incongruence and Gender Dysphoria are Not Fully Understood

40. Gender Incongruence is defined by the ICD-11 as "a marked and persistent mismatch between gender identity and assigned gender, regardless of distress or impairment."

41. Gender dysphoria in adolescents is defined by the DSM-5-TR as: A marked incongruence between one's experienced/expressed gender and assigned gender, of at least six months duration, as manifested by at least two or more of the following:

- A marked incongruence between one's experienced/expressed gender and primary and/or secondary sex characteristics (or in young adolescents, the anticipated secondary sex characteristics)
- A strong desire to be rid of one's primary and/or secondary sex characteristics because of a marked incongruence with one's experienced/expressed gender (or in young adolescents, a desire to prevent the development of the anticipated secondary sex characteristics)
- A strong desire for the primary and/or secondary sex characteristics of the other gender
- A strong desire to be of the other gender (or some alternative gender different from one's assigned gender)

- A strong desire to be treated as the other gender (or some alternative gender different from one's assigned gender)
- A strong conviction that one has the typical feelings and reactions of the other gender (or some alternative gender different from one's assigned gender)

The condition is associated with clinically significant distress or impairment in social, occupational, and other important areas of functioning.[27]

42. According to the American Psychiatric Association, gender dysphoria often begins in childhood, but some individuals may not experience it until puberty or much later.[27]

43. The DSM-5-TR defines gender dysphoria in children as: A marked incongruence between one's experienced/expressed gender and assigned gender, lasting at least six months, as manifested by at least six of the following (one of which must be the first criterion):

- A strong desire to be of the other gender or an insistence that one is the other gender (or some alternative gender different from one's assigned gender)
- In boys (assigned gender), a strong preference for cross dressing or simulating female attire; or in girls (assigned gender), a strong preference for wearing only typical masculine clothing and a strong resistance to the wearing of typical feminine clothing.
- A strong preference for cross gender roles in make-believe play or fantasy play
- A strong preference for the toys, games, or activities stereotypically used or engaged in by the other gender
- A strong preference for playmates of the other gender
- In boys (assigned gender), a strong rejection of typically masculine toys, games, and activities, and a strong avoidance of rough-and-tumble play; or in girls (assigned gender), a strong rejection of typically feminine toys, games, and activities
- A strong dislike of one's sexual anatomy
- A strong desire for the physical sex characteristics that match one's experienced gender

As with adolescents and adults, the condition must also be associated with clinically significant distress or impairment in social, occupational, or other important areas of functioning.[27]

44. Despite these definitions and clinical criteria, there is a significant amount of debate nationally and globally regarding the evaluation and treatment of gender dysphoria. While the guidelines issued by The World Professional Association for Transgender Health ("WPATH Guidelines") are cited by experts in gender medicine to guide these processes,[64] there remain

multiple questions pertaining to how the guidelines were formulated and the quality of evidence that supports them (i.e., issues of confounding, exclusion of pertinent data, inaccurate conclusions, and poor methodology in studies that were cited).[28,60] Additionally, there is concern about the lack of research into the subject matters of desistance, the change in population of minors who have presented with gender incongruence and gender dysphoria in recent years (primarily natal female adolescents), the value of psychotherapy in treating gender dysphoria, and data on outcomes of a "watch and wait" approach in minors with gender incongruence and gender dysphoria.[28]

45. This debate and concern were highlighted in The Cass Review, the largest and most comprehensive review of the evaluation and treatment of gender incongruence and gender dysphoria to date which concluded that there was insufficient evidence to support medicalized transition in minors.[28] It raised major concerns about the WPATH findings, the change in the population of minors presenting to gender clinics, and the frequent complexity of their psychosocial situations. It also called social transition in children an active intervention and advised weighing of risks and benefits. The review stressed the need for more research into all these areas, did not recommend medicalized transition in minors based on lack of evidence base, and largely called for a focus on psychotherapy and supportive care for minors until they reach adulthood.[28] The Cass Review has led to policy changes across Europe, with some countries urging prudence in prescribing hormones and puberty blockers and others making medical and surgical transition far less accessible to youth. This includes the healthcare systems of England, Sweden, and the Netherlands.[29] A majority of states have also passed laws banning gender transition procedures minors, and fourteen states have passed laws prohibiting shared bathrooms in K-12 schools.[30] The UK recently banned puberty blocks indefinitely for minors.[31]

46. Much of my own clinical experience agrees with the findings of The Cass Review that a holistic approach is central to helping children and adolescents with gender incongruence and gender dysphoria, and that psychotherapy has been shown to help conditions that are often part of their clinical picture.[28] The youths whom I've evaluated have struggled with one or more of the following comorbidities: 1) depression, 2) anxiety (generalized or social), 3) trauma, 4) disruption to early attachments, 5) vulnerabilities in social environments and a desire to fit in and belong with peers, 6) developmental delays or autism spectrum disorders, 7) complex psychosocial histories, and 8) perception of gender roles which have been highly influential in their lives. I have found that when a personalized holistic approach (utilizing individual therapy, family therapy,

psychopharmacologic treatment of psychiatric comorbidities, school accommodations, and community support) addresses these comorbid struggles over time, children and the vast majority of adolescents experience resolution of gender dysphoria and realignment with their natal sex. All children and adolescents benefit from a better understanding of themselves, and report feeling cared for and supported.

47. For now, debate in the clinical and research community continues. There remains much discourse to be had and research to be done in the scientific and medical community for gender incongruence and gender dysphoria to be well understood. As medicalized transition carries remarkable risk and lacks research to show that it results in any long-term positive outcomes on mental health at this time, the benefits to a holistic approach clearly stand out. Psychotherapy and psychosocial interventions are low risk, help minors to gain a better understanding of themselves as they grow, provide them with support and care through a vulnerable time, and afford them time to mature so that they can take part in the informed consent process as adults if they choose to later medically or surgically transition.

B. Gender Identity, as Opposed to Sex, is Not Immutable

48. According to the NIH, "sex is a biological variable (based on anatomy, physiology, genetics, and hormones) whereas gender is considered a social and cultural variable—encompassing gender identity and expression, as well as social and cultural expectations and perceptions of gender in society." [32]

49. Georgi Marinov, a post-doctoral research scholar at Stanford, wrote in his essay, *In Humans, Sex is Binary and Immutable*, "the objective truth is that sex in humans is strictly binary and immutable, for fundamental reasons that are common knowledge to all biologists taking the findings of their discipline seriously. Denying that sex in humans is binary attacks the very foundations of biological sciences."[33]

50. Cretella et al., writing about sex and gender being distinct variables that are critical to health, stated, "we maintain that sex and gender are distinct variables that impact human health in critical ways both individually and interactively. In the life sciences, sex is defined by how an organism is organized with respect to reproduction. Among humans, reproduction requires the union of two distinct gametes. Hence, human sex, in contrast to gender, is an innate and immutable biologically binary trait that is not fundamentally determined or altered by psychosocial factors."[34]

51. In contrast to sex, gender identity is described as a person's internal sense of who they are in relation to their natal sex. This perception of oneself, or internal sense of how one experiences oneself in relation to natal sex, can evolve and change over time. Individuals with gender incongruence, for instance, can experience gender as fluid, binary, and non-binary. They can also experience this transiently and realign with their natal sex after a period of time. This is evident in those who have detransitioned, many of whom are now helping us to learn more about their experiences.

52. This ability for gender identity to change is further illustrated by the high rate of natural desistance of gender incongruence in children in the absence of social transition.[35-45] A review of eleven clinical cohort studies demonstrate that childhood desistance is a very real and common phenomena.

53. The Endocrine Society also attested to this, stating: "In most children diagnosed with GD/gender incongruence, it did not persist into adolescence ... [T]he large majority (about 85%) of prepubertal children with a childhood diagnosis did not remain GD/gender incongruent in adolescence."[46]

54. In my clinical experience, all children who have presented with gender incongruence and gender dysphoria have realigned with their natal sex with time and maturation as well as family support. My experience with adolescents with gender incongruence and gender dysphoria has been that the vast majority also realign with their natal sex when other circumstances and biopsychosocial issues are addressed through treatment. Hence, gender identity can change and is mutable. Sex, however, does not change.

C. Social Transition in Children Can Have Lifelong Consequences and Alter a Child's Developmental Trajectory

55. There remains marked clinical debate about the potential risks of social transition in minors.

56. There is literature to support that social transition (i.e., living consistent with identified gender) may reduce the natural likelihood of desistance that occurs for most children over time when they do not social transition.[47] Olson et al. published a single cohort study of 317 children ages 3-12 (prepubescent) who underwent complete social transition. The study stated that only 7.3 percent of these children "retransitioned" and 94 percent identified as binary transgender at the end of the study. The study results, when understood in light of prior studies which showed high

levels of retransition when children experienced gender incongruence and did *not* socially transition, showed that social transition is an active intervention which leads children to maintain a transgender identity. What likely would have been only a transient and natural part of developmental exploration that would end with a gender congruent identity, was demonstrated to be dramatically shifted by social transitioning prior to puberty.

57. A more recent systematic review of eleven studies that assessed outcomes of social transition in children and adolescents showed that current evidence is limited and of low quality and that there is little evidence of the benefits or harms of social transition for children and adolescents.[48]

58. In its review of the evidence on social transition in minors, The Cass Review stated, "Those who had socially transitioned at an earlier age and/or prior to being seen in a clinic were more likely to proceed to a medical pathway."[28]

59. That social transition in prepubertal children may lead to an unnatural continuance of a transgender identity also raises the concern that it may usher children down a pathway of medicalized transition. Ultimately, medicalized transition can then lead to potentially life long irreversible consequences of infertility, problems with bone and brain maturation, cardiovascular and metabolic risks, along with numerous other potential risks.[28,49,50]

D. Adolescence is a Period of Intense Psychosocial Development, Shifting Values, Reward Based Decision Making, and Identity Exploration

60. Adolescence is a period during which identity is evolving, and psychosexual and psychosocial exploration is taking place.

61. During this stage, adolescents are learning about themselves, what is important to them, how they fit in within their families and society at large, and what they value. Erik Erikson, a world-renowned developmental psychologist and father of psychosocial developmental theory, saw this as a period of confusion and experimentation. He described this as a psychological moratorium**,** where teens put their current identity on hold while they explore their options for identity. The culmination of this exploration is a more cohesive view of oneself.[49] Values, choices, and preferences shift during this period, and the influence of peers becomes immensely important to the growing adolescent's decision making. Erikson refers to the core conflict of adolescence as "Identity vs. Role Confusion." Adolescents have the goal of fidelity, realizing who they are in the context of the world around them, and coming to a settled and more defined sense of self.[51,52]

62. Functional neuroimaging strengthens our understanding of adolescence as it demonstrates that different areas of the brain are maturing at different rates. The prefrontal cortex (executive planning center) lags behind the amygdala and ventral striatum (reward centers) in maturation. The former does not mature until an individual's mid-20's, while the latter reaches maturity during adolescence. Hence, adolescents' decisions are shown to be reward based and peer influenced, often leading to lesser consideration of long-term consequences or outcomes when weighing choices.[53-54]

63. The theory and science support my clinical experience, which is that most adolescents with gender incongruence and gender dysphoria have desisted with time, maturation, and a better understanding of themselves and their own value systems. Further affirming my findings, a study was done in 2023 on gender non-contentedness in 2,772 adolescents ages 11-26, and showed the rate of gender non-contentedness in early adolescents was 11 percent and declined to 4 percent by age 26.[55]

64. Often, what young people believe to be true about themselves as they mature into adulthood and identity consolidates is far different than what they believe to be true in adolescence when identity exploration is at its peak.

E. Schools Should Exercise Caution in Assessing Bathroom Accommodations

65. In light of these considerations, schools must be cautious when addressing the need for bathroom accommodation amongst vulnerable students with gender incongruence and gender dysphoria. These diagnoses are not well understood. The best practices for evaluation and treatment of minors with these conditions are hotly contested based upon a lack of evidence base, making a holistic and cautious approach advisable at this time per the largest review done to date. Bathroom use consistent with gender identity is viewed as being part of social transition, and the risks of social transition are widely debated currently. Second, gender, unlike sex, is mutable. A person's internal sense of who they are can shift, making universal accommodations for an entire "group" of people difficult, because whether they are part of that group, or not, can change over time. Gender is also not determinate of sex and is a separate and distinct consideration. One can be biologically male by sex (determined by genetics) but identify as a female gender. Therefore, it is prudent for school administration to consider that shared bathrooms have historically been designated by sex because sex classification does not change. Third, current research shows that social transition in children may lead to continued gender incongruence whereas watchful waiting

and a lack of social transition may lead to desistance and realignment with natal sex. Hence, social transition may be seen as an active intervention which affects a child's developmental trajectory. Schools should have an appreciation of this when assessing bathroom accommodations because their decisions may foster social transition and thereby facilitate the transition pathway and developmental trajectory at large for students. Lastly, adolescents undergo tremendous change as they undergo identity exploration and psychosexual maturation. Their values shift and their decision making is often heavily influenced by reward and by peers. This vulnerable period of growth is characterized by rapid change and their identities are not solidified until adulthood. The beauty of this stage is that the adolescent is free to explore, learn, change, and evolve. School faculty should be respectful of this stage of development by validating how adolescents feel and observe their own futures but should *simultaneously* exhibit caution in attributing any sense of permanency to adolescents' internal sense of identity, long term ambitions, romantic interests, and value systems.

IX. Assessing the Best Bathroom Accommodation for Vulnerable Minors with Gender Incongruence or Gender Dysphoria

66. Having established that caution should be observed, it is now important to discuss how schools can be strategic in *helping* vulnerable students with gender incongruence or gender dysphoria to have optimal mental health outcomes by providing them with bathroom accommodations that will serve their bathroom needs while considering the above issues.

67. First, it is important that children with gender incongruence and gender dysphoria, like all other students, have "felt safety" through access to safe toileting spaces. Children and adolescents with gender dysphoria are more prone to bullying, inappropriate teasing, privacy concerns, and may have unique physical needs. With a higher likelihood of depression, generalized anxiety, social anxiety, and a history of trauma, their vulnerability is only heightened when placed in situations wherein they may be more at risk of negative peer encounters.

68. Second, for youth with gender dysphoria and gender incongruence, privacy is essential. A lack of access to safe bathroom spaces can lead these students to experience added anxiety about toileting, exposure, and unkind comments from peers. This can also lead to worsening comorbid disorders (i.e., depression) and gender dysphoria.[56,57]

69. Third, these youth, like all their peers, need to be able to toilet undisturbed.

70. Fourth, they need the ability to regroup and provide self-care in an environment that affords them that opportunity.

A. Multi-Occupancy Bathrooms Consistent with Gender Identity Do Not Meet Universal Bathroom Needs for Students with Gender Incongruence and Gender Dysphoria

71. These needs are not met by allowing gender incongruent students access to the multi-occupancy bathroom consistent with their gender identity. For most students, multi-occupancy bathrooms, regardless of being a male or female designation, heighten exposure to peers who may engage in bullying behavior, lower privacy, increase potential disturbances, and decrease the ability of the students to engage in self-care without the threat of peers who may engage in unkind behavior. Currently, I am not aware of any research that assesses the impact of bullying and negative peer contact in multi-occupancy bathrooms that are consistent with gender identity for gender incongruent students. As a clinician, it is a reasonable assumption that gender incongruent students will be at heightened risk of experiencing these issues in any multi-occupancy bathroom, including the one consistent with their gender identity. Furthermore, the child or adolescent who identifies as non-binary or gender fluid may not feel comfortable in either male or female designated multi-occupancy bathroom.

72. It is also pertinent to note that research has shown that 90 percent of individuals with gender dysphoria have experienced one trauma, and 56 percent have experienced four or more traumas.[58] Survivors of trauma often experience hypervigilance, avoidance, and "re-experiencing" phenomena.[59] For them, multi-individual bathrooms can be a place where trauma symptoms are heightened.

73. For now, given what knowledge is available and the research that is lacking, my clinical opinion is that shared bathroom spaces create far more potential risk for students with gender incongruence and fail to address their bathroom needs.

B. Shared Multi-Occupancy Bathrooms May Create Negative Outcomes for Gender Congruent Students

74. I am not aware of any studies to date that assess the impact of the use of multi-occupancy bathrooms that align with the gender identity of children with gender incongruence on gender congruent students. Without this research, creating shared bathroom spaces would create the risk of negative mental health outcomes for the larger student body. Studies are yet needed

which assess how shared bathrooms affect: a) the potential for inappropriate teasing between sexes that can negatively impact evolving self-concept, b) premature exposure and awareness of the opposite sex that can negatively affect interplay between sexes and felt safety and privacy, and c) violations of personal boundaries for each sex as emotional and physical changes are occurring during a fragile period of growth and development. As stated earlier in this report, sex specific bathrooms have long been a societal safeguard, a natural paradigm for young people by which they understand personal boundaries as they engage with the opposite sex. They learn that personal space is important to respect in relationships and that choice is important. Given that knowledge of childhood development has informed this societal separation of youth by natal sex in private spaces, it is imperative that such research be done to inform any potential policy changes.

75. Schools must provide the best remedies they can for *all* students. Far more is yet to be understood about the effects of shared bathrooms spaces on the entirety of the student body, not just one subset.

76. For now, given what knowledge is available and what research is lacking, my clinical opinion is that shared bathroom spaces may create significant negative outcomes for gender congruent students and may fail to meet their bathroom needs.

C. Single Occupancy Gender Neutral Bathrooms are the Best Choice for Vulnerable Students with Gender Incongruence and Gender Dysphoria

77. Single occupancy gender neutral bathrooms provide a place where the child or adolescent with gender incongruence can experience an environment free from other students who may place the child at risk of being bullied or encountering negative interactions. Access to gender neutral bathrooms shows positive outcomes for youth with gender incongruence.[12]

78. For those who have a history of trauma, the single occupancy gender neutral bathroom provides a sense of safety as no one else is present. Additionally, it provides privacy and establishes a protected place that can be utilized for toileting, self-care, and to emotionally regroup. This accommodation provides the most compassionate approach to the care of students with gender incongruence and affords them the ability to return to class and feel ready to learn.

79. Single occupancy gender neutral bathrooms also validate the fact that youth with gender incongruence feel vulnerable and deserve care, while simultaneously considering that gender incongruence deserves more research and fostering social transition may carry risk.

80. Single occupancy gender neutral bathrooms also provide a better solution for people of some faiths versus multi-occupancy shared bathrooms. Francis et al. state that, "multi-stall toilets may not accommodate the needs of religious or cultural minority groups. Study participants noted that mixing students of different genders may not be acceptable to people from Australian Indigenous cultures or Muslim and Islamic faiths. Other researchers have also noted that Islamic, Hindu, and Orthodox Jewish religions often do not permit females to share public toilets with male strangers, particularly when menstruating"[12]

81. Additionally, the accommodation of a single occupancy gender neutral bathroom for gender incongruent students allows the school to provide a solution that also takes into consideration the lack of present knowledge on how shared bathrooms would impact the broader student population. Potential risks are averted until further understanding is obtained.

82. Within my own patient population, I have worked with gender incongruent students who have felt vulnerable using the multi-occupancy bathroom consistent with their natal sex. I have received positive feedback from students who have had access to a single occupancy bathroom. It has allowed them to have the privacy they need and to feel safe toileting and engaging in self-care.

X. Assessment of Dr. Stephanie Budge's Expert Declaration and Deposition Transcript

83. I have reviewed the declaration of Dr. Stephanie Budge (ECF No. 9-3) and her deposition transcript in this case. (See Dr. Budge's Deposition Transcript attached as Exhibit B).

A. Dr. Budge's Report Relies Heavily on the WPATH Guidelines

84. WPATH and their published guidelines (SOC-8) for the care of transgender individuals have been under scrutiny over the last couple of years for multiple reasons.

85. The Cass Review found significant problems with current WPATH guidelines that have guided clinical care to date.[28,64] A great deal of public concern was also expressed when "The WPATH Files" (internal communications within the organization) were leaked in 2024.[60] Major news outlets, such as The Guardian, The Economist, and the New York Times had headlines that read, respectively, "Why disturbing leaks from the US gender group WPATH ring alarm bells in the NHS,"[61] "Leaked discussions reveal uncertainty about transgender care,"[62] and "Biden Officials Pushed to Remove Age Limits for Trans Surgery, Documents Show."[63] Below are findings of both.

B. The Cass Review Showed Marked Concerns with Guideline Development

86. WPATH Guidelines Lack Developmental Rigor: The Cass Review noted the problems of the WPATH SOC 8 guidelines[64] (which guide most clinicians globally on treating transgender individuals), stating the guidelines lacked developmental rigor.[28]

87. WPATH Guidelines Show Lack of Consensus: Second, it noted a lack of consensus on the purpose of the assessment process that the WPATH called for when dealing with patients clinically.[28]

88. Full Results from Systematic Review were Omitted: Third, it noted a core problem in that WPATH commissioned a systematic review for SOC-8 which found that hormone therapy was associated with increased quality of life, decreased depression, and decreased anxiety.[65] However, it also stated that the same systematic review found that certainty of this conclusion was limited by high risk of bias in study designs, small sample sizes, and confounding with other interventions. Baker's review recommended that future studies should investigate the psychological benefits of hormone therapy among later and more diverse groups of transgender people using study designs that more effectively isolate the effects of hormone treatment.[65] The Cass Review pointed out that the SOC-8 narrative didn't reference its own systematic review by Baker et al.[65] Rather, it stated that "Despite the slowly growing body of evidence supporting the effectiveness of early medical intervention, the number of studies is still low, and there are few outcome studies that follow youth into adulthood. Therefore, a systematic review regarding outcomes of treatment in adolescents is not possible."[64] The WPATH narrative account cited studies that were deemed of low quality with short follow up periods and variable outcomes, and a selected account of detransition rates.[28]

89. The Strength of Evidence to Support Its Conclusions is Overstated: The Cass Review went on to be further critical of WPATH SOC-8 guidelines, stating the SOC-8 concludes, "The evolving evidence has shown a clinical benefit for transgender youth who receive their gender affirming treatment in multi-disciplinary clinics."[28.64] The Cass Review points out the problems with studies that the WPATH cites. First, the De Vries (2014) original study had marked differences to the population being treated currently and had much stricter criteria for treatment.[66] The Kuper et al. (2020) study had a one year follow up with very modest change and fell into a group rated by the University of York as too low a quality to even be included in the body of evidence on cross sex hormones.[67] The Tollit et al. (2019) study did not include any

results.[68] Furthermore, the SOC-8, per The Cass Review, goes on to state that the WPATH's own commissioned systematic review by Baker et al. is one of several references in support of the statements, "There is strong evidence demonstrating the benefits in quality of life and well-being of gender affirming treatments, including endocrine and surgical procedures, properly indicated and performed as outlined by the Standards of Care Version 8" and "Gender-affirming interventions are based on decades of clinical experience and research; therefore, they are not considered experimental, cosmetic, or for the mere convenience of the patient. They are safe and effective at reducing gender incongruence and gender dysphoria."[64] Therein, WPATH SOC-8 effectively overstated the strength of the evidence in making these statements.[28]

C. The WPATH Leaked Files Reveal Questionable Practices

90. Issue of Failed Minor Understanding in the Informed Consent Process: In one leaked video, doctors acknowledge that patients are too young to fully understand the consequences of puberty blockers and hormones for their fertility. One Canadian endocrinologist, Dr. Metzger, said, "It's always a good theory that you can talk about fertility preservation with a 14-year-old, but I know I'm talking to a blank wall."[60]

91. Sexual Side Effects of Transition May Not Have Been Openly Communicated: WPATH's President, Dr. Marci Bowers, commented on the impact of early blocking of puberty on sexual function in adulthood and said, "To date, I'm unaware of an individual claiming ability to orgasm when they were blocked at Tanner 2." [60]

92. Transitions were Advised in Highly Vulnerable Patients: Doctors involved in the formation of the WPATH Guidelines advocated for transition in patients with severe dissociative identity disorder (despite this disorder being known to exist in patients who often have suffered severe trauma). [60]

93. Surgical Results May Not Have Been Openly Communicated: Surgeons in the WPATH Files are noted to have talked about procedures that resulted in bodies that "don't exist in nature," those with both sets of genitals, the "Phallus preserving vaginoplasty," double mastectomies that don't have nipples, "nullification" surgery where there are no genitals at all, and the possibility of 16 year old patients with liver cancer because of taking hormones. [60]

94. Lack of Transparency: The Royal College of Psychiatrists stated, "The problem is not necessarily the discussions themselves, but that the organization is not so open when speaking publicly." [60, 62]

95. Potential Interference of Politics in Guideline Formation: The most recent version of the WPATH Guidelines does away with all age limits from the beginning of puberty for hormones and surgical interventions and contains a chapter on eunuchs. Email excerpts from members of WPATH recount how staff for Adm. Rachel Levine, Asst. Secretary for Health and Human Services, a self-identifying trans woman, urged them to drop the proposed limits from the group's guidelines and apparently succeeded. [72]

96. Dr. Budge still used WPATH as the foundation for her opinion (Budge Dep. 44) and seemed to be unaware of the criticisms that WPATH has received (Budge Dep. 90) despite being a member of the organization. Certainly, there is reason to be concerned about the validity and transparency of WPATH. These issues with the creation of their guidelines for medical transition cast doubt on their recommendations for social transition, the latter of which is the subject of this litigation.

D. Dr. Budge Does Not Provide Reliable Evidence to Show How Many Children in South Carolina Have Gender Incongruence and How Many Would Require Accommodations

97. In her declaration, paragraph 54, Dr. Budge stated that there are 3,700 transgender youth in South Carolina between 13-17 years old. (ECS No. 9-3 at 21). However, at her deposition, she admitted extrapolating this data with attendance data from Ed Choice to determine the number of transgender students enrolled in public schools in South Carolina. (Budge Dep. 125). The methodology used in the Herman Study, which she uses to cite her data, relies on the use of a single question regarding how a youth identifies. That study did not individually assess youths to determine whether their gender identity was persistent, consistent, pervasive, and insistent with a different sex than they were assigned at birth. (Budge Dep. 131-133). She also admits being unaware of how many children in South Carolina, identifying as being transgender, are seeking out bathroom accommodations. (Budge Dep. 127).

98. Without Data on the Number of Gender Incongruent Students in South Carolina, the Needs of Students are Difficult to Assess: The issue with Dr. Budge's data is that there is in fact no current way to accurately determine the number of youths who are transgender or who experience gender dysphoria. This is because surveys like the one she utilized rely on a single question about gender identity. They do not rely on one-on-one assessments, which is what is widely recommended for assessment and diagnosis of gender incongruence and gender dysphoria.

Dr. Budge admits that individualized clinical assessments are necessary to determine whether an individual is transgender. (Budge Dep. 36). Without one-on-one clinician assessments, it is difficult to determine how many youths would qualify as being "transgender" because there is no limiting principal as to what qualifies "transgender" at this time on surveys. Determining this number would require an individualized assessment.

99. Without Data on the Number of Gender Incongruent Students in South Carolina, School Policy Changes are Difficult to Implement: Without standardized one on one assessment of students, there is no way to know how many youths would prefer to use a multi-occupancy bathroom that is not consistent with their natal sex. Without this information, schools cannot reasonably be expected to change policies or provide accommodations. They do not have any data upon which to determine the need, the extent of the need, availability of resources, or how resources could be allocated.

E. Dr. Budge's Opinion on Social Transition Does Not Consider the Evidence Which Shows that Social Transition Can Alter the Course of a Child's Development

100. While the discussion of WPATH pertains often to medicalized transition, and this litigation does not specifically deal with medical transition in minors, it does indirectly deal with the transition trajectory at large. Utilizing bathrooms consistent with gender identity is part of social transition and Dr. Budge acknowledges this. (Budge Dep. 43). Evidence cited in this report shows that children who socially transition are more likely to remain in a transgender identity with only a 7.3 percent desistance ("retransition") rate, in contrast to the high rates of desistance in children who do not socially transition.[46, 47] This would mean that these children would likely then proceed with possible medical transition which could have potentially lifelong irreversible consequences.

101. Further, Dr. Budge states that she has advocated for social transition in all her patients as she believes it reduces gender dysphoria. (Budge Dep.58). Hall et al. (2024) showed that there is little evidence of the benefits or harms of social transition for children and adolescents and that studies to date are of low quality, emphasizing that more research is needed.[48] Dr. Budge did not discuss this study in her report or deposition.

F. Dr. Budge Makes a Biased Assumption that Gender Congruent Students Are Being Discriminatory if They Have Concerns About Gender Incongruent Youth Sharing Their Bathroom Space

102. In response to being asked about whether she is aware of data on how students who do not have gender incongruence may feel about sharing bathrooms with gender incongruent students, Dr. Budge states, "My understanding of that is that it's rooted in prejudicial ways of thinking about transgender people and transgender identities." (Budge Dep. 119).

103. Dr. Budge does not even consider the felt safety of students who are not transgender because she deems them prejudiced.

104. Among my own patients, I have been told by several gender congruent students that they feel uncomfortable sharing bathrooms with gender incongruent students because of developmental concerns (i.e., menses and associated self-care, body changes), histories of sexual trauma, general discomfort with feeling exposed in spaces with the opposite sex, and faith-based beliefs that bathrooms should be sex specific. None of these students had any negative feelings toward transgender peers nor displayed any signs of prejudice.

105. Dr. Budge's statement is concerning because it demonstrates bias.

G. Dr. Budge Admits that There is No Data to Show Transgender Youth Experience Less Bullying in Multi-Occupancy Bathrooms Consistent with Their Gender Identity

106. When asked if there is any data on transgender students experiencing bullying in multi-occupancy restrooms consistent with their gender identity, Dr. Budge states that she is not aware of any such data. (Budge Dep. 112-114).

107. When asked if there is data to show that transgender youths are at any heightened risk of being bullied or harassed in a single-occupancy restroom, Dr. Budge stated that she is not aware of any such data. (Budge Dep. at 115).

H. Dr. Budge Asserts that Gender Determines Sex, and Gender is Fluid and Can Change, Which Would Imply that Sex Can Change

108. Dr. Budge acknowledges that gender is fluid, and that identity is an internal sense that can change over time. (Budge Dep. 28-29). However, Dr. Budge also states, "gender identity is the most important and determinative factor -- determinative factor in determining one's sex." (Budge Dep. 26).

109. These statements present an inherent contradiction and a seemingly novel position even amongst experts in gender medicine. Dr. Budge's statement implies that gender is fluid and can change and determines sex, which would imply that sex can also be fluid and change. This would also imply that neither gender, nor sex, is immutable in Dr. Budge's opinion.

I. Dr. Budge Does Not Cite Evidence to Support that Her Assertion that Detransitioners "Detransition" due to Social Pressure

110. Dr. Budges states, "And the detransition literature, the way we understand it, a lot of individuals who do detransition do so because they feel social pressure from their families or from friends. (Budge Dep. 38).

111. A 2023 critical review of the literature stated, "Gender detransition is a complex, heterogeneous, under-researched, and poorly understood reality. A systematic study and approach to the topic is needed to understand its prevalence, implications, and management from a healthcare perspective."[69] The Cass Review supports this conclusion, stating "The percentage of people treated with hormones who subsequently detransition remains unknown due to the lack of long-term follow -up studies, although there is suggestion that numbers are increasing."[28] There is scant research available on individuals who detransition, how many do so, and their reasons for doing so. Dr. Budge's assertion is not rooted in evidence.

J. Dr. Budge Acknowledges that Cited Literature in Her Report Recommends Gender Neutral Bathrooms, Yet She Objects to the Accommodation of Single Occupancy Gender Neutral Bathrooms

112. Dr. Budge repeatedly states that minors should have access to multi-occupancy bathrooms that are consistent with gender identity rather than access to single occupancy gender neutral bathrooms. However, Dr. Budge acknowledges that the literature that she cites in her own report indicates that gender neutral bathrooms "are integral to the safety and dignity of trans and/or nonbinary youth."[70] (Budge Dep. 103).

K. Dr. Budge is Unable to Provide Any Evidence to Support her Argument that Single Stall Gender Neutral Bathrooms are Not a Reasonable Accommodation for Youth with Gender Incongruence

113. Dr. Budge argues that a single stall gender neutral bathroom can cause transgender students to have to wait in a line, or that they might be "othered," and that it will cost students class time. (Budge Dep. 97, 114)

114. First, there is no data to show that transgender youth will suffer less bullying and harassment in multi-occupancy bathrooms consistent with their gender identity. Second, there is no evidence to show that they might be "othered" by using a single occupancy bathroom instead of the multi-occupancy bathroom consistent with their gender identity. Third, there is no evidence to show that they will have a higher likelihood of waiting in a line. Fourth, there is no evidence to show that students will deal with lost class time.

XI. Review of Plaintiff Records (Confidential)

115. [redacted]

A. [redacted]

116. [redacted]

117. [redacted]

118. [redacted]

119. [redacted]

120. [redacted]

121. [redacted]

B. [redacted]

122. [redacted]

C. [redacted]

123. [redacted]

D. [redacted]

124. [redacted]

125. [redacted]

126. [redacted]

127. [redacted]

E. [redacted]

128. [redacted]

129. [redacted]

130. [redacted]

[redacted]

[redacted]

131. [redacted]

[redacted]

132. [redacted]

[redacted]

133. [redacted]

[redacted]

134. [redacted]

[redacted]

[redacted]

135. [redacted]

[redacted]

136. [redacted]

[redacted]

F. [redacted]

[redacted]

137. [redacted]

[redacted]

[redacted]

XII. South Carolina Proviso 1.120 Reasonably and Compassionately Addresses the Bathroom Needs of All Students

138. It is my clinical opinion that the matter of whether access to multi-occupancy bathrooms consistent with gender identity should be permitted for gender incongruent students is not, and should not be, a political or divisive issue. Rather, the priority of educators, policy makers, and health providers should be to assess current evidence and ensure that the needs of all students are addressed, regardless of gender. Minors with gender incongruence and gender dysphoria deserve to have their bathroom needs met, no differently than students whose gender is consistent with their natal sex.

139. South Carolina Proviso 1.120 requires that all South Carolina school districts (to include traditional public schools, charter schools, and special schools) must designate multi-occupancy restrooms and changing facilities for use only by members of one sex and prohibits students of the opposite sex from using the same bathrooms, changing facilities, overnight sleeping quarters, shared bathrooms, locker rooms, and shower rooms.

140. Additionally, Proviso 1.120 does not prohibit districts from providing reasonable accommodation to a student when the student's parent has requested on the student's behalf, such as access to a single occupancy staff restroom.[71]

141. [redacted]

142. In light of the lack of evidence assessing the bullying and harassment risk to gender incongruent students in the multi-occupancy bathroom corresponding to their gender identity, the high likelihood based on my clinical experience that bullying and harassment would present a serious risk in *any* multi-occupancy bathroom, and the lack of evidence assessing impact of shared bathrooms on gender congruent students, my clinical opinion is that school policies that allow access to gender neutral single occupancy bathrooms are appropriate and provide a reasonable and compassionate solution to the bathroom needs of both gender congruent and gender incongruent students.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. I reserve the right to modify and expand the testimony in this report as the facts are developed in this case.

Executed this 6th day of January, 2025.

Geeta Nangia, M.D.

Works Cited

1. *Frequently asked questions: Section 504 free appropriate public education (FAPE)*. U.S. Department of Education. (n.d.). https://www.ed.gov/laws-and-policy/civil-rights-laws/disability-discrimination/frequently-asked-questions-section-504-fape
2. Lundblad, Barbro & Hellström, Anna-Lena. (2005). Perceptions of school toilets as a cause for irregular toilet habits among schoolchildren aged 6 to 16 years. Journal of School Health. 75. 125-128. 10.1111/j.1746-1561.2005.00009.x.
3. Shoham DA, Wang Z, Lindberg S, Chu H, Brubaker L, Brady SS, Coyne-Beasley T, Fitzgerald CM, Gahagan S, Harlow BL, Joinson C, Low LK, Markland AD, Newman DK, Smith AL, Stapleton A, Sutcliffe S, Berry A. School Toileting Environment, Bullying, and Lower Urinary Tract Symptoms in a Population of Adolescent and Young Adult Girls: Preventing Lower Urinary Tract Symptoms Consortium Analysis of Avon Longitudinal Study of Parents and Children. Urology. 2021 May;151:86-93. doi: 10.1016/j.urology.2020.06.060. Epub 2020 Jul 15. PMID: 32679271; PMCID: PMC8074340.
4. Norling M, Stenzelius K, Ekman N, Wennick A. High School Students' Experiences in School Toilets or Restrooms. *The Journal of School Nursing*. 2016;32(3):164-171.
5. Lewis MS, Snyder PJ, Pietrzak RH, Darby D, Feldman RA, Maruff P. The effect of acute increase in urge to void on cognitive function in healthy adults. Neurourol Urodyn. 2011 Jan;30(1):183-7. doi: 10.1002/nau.20963. PMID: 21058363.
6. Purvis KB, Cross DR, Dansereau DF, Parris SR. Trust-Based Relational Intervention (TBRI): A Systemic Approach to Complex Developmental Trauma. Child Youth Serv. 2013 Oct;34(4):360-386. doi: 10.1080/0145935X.2013.859906. PMID: 24453385; PMCID: PMC3877861
7. Waseem M, Nickerson AB. Identifying and Addressing Bullying. [Updated 2023 Dec 13]. In: StatPearls [Internet]. Treasure Island (FL): StatPearls Publishing; 2024 Jan-. Available from: https://www.ncbi.nlm.nih.gov/books/NBK441930/
8. Jadambaa A, Thomas HJ, Scott JG, Graves N, Brain D, Pacella R. Prevalence of traditional bullying and cyberbullying among children and adolescents in Australia: A

systematic review and meta-analysis. *Australian & New Zealand Journal of Psychiatry*. 2019;53(9):878-888. doi:10.1177/0004867419846393

9. Armitage R. Bullying in children: impact on child health. BMJ Paediatr Open. 2021 Mar 11;5(1):e000939. doi:10.1136/bmjpo-2020-000939. PMID: 33782656; PMCID: PMC7957129.
10. Winding, T.N., Skouenborg, L.A., Mortensen, V.L. *et al.* Is bullying in adolescence associated with the development of depressive symptoms in adulthood?: A longitudinal cohort study. *BMC Psychol* 8, 122 (2020). https://doi.org/10.1186/s40359-020-00491-5
11. Francis J, Trapp G, Pearce N, Burns S, Cross D. School Built Environments and Bullying Behaviour: A Conceptual Model Based on Qualitative Interviews. Int J Environ Res Public Health. 2022 Nov 30;19(23):15955. doi: 10.3390/ijerph192315955. PMID: 36498029; PMCID: PMC9738177.
12. Francis J, Sachan P, Waters Z, Trapp G, Pearce N, Burns S, Lin A, Cross D. Gender-Neutral Toilets: A Qualitative Exploration of Inclusive School Environments for Sexuality and Gender Diverse Youth in Western Australia. Int J Environ Res Public Health. 2022 Aug 15;19(16):10089. doi: 10.3390/ijerph191610089. PMID: 36011720; PMCID: PMC9407760.
13. Idsoe T, Dyregrov A, Idsoe EC. Bullying and PTSD symptoms. J Abnorm Child Psychol. 2012 Aug;40(6):901-11. doi: 10.1007/s10802-012-9620-0. PMID: 22391775.
14. Arseneault L, Bowes L, Shakoor S. Bullying victimization in youths and mental health problems: 'much ado about nothing'? *Psychol Med.* 2010 May;40(5):717-29. doi: 10.1017/S0033291709991383. Epub 2009 Sep 29. PMID: 19785920.
15. Centers for Disease Control and Prevention. (n.d.). *Bullying*. Centers for Disease Control and Prevention. https://www.cdc.gov/youth-violence/about/about-bullying.html
16. Burns, E, Student Reports of Bullying: Results from the 2019 School Crime Supplement to the National Crime Victimization Survey. *National Education Center for Statistic* (2022) https://nces.ed.gov/pubs2022/2022031.pdf
17. Patchin, J.W., & Hinduja, S. (2020). Tween Cyberbullying in 2020. Cyberbullying Research Center and Cartoon Network
18. Rose, C. A., & Gage, N. A. (2016). Exploring the involvement of bullying among students with disabilities over time. *Exceptional Children, 83*, 298-314

19. Assistant Secretary for Public Affairs (ASPA). (2021, June 2). *Who is at risk.* StopBullying.gov. https://www.stopbullying.gov/bullying/at-risk
20. Kaczkurkin, A.N., Raznahan, A. & Satterthwaite, T.D. Sex differences in the developing brain: insights from multimodal neuroimaging. *Neuropsychopharmacol* 44, 71–85 (2019)
21. Gurian, M., Henley, P., & Trueman, T. (2001). *Boys and girls learn differently!: A guide for teachers and parents.* Jossey-Bass
22. Erchull MJ. "You Will Find Out When the Time Is Right": Boys, Men, and Menstruation. 2020 Jul 25. In: Bobel C, Winkler IT, Fahs B, et al., editors. The Palgrave Handbook of Critical Menstruation Studies [Internet]. Singapore: Palgrave Macmillan; 2020. Chapter 31. Available from: https://www.ncbi.nlm.nih.gov/books/NBK565640/ doi: 10.1007/978-981-15-0614-7_31
23. Dai H. Youth Observation of E-Cigarette Use in or Around School, 2019. Am J Prev Med. 2021 Feb;60(2):241-249. doi: 10.1016/j.amepre.2020.07.022. PMID: 33353794; PMCID: PMC10074326.
24. Schmitt, M. L., Hagstrom, C., Gruer, C., Nowara, A., Keeley, K., Adenu-Mensah, N. E., & Sommer, M. (2024). "Girls May Bleed Through Pads Because of Demerits": Adolescent Girls' Experiences with Menstruation and School Bathrooms in the U.S.A. *Journal of Adolescent Research*, *39*(2), 511-536
25. Rose, A. J., Smith, R. L., Glick, G. C., & Schwartz-Mette, R. A. (2016). Girls' and boys' problem talk: Implications for emotional closeness in friendships. *Developmental Psychology, 52*(4), 629–639
26. Survey of school nurses reveals lack of bathroom policies and bladder health education 3/4 (2018, November 26) retrieved 1 July 2024 from https://medicalxpress.com/news/2018-11-survey-school-nurses-reveals-lack.html
27. American Psychiatric Association. (2022). Diagnostic and statistical manual of mental disorders (5th ed., text rev.). https://doi.org/10.1176/appi.books.9780890425787
28. Cass, Hilary (10 April 2024). "Final Report – Cass Review." *The Cass Review*. Archived from the original on 9 April 2024. Retrieved 10 April 2024. https://web.archive.org/web/20240409231432/https:/cass.independent-review.uk/home/publications/final-report/

29. Cohen, J. P. (2024, February 20). *Increasing number of European nations adopt a more cautious approach to gender-affirming care among minors*. Forbes. https://www.forbes.com/sites/joshuacohen/2023/06/06/increasing-number-of-european-nations-adopt-a-more-cautious-approach-to-gender-affirming-care-among-minors/
30. *Snapshot: LGBTQ equality by State*. Movement Advancement Project. (n.d.). https://www.lgbtmap.org/equality-maps
31. Ban on Puberty Blockers to be Made Indefinite on Experts Advice *Dept of Health and Social Care* Dec 2024 https://www.gov.uk/government/news/ban-on-puberty-blockers-to-be-made-indefinite-on-experts-advice
32. Sex and Gender in Research. *National Inst. Of Health* https://orwh.od.nih.gov/sex-gender/orwh-mission-area-sex-gender-in-research#card-1298
33. Marinov G, In Humans, Sex is Binary and Immutable, Acad. Quest. (2020) 33:279–288 DOI 10.1007/s12129-020-09877-8
34. Cretella MA, Rosik CH, Howsepian AA. Sex and gender are distinct variables critical to health: Comment on Hyde, Bigler, Joel, Tate, and van Anders (2019). Am Psychol. 2019 Oct;74(7):842-844. doi: 10.1037/amp0000524. PMID: 31580112. 32.
35. Drummond, K. D., Bradley, S. J., Badali-Peterson, M., & Zucker, K. J. (2008). A follow-up study of girls with gender identity disorder. *Developmental Psychology, 44*, 34–45
36. Wallien, M. S. C., & Cohen-Kettenis, P. T. (2008). Psychosex-ual outcome of gender-dysphoric children. *Journal of the American Academy of Child and Adolescent Psychiatry, 47,* 1413–1423
37. Kosky, R. J. (1987). Gender-disordered children: Does inpatient treatment help? *Medical Journal of Australia, 146,* 565–569
38. Green, R. (1987). *The "sissy boy syndrome" and the devel-opment of homosexuality*. New Haven, CT: Yale University Press
39. Davenport, C. W. (1986). A follow-up study of 10 feminine boys. *Archives of Sexual Behavior, 15,* 511–517
40. Zuger, B. (1984). Early effeminate behavior in boys: Out-come and significance for homosexuality. *Journal of Nervous and Mental Disease, 172,* 90–97
41. Money, J., & Russo, A. J. (1979). Homosexual outcome of discordant gender identity/role: Longitudinal follow-up. *Journal of Pediatric Psychology, 4,* 29–41

42. Zuger, B. (1978). Effeminate behavior present in boys from childhood: Ten additional years of follow-up. *Comprehensive Psychiatry, 19,* 363–369

43. Lebovitz, P. S. (1972). Feminine behavior in boys: Aspects of its outcome. *American Journal of Psychiatry, 128,* 1283–128

44. Steensma, T. D., McGuire, J. K., Kreukels, B. P. C., Beekman, A. J., & Cohen-Kettenis, P. T. (2013). Factors associated with desistence and persistence of childhood gender dysphoria: A quantitative follow-up study. *Journal of the American Academy of Child and Adolescent Psychiatry, 52,* 582–590

45. Singh, D. (2012). *A follow-up study of boys with gender identity disorder*. Unpublished doctoral dissertation, University of Toronto

46. Hembree WC, Cohen-Kettenis PT, Gooren L, Hannema SE, Meyer WJ, Murad MH, Rosenthal SM, Safer JD, Tangpricha V, T'Sjoen GG. Endocrine Treatment of Gender-Dysphoric/Gender-Incongruent Persons: An Endocrine Society Clinical Practice Guideline. J Clin Endocrinol Metab. 2017 Nov 1;102(11):3869-3903. doi: 10.1210/jc.2017-01658. Erratum in: J Clin Endocrinol Metab. 2018 Feb 1;103(2):699. doi: 10.1210/jc.2017-02548. Erratum in: J Clin Endocrinol Metab. 2018 Jul 1;103(7):2758-2759. doi: 10.1210/jc.2018-01268. PMID: 28945902.

47. Olson KR, Durwood L, Horton R, Gallagher NM, Devor A. Gender Identity 5 Years After Social Transition. Pediatrics. 2022 Aug 1;150(2):e2021056082. doi: 10.1542/peds.2021-056082. PMID: 35505568; PMCID: PMC9936352

48. Hall, Ruth & Taylor, Johanna & Hewitt, Catherine & Heathcote, Claire & Jarvis, Stuart & Langton, Trilby & Fraser, Lorna. (2024). Impact of social transition in relation to gender for children and adolescents: a systematic review. Archives of disease in childhood. 10.1136/archdischild-2023-326112.

49. Rene Seiger, Andreas Hahn, Allan Hummer, Georg S. Kranz, Sebastian Ganger, Michael Woletz, Christoph Kraus, Ronald Sladky, Alexander Kautzky, Siegfried Kasper, Christian Windischberger, Rupert Lanzenberger,
Subcortical gray matter changes in transgender subjects after long-term cross-sex hormone administration,Psychoneuroendocrinology, Volume 74,2016, Pages 371-379, ISSN 0306-4530, https://doi.org/10.1016/j.psyneuen.2016.09.028.

50. Nota, Nienke et al. Occurrence of Acute Cardiovascular Events in Transgender Individuals Receiving Hormone Therapy 2019 Circulation, p 1461-1462 doi:10.1161/CIRCULATIONAHA.118.038584 https://www.ahajournals.org/doi/abs/10.1161/CIRCULATIONAHA.118.038584
51. Erikson, E. H., & Erikson, J. M. (1998). *The Life Cycle Completed (Extended Version)*. W. W. Norton & Company
52. Paris, J., Ricardo, A., Rymond, D., (2021) *Understanding the Whole Child: Prenatal Development through Adolescenc*e, College of the Canyons
53. Casey, B. J. (2013, April 27). *BJ Casey presents The Teen Brain: Implications for Legal Responsibility [Conference Presentation]*. The Future of Law and Neuroscience. Chicago, IL,United States. https://www.lawneuro.org/aba/ChicagoABA_BriefingBook_PostConference.pdf
54. Casey, B. J. (2015). Beyond Simple Models of Self-Control to Circuit-Based Accounts of Adolescent Behavior. *Annual Review of Psychology*, *66*(1), 295–319
55. Rawee, P., Rosmalen, J.G.M., Kalverdijk, L. *et al.* Development of Gender Non-Contentedness During Adolescence and Early Adulthood. *Arch Sex Behav* 53, 1813–1825 (2024)
56. DeChants, J. P., Price, M. N., Nath, R., Hobaica, S., & Green, A. E. (2024). Transgender and nonbinary young people's bathroom avoidance and mental health. *International Journal of Transgender Health*, 1–9
57. Price-Feeney, M et al. Impact of Bathroom Discrimination on Mental Health Among Transgender and Nonbinary Youth. *Journal of Adolescent Health.* 2021 Jun: Vol. 68, Issue 6
58. Giovanardi G, Vitelli R, Maggiora Vergano C, Fortunato A, Chianura L, Lingiardi V, Speranza AM. Attachment Patterns and Complex Trauma in a Sample of Adults Diagnosed with Gender Dysphoria. Front Psychol. 2018 Feb 1;9:60. doi: 10.3389/fpsyg.2018.00060. PMID: 29449822; PMCID: PMC579970
59. Bryant RA. Post-traumatic stress disorder: a state-of-the-art review of evidence and challenges. World Psychiatry. 2019 Oct;18(3):259-269. doi: 10.1002/wps.20656. PMID: 31496089; PMCID: PMC673268

60. Hughes M, The WPATH Files, *Environmental Progress.* https://environmentalprogress.org/big-news/wpath-files

61. Guardian News and Media. (2024, March 9). *Why disturbing leaks from US Gender Group WPATH ring alarm bells in the NHS | Hannah Barnes*. The Guardian. https://www.theguardian.com/commentisfree/2024/mar/09/disturbing-leaks-from-us-gender-group-wpath-ring-alarm-bells-in-nhs

62. The Economist. (2024, March 5). *Leaked discussions reveal uncertainty about transgender care*. https://web.archive.org/web/20240314150141/https:/www.economist.com/united-states/2024/03/05/leaked-discussions-reveal-uncertainty-about-transgender-care

63. Ghorayshi, A. (2024, June 25). *Biden officials pushed to remove age limits for trans surgery, documents show*. The New York Times. https://www.nytimes.com/2024/06/25/health/transgender-minors-surgeries.html

64. Coleman, E., Radix, A. E., Bouman, W. P., Brown, G. R., de Vries, A. L. C., Deutsch, M. B., Arcelus, J. (2022). Standards of Care for the Health of Transgender and Gender Diverse People, Version 8. *International Journal of Transgender Health*, *23*(sup1), S1–S259. https://doi.org/10.1080/26895269.2022.2100644

65. Baker KE, Wilson LM, Sharma R, Dukhanin V, McArthur K, Robinson KA. Hormone Therapy, Mental Health, and Quality of Life Among Transgender People: A Systematic Review. J Endocr Soc. 2021 Feb 2;5(4):bvab011. doi: 10.1210/jendso/bvab011. PMID: 33644622; PMCID: PMC7894249.

66. de Vries AL, McGuire JK, Steensma TD, Wagenaar EC, Doreleijers TA, Cohen-Kettenis PT. Young adult psychological outcome after puberty suppression and gender reassignment. Pediatrics. 2014 Oct;134(4):696-704. doi: 10.1542/peds.2013-2958. Epub 2014 Sep 8. PMID: 25201798.

67. Kuper et al.,Body Dissatisfaction and Mental Health Outcomes of Youth on Gender-Affirming Hormone Therapy. *Pediatrics* April 2020; 145 (4): e20193006. 10.1542/peds.2019-3006

68. Tollit MA, Pace CC, Telfer M, Hoq M, Bryson J, Fulkoski N, Cooper C, Pang KC. What are the health outcomes of trans and gender diverse young people in Australia? Study protocol for the Trans20 longitudinal cohort study. BMJ Open. 2019 Nov

4;9(11):e032151. doi: 10.1136/bmjopen-2019-032151. PMID: 31690608; PMCID: PMC6858096.

69. Expósito-Campos P, Salaberria K, Pérez-Fernández JI, Gómez-Gil E. Gender detransition: A critical review of the literature. Actas Esp Psiquiatr. 2023 May;51(3):98-118. Epub 2023 May 1. PMID: 37489555; PMCID: PMC10803846.
70. Taylor, A.B., Chan, A., Hall, S.L., Saewyc, E. M., & the Canadian Trans & Non-binary Youth Health Survey Research Group (2020). Being Safe, Being Me 2019: Results of the Canadian Trans and Non-binary Youth Health Survey. Vancouver, Canada: Stigma and Resilience Among Vulnerable Youth Centre, University of British Columbia.
71. Guidance on budget proviso 1.120. (n.d.). https://ed.sc.gov/newsroom/school-district-memoranda-archive/guidance-on-budget-proviso-1120/guidance-on-budget-proviso-1120-memo/
72. Boe v. Marshall, 2:22-cv-00184, ECF No. 557-4 at 11-12 (M.D. Ala. May 27, 2024)

EXHIBIT A

Geeta Nangia, M.D.

Board Certified in Adult Psychiatry and Child & Adolescent Psychiatry

Phone (864) 318-9930 • drnangia@jothgreenville.com

EDUCATION

Boston University School of Medicine — **Boston, MA**
Doctor of Medicine — May 2002

Boston University — **Boston, MA**
Bachelor of Arts Biochemistry, Molecular Biology — May 1998

INTERNSHIP AND RESIDENCY

Medical University of South Carolina — **Charleston, SC**
Child and Adolescent Psychiatry Fellow — June 2007

Medical University of South Carolina — **Charleston, SC**
General Psychiatry Resident — June 2006

EXPERIENCE

Journey of the Heart, LLC — **Piedmont, SC**
Child and Adolescent Psychiatrist — **2022-present**
Providing behavioral health care for children and families, specializing in complex cases and trauma.

Known and Loved — **Greenville, SC**
CEO, Founder — **2021-2023**
Educating, equipping, and supporting the growth of healthy families in our region. Providing mental health education and support to parents, with a special focus on foster and adoptive families. Helping parents to establish secure and healthy attachments with children, thereby improving their long-term mental health outcomes. Laying the groundwork for schools, community service organizations, first responders, medical providers, and families to become educated and informed about Trust Based Relational Intervention (TBRI) and the importance of a trauma informed approach in working with children and youth.

Parkside Pediatrics Behavioral Health — **Greenville, SC**
Child & Adolescent Psychiatrist — **2019-2022**
Opened and developed Parkside Behavioral Health at Parkside Pediatrics for Upstate SC children and families. Consulted on child and adolescent mental

health cases for a large pediatric group with multiple sites. Coordinated care with local schools in order to provide accommodations and support for children and youth. Provided parent and provider education classes. Specialized in complex cases and trauma.

Carolina Family Services **Greenville, SC**
Staff Psychiatrist **2016-2018**
Provided behavioral health care for children and families.

Edward Via College of Osteopathic Medicine **Spartanburg, SC**
Community Clinical Faculty and Lecturer **2015-2020**
Taught medical students about the principles of childhood development and clinical psychiatry.

Carolina Center for Behavioral Health **Greer, SC**
Staff Psychiatrist **2015-2016**
Provided psychiatric services in an inpatient unit for children and adults of all ages who were in need of acute crisis stabilization and mental health services. Provided medication management for intensive outpatient programs and addiction programs.

The Well Planted Child, LLC **Bellefonte, PA**
Child and Adolescent Psychiatrist **2014- 2015**
Provided school based psychiatric consultation services for children with behavioral and/or academic difficulties. Assisted teachers in developing effective classroom management strategies and in creating accommodations for children with special needs. Provided care for the BLAST Intermediate Unit which serves multiple school districts in the region.

Centre County Christian Academy **Bellefonte, PA**
Kindergarten Teacher **2014-2015**
Primary teacher for morning academics at a private school for an academic year. Assessed classroom modifications and strategies typically recommended by clinical mental health professionals to assess their efficacy. Provided consulting services for children with special needs or behavioral issues.

Diversified Treatment Alternatives **Lewisburg, PA**
Child and Adolescent Psychiatrist **2012- 2015**
Provided evaluation and treatment for children in two residential care facilities. Provided care for a high risk youth population with a special focus on sexual abuse, sexual perpetration, trauma, and addiction. Supervised treatment teams who were providing trauma focused treatment for children. Provided psychiatric care for children and adolescents in a partial hospitalization program.

Sunpointe Health **State College, PA**
Child and Adolescent Outpatient Psychiatrist **2011-2012**
Adult Psychiatry Inpatient Attending Psychiatrist
Provided inpatient adult psychiatric evaluation and treatment in an acute care setting at Mount Nittany Medical Center. Taught medical students during their psychiatry rotation. Provided outpatient psychiatric care for children and adolescents.

Palmetto Christian Psychiatry **Charleston, SC**
Private Practice Psychiatrist **2010-2011**
Provided psychiatric evaluation and treatment for individuals of all ages. Provided individual and family psychotherapy.

Susquehanna Health Medical Group **Williamsport, PA**
Child and Adolescent Psychiatrist **2007-2010**
Adult Psychiatry Inpatient Attending Psychiatrist
Spearheaded The Department of Child Psychiatry at a local community hospital with a mission to serve children who otherwise did not have access to mental health care. Performed evaluations and treatment for children and adults with a broad spectrum of mental health and developmental disorders. Actively conducted family therapy, psychodynamic therapy, cognitive behavioral therapy, play therapy, as well as group therapy. Provided medication management. Worked with outlying community agencies in all arenas, consulting with and for schools, social services, court systems, pediatricians and primary care physicians, wrap around services, and partial hospitalization programs to coordinate care for children. Taught in the family medicine residency program weekly. Supervised staff therapist and psychiatric nurse. Provided courtroom testimony in custody and abuse cases. Performed on call duties on the adult inpatient unit.

Carolina Center for Behavioral Health **Greer, SC**
Staff Psychiatrist **2006-2007**
Served in a weekend moonlighting position servicing an adult inpatient population while in fellowship training. Managed crisis calls, multiple levels of acuity, and geriatric patients on weekends during my fellowship.

HONORS

Susquehanna Physician Appreciation Award, 2008
Family Medicine Residency Teaching Certificate 2008
Circle of Excellence in Teaching 2003
Ruth Hunter Johnson Prize in Psychiatry 2002

LICENSURES

Pennsylvania Medical License MD 431126 inactive
South Carolina Medical License MD 26215 active

CERTIFICATIONS

American Board of Psychiatry and Neurology, General Psychiatry
American Board of Psychiatry and Neurology, Child and Adolescent Psychiatry

EXHIBIT B

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

JOHN DOE, et al.,
Plaintiffs,
vs. CASE NO.: 2:24-cv-06420-RMG
STATE OF SOUTH CAROLINA, et al.,
Defendants.

VIDEOTAPED (Appearance via Zoom)
DEPOSITION OF: DR. STEPHANIE L. BUDGE
DATE: December 19, 2024
TIME: 12:31 p.m.
LOCATION: Madison, Wisconsin
TAKEN BY: Counsel for the Defendants
REPORTED BY: Mary K. Stepp, Court Reporter
(Appearance via Zoom)

APPEARANCES OF COUNSEL:

ATTORNEY FOR PLAINTIFFS:

WARDENSKI, P.C.
JOSEPH WARDENSKI, ESQUIRE
134 West 29th Street, Suite 709
New York, New York 10001
joe@wardenskilaw.com

ATTORNEY FOR DEFENDANTS STATE OF SOUTH CAROLINA, SOUTH CAROLINA BOARD OF EDUCATION, SOUTH CAROLINA DEPARTMENT OF EDUCATION, SOUTH CAROLINA SUPERINTENDENT OF EDUCATION:

NELSON MULLINS RILEY & SCARBOROUGH
MILES COLEMAN, ESQUIRE
2 West Washington Street, #400
Greenville, South Carolina 29601
miles.coleman@nelsonmullins.com

ATTORNEY FOR DEFENDANTS SOUTH CAROLINA DEPARTMENT OF EDUCATION, SOUTH CAROLINA STATE BOARD OF EDUCATION, STATE SUPERINTENDENT OF EDUCATION, BERKELEY COUNTY SCHOOL DISTRICT, ANTHONY DIXON:

SOUTH CAROLINA OFFICE OF THE ATTORNEY GENERAL
JOSEPH D. SPATE, ESQUIRE
ASSISTANT DEPUTY SOLICITOR GENERAL
1000 Assembly Street
Columbia, South Carolina 29201
josephspate@scag.gov

ALSO PRESENT:

Roosevelt Harrison, III, Videographer

(INDEX AT REAR OF TRANSCRIPT)

THE VIDEOGRAPHER: All right. Good afternoon. The time on the monitor is 12:31 p.m. Today's date is December 19th, 2024. It's the video-recorded deposition of Dr. Stephanie L. Budge in the matter of John Doe, et al., versus the State of South Carolina, et al. This deposition is being conducted remotely through Zoom.

Counsel, please introduce yourselves, after which our court reporter will swear in the doctor.

MR. WARDENSKI: Hello. This is Joseph Wardenski from Wardenski, P.C. for Plaintiffs.

MR. SPATE: This is Joseph Spate, and I represent the State of South Carolina, the South Carolina Board of Education, South Carolina Department of Education, and South Carolina Superintendent of Education, and I am with the South Carolina Attorney General's Office.

MR. COLEMAN: This is Miles Coleman. I represent the South Carolina Department of Education, the South Carolina State Board of Education, the State Superintendent of Education, Berkeley County School District, and Anthony Dixon.

(Witness sworn.)

THE REPORTER: I'm sorry, Mr. Spate, are

you speaking? Because I couldn't hear you.

MR. SPATE: Can anybody hear me now?

THE REPORTER: Now I can.

MR. SPATE: Very good. I think the audio switched speakers for some reason, so I think we should be good to go.

DR. STEPHANIE L. BUDGE,

having been duly sworn, testified as follows:

EXAMINATION

BY MR. SPATE:

Q. Could you please state your name for the record?

A. Stephanie Budge.

Q. Thank you. And we -- I introduced myself a little bit earlier, but my name is Joseph Spate. I'm with the South Carolina Attorney General's Office and I'm going to be taking your deposition today.

And I know that you're familiar with depositions, but I would like to just go through some brief standard, preliminary matters before we proceed.

Now, have you ever given a video deposition before?

A. Yes.

Q. One thing that we'll need to be mindful of

is just to be careful to not speak over one another, so we have a clear record.

A. (Nods head.)

Q. But -- so if you wouldn't mind, just please wait until I finish asking a question before answering, and then I'll try not to interrupt your answer.

And, also, please give verbal answers to questions instead of nodding your head or saying uh-huh or huh-uh. Does that make sense?

A. Yes.

Q. Now, if during the deposition you need any kind of clarifications, definitions or explanations of any words or any questions or documents presented during the course of this deposition, our local court rules require that you ask me, rather than your own counsel.

Does that make sense?

A. Yes.

Q. Our local court rules also prohibit you from engaging in any off-the-record conferences with attorneys during the deposition or during breaks or recesses, except for the purpose of deciding whether to assert a privilege, make an objection or move for a protective order.

Does that make sense?

A. Yes.

Q. Now, if you do talk with an attorney off the record to discuss whether to assert a privilege, make an objection or move for a protective order, I do have the right to ask you about what subjects were discussed to see if there was any witness coaching and to what extent.

Does that make sense?

A. Yes.

Q. And if an attorney objects at some point during this deposition, objects to the form of the question that you asked, you can continue to answer the question.

Does that make sense?

A. Yes.

(Exhibit No. 1 was marked for identification.)

BY MR. SPATE:

Q. Very good. Thank you, Dr. Budge. I would like to bring to your attention a document that has been marked as Exhibit 1 to your deposition that I believe was sent to you. Do you have access to that document No. 1?

A. Yes, that's the declaration?

Q. Yes. And can you tell me, is this your expert declaration for the Doe versus South Carolina case that we're a part of right now?

A. It is.

Q. And can you tell me whether this declaration is a complete and accurate statement of the opinions that you intend to give in this case in relation to the Plaintiff's Motion for Preliminary Injunction and the Motion for Class Certification?

A. It is.

Q. So, to make sure that I understand, too, any opinions that you have that are relevant to the motions would be stated in this declaration; is that correct?

A. Well, I -- I was asked to opine on several different pieces that I listed in the document. If there are other things that you ask me about in here, I can also opine on those things as well.

Q. That makes sense. And if there are any authorities that you relied on in forming the opinions that are stated in your declaration, they would be included within that document, correct?

A. Correct.

Q. I would like to draw your attention to paragraph 3 of your declaration. Just let me know

when you've pulled that up.

A. Yes, I'm there.

Q. Now, the paragraph begins by saying, "I have been retained by counsel for the plaintiffs in the above-captioned matter to provide expert opinions about," and then it lists six topics; is that correct?

A. That's correct.

Q. Okay. Are those the opinions that you're offering in this case, at this time, in relation to the Motion for Preliminary Injunction and Class Certification?

A. That's correct.

Q. And at this time --

MR. WARDENSKI: Counsel, can I just clarify for the record, and I think your question suggests this, that during the merits phase of the litigation, Dr. Budge may be asked to provide additional testimony.

MR. SPATE: No, that's a fair clarification. I think the main -- the main interest here is wanting to make sure that we have an understanding of all of the opinions that will be used to support these motions, at this time. And that's -- that's my understanding.

BY MR. SPATE:

Q. Is that your understanding as well, Dr. Budge?

A. Yes.

Q. Okay. Thank you. And at this time, you don't have any other opinions, other than those that are stated in those -- in that declaration, correct?

A. Uhm, I provided an opinion on the six components that were included in the document.

Q. Right. And those -- those are all the opinions that you're providing in this case, at this time?

A. Okay. Correct.

Q. And to be clear, too, you did not examine the minor plaintiff in this case, correct?

A. Correct.

Q. And you have not reviewed or assessed any of the minor plaintiff's medical records, have you?

A. I have not.

Q. So you don't have any -- any personal knowledge about the minor plaintiff, based on any personal examination of the minor plaintiff or the minor plaintiff's medical records?

A. I do not have any information that's personally related. The information I have may

relate to the plaintiff, but none of the opinions that I have are directly about the plaintiff from anything I know about them.

Q. Right. You don't have any -- yes, so you don't have any personal knowledge about the minor plaintiff.

A. Correct.

Q. That's fair. And would it also be fair to say that you're not giving any opinions about any of the particular plaintiffs in this case?

A. The information that I'll be providing from the report does apply to the plaintiffs, but it's not about each person specifically.

Q. That's fair. Have you ever met with or spoken to one of the declarants in this case, named Lisa Johnson?

A. No.

Q. And have you ever met Lisa Johnson's child?

A. No, not that I know of for either of them.

Q. Sure. And so I'm guessing you don't have any -- any expert opinions that are relating to either Lisa Johnson or her child, specifically?

A. No, not that it won't be generally covered in the information that I'm providing.

Q. That's fair. And -- and just to kind of -- and I don't -- I promise, I'm not trying beat a dead -- beat a dead horse, I'm just trying to make sure I understand, just kind of to tie a bow on it. Would it be fair to say that your opinions are general opinions about science and medicine and psychology, rather than specific opinions about specific individuals?

A. That's correct.

Q. Okay. Are you licensed to practice psychology?

A. I am.

Q. And are you licensed in South Carolina?

A. I am not.

Q. Have you ever practiced psychology in South Carolina?

A. I have not.

Q. Have you ever been disqualified as an expert in any case?

A. No.

Q. Have you reviewed the full extent of the literature on the topic of gender transition in forming your opinions in this case?

A. I've reviewed the widest amount of literature that I can imagine and that most people

have done. So what I've reviewed is the majority of the literature. And I'm very familiar with the literature.

Q. Do you agree that scientists should take into account all the relevant information, when making conclusions?

A. I agree that it's important to have a wide range of understanding of the information and to have knowledge of many different ways of being able to understand concepts.

Q. That's fair. And can you explain the methodology that you use to come up or to come to your conclusions in your report?

A. Yes. So, in order to provide literature for the different components that I was asked to opine on, I used different types of academic search engines and used different search terms that are typically used for finding out information about specific pieces.

I also reviewed systematic reviews for -- to ensure that I was actually including relevant literature. And those are very typical practices that are used.

I've also conducted my own systematic reviews before and have knowledge of how to do that,

when you are engaging in literature searches.

Q. And so would you say that if -- if -- if a piece of literature was not relevant to your opinions, then it would not have been included in this report?

A. Sometimes there are literature that are -- you know, it might be a piece that would have shown up, but the methodology was unsound and so I might not include an article, if the article has unsound methodology.

So there are times like that that, you know, I would only include articles that actually were published by reputable sources and that also used methodology that was rigorous and scientific.

Q. Are -- are you familiar with the evidence pyramid?

A. Yes.

Q. And my understanding of the evidence pyramid is that it ranks the quality of evidence, generally speaking. It ranks the quality evidence from weakest to strongest, is that -- is that your understanding as well?

A. Yes.

Q. Okay. And -- and my understanding is also that the weakest forms of evidence are things like

expert opinion and background information, while the strongest forms of evidence are systematic reviews. Is that -- is that your understanding as well?

A. Yes. There's some nuance to some of those pieces, but yes.

Q. So, if there was a systematic review that was relevant to the topic of gender transition, then that is something that you would have included in this report, correct?

A. I did include some systematic reviews in the report. And also I used systematic reviews to look at the types of literature that they also included to make sure that I was doing a comprehensive search of the literature.

Q. Is -- is reliability of evidence a necessary ingredient for scientific research?

A. Reliability is often included as a term for quantitative research. And so there are different types of research that are conducted. And reliability is included in quantitative research.

So in quantitative research, reliability is a concept that is necessary for those types of studies. It's different for qualitative research.

Q. And so in quantitative research, reliability would be a necessary ingredient then; is

that right?

A. You know, it's -- there are some pieces that are done in certain types of research that perhaps there would be an example of a specific type of quantitative research, where I would say, Well, reliability in that instance isn't as necessary and central to the hypotheses or research questions, but in general, yes.

Q. Can you think of -- I'm just -- I don't mean to go on a rabbit trail, but just so I can understand better. You know, what is an example of a -- of a type of quantitative research where reliability isn't really that important?

A. So, reliability is often a sta- -- we often statistically look at reliability to determine if a measure, for example, is reliable. And there's usually something called Cronbach's alpha that's used to determine the reliability of a measure. So that's usually what we're talking about, when we're talking about reliability and scientific data.

And, for example, if there's one item that's included in a measure, you can't get reliability statistics on a one-item measure. So reliability is actually calculated when there are multiple items in a measure and how they can

intercorrelate with one another.

So just to say, I think, there are some examples in which reliability wouldn't be calculated.

Q. In any of the research that was done or -- let me -- let me start over.

In any of the research that you reviewed for your declaration, was reliability a necessary ingredient in those types of research?

A. The majority of the studies that I included do include -- that are quantitative, include reliability statistics. There are some that use the single-item measures that wouldn't have reported reliability because of the limitations of how single-item measures are used. But it's really very typical ways of -- that public health data are included.

Q. I want to just ask a general question, kind of pivoting a little bit. Do you consider yourself to be an advocate or an activist for, you know, gender transition as a cause?

A. So, in my field as a psychologist, the American Psychological Association has guidelines for the practice of working with transgender people. And one of the primary ethical guidelines is that if transgender people are experiencing discrimination,

that the field asks us to be advocates and that it's an ethical duty to be an advocate, if we see that there are people or a group of people who are experiencing discrimination. And so I follow the ethical guidelines according to my field, as an advocate in those instances.

Q. Would you say that the only reason that you are an advocate in those fields are because you're required to?

A. I wouldn't say it's because I'm required to. I think that -- I agree with the reasoning for this. I agree with the ethics suggestion from the American Psychological Association.

Q. And what -- what kinds of advocacy or activism have you been a part of in your field?

MR. WARDENSKI: Objection to form. You can go ahead.

THE WITNESS: So, I would say there are different types of advocacy. I think sometimes the advocacy might look like taking academic information that we typically have and translating it into easier to understand language and writing that information out, so that it's easier for people to access. That's one particular example.

(Exhibit No. 2 was marked for

identification.)

BY MR. SPATE:

Q. I'd like to show you another document that it should be listed as Exhibit 2. And if you wouldn't mind pulling that up. It should be an article from -- well, it's an article about your work at UW Madison's Trans Research Lab entitled, "Changing the Culture." Is that what appears to be in front of you?

A. Yes.

Q. Okay. And if you wouldn't mind scrolling down to page number 4, kind of near the bottom of the page.

A. Uh-huh.

Q. Where it starts with the words, "UW Madison Trans Research Lab." It appears to say, "UW Madison's Trans Research Lab doesn't only work on research members" -- "doesn't only work on research. Members of the lab aren't shy about their advocacy and activism, something that is unusual in research."

Do you see where it says that?

A. I do.

Q. Do you agree that that -- with that representation that you engage in advocacy and active -- and activism?

A. I would describe myself more as an advocate. That's kind of how I use the terms most often. And I think that's accurate, yes.

Q. Okay. And it says that that's something that's unusual in research. Do you agree with that as well?

A. I don't know that I would necessarily agree with that. I think that was the opinion of the person who was writing the article.

Q. If we go down to the next paragraph, at the bottom of page 4 and into page 5 it says, "Budge isn't concerned about tainting the lab's work or how some might view it as biased." And then quotes you saying, "I think all research is biased in some way, shape or form. It's just what you do to ensure that all of that is out on the table," Budge says. Do you see that?

A. I do.

Q. Did I read that correctly?

A. It seemed correct.

Q. And then two paragraphs down it says -- starting with, "Aside from its research." It said, "Aside from its research, lab members meet once a wake" -- "once a week to engage in activism."

Do you see that?

A. I do.

Q. And do you -- do you agree with that statement that -- is that an accurate statement?

A. I mean, I would say -- I would describe more of what we do as advocacy. I think some people might define it as activism or some of the journals might call it activism.

Q. Even if you weren't engaging in the research and the clinical work that you're doing, would you still be engaging in that activism?

MR. WARDENSKI: Objection, calls for speculation. You can answer, if you can.

THE WITNESS: Yeah, I actually think that that's an impossible question to answer. I think because of the research that I do and because of the clinical work that I do, I understand the concepts deeply. And I interact all the time with people who are experiencing discrimination. So it's hard -- it's hard to answer that question. This is the only experience I have.

BY MR. SPATE:

Q. If during your clinical work you're presented with compelling evidence that changed your understanding of how gender transition works, would that change your opinions about gender transition?

A. I think if there was rigorous evidence-based science that was presented to me, I would take that into account and look at it and look at the data and to see what that meant for the information that was at hand.

Q. And would you agree that your opinions are based on the science? So if the science indicated something different, than your opinions would follow the science; is that right?

A. I mean, yes. My opinions do follow the science.

Q. Okay. I'd like to turn back to your declaration, if you wouldn't mind. If we go back to paragraph 3 of your declaration. And let's see, I think the first topic under sub (a) says, "The psychological understanding of gender identity and what it means to be transgender;" is that correct?

A. That's correct.

Q. And just to kind of summarize, too, this is one of the topics that you say you were retained to provide expert opinions about, right?

A. Correct.

Q. On that topic, I wanted to move down to paragraph 18 of your declaration. And paragraph 18 says, "The term gender identity is a well established

concept in psychology and medicine, referring to a person's internal or psychological sense of being male, female, both or neither. All human beings have a gender identity. People" -- "people usually begin to explore and understand their gender identity around the age of 3 with some variation, although some transgender individuals may not begin to recognize or express their gender identity until later in life."

Did I read that correctly?

A. Yes.

Q. Now, what -- what evidentiary support did you cite for those assertions?

A. Uh-huh. So, these are common definitions that are used within major medical and psychological organizations. And so these are the general ways that these organizations talk about and think about gender identity.

Q. You didn't cite to any -- any of those sources, did you?

A. I cite the -- some of the sources throughout the declaration.

Q. But did you cite them for the principles that you mentioned here?

A. I did not include a citation in paragraph

18.

Q. Okay. But when you say that the concept of gender identity is well established, do you mean that there's consensus on this issue in the scientific community?

A. The major medical and psychological organizations have provided these as definitions. And, therefore, there's consensus from the organization to provide those definitions.

Q. And are those major medical organizations throughout the world or just in America?

A. I would say right now I'm primarily focusing on ones in the United States.

Q. Have you reviewed other, you know, medical organizations on an international level, including, you know, the health -- healthcare authorities in those countries?

A. As a general practice, I'm most familiar with ones in the United States.

Q. Do -- do the major medical organizations throughout the world, are they relevant to your understanding of -- of these topics?

A. I think it depends on what it is that I'm doing and whether or not its relevant. I do belong to World Professional Association of Transgender

Health. And I'm familiar with the guidelines that are outlined by WPATH.

So, for example, I do have some familiarity with international organizations in that context. I think it depends on what might be -- what the research might be at hand or what the scenario could be.

Q. I'd like to move down to paragraph 19, right below. And it reads: "Birth. The sex of infants is typically assigned as male or female based on external genitalia. Typically, individuals born with the external physical characteristics commonly associated with males identify as men and experience themselves as male. And individuals born with the external physical characteristics commonly associated with females identify as women and experience themselves as female.

However, for transgender individuals, this is not the case. For transgender individuals, their internal sense of their own sex, that is, their gender identity, differs from the sex they were assigned at birth."

Did I read that correctly?

A. Yes.

Q. And what -- what evidentiary support did

you cite for those assertions in your declaration?

A. I did not include a citation in that paragraph either. In my experience in my field, this is just -- these are commonly known ways of thinking and talking about gender identity and sex. But a lot of the citations that I do include throughout the declaration would support this information.

Q. Well, you know, there are other areas of your declaration where it seems like you would say there is common understanding in your field, but you do provide citations. Why did you provide citations in those areas, but not here?

A. Typically, in a declaration I'm providing citations when I'm talking about a specific study. That is most often when I'd be including citations. But, also, I think especially in this instance, where these are the common ways that we think about these things in my field, it's less relevant to include citations.

Q. And reading now to paragraph 20. Paragraph 20 reads, "Every individual's sex is multifaceted and composed of many distinct biologically influenced characteristics, including, but not limited to, chromosomal make-up, hormones, internal and external reproductive organs, secondary

sex characteristics, and gender identity. Where there is a divergence between these characteristics, gender identity is the most important and determinative factor -- determinative factor in determining one's sex.

Defining a person's biological sex based solely on external physical characteristics and chromosomes is inaccurate because there are a multitude of factors that contribute to one's sex."

Did I read that correctly?

A. Yes.

Q. And, once again, did you provide any evidentiary support for those assertions?

A. I did not. It's similar to the previous paragraphs, where these are commonly understood ways of understanding this in my field.

Q. For purposes of this declaration, because no authorities are cited in this paragraph, would you agree that those are -- those opinions are expert opinion?

A. I would say that these are -- this information is based on a large body of work.

Q. But you don't cite to a large body of work for those paragraphs, do you?

A. There are no citations in the paragraphs.

Q. So, as it stands in the declaration, because there's no support listed for them, then those constitute your expert opinion; is that right?

A. It's an expert opinion that's based on a field's understanding.

Q. Okay. Thank you. Moving to another -- pivoting it just a little bit, I have a question for you. Is there a consensus in the medical and psychological community regarding a definition of what it means to be transgender?

A. There is a typical definition of somebody who's transgender, yes.

Q. And what is that definition?

A. That it's somebody whose gender identity is different from or incongruent with the sex that they were assigned when they were born.

Q. If you look at paragraph 22 of your declaration, which is on pages 7 through 8. Let's see here, 22. It says, "Unlike cisgender people" -- sorry. "Unlike cisgender, people whose assigned sex at birth is aligned with their general identity, children and adolescents, transgender children in adolescents experience a pervasive, consistent, persistent, and insistent sense of being a sex different from the sex assigned to them;" is that

right?

A. That's correct.

Q. In your opinion, can gender be fully fluid?

MR. WARDENSKI: Objection to form.

THE WITNESS: There are some people who can have fluid gender. And that might be an identity that they have as somebody who is gender fluid. But in general, the people who I work with, when they come to my office and they say, I'm trans, that that -- that there isn't a fluidity in that, in the experiences that I've had clinically with people. And, in general, when we study identity trajectories for transgender youth, for example, that it's -- that that gen- -- like having a lot of fluidity is also not something that is super common for them either. It's possible. There are some kids who will have that. But that's not the majority of children or adults.

Q. Do you have any -- any idea from your research about kind of the percentage of adolescents whose gender can or is fluid?

A. I would have to look at those data. I don't have the exact numbers in front of me. But it's a small portion. It's not the majority.

Q. And you say that gender identity or that this transgender experience is one that's pervasive, consistent, persistent, and insistent, but it's an internal sense, right?

A. Correct.

Q. Can an internal sense change over time?

A. It is possible to have an internal sense change over time. I mean, human beings have identity shifts throughout -- in different ways throughout their lifetimes. That's part of how psychology works, and especially for adolescents. But that being said, that just because that's something that, you know, human beings kind of generally experience across lots of different identities, that for the work that we do with transgender adolescents that they do need to demonstrate some type of persistence and insistence to be able to be supported in that process of, you know, moving through social transition pieces and potentially medical transition pieces, if that is something that is needed for that particular adolescent.

So just to say, I think, the phenomenon you're describing is something that just happens for humans in general. We do have identity shifts over time, in general, for lots of different things. But

I think for transgender adolescents, in general, what I have seen is that when they come into the office to work with me that there is -- even if there's some, maybe, like shifts in understanding of who they are or maybe like, I wanted to have, you know, a bob, but I feel more congruent with longer hair. Like there's some things that might happen in terms of how they might start to understand themselves and their gender expression related to their gender identity, but that that persistence and insistence of that internal sense of identity is strong.

Q. But when an adolescent patient comes to you, what criteria do you use to evaluate whether they are -- whether they are, in fact, transgender?

A. Yes. So the primary system that I use is the DSM-5-TR criteria.

Q. Can you use those criteria to determine whether somebody is transgender?

A. No. I use those criteria to diagnose gender dysphoria. But often, if an -- if an adolescent is coming to my office, and they are indicating that they would like to talk about their gender identity, I do assess for gender dysphoria diagnoses. So that's a part of the process.

If somebody is simply just sharing with me

that they are trans, then I ask them questions about that. Tell me more about that. What's that experience been like? How long have you been experiencing this? So there are kind of standard questions that we ask about gender history.

Q. Can someone be transgender without suffering from gender dysphoria?

A. Yes. There are some trans people who can be trans without suffering from or being diagnosed with gender dysphoria. It's a small percentage of the population.

Q. What would you say that percentage is?

A. Well, I can say from my own clinical experience, it's got to be in the upper 90 percent. Like, you know, if I'm guessing, I haven't actually looked at my own clinical data for that. But it's in the high majority.

Q. And just to clarify, you're saying the upper 90 percent of transgender individuals also suffer with or suffer from gender dysphoria?

A. Correct. That they would also meet criteria for gender dysphoria diagnosis.

Q. Can you say that again? I'm sorry.

A. Oh, I was just saying that the majority of the people who come into my office to work with me

and the people who I have assessed for, like, gender evaluations, things like that, that -- that they -- the high majority of them would meet criteria for gender dysphoria.

Q. Right. So -- so -- so 95 percent plus of the transgender individuals you encounter also have gender dysphoria?

A. Correct. It's in the high, high majority.

Q. Have you -- but are you saying that you have, in your clinical experience, you have encountered some transgender individuals that did not receive a gender dysphoria diagnosis?

A. Yes. There have been a couple of people who I would just say maybe don't experience the level of distress that's required within the diagnosis.

Q. Can someone suffer from gender dysphoria without being transgender?

A. There are concepts related to gender dysphoria and that's different from the actual, clinical diagnosis. So you need to be a transgender person to be diagnosed with gender dysphoria. But can you have, like, some dysphoria around your gender and be a cisgender person? Yes.

Q. Of -- sorry. Just to kind of summarize what you said, is that you can be -- you can suffer

from gender dysphoria without being transgender; is that correct?

A. Well, and I would say gender dysphoria as a diagnosis is different from a concept of just saying like I have -- you know, gender dysphoria can also -- if we're talking about it more colloquially rather than as a diagnosis, like dysphoria in general is like another word for distress. So that you may be able to experience some distress related to your gender and be a cisgender person, but you wouldn't be given the diagnosis of gender dysphoria from the DSM-5-TR.

Q. That makes sense. And that's helpful. I appreciate that. Getting back to kind of evaluations of children with -- that are transgender. You know, you've indicated how you determine whether someone is -- whether you -- whether you determine someone has gender dysphoria, it's like a clinical diagnosis. But do you have any kind of a valuative criteria for determining whether someone has that persistent, insistent, internal sense that their sex is different from what you say is the sex assigned to them?

A. Yes. So part of the question in the gender history and the way that we assess for this, very typically, is tell me about how long you have

been experiencing this. So the length of time is probably one of the best questions we have around persistence.

We also ask people, you know, describe to me what your experience is. Usually those questions can be open ended, so they are not leading. The youth in any particular form, but part of that is also to try to find out, you know, not only like what is the length of time, but how often do people think about this, how often does this come up for them. What kind of distress comes up for them? How often does that happen? So there are quite a few pieces that are included in -- in those components.

And then this insistence piece is interesting because that part sometimes can be more -- coincide after somebody has disclosed their identity, but some of that can also be an internal insistence. So you can just ask questions around how have you communicated this to people? What does that communication look like? But, also, how do you understand this to yourself and what does that process look like.

Q. When you're going through that process, especially as it relates to persistence, do you have kind of a rule of thumb for how long they have

experienced this sense where you can say, yes, you are transgender versus no, you haven't been experiencing it quite long enough? Like, do you have kind of a general line that you draw?

A. Well, the gender dysphoria diagnosis has time consideration related to it. So, that -- and I'm often assessing for gender dysphoria, alongside, you know, when a transgender person comes in my office. That's something that I'm often asking all of those questions about. So there already is something embedded in the gender dysphoria diagnosis regarding a length of time for that.

For transgender identity, there aren't stipulations around how long you need to identify as trans, necessarily, to be considered trans.

In my clinical experience, the amount of time that it takes for somebody to actually disclose their identity to somebody is quite a bit of time. From coming to that realization and understanding exactly what's going on for their gender identity, that usually does take quite a bit of time for them. And then even during -- up to telling some other people and then coming into my office and gaining access to my office, there's quite a bit of time that goes in to all of those procedures. And so often by

the time someone comes into my office, it has been quite a long process.

Q. And so are we talking years, potentially? Is that kind of a typical -- and I'm just trying to get a sense of, you know, what quite a lot of time means in your experience?

A. Yeah. I would say months to years.

Q. Well, and on that note, do you agree that it takes an individualized assessment to determine whether someone who presents as transgender is actually transgender in the first place? It takes -- does it take an individualized assessment to make that determination?

A. Well, in our field we support the idea of taking an individualized approach to each person because everybody is different. We do have, you know, standardized criteria that we use for diagnosis. But yes, I do think that it's important to take each individual into account. While, also, taking into account kind of field-specific pieces related to diagnostic criteria. That's true of how all type of psychological evaluations work.

Q. That makes sense. In paragraph 7 of your declaration, you indicate that you work with transgender patients in the clinical setting; is that

correct?

A. That's correct.

Q. Approximately how many adolescent transgender patients have you worked with in individual therapy?

A. In individual therapy? I'd have to think through this. But I would say anywhere maybe between 10 and 20 adolescents. And maybe more than that in individual therapy. But I've also worked with lots of adolescents in group therapy. And then many more adolescents doing psychological assessments and evaluations. So it kind of just depends on the clinical work. And I've also supervised clinical work with trans adolescents with many, many different clients.

Q. Back to the -- kind of the definition of transgender. And I want to make sure that I understand it appropriately. When an individual identifies as transgender and then goes through transition, but then, you know, what is sometimes called detransition, would you say that their gender changed or were they just wrong about being transgender all along?

A. It's really impossible to say about an individual person's experience about what could have

happened for them. And the detransition literature, the way that we understand it, a lot of individuals who detransition do so because they feel social pressure from their families or from friends. And so that would not be a change in identity for them. And some people do have a shift in an identity.

So I think part of that is it's impossible to answer the question because there are different reasons why people could potentially have a change in their experience related to their gender.

Q. Well, what about -- what about individuals that come to you, you know, outside of childhood, come like adolescents or adults, and, you know, they say that they have just kind of recently come to a realization of this internal sense. Is that -- is that pervasive enough? I mean, does that make sense? Like can -- can a -- can that internal sense onset in adolescence or adulthood?

A. Can you restate the question?

Q. That's fair. Can that internal sense of being a sex different from the sex assigned to the individual, as you've said, is that something that can be realized or experienced starting in adolescence or adulthood?

A. Can I see if I -- so, are you asking, can

a transgender person understand their identity in adolescence or adulthood?

Q. I think what I'm -- what I'm trying to say is that on the persistence piece, is that something that has always been your internal sense, so to speak. Like ever since you've been an infant or a child. Or is it something you can start experiencing later in life and then it persists for several years after? Does that make sense?

A. I think so. So, if I'm understanding your question correctly, someone can come to understand that they are a transgender person at the age of 14, but they wouldn't have necessarily known that before because they hadn't been exposed to the concept or that they hadn't understood some other components related to their body. So they might not have known that when they were, like, 3 or 4, for example. But that they start to understand that at the age of 14, and then that can persist over time. I'm still -- I don't know if that answered your question or not.

Q. I think so. And I might ask you just a couple follow-ups just to make sure I'm fully understanding your answer, too.

In the example that you provided of the 14-year-old who you say comes to this realization of

something that may have started earlier. Does this transgender -- this internal sense, is it the sense that has to be persistent from childhood or is it just the underlying gender identity that's persistent from childhood?

A. I'm just -- I'm still trying to make sure that I'm understanding your question. But what I think you're asking about is that that persistence that we're understanding, it's -- from my field's understanding, it's completely fine and understandable if somebody didn't understand their gender identity until a moment in time of like adolescence or adulthood.

And that when we're talking about things like persistence, for example, with -- with adolescents, that that would be something that we would ask about. You know, like how long have you been thinking about this or experiencing this. And if they say, Oh, it's been about a year, you know, that -- and so that would have been 13 then for this particular example that we're -- hypothetical example that we're talking about.

So, we don't require in my field that somebody has fully understood or known about their gender identity up until that moment of time of

beginning to understand it. And there are a lot of reasons for that.

Q. But you would say that even if they have a realization of it, so to speak, later in life, your position would be that they have always been that other gender; is that -- is that right?

A. The way that we typically understand this is that -- is that affirming kind of yet -- for most people, I think it is important for them to say, like, I've always been trans. I just didn't know it yet.

There are some people who may not necessarily understand that to be their particular identity and how they understand their transgender identity. But, in general, that is how the clients I work with think about their gender identity and talk about it.

And, in fact, even if they started this realization around 13, in this example, most of the clients who I've, you know, done evaluations for -- with will did -- have done some type of clinical therapy. Most of them say, yeah, but here are all the things that kind of -- that I noticed over time or that were happening when I was younger, and I just didn't know that that's what that meant yet.

So it's really uncommon and rare for there not to be any type of components that are younger on in life that then lead to this particular moment of this person understanding their gender identity.

Q. That -- that makes sense. And just kind of the general take away, though, then is that when you're evaluating someone for persistence, it's not required that they have always known that they were trans. If they have been -- if they have known it for six months or a year, that's enough to demonstrate persistence, in your opinion; is that right?

A. That's correct.

Q. I want to move down to the -- to the next topic, which is, I believe -- moving to a different topic of treatment of gender dysphoria.

So, looking at paragraph 35 of your declaration. Let's see here, 35. Pull it up. You say the following, "For transgender people, social transition can be an important aspect of treatment to reduce the symptoms of gender dysphoria. As part of the social transition, an individual typically, among other things, is a name and pronouns congruent with their gender identity, dress and present in a manner typically associated with their gender identity, and

use sex-designated facilities, such as restrooms that align with their gender identity. To be clinically effective at alleviating the stress associated with gender dysphoria a sexual transition must be respected consistently across all aspects of a transgender individual's life. For example, at home, in school, and at work."

Did I read that correctly?

A. Yes.

Q. And did you -- did you cite to any evidentiary support for those assertions in that paragraph?

A. I did not include citations in that paragraph. I do include citations regarding social transition in the declaration.

Q. Well, how did you come to the conclusions in that paragraph?

A. Some of these conclusions are based on the -- what the research data say and kind of what my field says. And component of this is also related to my clinical work in working with transgender people.

Q. So, that opinion or the opinions in that paragraph are your expert opinion?

A. These are expert opinions that are based on data that I also cite throughout the declaration.

Q. Right. But there isn't anything that you point to in that paragraph to support those particular assertions, right?

A. That's correct.

Q. And is this -- are the assertions in that paragraph, is there consensus on those issues in the -- in the global, scientific community?

A. Yes. I would say in the major medical and psychological organizations that I was talking about earlier that are in the United States that these are well-accepted concepts.

Q. Are they well accepted globally?

A. From the World Professional Association for Transgender Health, this is also accepted. And that's an international organization.

Q. I understand that part, that that is one -- one international organization. But I mean more generally across the globe amongst other organizations that have reviewed the data, do other organizations -- is there consensus among those other organizations as well on these issues that you -- that you provide an opinion on in paragraph 35?

A. I'm mostly familiar with the United States organizations and with the WPATH standards of care.

Q. Is it relevant to know what the other

international organizations have opined on this, considering that you cite to Canadian studies, for example, in your declaration?

A. I think it depends on what the topic is at hand.

Q. So, for the topic of social transition, is it relevant to know what, you know, the state of the art is as far as research amongst other organizations internationally?

A. I mean, I think having knowledge of general global trends can be a useful thing, when you are an expert in this field. So in general some pieces. But I think, you know, there are a lot of different countries worldwide and who may or may not have different statements regarding support and care for transgender youth.

So part of that is, I think it's impossible for any expert to know exactly what's happening across every single country in the world. But, in general, I think that it is important to follow pieces that are happening internationally.

(Exhibit No. 3 was marked for identification.)

BY MR. SPATE:

Q. I'd like to show you a document that is

marked as Exhibit 3. And I believe it's an article that you wrote in 2015 entitled, "Critical Considerations in Writing Letters for Trans Clients."

Is that right?

A. Yes. This is a blog post.

Q. Okay. Blog post. And if you scroll down to what's printed as page 5 on the document in front of you, under be the heading of "Making Informed Decisions," the opening paragraph reads, "There are several pieces of information that may assist mental health professionals in making decisions about how they feel about the gender dysphoria diagnosis."

Did I read that correctly?

A. Yes.

Q. So we're talking about gender dysphoria diagnosis, at this point, right?

A. Yes.

Q. I'm sorry. Your screen froze for a second. I may have missed -- so, I -- I'm just going to ask it again, just to make sure I didn't miss anything. I -- what I was asked was -- this is about general dysphoria diagnosis; is that correct?

A. Yes.

Q. Okay. Sorry. Yeah, like I said, the screen froze for a second. And if you go down a

couple more paragraphs, the -- let's see here. On the paragraph that starts with, "Regardless of where you stand," that paragraph. If you go down one more sentence it says, "I tend to be on the more liberal end of the spectrum, when it comes to assigning this diagnosis to trans individuals."

Did you -- is -- did I read that correctly?

A. You did.

Q. Okay. And -- and "this diagnosis" refers to the gender dysphoria diagnosis, correct?

A. Correct.

Q. Would you say that it's still true that you're on the -- on the liberal end of the spectrum, when it comes to assigning a gender dysphoria diagnosis to trans individuals?

A. Well, I'd like to note the context of that sentence, in that liberal is in quotes in this. So I think that that's really important context to have for my answer. But in the sentence before I say, "Regardless of where you stand as a mental health professional on this issue, it may help your clients to know that this is" -- there's been a recent sequence of events and that controvers-" -- "controversy around the diagnosis remains."

So the context in which I'm talking about this is that there are some people who will not provide this diagnosis at all, even if they are a licensed mental health provider and have the ability to provide the diagnosis, but that they refuse to provide the diagnosis.

So, in context, I use quotes because, you know, quotes can often mean that there -- that you're not using the term literally. But that I am a person who does actually provide this diagnosis. I'm not somebody who will refuse to do so.

Q. Of all the patients that have come to you and have said that they are trans and that they want to transition, approximately what percentage of those patients have you assigned a gender dysphoria diagnosis?

A. That's a good question. So, I think we were talking earlier about how many patients I've seen who met criteria for the diagnosis. So I think in the instance in which somebody met -- you know, it's a little hard to say, I said earlier, that probably what, like 95 percent of people would probably meet criteria for the diagnosis. So that answer remains here, if that's the question that you're asking.

Q. Well, and I think just maybe a little bit of a nuance is, if someone comes to you and what they present first is, I am trans and I want to transition, then are they given a gender dysphoria diagnosis? Like how many of those versus people that come in and they don't reveal or don't explain, I'm trans and I want to transition until later. Does that distinction make sense?

A. Yes. So, I always go through the DSM-5 criteria, when I'm going to be assessing for a gender dysphoria diagnosis. And anybody who meets the criteria for that, I will provide a diagnosis, if they meet the criteria for the diagnosis. That's true for any type of psychological assessment that I do.

Q. Right. But -- so you would say that 95 percent plus of the patients that you've seen that said that they are trans, eventually did receive a gender dysphoria diagnosis; is that right?

A. Uhm, well I think that the way that I was describing it earlier with the 95 percent is that there are some people who just don't experience -- yeah, some people who just don't experience distress related to their dysphoria, so they wouldn't meet criteria for a gender dysphoria diagnosis. But if

they meet criteria for the gender dysphoria diagnosis, then that would be a diagnosis that would be provided to them.

Q. Okay. Let's see. As kind of a -- kind of a follow-up question, you know. Of all the patients that have come to you with mental health concerns, but they haven't said that they are trans, and they don't -- they just have just kind of like general mental health concerns. The major depressive disorder, something like that. Approximately what percentage of those patients have you assigned a gender dysphoria diagnosis?

A. That's an interesting question. I think right now, at this point in my career, I have such a specialty that people come to see me because they are seeking out a psychologist who has expertise related to trans issues.

So in my most recent clinical expertise, almost everybody who I see is coming in to see me because of my expertise related to transgender identity.

So in my earlier years of my clinical training, the majority of the people who I saw would be kind of a general population in general clinic settings. And so it's possible -- sometimes people

may come in -- I'm sure that there were a couple of clients who I had who didn't come in specifically because they were seeking me out as somebody with gender expertise. But as I would go through the full evaluation and asking questions, it would become something that said, Actually, yeah. You know, and if I'd asked the question -- but I generally ask all questions related to a different diagnoses and say, Well, have you ever felt like a different gender than the one that was assigned to you. And if they say yes, then I would ask those questions related to the gender dysphoria diagnosis. So that's a typical process that I would do kind of in a general clinic.

Q. Well, when you were in that general setting, do you have a sense of kind of how many of those patients, adolescent patients that presented with mental health concerns, ultimately received a gender dysphoria diagnosis?

A. Yeah. I would really have to completely guess to be able to come up with an answer for you. I would say a few.

Q. So, only a few received the gender dysphoria diagnosis?

A. This was in -- you know, I worked in a Mendota Mental Health Institute, which is an

inpatient adolescent setting. You know, just -- I'm just trying to say, I think, you know, this is -- it just kind of depends on what the clinic population is and what that might look like.

Q. No, that makes sense. Just to kind of take a step back. I know we've been going for a little over an hour. Does anybody need, you know, a bathroom break or water, anything like that?

MR. COLEMAN: Joe, if this is a good stopping point, I'll go fill up a cup of water and get a little something to eat. I mean, two minutes. I'll be quick.

THE WITNESS: Five-minute break would be nice.

MR. SPATE: Yeah, why don't we come back at 1:45, does that good to everybody?

THE WITNESS: Yes.

MR. COLEMAN: Yes.

MR. SPATE: Okay. Perfect. Let's take a five-minute break.

THE WITNESS: Thanks.

THE VIDEOGRAPHER: The time on the monitor is 1:40 p.m., we're going off the record.

(Recess was taken from 1:40 p.m. to 1:48 p.m.)

THE VIDEOGRAPHER: The time on the monitor is 1:48 p.m. and we're back on the record.

BY MR. SPATE:

Q. Dr. Budge, I just wanted to continue with some of the questioning and looking at the Exhibit 3 that we were just looking at before the break. If you continue on to the next page, which I think is -- should be page 6. And there's a heading called "Decisions About Comorbid Diagnoses."

Do you see that?

A. I do.

Q. Now, I'd like to understand that paragraph under that heading better. So I'm going to read it for the record, then we can unpack it a little bit. It says, "Mental health professionals may also have some difficulty making decisions about comorbid diagnoses. My first suggestion is to consult with another psychologist who has experience differentiating diagnoses from the dysphoria that results from gender identity and incongruence. Sometimes it may be difficult to determine if diagnoses, such as major depressive disorder or generalized anxiety disorder are organic to the individual, to other contexual factors, for example, financial trouble or to gender incongruent -- for

example, financial trouble or to gender incongruence.

If you have determined with your client that they would like to move forward with a medical intervention, it is likely that some of their symptoms will decrease just with the hope and promise of being able to feel more gender congruent."

Did I read that correctly?

A. You did.

Q. Okay. So, if someone presents with gender incongruence and a comorbid diagnosis, such as major depressive disorder, do you ever explore the comorbidity through psychotherapy to determine whether the comorbidity -- comorbidity is causing the gender dysphoria?

A. So, in every evaluation that I do -- so, it could be psychotherapy or an evaluation for a letter, a referral letter -- that I go through the process of asking about, you know, doing a standardized clinical assessment that includes lots of different diagnoses to be able to determine if somebody meets criteria for multiple diagnoses.

Part of that process is trying to -- is trying to figure out, you know, well, you know, if you're -- when did the depression begin? You know, what felt like was the onset of the depression? So

there are things like that that you can ask people.

You can also -- a lot of what we do, too, is ask people about family history of mental health. And so there are a lot of components that we assess for, when we're trying to find out a full picture of someone diagnostically. So there are lots of different things that we ask about in these evaluations.

Sometimes, you know, there's that distress component that's a big part that's criterion B of the gender dysphoria diagnosis. And that distress can either contribute to depression and be related in lots of ways, and most of the time I'd say that that's the case in my clinical experience, but it may be separate from.

Q. Have you ever encountered a patient that had these comorbidities and the comorbidity was actually the cause of the gender dysphoria?

A. Can you rephrase the question?

Q. Yes. When you evaluated patients, have you ever come across a patient that had a comorbidity like major depressive disorder, and you concluded that that comorbidity was actually the reason they were experiencing what they identified or what they originally were diagnosed with as gender dysphoria?

A. If -- can I just see if I'm understanding you correctly?

Q. Yes.

A. Have I ever had somebody who, for example, would say that they were depressed, and that that depression caused their gender dysphoria?

Q. Just as an example, sure.

A. Oh, yeah. I have not encountered that in my clinical experience.

Q. And to make sure I'm understanding, too, do you ever look out for that as a possibility or is that -- do you treat gender dysphoria and the comorbidities as kind of separate concepts?

A. Well, so maybe I can provide a little bit more about what I think is more common, is that it is possible -- and this is more about what we mean by comorbidity. So I feel like it's possible that somebody out -- if they -- let's say we have a transgender person that outside -- if they were not a transgender person at all, that they would have experienced depression regardless, right? They have a family history of it, that there were some external factors that happened in their life that, you know, leant to having depression. You know, so just to say, I think that there are some -- there are a group

of people who would have had depression regardless of the experiences they were having related to their gender dysphoria, right?

So that is a possibility and that's something that's important to try to kind of disentangle and figure out when you're talking with someone, just because I think it can help you understand the course of treatment for that particular person and how you want to actually work -- help them work through that depression, if we're using depression here as an example.

Q. Sure. No, that makes sense. And I appreciate the explanation.

A. But I will say that the majority of the people who I've worked with that their depression is related to experiences that they are having, typically, in what we call like distal minority stress, which is like experiences of rejection related to their gender identity, experiences of depression related to -- or experiences of discrimination, related to their gender identity.

So that those kind of experiences, this is the concept of minority stress that I talk about in the declaration, are often the explanation for increased mental health concerns.

Q. Thank you for that, for that explanation. It's helpful. I wanted to look back at your declaration at paragraph 35 again. And you say, "For transgender people, social transition can be an important aspect of treatment to reduce the systems of gender dysphoria." Is that -- is that right?

A. That's correct.

Q. Would you say that social transition is your -- is that a standard prescription for transgender adolescents with gender dysphoria? Is that your standard prescription?

A. In my experience working with transgender adolescents, social transition is often one of the first lines that we go through alongside the transgender adolescent. We always listen to what other things that will help reduce the gender dysphoria that you're having. Describe to me the things that are causing your gender dysphoria.

And in the experiences that I've had clinically, I -- that all of the clients who I've experienced have had some type of component that for them needs to shift in a social transition way to be able to reduce some gender dysphoria that they are experiencing.

(Exhibit No. 4 was marked for

identification.)

BY MR. SPATE:

Q. That makes sense. And if we -- what I'd like to do is turn your attention to Exhibit 4, which should be your -- your deposition transcript from the Roe versus Critchfield matter. Is that what that appears to be?

A. Yes.

Q. Okay. I'm going to scroll down to page 22. And this is -- this is taken from Westlaw, so it doesn't have the page and line number. I'm just looking at the pages as they appear on Westlaw -- Westlaw's version and the version that's in front of you.

So looking at page 22, the third sentence down, where it says, "The witness."

Do you see that?

A. Yes.

Q. And my understanding is "the witness" refers to you; is that correct?

A. Correct.

Q. Okay. And you said in that third sentence, it says, "In my clinical experience, all of the clients who I've worked with who are transgender have gone through a social transition process or at

least were needing to go through that process and sometimes they might have been barred from the process if, for example, you know, they didn't have supportive families or things like that."

Is -- did I read that correctly?

A. You did.

Q. Is -- is that still the case?

A. Yes.

Q. Have you ever recommended against social transition for a transgender adolescent with gender dysphoria?

A. As I mentioned previously, there's a group of people who come in to see me for very specific reasons. And so I think the reason why the clients who are coming in to see me are going through social transition and oftentimes medical transition is because of my level of expertise in what people see when they are looking for a psychologist.

I will say that there have been a couple of times when I've consulted with other psychologists about clinical situations in which it seems like, you know, different components related to transition processes wouldn't be appropriate for a particular adolescent.

Q. Approximately, you know, how many or what

percentage of your patients have you not recommended social transition for?

A. For my particular patients, they have -- all of them have been recommended for social transition. But I did mention that there have been situations where I consulted with other people in which it seems like it wouldn't be appropriate.

Q. But in those situations, you still ended up recommending trans- -- social transition, right?

A. Not for those youth who were being consulted about with me.

Q. Okay. Well, and maybe that's kind of helpful in me understanding your answer, too. Because I think the original question was, have you ever recommended against social transition for a transgender adolescent with gender dysphoria. And what -- what I think you said was that you have never recommended against it. But then I think you also said that you have consulted with others about it. So maybe I just need to ask the question a different way, so I can understand better.

Is it true that there have been some instances in which you have not recommended social transition for a transgender adolescent with gender dysphoria?

A. In cases in which I've consulted with other professionals, but not for my personal clients.

Q. Okay. Sorry. That makes sense. Okay. So when you say that in cases where you consulted with other professionals, you mean that you work on a team with them to assess this child, rather than you seeking a second opinion or some -- you know, seeking independent advice about an individual?

A. Usually, in a case -- the cases where I most often consulted are through the Pediatric and Adolescent Transgender Health Clinic, that's where I was a health psychologist here in Madison for a couple of years. And because of my role on the team, even though I'm no longer mental health psychologist in the unit, I'm often consulted related to cases with the team.

Q. And when you've been on those teams and social transition was not the recommendation, was that because you recommended to the team against social transition?

A. It was because -- and that was an opinion that I had, yes. But also, I think, it was clear to the team that this was something that also would not be beneficial for the youth and/or the family.

Q. What would be some circumstances where

social transition would not be recommended for a transgender adolescent with gender dysphoria?

A. Well, I'm going to give a -- kind of a vague example, just to make sure I'm maintaining client confidentiality. But, for example, there's a case where there was a youth who had selected mutism. So a communication disorder. And whose parent brought the youth in for an evaluation for gender identity services. And it was determined that in this instance that the youth -- it was not something the youth was actually desiring, but it was perhaps more parent driven, as an example.

Q. That makes sense. So -- but in situations where the transgender adolescent is able to communicate to you a desire for social transition, is that generally what you recommend?

A. In general, yes. And that -- that's why -- in the instances that I have experienced clinically, it's been communicated clearly to me and seems clinically indicated, which is what I mentioned in the deposition that you're referring to and here.

Q. If a patient did not meet the criteria for gender dysphoria or appear to be transgender, but was able to communicate to you an interest in social transition, would you recommend that they socially

transition?

A. If somebody is not transgender, then social transitions are not part of the recommendation process.

Q. So, earlier we talked about kind of your individualized evaluation of adolescents that present as transgender. And you indicated that there is a -- part of that evaluation is making sure that this is a persistent thing.

If you had a -- an adolescent who presented as transgender, but it was -- didn't meet the persistence requirement and didn't meet the gender dysphoria requirement, but they still believed they were transgender and wanted to socially transition, do you think that it -- would you recommend that they go forward with it or would you caution to wait?

A. I mean, these are really, really specific scenarios. I would say, in my general clinical experience, like I was mentioning before, it's extraordinarily rare for somebody to even come into the office without having that persistence and insistence around their identity, just because of what it takes to be able to get to that place. So the scenario you're describing I think is uncommon.

But I think part of the process of what may happen, in an instance where somebody is just starting to understand their identity and perhaps is like in more of the beginning stages, that there is a recommendation, I think, to try to figure out, Well, what components may feel affirming to you? And so in some of those instances, part of that might be an exploration around using a different name. But, again, that would be all in collaboration with the adolescent and with trying to figure out what exactly is it you'd like to do.

Also, in my clinical experience, for adolescents who are very early on in kind of an identity process, even though they probably -- it's taken them a long time to get in my office, there's often also kind of that process of trying to figure out, like how do -- how do I communicate this to other people? What does this process look like?

So there is -- there's a lot of work related to figuring out, you know, what will actually be supportive of this particular person and what will help reduce their dysphoria.

But, in general, as they are figuring these pieces out and as there's kind of more of that process of understanding identity or maybe they have

already come to those conclusions because it's been a long time, but those social transition procedures that I talk about in my declaration are all included as part of that social transition.

Q. But if they are in those beginning steps and just those beginning stages and first coming to you and saying this is kind of new, I'm exploring this, it sounds like you would recommend they try exploring different social transition opportunities; is that right?

A. I think what I typically do is say, like, what -- what is causing you gender dysphoria? Like, what are the things that are causing distress? What are the pieces -- you know, when I -- you know, if that person is experiencing gender dysphoria, what are -- what are those components? What does it look like? What do you think would help reduce some of those experiences? And so those are part of the questions that would happen and part of the conversation that would occur with that particular person.

Q. Right. But if they had not quite met the threshold. Like DSM-5. Like almost quite there, but not quite there yet. Would you still recommend social transition or would you wait until they got an

actual gender dysphoria diagnosis before recommending social transition?

A. I think social transition -- I feel like part of this is maybe some nuance in how we're talking about social transition. So social transition, even though -- so, you know, I define social transition as to being all of these things. And I think especially if somebody has kind of moved quite a bit further along in their process and in terms of their identity and the diagnostic pieces that it's a pretty much more like all -- typically, all of these things happen in social transition.

However, for somebody who's maybe a little bit earlier on in their process, if usually is an exploration around like not all of those things all at once, potentially. I think those things can be recommended, if that's something that's going to help reduce their gender dysphoria. And I think some of those pieces are related to what is it that's actually causing the gender dysphoria for you right now and what can we do to help reduce some of that for you.

Q. No, that makes sense. Have any of your adolescent patients, the transgender and gender dysphoric patients, have any of your patients --

adolescent patients gone through gender transition surgery?

A. I have had a couple of adolescent patients who have had chest surgery.

Q. And I'm -- the ages of those, do you have kind of an idea of the age ranges of the patients that have gone through that surgery?

A. I would have to relook at my notes, but probably -- you know, I -- most of the -- I mean, there haven't been that many, so I'll say that. But that my memory is around 18. 17, 18.

Q. And so you've only had a couple -- I use couple kind of loosely -- just a handful, and they have been around 17 or 18, and it's been chest surgeries?

A. Correct. That's -- that's my memory of their ages. It's been a little bit of time.

Q. No, that makes sense. Of the adolescent transgender patients you've seen for therapy relating to gender dysphoria, did any of them desist from gender dysphoria without any kind of gender transition?

MR. WARDENSKI: Objection to form. You can go ahead.

THE WITNESS: Can you repeat the question,

please?
BY MR. SPATE:
Q. Sure. Of the adolescent transgender patients you've seen for therapy relating to gender dysphoria, did any of them desist from the gender dysphoria without going through gender transition?
MR. WARDENSKI: Same objection.
THE WITNESS: I'm just trying to make sure that I'm thinking through. I can't recall any patient who I've worked with who needed gender affirming medical care whose gender dysphoria decreased without that. I can't recall a client who has had that experience.
BY MR. SPATE:
Q. And when you say gender affirming medical care, are you -- is that more of an umbrella term to include therapy and psycho- -- psychotherapy or are you talking about, specifically, about medical?
A. I'm talking specifically about medical care.
Q. Okay. So, looking at maybe on a little bit more of a narrow front. If somebody presented to you for gender dysphoria, they are just seeking psychotherapy, have you ever seen any of those patients desist from gender dysphoria without getting

any kind of gender transition, whether that's social or medical?

A. Uh-huh. I have had a couple of patients who I've worked with who did not need medical care, as part of their transition process to reduce their gender dysphoria. And that through, you know, additional support, like psychotherapeutic support and things like that, then that was something that was fine for them. But that was because they didn't need the medical care in the first place to help reduce their gender dysphoria. So...

Q. Did those patients still go through social transition and kind of have an affirmation of their gender identity?

A. Yes.

Q. Okay. Of all of the adolescent transgender patients you've seen for therapy relating to gender dysphoria, and they do go through gender transition, have any of your patients detransitioned?

A. I am not aware of any patient I've had who has detransitioned.

Q. I do want to turn your attention to -- back to art- -- or back to Exhibit No. -- let's see here -- 4. And it should be on page 37, if I'm not mistaken.

And in that deposition, if you go down kind of to the middle of -- a little past the middle of the page. And it says, "Q" for question by Mr. Wilson.

Do you see that?

A. Yes.

Q. And it says, "In fact, Dr. Cantor's report identified 11 cohort studies regarding persistence of gender dysphoria in adolescents." And you didn't cite any of them in your declaration in this case, did you? Do you see where I'm pointing to?

A. I do.

Q. Okay. Do you -- do you remember what they are talking about there, as far as the 11 cohort studies?

A. I do.

Q. And can you just briefly summarize your understanding of what they are talking about?

A. Yeah. My understanding is that Dr. Cantor came up with 11 studies that he said were the main ones that talk about desistance in gender identity in adolescents. So I think that's -- that's my memory of that conversation that we were having.

Q. Okay. And am I understanding, in those cohort studies, it's that they all reported that the

majority of gender dysphoria cases in minors desisted without any intervention; is that your understanding as well?

A. No. I -- that's not my understanding of what those studies talk about.

Q. Okay.

A. And I have a different understanding.

Q. Is -- do you understand that that is the conclusion that the studies reached?

A. The conclusion that the studies reached is that there were kids who were referred to gender clinics, most of them in a gender clinic in Canada, but they were referred to gender clinics for -- many of them for gender nonconformity, and that were found later on to not be trans.

But when I've read through a lot of these studies, many of these kids would not have met criteria for gender dysphoria at all. And many of them -- well, the gender dysphoria diagnosis didn't even exist when these studies were following these kids. And so it's basically impossible to make conclusions related to gender dysphoria diagnoses from the information that we had in these studies.

Q. And so why -- maybe you can help me understand, too, and that may be part of the

explanation. But it would be helpful to know, too, why your declaration doesn't engage with those cohort studies in the -- in giving your opinions?

A. Yes. So, I mentioned I cite studies that talk about transgender people in my declaration. And I thought that's what I was asked to opine on. But these studies, the ones that I've read, and especially the one that's talked about that's seen in 2021 that's talked about a little bit below in the declaration, that these studies talk about a cohort of kids who many of whom were not trans at all. And so it doesn't make sense for me to include studies that aren't related to transgender people in a declaration where I'm talking about transgender people.

Q. And what -- and remind me of the basis for your opinion that the kids were never trans in the first place.

A. I mean, I would need to have a study in front of me to go through it with you. But in general, many of these were referred to these clinics, and it's from like 1975 to 2011 is the typical time range that these kids were followed. And -- but the majority of them were actually a little bit on the earlier side of that time frame.

And that many of these kids were referred because of gender nonconformity. And if you can kind of think about the time, right? If you have cisgender boys who are dressing -- who are dressing femininely or wanting to do feminine things, that that's something that -- it's still stigmatized today, but was definitely stigmatized then. Then a lot of these kids are brought in these cohorts, never identified as trans in the first place, but were brought in because of gender nonconformity. But then were lumped in to this cohort of people and said, Look, these kids aren't trans, you know.

So to me when I've read the data, how the data were collected from these, and a lot of the methodological problems within some of these studies, that it's impossible to bring these into a declaration that I'm writing, because the conclusions -- you can't make conclusions about them from -- you know, with keeping transgender people in mind.

Q. Are you also -- are you aware of a study performed by Dr. Olson in 2022 that's discussed in a -- Dr. Cantor's declaration in the L.W. versus Skrmetti matter? Are you familiar with that one?

A. It's possible. I think I have read that

study.

(Exhibit No. 5 was marked for identification.)

BY MR. SPATE:

Q. Okay. Could I have you pull up document number -- I think it should be 5.

A. Uh-huh.

Q. Exhibit No. 5. And it should be expert declaration of James Cantor, Ph.D. Has the number 316 at the top.

A. Uh-huh.

Q. Do you see that?

A. Yep.

Q. Okay. If you can go down to 386.

A. Page 386.

Q. Yes, page 386. And -- and I just wanted -- I'll just read the heading of the section on the discuss Olson's -- I'm sorry?

A. I'm not there yet.

Q. Oh, I'm sorry.

A. It's a long document.

Q. No, no, you're good.

MR. WARDENSKI: It's page 70 of the PDF.

THE WITNESS: Okay. Okay.

BY MR. SPATE:

Q. When you look at page 386, just kind of to give you the -- to read the heading of the section that discusses Dr. Olson's study. It says, "One cohort study followed children who were permitted sexual transition. In contrast, the children not permitted to transition socially, most persisted in expressing gender dysphoria.

And it refers to Dr. Olson's study from 2022. Are you familiar with that study?

A. I have read it.

Q. Okay. And -- and is your understanding of the conclusions of that study the same or different from what Dr. Cantor draws?

A. You know, I think I would need to have it in front of me to be able to really make stronger conclusions about that particular study.

Q. But you said you have read the study?

A. I've read it.

Q. Did you cite to that study in your -- in your declaration?

A. I know a study I cited an Olson -- Olson -- I did not cite that one in my declaration.

Q. Okay. Well, you know, if -- if -- if -- if the conclusions that are being drawn here are accurate, isn't that something that would need to be

engaged with in your declaration?

A. Can you say that again, please?

Q. If Dr. Olson's study concludes that most children that transitioned persisted in expressing gender dysphoria, isn't that relevant to your expert opinion about the importance of social transition in treating gender dysphoria?

A. Well, again, I would need to have the actual article in front of me to be able to tell you exactly what the conclusions were. My -- you know, in general, and I think this is my memory to the article, but part of the conversation about this is that, you know, social transition can help alleviate some components related to gender dysphoria, but it doesn't usually alleviate all components of gender dysphoria. And that's true, also, with certain types of medical interventions as well. Because gender dysphoria isn't just like -- you know, it's not like a one size fits all kind of piece. But that doesn't mean that we shouldn't try to do all of the components that will help reduce someone's gender dysphoria.

And that's kind of my understanding of the information. But, again, if you want me to talk about that article, I would need to have it in front

of me.

Q. No, that's fair. But I appreciate your response. Would you consider desistance from gender dysphoria to be a goal of your treatment for gender dysphoria?

A. I think a goal in the treatment --

MR. WARDENSKI: Objection to form, but go ahead.

THE WITNESS: I would say a goal in the treatment of gender dysphoria is that there is a reduction in gender dysphoria. And, you know, in a best-case scenario, the gender dysphoria wouldn't exist anymore. But I think the goal of most psychological treatments are a reduction of symptoms with the hope that, you know, like in a best case scenario somebody doesn't have those anymore. But that's -- usually, it's more getting to a place where somebody's quality of life is better and whether they are less distressed.

Q. In your clinical experience, you know, what percentage of your patients that went through social transition experienced a reduction in gender dysphoria?

A. I would say all of them experienced some type of reduction. I think this is where the nuance

exists and also I think follows the data. Which is that, you know, someone might feel a reduction of, let's say, you know, I -- someone is using my correct name and they are using my pronouns and that feels good, that reduces gender dysphoria around names and pronouns and distress that I have related to that. I can use the restroom that matches, that also helps reduce the gender dysphoria they have around that. And maybe I also then have gender dysphoria around my genitals. And I will still continue to have gender dysphoria around that.

So I think part of this is saying, like, gender dysphoria, the way that we think about it is that we try to include components that will help reduce gender dysphoria for the specific pieces that cause the dysphoria, but that unless, you know, all of the components are included for that particular person to address those pieces, then, you know, people will still continue to remain to have some level of gender dysphoria, if those pieces still exist for them.

Q. Turning back to your declaration on paragraph 34. You cite to what's referred to as standards of care that have been established by the World Professional Association of Transgender -- for

Transgender Health or WPATH; is that right?

A. That's right.

Q. And you say that -- let's see here. You said that, "These standards of care provides that effective treatment of gender dysphoria often includes social transition." And I believe medical interventions as well; is that right?

A. That's correct.

Q. And previously in your declaration, you also mentioned that you're a member of WPATH is that right?

A. I am, that's correct.

Q. What does it mean to be a member of WPATH?

A. Uhm, well, it means that you are -- you -- well, that you've paid dues to an organization, so they recognize you as a member. That's at the lowest level. But that as a member, you can engage in different types of professional development opportunities, like going to the conferences or being connected to other professionals, being on Listserv that assists with being able to connect professionals to one another and consult on different types of cases, and also being involved in a member directory. So there are lots of different things that are included in a membership. And one becomes a member

by paying dues to the organization.

Q. Did you, for your work, contribute to the creation of WPATH standards of care?

A. I would have to double-check. I think my work might be cited in the WPATH standards of care, but I'm not 100 percent sure of that.

Q. That's fair. Are you aware of multiple international healthcare systems that have moved away from following WPATH's standards of care?

A. I'm familiar that with international groups of people who are trying to understand gender identity in context of their own countries and trying to determine different aspects related to gender affirming care for the people in those countries.

Q. And are those countries following WPATH's standards of care?

A. A lot of countries do follow the WPATH's standards of care.

Q. Are you aware of countries that had initially expanded medicalized transition to include minors that have reversed that policy?

MR. WARDENSKI: Objection to form.

THE WITNESS: I am aware that there are some countries that are evaluating the gender services that they are -- about how gender services

are offered in their -- in their countries and recommendations. My understanding so far is that even in the countries that are maybe starting to make some shifts like the UK, but they are still not a full ban of gender-affirming care. For example, like there are still gender clinics in the UK, for example. Youths can still be involved in clinical trials. But if youth were involved in gender-affirming medical care that they can continue that medical care.

So the thing is is that I'm aware of certain policies that are happening in different countries and kind of how -- how some of those countries are managing those pieces.

Q. Are you aware that that includes the healthcare systems of England, Finland, Sweden, France, and Norway?

A. I have -- I have read components related to what's happening in those countries.

Q. Are you aware that England, France -- sorry, England, Finland, and Sweden reached those conclusions after conducting systematic reviews on the safety and effectiveness of those treatments?

A. So what I'm aware of is that none of those countries categorically banned any gender-affirming

medical care for kids. And that the -- what they call systematic reviews were not necessarily systematic reviews, as are typically done in scientific communities.

So I think they called it systematic reviews, but there are lots of academic critiques and articles that are published critiquing those procedures. But all to say, my understanding from all three of those countries is there's not like a categorical ban in any of those of any -- of any of the medical care for trans kids.

There are some restrictions in the UK, but that trans kids can still access some of those services through gender clinics.

Q. Well, are you aware that England, indefinitely, banned the use of puberty blockers for people under 18 with gender dysphoria, after Dr. Cass published her final systematic review earlier this year?

A. I --

MR. WARDENSKI: Just object. I'm going to object to this line of questioning as not relevant to the issues presented in this case, but you can go on.

THE WITNESS: Yes. I have read some articles about the puberty blocking ban. And my

understanding -- and this is why I'm using categorical in the language, is that there are still instances, in my understanding of what I've been reading is that, like, trans kids can still obtain access through clinical trials, for example. And there are still some things that are set up in gender clinics where puberty blockers can still be administered in certain cases, in certain scenarios.

So I think that my understanding in the way that I've read these is that the media is saying that, you know, it's a ban. But then there's actually some nuance to what's -- what's happening in the UK.

Q. Are you aware of any systematic reviews that support WPATH's standards of care relating to gender transition of adolescents?

A. WPATH uses a grade method. And they also used a delphi method to be able to evaluate the articles and all of the different research for their document. So -- and they actually -- from my read of it, they actually used the grade methodology, whereas the Cass report said that they did, and then they don't actually use the grade methodology in how they described what they did.

Q. Well, and just to kind of reiterate the

original question. Are you aware of any systematic reviews that support WPATH's standards of care?

A. I'm aware of some systematic reviews that have been conducted related to gender -- medical -- gender-affirming care that's medically based.

Q. And are those systematic reviews that WPATH relied on in creating their standards of care?

A. I would need to look and see how they used those or if they used them.

Q. And do you agree that systematic reviews are the gold standard of evidence-based care?

A. Well, I would say -- and this is kind of part of where we -- systematic reviews are extraordinarily helpful in many ways. And -- but the way that even grade talks about how they talk about highest quality of evidence and lowest quality of evidence that they even say that people who talk about how to understand this grade system is that something -- what you basically need to do is say, What is the purpose at hand? What do we need to know and what can we know from it? And so if it's a question that we need to look at that's based on a systematic review, then yes, that's something that's really -- that we would want to find out about.

Also, if it's something that needs to be answered through a randomized control trial, then that's also something that we would look at for high quality evidence. But the grade application also talks about that there are pieces that can be included, in what they call lower quality of evidence that can actually be the best evidence for a particular procedure or for specific types of medical care because of the amount of studies that are involved in it or the type of studies that are included and the type of questions that are included.

So just to say -- I mean, I agree with how to understand the grade methodology and that depending on what the research question is at hand or what it is that you want to know, you would need to have nuance in what you're looking at for the type of evidence.

Q. As far as the countries that I mentioned that have moved away from WPATH's standards of care, why did you not mention any of those countries' departures in your declaration?

A. So, my declaration was submitted in June. And in June, none of those countries had banned any type of gender-affirming medical care for any transgender adolescent. That wasn't relevant to what

I was asked to opine on.

MR. WARDENSKI: Just for clarification, I think your report was in December.

THE WITNESS: Oh, sorry. Oh, in December. Yes. But it happened before the -- this -- this UK decision that happened last week. But even still, even if that decision had happened and I had just submitted my report, there is still nuance in what's happening with the UK. But I wasn't asked to opine on what's happening internationally with recommendations regarding gender-affirming care. And even then, you know, trans adolescents are still able to access transgender-specific care in those countries.

Q. Dr. Cass' report from back in April did express concerns about the safety and efficacy of gender dys- -- or of gender transition. Was that not relevant to your analysis of whether gender transition is advisable?

A. I have significant methodological concerns from the Cass report, but I wasn't asked to opine on that for this particular report.

Q. As of today, considering what you know now, what we've talked about about what these other countries are doing, does that impact your reliance

on WPATH's standards of care?

A. Can you repeat the question, please?

Q. Considering how multiple countries in Europe are moving away from the WPATH's standards of care, does that impact your own reliance on WPATH's standards of care?

A. I don't think I would say that that's exactly what's happening, in my opinion. My understanding of what's happening in these countries, with the exception of the UK and what was happening last week, is that there's still support for providing medical care, gender-affirming medical care for transgender adolescents in these countries. And that the UK just had this new policy that was enacted last week. And even still with that, again, there's not that categorical ban. So I think I wouldn't necessarily characterize it the way that you're characterizing it in the question.

Q. But isn't it your understanding that the medical transition that is -- that the categorical medical transition you're talking about is only permissible in the clinical trial setting, not generally available to anybody with a gender dysphoria diagnosis in those countries?

MR. WARDENSKI: I'm going to renew my

objections again. None of these questions about medical transition are relevant to the issues put on in this case.

MR. SPATE: No, I appreciate -- I appreciate your objection. I think that it is relevant, considering the reliance on WPATH's standards of care. And I think it's -- we're entitled to -- to examine the reliability of the WPATH's standards of care. And I think that's exactly what we're doing. So -- and Dr. Cass -- or I think looking at Dr. Cass' report and looking at what UK did is relevant to understanding -- understanding that.

BY MR. SPATE:

Q. But, Dr. Budge, do you --

MR. WARDENSKI: I'll just restate my same objection that this case is not about medical treatment for transgender students or that aspect of the WPATH's standards of care. You can proceed with your questions, but I am making that objection, again, for the record.

MR. SPATE: Thank you.

BY MR. SPATE:

Q. Dr. Budge, are you aware that the creditability of WPATH and its standards of care have

come under scrutiny recently, during the U.S. versus Skrmetti case in front of the U.S. Supreme Court?

A. I've heard some criticisms.

Q. Are you aware that WPATH has been criticized for using its standards of care to advance political and legal goals?

A. I've read some people saying that.

Q. Are you aware that WPATH has been criticized for not following the principles of evidence-based medicine?

A. I don't know that that's been the particular critique that I've seen.

Q. Are you aware that WPATH has been criticized for failing to properly manage conflicts of interest in creation of its standards of care?

A. I am not aware of that.

Q. Are you aware that WPATH has been criticized for not being transparent in how it used the grade framework?

A. I'm not aware of those critiques.

Q. Are you aware that WPATH has been criticized for hindering publication of evidence reviews?

A. I'm not aware of that critique either.

Q. Are you aware that WPATH has been

criticized for recommending castration for eunuchs as medically necessary?

A. Can you say that again?

Q. Are you aware that WPATH has been criticized for recommending castration for eunuchs as medically necessary?

A. I'm not aware of that criticism either.

Q. Are you aware that WPATH has been criticized for operating more like an advocacy organization than a medical one?

A. I have heard that criticism of the organization, yes.

Q. Do any of these criticisms change you're reliance on WPATH's standards of care?

A. I would need to engage with those criticisms and look into the validity of those criticisms and make a decision about how valid they are or not. And then I would make a decision about what that meant about the organization.

Q. Well, with -- with so many competing authorities on the topic of treatment for gender dysphoria, I mean, especially in the last five years or so, can you agree that the science of gender identity is not settled, at this point?

A. My understanding of the evidence basis for

gender-affirming medical care and for treatment for gender dysphoria is solid. And when I've read those articles and the way that I understand those articles, they are conducted in rigorous ways, published in reputable journals. And those articles I have -- you know, I feel like I'm able to evaluate those effectively and well.

And so there is an evidence basis for these treatments. I think in any science -- in any science, you can always find out more. I wouldn't be a researcher, if I didn't say, Oh, yeah, there are all these other research questions that we do need to find out. That's how every scientist I know manages their own -- their own understanding of science. So I do think there are additional questions we can learn more about, but the evidence basis is solid.

Q. Do you think, then, that countries that are moving away from transition, especially medical transition of adolescents, that they are ignoring the evidence?

A. My understanding of some of the countries that you talked about is that they are not moving away from those -- from that medical care. They haven't banned any of that medical care. And that I have significant concerns about the Cass report. And

have been learning more about how the Cass report was developed and the conclusions that were made. And so I have some concerns about how that report is being used.

Q. Yeah. You indicate in your declaration that psychotherapy can be useful as a support tool for treatment of gender dysphoria, in order to reduce the harmful affects of stigma and improve resiliency, I think; is that right?

A. I think so. But where is that paragraph?

Q. I believe that's going to be paragraph 38. You say, "Psychotherapy can -- to reduce the harmful affects of stigma and improve resiliency, can also be an important form of support for transgender individuals of any age with gender dysphoria;" is that right?

A. Yes.

Q. Can psychotherapy also be helpful for helping children to desist from gender dysphoria without going through gender dysphoria -- gender transition?

A. I'm just making sure we're using similar language. I just want to make sure I understand what you mean by desist in this particular sentence. So the question -- can you repeat the question, please?

Q. Sure. Can psychotherapy be a helpful tool to help children reduce their gender dysphoria without having to go through gender transitions? Is it only an affirmative tool for gender identity?

MR. WARDENSKI: Objection to form.

THE WITNESS: So I don't think I understand that last part of the question, but I can answer the first one, if that's helpful.

BY MR. SPATE:

Q. Sure.

A. Okay. So, I think I mentioned earlier in the deposition that there are some clients who I've worked with who do not need access to medical care to reduce their gender dysphoria, and that being able to, you know, work through some of the -- gain some coping tools and get some support related to different types of gender pieces can be particularly helpful. I think psychotherapy can be really helpful for anybody who's experiencing distress related to their gender identity. But that I think if the distress isn't related to something that can, you know, that is like medically focused, then psychotherapy can help support someone in managing some of those -- that distress. But then also in those instances I mentioned that those social

transition procedures are usually in place along the way there as well.

Q. I appreciate your answers on that. Just looking at the time. It looks like we're at another hour, I think, that's passed. Does anyone need another break for water, restroom or anything?

MR. COLEMAN: (Shakes head).

MR. WARDENSKI: Sure. Let's take a two-minute break.

THE WITNESS: Yeah, I think a short one would be nice.

MR. SPATE: Let's come back at 2:50. How does that sound?

THE WITNESS: Sounds good.

THE VIDEOGRAPHER: Time on the monitor is 2:47 p.m., we're going off the record.

(Recess was taken from 2:47 p.m. to 2:51 p.m.)

THE VIDEOGRAPHER: The time on the monitor is 2:51 p.m. and we're back on the record.

BY MR. SPATE:

Q. Dr. Budge, I'd like to kind of switch gears a little bit to the topic of the use of sex-separated facilities as a part of social transition. And I'd like to turn to your -- back to

your declaration. And starting in paragraph 53. Let's see here. Blowing it up. Thank you for your patience.

I believe it's paragraph 53 and then also -- and we can move down there for a second -- paragraph 68. I believe those paragraphs -- in those paragraphs you opine that gender-neutral and single-user restrooms can be harmful to transgender youth and can make their gender dysphoria worse; is that right?

A. Is this in paragraph 53?

Q. Yes. So let's start with paragraph 53. So, starting with -- let's read from the top. It says, "When facilities are gendered and a transgender individual is prohibited from using the facilities consistent with their gender identity, a variety of negative consequences can result, each which can lead to adverse mental and/or physical health for the excluded transgender person." And then it says, kind of going down further on page 21 -- let's see here. Kind of -- let's see. I'm trying to see where the -- sorry. Yeah. It says, "In addition." Do you see where it says, halfway through that paragraph on page 21, "In addition --

A. Yes.

Q. "In addition, when accommodations are offered to transgender individuals that require them to use a separate restroom that is not usually designated for their group, e.g., sending a high school student to a faculty or nurse's restroom or when a transgender person is told that they, but not their peers, must use a single-user restroom, that individual is being told not only that their gender identity is invalid, but that they have something other and must be separated from all their peers because of who they are."

Is -- is -- did I read that correctly?

A. Yes.

Q. Okay. And then I'm going to scroll down to paragraph 68 as well. And it says, "Even when gender neutral restrooms are available, it can be harmful to tell a transgender student that they are required to use those restrooms instead of having the option to use the restroom that aligns with their gender identity." And then it says, "One harm is the increase in gender dysphoria that occurs because of being othered by not being able to use the restroom that aligns with their gender identity."

Is it -- did I read that correctly?

A. Yes.

Q. And just for clarity, in those paragraphs, you appear to be using single-user restroom and gender-neutral restroom synonymously; is that right?

A. That's correct.

Q. And it appears that the main opinion here is that requiring transgender individuals to use single-use restrooms can make transgender individuals feel othered; is that right?

A. Yes, specifically that when, like, transgender boys are told that they can't use the boys' restroom and transgender girls are told they can't use the girls' restroom, but that's invalidating of who they are as a -- as a person. And that, in fact, that that leads to experiences of feeling misgendered, because that means that people don't affirm the gender that they have and don't believe them and don't support that gender.

Q. In paragraph 53, you cited to several sources in that paragraph, but did any of those sources research whether single-user or gender-neutral bathrooms actually caused that impact that you're finding?

A. I would have to look at the specific studies.

(Exhibit No. 8 was marked for

identification.)

BY MR. SPATE:

Q. Well, let's look at one of them right now. One of those that you cite is -- let's see here. It's a study that's published by -- I think it was Dr. Price-Feeney and others in 2021. And I think that is Exhibit No. 8, if I'm not mistaken.

A. Yes.

Q. And does the article entitled, "Impact of Bathroom Discrimination on Mental Health Among Transgender and Nonbar-" -- "Nonbinary Youths," is that what you're looking at right now?

A. Yes.

Q. Okay. Now, if you scroll down to page 1143, which should be -- let's see here. It's -- it's basically page 2 of the document that you're looking at. It should be second -- I'm sorry, if you look at the fourth sentence of the second paragraph.

So in that first column to the left there's two paragraphs. The second paragraph, go down four sentences. And it starts with, "Specifically, providing gender-neutral bathrooms or allowing youths to use the bathroom that corresponds with their gender identity can be viewed as part of

gender-affirming support and care."

Did I read that correctly?

A. You did.

Q. Okay. Do you agree with that statement?

A. I would say that for youth who have, like, a nonbinary identity, for example, that gender-neutral bathroom option would likely feel affirming to them in that instance. So I think that there are components of that sentence that make sense. But in the instances that I've been talking about, specifically when you have a binary -- a youth who has a binary gender identity, a boy or girl, not being allowed to use the bathroom that matches their gender identity is the part that's invalidating.

And actually in this article, the way that they measure this is -- let's see. So they specifically -- I'm sorry, my scrolling isn't working well. They specifically ask if youth were told that they couldn't use a specific restroom. And I can find the exact wording, if that's helpful. So that matches with what I'm sharing in my -- in my report.

Q. Did that conclusion, though, make that limitation in the sentence that we just read?

MR. WARDENSKI: Objection to form.

BY MR. SPATE:

Q. Did the sentence that we just read limit that conclusion only to nonbinary individuals regarding use of gender-neutral bathrooms?

A. Like in the particular sentence that we read?

Q. Yes.

A. I did not see that in that particular sentence. But that is how I would interpret that sentence.

Q. But the study does conclude that gender-neutral bathrooms are properly viewed as gender-affirming care; is that right?

A. I think for youth who -- specifically, where that does match their gender identity. And I also think part of this is that -- it's more the ability to have the choice to have a specific type of bathroom and not being restricted or told that you can't use a specific bathroom.

So, you know, the language that they have for bathroom discrimination is, Have you ever been prevented or discouraged from using a bathroom that corresponds with your gender identity? That's how they measure that -- that component. So, you know, I think what they say in this article supports the information that I'm sharing.

Q. Well, especially since what we just read doesn't make as narrow of a finding as you're presenting today. You know, why wasn't -- why doesn't your declaration take consideration of that statement, even though you cite to that study in your declaration?

A. In my declaration I'm specific about, you know, not being able to use the bathroom that aligns with your gender identity, which is what they measure in this particular study. So I think part of this is that, you know, if you have a kid where a gender neutral bathroom matches their gender identity, then that's totally fine.

(Exhibit No. 9 was marked for identification.)

BY MR. SPATE:

Q. I'd also like to pull up another document for you, one of the other studies. I think it's Exhibit No. 9. And it should be the Taylor study from 2020 that you cite in your declaration. I think the title of it is, "Being Safe, Being Me," 2019.

Do you see that.

A. I do.

Q. All right. If you scroll down to page 88 for me. About halfway down the page. Do you see the

heading that says, "Recommendations"?

A. I do.

Q. Right beneath the word, "Recommendations," it says, "Gender-neutral washrooms in schools are interal to the safety and dignity of trans and/or binary" -- "and/or nonbinary youth."

Did I read that correctly?

A. You did.

Q. Do you agree with that statement?

A. I think it would be really nice to have gender-neutral restrooms in schools. I think that that's something that is helpful. And I also do not think that that answers what we're talking about, specifically. So, I think also students should be able to use the restroom that matches their gender identity. So these to me are two separate recommendations.

Q. Can you explain that again? I'm -- I'm having trouble understanding how that answers the question of whether you agree with that statement.

A. Right. So, in my report I talk about that it causes harm, for example, to transgender boys not being able to use the boys' restroom and transgender girls not being able to use the girls' restroom because that's invalidating to their identity. That

to me is different than making a recommendation that gender-neutral bathrooms should be in schools. Those two are separate concepts. I think gender-neutral restrooms are helpful, especially for nonbinary youth and that it's nice to have options, but that being able to have access to the bathroom that matches your gender identity is an essential component of that social transition process that we were talking about earlier.

Q. So you believe that -- you agree that gender-neutral and single-stall bathrooms are actually -- they can be a part of gender-affirming -- of gender-affirming care, but they should also be able to access the bathroom of their choice?

A. Well, I actually think single-stall restrooms are helpful for everybody. I think that this is just a helpful facility to have. That's actually my most broad statement. I think single-stall bathrooms are useful.

And I think that for the purpose of what we're talking about today, is that trans kids should not be excluded from using the bathrooms that match their gender identity.

Q. Why do you think single-stall bathrooms are good for everybody? I mean, what makes them a

good option?

A. Uhm, I think sometimes people like privacy. I mean, this is just true for any human being. But that -- that isn't necessarily related to what we're talking about in this particular case, right? So I think that -- just because I think that it's nice to have as -- from a facilities perspective that doesn't address this component about, you know, should -- that should trans girls be able to use the girls' restroom? Yes. So, that -- these to me are separate issues that we're talking about.

Q. Well, so I appreciate you bringing up the privacy of single-stall restrooms. On that same page, that page where we looked at, page 88, it says -- do you see in the middle of the page it says, "66 percent of youth do not usually feel safe in school washrooms"?

A. And that's -- sorry, where is that?

Q. That should be on page 88. Kind of above the recommendations to the left. You see where it says, "66 percent of youth do not usually feel safe in school washrooms."

Would the privacy of a single-stall restroom provide more privacy and safety than a multi-use restroom?

A. I think what we're talking about are different issues. I can answer this particular question, but I think the issue that I was sharing before, which is that it's important to be able to allow trans girls to use the girls' restroom and trans boys to use the boys' restroom, as a part of their transition process, making sure that it's not a component that adds to their gender dysphoria and that leads to invalidation and othering for them. You know, like those are all components that are true.

And sometimes students do like to have the privacy of a single-stall bathroom, regardless of their gender identity. But that's a choice that's given -- that could be given to any student, regardless of if they are a cis trans or not.

Q. Well, so I'm going to keep moving on -- on this topic, the single-stall restrooms. Moving on to -- I think it's the No. 10, Exhibit No. 10. It's the -- I think it's Murchison study from 2020 -- 2019. "School Restrooms/Locker Rooms, Restrictions and Sexual Assault Risk Among Transgender Youth."

Do you see that?

A. I do.

Q. If you wouldn't mind scrolling down to

page 9. I'm sorry, page 8. About halfway down it says, "Conclusion."

Do you see that?

A. Yes.

Q. And look at the second sentence. It says, "Besides avoiding restrictive policies, schools should strongly consider designating all-gender restrooms, along with additional adult supervision in locations where harassment is most likely to occur. Training staff to intervene and anti-LGBTQ bullying and offering privacy options, e.g. curtains and locker rooms."

Did I read that correctly?

A. Yes.

Q. And, once again, this is, you know, all-gender restrooms being synonymous with single-stall restrooms, correct?

A. That's how I understand it.

Q. And do you agree with the study's conclusions, schools should strongly considering, you know, having all-gender restrooms, these single-stall restrooms?

A. This statement follows exactly what we've been talking about. So it says, "Besides avoiding restrictive policies," which matches exactly what

we've been talking about, they also then say -- you know, so I said, We need to not have these restrictive policies. And then also you can have these additional things in place. So that matches what we've been talking about so far.

Q. Appreciate it, Dr. Budge. And I'm going -- I'm going to keep moving on to -- on to the next topic, which is kind of more focusing on the harms that -- that you discuss from what you've said that are harms, from excluding transgender students from sex-separated facilities that align with their gender identity, I believe is how you said it. And I want to go back to your expert report. I think I'm paragraph 46.

A. Okay.

Q. Are you there?

A. I am.

Q. And down near the bottom of the page, you see it says, "In one of the largest nationwide Canadian studies to folks on transgender youth, Taylor, et al. 2020, 66 percent of youth reported being bullied, 35 percent were physically threatened or injured, 9 percent were threatened with a weapon, 63 percent reported experiencing verbal sexual harassment, 34 percent reported physical sexual

harassment."

Did I read that correctly?

A. Yes.

Q. And that's -- that's bullying and harassment and physical threats generally, like not limited to one particular location, right?

A. That's correct. I'm just making sure that I'm answering that correctly. But I think this paragraph is in general about harms.

Q. And then the next sentence says, "In another study, transgender youth reported high rates of physical violence at school, 57 percent; and nonphysical victimization at school at 68 percent;" is that correct?

A. That's correct.

Q. I think that's De Pedro and Gorse from 2023, if I'm not mistaken?

A. That's correct.

Q. And that one refers to the particular location of school, right? Not just general -- or it is -- it's -- it's general physical violence, but it's at school; is that correct?

A. That's how -- that's what that sentence says, yes.

Q. Did you provide any data regarding the

occurrence of bullying or violence towards transgender youth, when they used the restroom that they believe aligned with their gender identity?

A. We talked about the -- I mean, the Price -- Price-Feeney article talks about that discrimination in the bathrooms. So that's one piece that is included. And they analyze the mental health impacts of that. And so that's one article that talks about that. About, you know, the discrimination of not being able to use the bathroom and the impacts and harms of that.

Q. So I think my question is a little bit different. My question is, do you have any data about the bullying and harassment the transgender students can face, when using restrooms that align with their gender identity? Like, if they were allowed to use the restroom that they believe aligns with their gender identity, what does -- what does the data say about the occurrence of harassment and bullying in that context?

A. I don't recall citing any articles that talk about any -- about the type of bullying or harassment that they could experience in restrooms that match their gender.

Q. Did you consider that, when you were

drafting your expert report?

A. You know, it's -- it's interesting because I think in my clinical experience what people talk about the most is experiencing that bullying and harassment from the bathrooms that don't align. So that's really where I hear the most about that and that's where the data mostly points to the information that I've seen. I think if there was information out there about that, that's not something that I know -- that I know much of.

Q. Well, but why doesn't your report address the risk of bullying and harassment to transgender students by allowing them to use the opposite sex restrooms?

A. I guess to me these are two separate issues, right? So, there's one issue of saying, you know, what somebody's -- you know, I guess what somebody's right is, what the rights are for somebody to be able to use a bathroom that matches their gender identity and the discrimination that's involved when they can't.

Now, it's possible, and it does happen, that people -- trans people will experience harassment in the bathrooms that match their gender identities, but that's a different issue, right? So

I think part of it is that might be an experience that they have, but that doesn't mean that those things should be happening to them. And that it doesn't mean that we shouldn't allow them to be able to use the restroom that matches their gender identity.

Instead, it means that there should be policies that are in place to help reduce that bullying in that bathroom, in my opinion.

Q. Well, if we're just talking about -- specifically about bullying and harassment and violence and the occurrence of it, and where it happens, you know, do transgender kids experience the same level of harassment and bullying when they use a single-occupancy restroom, as when they use a multi-occupancy restroom?

A. I'm not aware of data that -- that talk about that.

Q. Does -- would you agree that the privacy of a single-stall restroom prevents bullying inside that restroom?

A. I mean, I think if there's only one human being in a bathroom versus the fact that there could be more humans in a bathroom, if we're just talking generally, that as a general statement it's less

likely that that could happen. But, I mean, there could be students who follow that student into the single-stall bathroom, there could be no students who are in the bigger bathroom. I mean, to me this is more -- you know, one is related to access, then the other piece is related to -- it's also just not okay for other human beings to bully and harass other human beings.

THE REPORTER: Mr. Spate, could we take a brief moment off the record? I need to change a battery on my machine.

MR. SPATE: Yeah, no problem.

THE VIDEOGRAPHER: The time on the monitor is 3:15 p.m. We're going off the record.

(Recess was taken from 3:15 p.m. to 3:19 p.m.)

THE VIDEOGRAPHER: The time on the monitor is 3:19 p.m., and we're back on the record.

BY MR. SPATE:

Q. Dr. Budge, we were just talking about bullying and harassment in -- in restrooms. And so my question to you is, when transgender youth use a multi-occupancy restroom that they believe aligns with their gender identity, are they at a lower risk of bullying and harassment than if they used a

multi-occupancy restroom that does not align with their gender identity?

A. I don't think we have data to be able to answer that question.

Q. When transgender youth use a multi-occupancy restroom that they believe aligns with their gender identity, are they at a lower risk of bullying and harassment than if they used a single-occupancy restroom?

A. Again, I think that's hard to say because I think some of that might be, like, where does that bullying and harassment happen. Is it like while you're waiting in line for the single-occupancy restroom, is it inside the actual -- I mean, I think some of this stuff is a little hard to say. But, again, I feel like my answer -- I think that these are separate issues from, should someone be allowed to use the restroom that matches their gender identity. It's different from the type of experiences of harassment that they might experience.

And that also then that means that if there is some bullying and harassment that somebody might be experiencing, it's the school's job to make sure that isn't happening. That's behavior that's not allowed in schools.

Q. Are you aware of any data that transgender youth are at a greater risk of -- a greater risk of harassment and bullying, when using a single -- a single-occupancy restroom versus a multi-occupancy restroom?

A. I'm not aware of any data to talk about that.

Q. Are you aware of any data that includes -- or any studies, systematic reviews, any kind of -- any kind of evidence that the use of single-occupancy restrooms by transgender youth makes their gender dysphoria worse?

A. There are a couple of components. So the first is that that particular scenario that you're describing is included in the Price-Feeney article, for example. So, if you're told that you're not able to use a particular restroom that that would be something that would be included in, you know, in that particular realm of the questioning that's being asked.

So, you know, I think that that's -- that's, I guess, one piece that's included in that.

Q. So, are there -- are you aware of any systematic reviews that reached that conclusion, that the single-occupancy restrooms make transgender

use -- gender dysphoria worse?

A. I am not aware of any systematic reviews that answer that particular question.

Q. Are you aware of any systematic reviews that include the use of single-occupancy restrooms by transgender youths leads to an increase in suicide by transgender youths?

A. I'm not aware of a systematic review that addresses that question. I know that in my clinical experience, this is a lot of listening to how people talk about the experience of what it's like to be told that you are not able to use a bathroom that aligns to your gender identity and what that experience is like, causes an enormous amount of distress. And the articles that I cite in the declaration, also support the clinical experience that I have.

Q. Are you aware of any systematic reviews that conclude that the use of single-occupancy restrooms by transgender -- transgender youth leads to an increase in suicidality in transgender youth?

A. I am not aware of a systematic review of that.

Q. Are you aware of any systematic reviews that conclude that that the recommendation that

transgender youth should not use single-occupancy restrooms?

A. I am not aware of that statement. I think that -- and, in fact, nobody who I know says that trans people should not use single-stall bathrooms that if they want to, that that's something that would be supported. It's mainly just that trans people who have a binary transgender identity should have access to those men's and women's or boys' and girls' restrooms that they align with their gender identity.

Q. Are you aware of any systematic reviews that conclude that transgender students should use multi-occupancy restrooms and avoid single-occupancy restrooms?

A. I'm not aware of a systematic review that says that.

Q. Are you aware of any systematic reviews that conclude that gender transition reduces suicide of adolescents experiencing gender dysphoria?

A. Yes.

Q. And can you name that systematic or those systematic reviews?

A. I would -- I read a couple of systematic reviews that talked about gender-affirming care. And

I could not cite them without bringing them up and looking for them.

Q. So -- so you think there are some systematic reviews that say that gender transition reduces suicide of adolescents experiencing gender dysphoria?

A. There are systematic reviews that talk about the effectiveness of gen- -- of medical care for transgender people that specifically talks about impacts on mental health.

Q. What about suicide, specifically?

A. I would need to look through those articles and see exactly what they say.

Q. But as it seems right now, you're not -- you can't say for certain that you're aware of such a systematic review that concludes that it does review suicide of adolescents experiencing gender dysphoria?

A. I would need to look at it to be able to talk about it more specifically in detail.

Q. Are you aware of any systematic reviews that conclude that gender transition reduces suicidality of adolescents experiencing gender dysphoria?

A. Again, I would need to look at those

specifically and see what the conclusions are.

Q. Do you believe that felt safety is important for adolescents, when they use the restroom?

MR. WARDENSKI: Objection to the form.

THE WITNESS: I mean, I think that feeling safe is an important human -- it's important to humans in general, yes.

BY MR. SPATE:

Q. In your declaration, did you consider the impacts on felt safety of children who do not identify as trans or suffer from gender dysphoria, when transgender students use the restrooms that align with their -- that they say align with their gender identity?

A. I have read what people have said about thoughts on sharing restrooms, cisgender people's thoughts on sharing restrooms with transgender people. My understanding of that is that it's rooted in prejudicial ways of thinking about transgender people and transgender identities. And that we actually don't have data that support that trans people are any more dangerous or cause any lack of safety, more than any cisgender person. So there's no evidence that that's actually something that

people -- there's no evidence that that's something that people should be afraid of.

Q. So your -- your -- your opinion is that if children feel uncomfortable sharing a multi-occupancy restroom with a transgender student, then the only explanation for that is prejudice?

A. And that's the -- that would be my primary explanation.

MR. WARDENSKI: Objection.

THE WITNESS: Yes.

BY MR. SPATE:

Q. And so your -- would your recommendation be, then, that those children that have those misgivings or that don't feel safe need to -- basically, need to get over it? They need to get over that feeling of discomfort?

A. Well, I actually think that, you know, like cases like this kind of breed these ideas and these myths around what it means for trans people to be using bathrooms. You know, they are human beings who need to use the bathroom. And these are kids. They are kids who just need to pee.

You know, so I think that part of this is that the narratives that are being built around what this is, has built it up to be something that it

actually is not at all, which is just human beings using the bathroom for what they need to use it for. And it's not okay to exclude certain people from using the bathroom that matches their gender identity.

So the thing is, is that I think that what is happening -- this is my opinion on what I've seen -- is that the more that there is, you know, negative media, negative attention around transgender people using bathrooms, the more that breeds some of that, you know, fear, some of those ideas that are myths around what it means to share a bathroom with a transgender person.

So that's -- that's what I see. And I think that part of that is that those students aren't being excluded from using the bathroom. They have that choice to use that bathroom. That's -- that's the choice that they have to be able to use the bathroom.

Q. I want to move to paragraph 54 of your declaration, if we could. And this is looking at the data that you cite for the number of transgender youth in South Carolina.

In paragraph 54 you say, "In the State of South Carolina, approximately 1.6 percent of

adolescents, ages 13 to 17, or about 3,700 individuals are transgender youth." And then there's a citation to Herman, et al., 2022;" is that correct?

A. Correct.

Q. And can you explain how the data from that study was gathered?

A. From the Herman study?

Q. Yes.

A. Do you have access to that? I think that this was one of the pieces that was in the --

(Exhibit No. 11 was marked for identification.)

BY MR. SPATE:

Q. Yes. So that's going to be Exhibit No. 11, I believe.

A. Right. So I think they provide an explanation of how they gathered that data. This is nationwide data around the information that they got. And it looks like the data was from the Behavior Risk Factor Surveillance System and the Youth Risk Behavior Survey.

Q. And can you just, for the record, kind of explain what those are?

A. In my understanding, they are kind of national surveys that are given to kids from multiple

age groups around a lot of different kinds of things, like academic achievement, mental health, different kinds of things that are happening for them.

Q. And then in the -- if we're looking at that -- it says page 1 of Exhibit 11, which is that Herman study. Under the heading, "Executive Summary," there's that paragraph. You read from the first sentence of that first paragraph, correct?

A. Yes.

Q. If you go down to the last sentence of that first paragraph it says, "In this study we used data from the 2017 and 2019 YRBS and the 2017 to 2020 BRFSS." Defined that and then it gives some conclusions. But did I read that sentence correctly?

A. Yes.

Q. So, based on what it says here, it's using data between 2017 and 2020; is that correct?

A. Yes.

Q. Okay. So, you've not cited any data sooner or more recent than 2020; is that correct?

A. That's specific to --

Q. That's specific to the population of transgender students in South Carolina.

A. Correct. This is the most recent.

Q. So we don't have any data about the number

of transgender adolescents in South Carolina from 2024; is that -- you have not presented any, correct?

A. Correct. This is the most recent -- so this was published in 2022. So this is the most recent iteration of estimates for trans populations.

Q. Okay. And if you scroll down to page 9. At the top of that page 9 it says, "Table 4. Regional and state level estimates of those who identify as transgender in the U.S. population by age group, ages 13 and older."

Did I read that correctly?

A. Yes.

Q. And then beneath it there appears to be columns of states, and then divided up into age groups, listing out the numbers and the percentages of those populations; is that right?

A. Yes.

Q. So if we go down to the next page, number 10, that table continues down. And then you see South Carolina, I believe, is the -- the -- is on page number 10; is that correct?

A. Correct.

Q. And what percent does it list there next to South Carolina?

A. So, it says there were 3,700 youth and

1.14 percent.

Q. Okay. So in your declaration you say -- I'm not looking back at paragraph 54, you say that Approximately 1.6 percent of adolescents, ages 13 to 17, or about 3,700 individuals are transgender And then this says 1.14 percent. So I guess what I'm wondering is, where did you get the 1.6 percent number?

A. Yes. So that -- that 1.6, there's a typo in that. But you see the 3,700 individuals is correct in that --

Q. Okay.

A. -- sentence. So the actual number, the actual number is correct, but it's -- it says in the table, 1.14.

Q. Okay. And then correct me if I'm wrong, but that is the number for the age range of 13 to 17 years old; is that right?

A. Correct.

Q. Then my understanding is that you extrapolated this data with school attendance data from EdChoice; is that -- is that correct?

A. Correct.

(Exhibit No. 12 was marked for identification.)

BY MR. SPATE:

Q. And I'll pull up the EdChoice data for our purposes here. And that should be Exhibit No. 12. And my understanding -- well, look -- let me -- let me read what you said in your declaration in paragraph 54. The last sentence of that paragraph says, "Given that almost 90 percent of K to 12 students are enrolled in public schools in South Carolina, approximately 3,315 transgender adolescents in the State of South Carolina, in addition to a significant number of transgender school age children under the age of 13 are or will be impacted by proviso 1.120."

Did I read that correctly?

A. Yes.

Q. So the data that you use from EdChoice, if we pull up No. 12, that appears to be K to 12 data; is that right?

A. That's right.

Q. Do you have any data specific to the age ranges of 13 to 17? Do you know what that percentage is?

A. I do not.

Q. Okay. And it's possible that the percentage could be different for that limited age

range, correct?

A. It's possible that it could be a little bit different.

Q. Do you know how many transgender students are seeking or will seek to use a multi-occupancy single-sex restroom corresponding to their gender identities in South Carolina public schools?

A. I do not have that data.

Q. How could somebody find out whether these students are seeking or will seek to use a multi-occupancy, single-sex restroom corresponding to their gender identities in South Carolina public schools?

A. Do you mean from like a systematic research point or just like in general, how would one find out that information?

Q. Both. Let's look at both of those examples.

A. Well, I think, you know, some of this would require South Carolina to have released specific data. You know, if there are school systems that report data regarding transgender youth in their systems by ages, and then also talk about different types of plans they have in place to support those trans kids. So those plans could have some data

within them. But these are all things that could happen within school systems to have that information.

It's also possible in some -- in some data, it's possible that there are, you know, medical systems where trans kids might be seeking medical care, where there are recommendations that are included within those, but that would be a much harder data to access.

Q. And --

A. These would be -- and they would have to exist within the schools.

Q. So the only way that you could find that out is based on school records, is what you're saying?

A. I'm not saying that's the only way. I think that that would probably be -- if the schools had really systematic ways of capturing gender-related data that that could be a way to do that.

In our school district, the Madison Metropolitan School District sends out surveys to all of the kids and asks them a lot of different questions about general things, and one of those is about gender and also about accommodations. So

surveys can be sent out within school districts as well. But, again, these are things that are -- that are hypothetical that could exist in systems, and I'm not exactly how South Carolina does this.

Q. I'm going to turn back to the Herman study, Exhibit 11. And I want to go down to page 13, if we could. And at the -- near the top of the page it says, "Conclusion." Do you see that?

A. Are you on 12?

Q. I'm sorry, I'm on document No. 11 on page number 13.

A. Okay.

Q. Well, it says page 13 of the report. The PDF might say -- it might be page 14 of the PDF, but it's 13 of the report.

A. Okay.

Q. Do you see where it says "Conclusion"?

A. I do.

Q. Okay. Do you see, if we go down a couple paragraphs, it goes down to "Methods."

A. Yes.

Q. And then under that "Methods" heading, there's a paragraph that reads -- let's see. Starting -- we're going to move a couple of -- let's see. Four sentences in. So go one, two, three,

four. And five, actually. It says, "The BRFSS module asks, do you consider yourself to be transgender?"

Do you see that?

A. I do.

Q. And then it says, "With response options yes, no, don't know, not sure or respondents can refuse to answer. If a respondent expresses confusion, then interviewers provide definitions of transgender and/or gender nonconforming. If respondents affirmatively answer the question, they are then asked if they consider themselves to be male/female, female to male, or gender nonconforming. The YRBS module asks, Some people describe themselves as transgender when their sex at birth does not match the way they think or feel about their gender. Or are you transgender? With response options, no, yes, I am transgender, I'm not sure if I'm transgender don't know what the question is asking."

Did I read that correctly?

A. Yes.

Q. Do you know whether the data for South Carolina came from the BRFSS survey or the YRBS survey?

A. I don't know which survey it came from.

Q. Do you -- do you know whether either one of those surveys asked South Carolina adolescents if they experienced a pervasive, consistent, persistent, and insistent sense of being a sex different from the sex assigned to them?

A. I don't know if they were asked that question or not.

Q. So we can't be sure, then, that the kids who identified themselves as transgender in that survey fit with your definition of transgender, can we?

A. I think we can conclude that these youth identify as transgender, based on the questions that were asked to them.

Q. Right. But we don't know if by checking that box whether or not that means they agree that they have a pervasive, consistent, persistent, and insist -- insistent sense of being a sex different than the sex assigned to them?

A. We know that they identify as transgender, based on the answers that they gave. If they -- if they said affirmatively, then that's what they said.

Q. Based on the responses of the survey, all we know is that they said, "I identify as transgender"?

A. Correct.

Q. But it may not necessarily be true that their identifying as transgender, fits with what you defined as transgender; is that correct?

A. We only have the information that's related to what they were answering in this particular question.

MR. SPATE: I'm going to look through here. That might -- that might be all the questions that I have for right now. I'm just looking through to see.

Miles, do you have some follow-up questions that you'd like to ask, before Joe has a chance to do some of his own, if he has any?

MR. COLEMAN: Have you ever met a lawyer who didn't have questions of his own to ask? The answer to that is no, and the answer to your question is yes, I've got a few. It might be a more efficient use of our time, if it's okay with everybody, could we take, I don't know, maybe a seven-minute break or so? It will just be more efficient if I can consolidate my handwritten notes that are scattered over all these pages, so I can move a little bit more quickly through the questions. Maybe come back at -- well, how about 3:55? That would be a nine-minute

break. Is that okay?

MR. WARDENSKI: That works.

MR. SPATE: It works for me.

MR. COLEMAN: Okay. Let's do that.

THE VIDEOGRAPHER: The time on the monitor is 3:46 a.m. (sic), we're going off the record.

(Recess was taken from 3:46 p.m. to 3:58 p.m.)

THE VIDEOGRAPHER: The time on the monitor is 3:58 p.m. and we're back on the record.

EXAMINATION

BY MR. COLEMAN:

Q. Good afternoon, Dr. Budge. Thank you for your time with us. We introduced ourselves at the beginning of the deposition, but my name is Miles Coleman and I represent various of the state and local defendants in this lawsuit, and I've got a few questions of my own.

At first will be a few rather mundane questions, but you've been in depositions before, and you know how this is par for the course.

Are you taking any medications today that might impair your ability to recall or to testify accurately and completely?

A. No.

Q. And is there anything else today that would impede your ability to provide complete, truthful, and accurate testimony?

A. No.

Q. What did you do to prepare for this deposition?

A. I read over the declaration that I wrote. I read over several of the articles that I had cited. And I read a few other pieces. Like I reread the Cass report, for example, before this deposition. Joe and I met to talk about some possible questions that could be asked.

Q. And to be clear, I don't want you to tell me what you and Joe talked about. So I'm not asking you that. And if you start to say that, Joe will interject today an objection, as he should. But without telling me what you talked about, can you tell me about how many times you met with him and for how long?

A. Ah, for this case we met once this morning for 30 minutes, about.

Q. And when you say "for this case," that implies that you have worked with Mr. Wardenski on other cases; is that right?

A. That's correct.

Q. And in those instances, you were retained as an expert witness as well?
A. That's correct.
Q. Have you spoken with anyone else about this case, in preparation for your deposition?
A. No.
Q. During today's deposition, have you spoken to or communicated with anyone other than the lawyers asking the questions?
A. No.
Q. During today's deposition, including during breaks, have you spoken to or communicated with Mr. Wardenski?
A. No.
Q. Do you have any notes or documents or other materials with you today for use in the deposition?
A. No.
Q. We spent some time already this afternoon looking at your expert report. Who wrote that?
A. I wrote the report.
Q. Did you have any assistance in writing it?
A. No. I wrote the entirety of the report. There were some comments that were made by Joe and the legal team that I incorporated into the edits,

but I wrote the entirety of the report.

Q. Does the expert report you submitted in this case include portions that duplicate or replicate expert reports that you have submitted in other cases?

A. Yes.

Q. I'm not asking for mathematical precision, but can you give me a ballpark estimate of how much of this expert report replicates or duplicates prior work you've submitted as an expert in other cases?

A. The majority of the report.

Q. Are the other cases in which you've been retained as an expert, cases that involved medical treatment or procedures relating to transgender people?

A. Can you repeat the question?

Q. I'll try to repeat it. Maybe it will make more sense if I -- if I ask it differently. What I'm trying to get at is, this case involves not medical procedures or hormonal supplementational replacement therapies. Instead, it involves bathroom policy. And so what I'm trying to figure out is, are the prior cases in which you submitted expert reports, ones like this one that involved a bathroom access policy or are they ones that involved medical

treatment, whether that be hormone replacement or supplementation or surgical treatment?

A. I have been retained as an expert in two cases that focused on medical care.

Q. And only two cases that focused on medical care?

A. That's my memory. I can think back and see them. I'm pretty sure it's just two.

Q. And have any of your prior retentions as an expert involved bathroom access cases?

A. Yes.

Q. Which cases were those?

A. Uhm, there's the Idaho case that we discussed earlier in the deposition. And then there's a case in Missouri. And there are two cases that I've been on in Wisconsin.

Q. So approximately four cases involving bathroom access, two involving medical treatments?

A. Was that four or five? I'm just trying to make sure. I think I'm counting this one in the fifth.

Q. And -- yeah. Whether it's four or five, we're in the ballpark.

A. Okay.

Q. Again, not expecting exact mathematical

certitude. To the extent that your expert report in this case significantly repurposed material from your expert reports in prior cases, who wrote the expert reports in the prior cases?

A. I did.

Q. And did you have any assistance or input from other people in writing those reports?

A. No. Similarly, there were edits, potentially some comments from lawyers, but I wrote the report.

Q. In your expert report in this case, you discuss your professional background. I just wanted to ask a few additional questions related to your personal and professional background. Have you ever held any elected or appointed public office?

A. No.

Q. Have you ever participated in a political campaign?

A. No. Can you say -- what's participating?

Q. We can think of that in the broadest possible sense. By which I mean, including but not limited to handing out flyers, door knocking, making phone calls on behalf of an issue or a person, attending fundraising events, et cetera.

A. Yes, I have.

Q. And I'm speaking slowly in part because I'm not sure if it's my Internet connection or -- or just the system. There's some lag. So if at any point my question doesn't come through right or if I'm lying, if your answer doesn't come through clear, I'll probably reask it and I'm sorry about that. I'm just afraid to restart my computer right now, because then who knows if I'll ever get back into the deposition.

I think a moment ago you said that, yes, you have participated in political campaigns when that term was broadly defined; is that right?

A. That's right.

Q. What campaigns, issues or candidates have you have supported or participated in in that way?

A. Uhm, I have knocked on doors to go around and kind of canvas for different elections. I donated to political -- people who are running for certain positions.

Q. And understanding that, of course, we are constrained by the limits of your memory, to the best of your recollection, let's start with the donations. What candidates have you donated money to?

A. Most recently, I donated to Kamala Harris' campaign.

Q. Any others before that?
A. Yes. I can't -- to be totally honest, I don't exactly remember.
Q. Would you say that in your life you've donated to a political campaign more than ten times?
A. I don't know. It's possible.
Q. Okay. The canvassing or door knocking you mentioned a moment ago, was that for a candidate or for an issue?
A. My recollection of the most recent time I did that was for the governor of Wisconsin. Either this most recent election or the one before that.
Q. Any other canvassing or door knocking you've been involved in that you can recall?
A. I think that that might be the only one.
Q. Have you ever written any opinion, editorials or op eds or letters to the editor?
A. I have written an op ed that did not get published.
Q. What was the topic of it?
A. It was around gender-affirming medical care for transgender adolescents.
Q. What publication or periodical did you submit it to?
A. We submitted it to several different

outlets. This was a group of people. So I wrote it with colleagues. And we submitted it to several different newspaper outlets and it was never picked up.

Q. Are you a member of any social clubs or organizations?

A. Just in general, like the YMCA. Is that an example of one?

Q. That's a great example. Any others?

A. Yes, I'm a member of the Y. And that's really all I can recall.

Q. Are you a member of any political groups or organizations?

A. I don't think so. I don't think so.

Q. Are you a member of any religious groups or organizations?

A. No.

Q. Has your professional work or scholarship been funded at all or supported in any way by grants or funds from any advocacy groups?

A. Not that I recall. All of the grants that I have applied for and gotten have been through either the federal government or the university or through kind of nonpolitical or nonaffiliated nonprofits.

Q. I apologize if I asked this already and I'm asking it again. I'm not doing that to be tricky, just because I think -- I think I skipped over it. Have you ever participated in any protests, marches or rallies?

A. Yes.

Q. What and when?

A. I participated in the women's march. To be honest, I don't remember exactly what year that was. And I participated in a march around undocumented immigration and immigrants.

Q. Where was the women's march?

A. It was in Madison, Wisconsin.

Q. Was it one in which some people wore head gear, meant to resemble a uterus?

A. I don't -- there -- I think people were wearing hats. I don't recall exactly what they were supposed to represent.

Q. That was in fashion for a while at some point a few years ago among certain interest groups.

While it may not be entirely relevant, I'll ask the question. Are the political donations you've made in the past always been to candidates that you would describe as progressives?

A. Yes.

Q. In your expert report, it mentions that you're being paid $350 an hour for your work in this case; is that right?

A. That's correct.

Q. Who writes you that check?

A. I submit my invoice to Joe. And I think, Joe, your organization -- I mean, so I submit the invoice to Joe and then -- and then I get a check back.

Q. Is that more than you'd been paid in prior cases that you've been engaged as an expert in?

A. Yes. I recently increased my rate based on market value and discussing with other expert witnesses what they are charging.

Q. We've spoken already a good bit today about gender dysphoria. And you've explained to us the diagnostic criteria for that diagnosis. Are there any other clinical diagnoses that are based on or dependent on the patient's subjective, internal sense?

MR. WARDENSKI: Objection to form. Answer it, if you can.

THE WITNESS: In my experience diagnosing, when we -- when we do diagnoses, we ask patients for any diagnosis that we have, what their particular

experiences are of things. So, for example, if I'm asking somebody about, you know, depression diagnoses, and I ask, you know, like have you been feeling sad or down, like that would be a question, for example, that's included in one of the criteria for depression. That's something that is a person's internal experience and it's subjective. It's their self-report.

So my example of that is that, you know, this is how it works when we're diagnosing mental health components. There are very few things that are -- you know, you can observe a few things, depending on what the diagnosis is, but in general it's mostly self-report.

BY MR. COLEMAN:

Q. Do you know what percentage of people who have experienced what we would colloquially call gender dysphoria -- I'm distinguishing that from a diagnosis. I'm going to restart the question with that. Do you know what percentage of people who have experienced what we refer to colloquially as gender dysphoria, who later desist, if that's the right term, from that experience and become comfortable with their natal sex?

MR. WARDENSKI: Objection.

THE WITNESS: Can you rephrase the question?

BY MR. COLEMAN:

Q. It was a long sentence and I'll try to ask it again precisely enough, but maybe a little bit shorter, if that helps. Do you know what percentage of people who have experienced gender dysphoria, who later become comfortable with their natal sex or in other words, what percentage of them does that experience remit in time?

A. Uh-huh. I have read some of the studies that talk about detransitioning. And, in general, it sounds like from what I've read from those studies, it's typically less than one percent of transgender people have the experience that you're describing. But, again, you know, like there's a little bit of a range, but it's close to that percentage. It's usually a small percentage of people who report that experience.

Q. I'll follow up with a very similar question, which is do you know what percentage of people who have been diagnosed with gender dysphoria, later desist and become comfortable with their natal sex?

A. You know, I would need to read the

articles to see exactly how they measured and followed people. So I'm not really aware of the difference between people who have been diagnosed and people who are experiencing kind of dysphoria, generally.

Q. And in either of those two categories, if there were data or studies, empirical evidence that indicated a greater percentage of remittance or desistance than you've just described, you're either not aware of them or disagree with their data or conclusions; is that right?

A. Yeah, I would say the only studies that I have seen report small percentages of detransition.

Q. Earlier this afternoon, Mr. Spate asked you a series of questions about a number of countries, predominantly in Europe, that have in recent months or years changed their health policies regarding transgender people and medical care. Do you remember that line of questions?

A. I do remember the questions, yes.

Q. And a number of times he asked you whether you knew or were aware of the fact that those countries, for example, England, Finland, I think Sweden, were moving away from the WPATH standards of care. Do you remember him asking you that?

A. I do.

Q. And in each of those instances, you responded that in those countries there is not a categorical ban on what you describe as gender-affirming treatment. Do you remember answering in that way?

A. Yes. I remember saying that none of those countries categorically banned gender-affirming medical care, in my understanding.

Q. But you agree with me, right, that it's possible to move away from something or to back away from something without banning it completely, right?

A. In general, that is a possibility.

Q. Like, for example, in our life time in the United States, we've as a country moved away from a culture that normalizes smoking. But we've done that in ways that don't ban the use of cigarettes, right?

A. Sure.

MR. WARDENSKI: Object to the extent it calls for testimony outside the scope of her report, but go ahead.

BY MR. COLEMAN:

Q. It's a hypothetical or I suppose beyond the point, an illustration. But you can -- you can back away from a position without banning it, right?

You can limit access, you can denormalize. And so I guess just to return to the question. You've got to agree, right, that there are countries already mentioned, England, Finland, et cetera, that have at least backed away from the WPATH standards, even though they have not completely and categorically banned medical treatment for transgender individuals, right?

A. My read of what I read in some of the reports related to some of those countries, I think most of what it is, and how I interpret the information, is that there's an indication that the care is important and that there is a desired and ask for additional evidence. And I think that in my read of, you know, the science and being a researcher in this field -- and I mentioned this earlier in the deposition, as a research we love having more evidence, we love understanding things more deeply, and we like being able to test additional hypotheses. And so I don't think any of that is necessarily incongruent with one another.

Q. Is gender-affirming care less readily available in England today, than it was two years ago?

A. Can you define how your --

gender-affirming care. Do you mean medical care?

Q. Let's start with that, yes.

A. Yes. My understanding is that it's less readily available right now, than it was two years ago.

Q. And is that limitation or lessening of its availability a result of national health policy changes?

A. That's my understanding, yes.

Q. So England, as a matter of national health policy, has moved away from the standard of care that it previously had adopted, right?

MR. WARDENSKI: I'm going to object, again, to the relevance of this line of questions to the issues presented in this case. And also to the extent that it goes beyond the scope of Dr. Budge's report. You can go ahead.

THE WITNESS: I'm not sure I'm entirely familiar with what the NHS' policy was in 2022 or two years ago. So just to say, I think it seems as though to me that there are more restrictions now than there were before, and that's my understanding of the situation.

BY MR. COLEMAN:

Q. I guess what I'm struggling with is

there's an almost inescapable, logical syllogism here and you won't walk to the conclusion of it. England used to have more readily available gender-affirming care that was aligned with or closer to the WPATH standards. Currently, it is less available in England. Conclusion, England has backed away from the WPATH standard and the greater availability of gender-affirming care.

Do you agree that each of those propositions and the conclusion are correct?

MR. WARDENSKI: Objection to form. You can answer, if you can.

THE WITNESS: I mentioned, I am not super familiar with what the policies were in England a couple of years ago. I'm more familiar now with what's happening because of what's been going on in the media and the news. So I think that's -- that's what I can answer.

BY MR. COLEMAN:

Q. I'm not trying to be difficult. And I don't want to beat a dead horse. So let me just ask a couple more questions, then I'll move on.

A moment ago you agreed with me that gender-affirming care is less readily available in England than it was a year or two ago, is that

correct?

A. Gender-affirming medical care is less available right now than it was previously, yes.

Q. And you agreed with me that that is a result of a national health policy change, right?

A. That's my understanding from what I've been reading recently.

Q. And I think we can both agree that there is no categorical ban on such care in England, right?

A. No categorical ban of gender-affirming medical care?

Q. Right.

A. Yes.

Q. So for our purposes today, all three of those things are undisputed facts that we all agree on. I guess all I'm saying is, I don't see how you can get to any other conclusion than to say England has backed away from or moved away from the previous standards that were aligned with the WPATH standards of care, which is an organization of which you were a member, and I assume you are familiar with their standards of care. Do you agree with that conclusion that England has backed away from its previous standard?

MR. WARDENSKI: Objection to the extent it

mischaracterizes prior testimony and to form.

THE WITNESS: I think what I'm trying to say is that I don't actually know what they said previously to all of these changes being made. I'm not aware of what NHS had going on, I'm not aware of exactly to what extent they had adopted the WPATH standards of care. So these are things that I can't necessarily say to all certainty that I know exactly what type of standard of care that they had followed or they had adopted previously, other than I do know that there's been a shift and a change.

Q. But beyond that you just lack the knowledge or the information to have an opinion on international changes, such as in England regarding standard of care?

A. Specifically in this case, I am not aware of what the policies were that were in place, exactly for the standards of care for England two years ago.

Q. Do you think, as a matter of policy, it's appropriate or even beneficial for public school to permit or support a social transition of a student while at school without the knowledge or consent of that student's parents or guardian?

A. Can you restate the question?

Q. I can repeat it. Do you think it's good

policy for a public school to permit or support the social transition of a student while at school without the knowledge or consent of the student's parent or guardian?

A. I do think that there's some instances in which there are trans adolescents in schools, trans kids in schools who know that they will experience challenges or more at home, if they come out at home, but they feel safe coming out at school. And those instances I think that that's something that I do support. If that there's a safe space and a safe place where kids feel like they can be who they are and have supportive adults who can support them, than that's something that I -- I support as well.

Q. Do you agree that a retained expert witness, and as a medical professional, it's important to evaluate the strength of the data on which you rely and to accurately reflect that data in your opinions?

A. I have a clarification. Did you call me a medical professional in that?

Q. I may have. And if you're not, I'll ask the question again.

A. Okay. I'm not a medical -- I am a mental health professional. I'm a psychologist.

Q. Let me -- let me -- let me reask it then to make it more applicable. Do you agree that as a retained expert witness and a mental health professional, it's important to evaluate the strength of the data on which you rely and to accurately reflect that data in your opinions?

A. Yes.

Q. Let's go back and look a little bit more at Exhibit 1, your declaration, paragraph 54. Mr. Spate already had some questions about that and I want to ask a few additional questions. I don't think we'll need to look at paragraph 54 for too long, but just to set the stage.

In the first sentence of that you state the proposition that approximately 1.6 percent of adolescents ages 13 to 17 are transgender and you cite Herman, et al. And we've already -- we've already talked about the fact that the 1.16 should be 1.14, but the number accurately reflects the number from the Herman report.

Now let's look at the Herman report or study. It may not be a report. I'm not sure that -- Exhibit 11. You'll know what I'm talking about. The Herman article. Do you have that in front of you?

A. I do.

Q. Do you remember that when Mr. Spate was asking you about this, he identified a spot in there where the authors of this say that the data on which they rely comes from the YRBS data and the BRFSS data?

A. Yes.

Q. If you'd go to page 3 of the PDF, but it's page 2 of the article. You'll see at the top of that page in bold headings it says, "Introduction," do you see what I'm talking about?

A. Yes.

Q. And in that first paragraph, about halfway or two-thirds of the way down, there's a sentence that starts, "In 2017 a CDC's Youth Risk Behavior Survey." Do you see that sentence?

A. I do.

Q. And at the end of it, it's got a call number for Footnote 4. Look down at the bottom of the page at Footnote 4. This is the authority that the authors have cited in support of proposition that the YRBS data indicates the percentage of transgender individuals among the respondents. Do you see where I'm talking about?

A. I do.

Q. Footnote 4 is not a citation to the YRBS

data or to this CDC. Instead, it's a citation to an article by Johns, et al.; is that right?

A. It looks like that is the Citation 4.

Q. And I'm going to read that article title. "Transgender Identity and Experiences of Violence, Victimization, Substance Use, Suicide Risk, and Sexual Risk Behaviors Among High School Students, 19 States and Large Urban School Districts."

Did I read that title correctly?

A. Yes.

Q. Have you read that article by Johns, et al.?

A. I don't recall reading that article.

Q. Do you know which 19 states are included among the 19 states whose data is reported from that article?

A. I don't know.

Q. I've looked at it. And if South Carolina is not among the 19 states who has data included in that study, then the YRBS data that Herman is relying on can't inform South Carolina's statistics, can it?

A. I guess --

MR. WARDENSKI: Objection -- go ahead.

(Off-record discussion.)

MR. WARDENSKI: Yes, objection to the

extent that it calls for speculation.

THE REPORTER: Thank you.

THE WITNESS: I would need to read the article. But also I think -- and I could read the Herman article more specifically here if that's helpful to find out, but my understanding is that it could be the YRBS or the -- or that BRFSS that could be included for the statistics. So I would need to look into that further.

BY MR. COLEMAN:

Q. But would you agree with me at least that one of the two sources that Herman relies on on its face does not provide data relevant to South Carolina?

A. I can tell you how I interpret that sentence. So, the sentence says, "In 2017 the CDC's Youth Risk Behavior Survey, a national survey of high school students, began asking respondents if they are transgender." And that what I would imagine would happen here is if I go to that article and that they -- that's something that they say is happening. So that's kind of their citing that there is an article or authors who have said this is the time period in which this information started getting asked. So that's how I make the interpretation. But

I haven't read the citation.

Q. As a scholar and a researcher and an academic, if you had written that sentence, wouldn't you just cite to the YRBS data?

A. I think it depends on if -- if this article specifically says what the sentence says, then that would make sense to me.

Q. The other potential source of data about South Carolina that Herman, et al. rely on is the BRFSS data; is that right?

A. Yes.

Q. Have you yourself looked at any of the BRFSS data regarding the incidence of transgender children in South Carolina?

A. I have not.

Q. I'll represent to you that I have. And I'll use the example from 2017. This is from the data compiled by the CDC and published publicly. I know you're not looking at it. I'm not going to put it up as an exhibit. So I'm not asking you to vouch for the accuracy of these numbers. But on the assumption that I'm reading to you correctly the numbers from this, I'd like to ask you a few questions.

2017, around 247,000 surveys were sent out

as part of the BRFSS questionnaire. Of that, around 247,000 surveys nationally, fewer than 1,000 respondents identified themselves as transgender. Do you have a sense -- again, I know you're not looking at the data. But if 1,000 out of 247,000 in one year responded affirmatively to that question, where did Herman come up with the numbers for South Carolina, specifically, and at a much higher percentage? Do you know?

A. I would need to look more at this. My guess is that there's many years of data that are included in this. It sounds like that was the first year, potentially. Well, I guess that was the first year for the YRBS. I would need to look more specifically at their methodology to see how they looked at it. But it seems to me like there are a range of years in which youth could answer that question, rather than just 2017.

Q. Between 2017 and today, do you know which years South Carolina's BRFSS questionnaire included a question about gender identity?

A. I'm not aware of that, no.

Q. So it's fair to say that you didn't look at any of the underlying source data that Herman, et al. relied on to reach their estimate of the number

of transgender children ages 13 to 17 in South Carolina, is that right?

A. That's correct. I cited the information that they included in their report.

Q. Unquestioning, right?

A. I wouldn't characterize it as unquestioningly. I would say that when I read the report, I was reading the report for their method and their practice and how they went about asking questions. These are national data sets that are well recognized and have a good reputation. So these are all the things that I was looking for, when I was looking to see if this was a source that I could cite in the declaration, and so those were conclusions that I came to.

Q. If we can look back at your expert report, paragraph 54, again. I just want to make sure I understand the math. In the first sentence, you cited Herman, et al. for the proposition that 3,700 individuals are transgender in South Carolina between the ages of 13 and 17; is that right?

A. Can you say that again? Sorry.

Q. In the first sentence of paragraph 54, you cited to Herman, et al. in support of the proposition that 3,700 children, ages 13 to 17, in South

Carolina, are transgender; is that right?

A. Right.

Q. Then a little bit further down that paragraph you say, Because almost 90 percent of K-12 students are enrolled in public schools in South Carolina, approximately 3,315 transgender adolescents in South Carolina are in the public school system. And I'm paraphrasing that slightly, but I think that captures the import and sense; is that right?

A. Sure. Yes.

Q. And so it seems to me that the way we got to that number, 3,315, is you took the number from Herman, et al. which as we already discussed, they label an estimate. But we take that estimate of 3,700, and then you multiplied it times 0.9 or 90 percent to come up with 3,315; is that right?

A. That's correct.

Q. Do you know how many children in South Carolina are in the public school system?

A. I don't have that information with me right now.

Q. Did you look at that before you wrote your expert report?

A. I looked at the report that was -- the EdChoice information, that's what I looked at to find

out more about the percentages of kids in the school system.

Q. And the EdChoice information, which I think we looked at today, that just lists percentages, right? It doesn't have any raw numbers about the number of students, does it?

A. Not that I recall.

Q. Do you know how many children in South Carolina are in traditional, in-person public school versus virtual public schools?

A. I don't have that information.

Q. Do you know how many are in traditional public schools versus public charter schools?

A. I don't have the information about the number of students, no.

Q. Looking back at paragraph 54 with the multiplication we just did to get to your estimate of 3,315, that number is an extrapolation from Herman's number, right?

A. That's correct.

Q. And it assumes that the incidents of transgender children in the educational ecosystem is the same as the distribution of the general population of children in the educational ecosystem, right?

A. Well, I mean, I think this number is a conservative estimate because it doesn't even include children who are under the age of 13, right? So I think that this is a conservative estimate of a potential number of transgender youth in the system who are ages 13 to 17. So, you know, in my mind, there are -- and I think what the data would say there would be many more. So... that's -- that's a conclusion that I think is reasonable to make from here as well.

Q. But back to my question, the calculation we just did with the number from Herman, and we multiplied it times 90 percent to extrapolate that number. Doing that math assumes that if 90 percent of the general population of children are in public schools, also 90 percent of transgender children are in public schools, right?

A. Potentially, sure.

Q. Not just potentially. That's how the math works. If we're going to come up with 3,315 as our extrapolated estimate, we have to necessarily, logically, that's a mathematical matter, assume that 90 percent of transgender children ages 13 to 17 are in public school. That's how we get that number, right?

A. Yes.

Q. And what I want to do is test that assumption. Do you know what percentage of transgender children ages 13 to 17, in South Carolina, are in traditional, brick and mortar public schools?

A. I don't have access to that information, no.

Q. Do you know whether trans children are more likely than the general population of students to homeschool or to attend virtual school or to attend private school, as compared to public school?

A. I have not read data, personally, around what those numbers are.

Q. If I represent to you that articles by scholars and researchers published on the National Institutes of Health website indicate that transgender children are far more likely than the general population to be found in virtual schools, private schools, homeschool, charter school, as opposed to traditional brick and mortar school, would that be new information to you?

A. I mean, I would need to look at that information. I think that it's possible that there is a percentage of transgender youth who do

homeschooling or do more virtual schooling because they are experiencing discrimination in schools, and therefore they drop out. So like in my clinical experience, I've had several adolescents who have dropped out of their public school because they have been experiencing discrimination at their school, and so I do think that that is something that happens. But I don't know exactly what the percentages of that are.

Q. If that's true, perhaps based on what you've said anecdotally, your personal experience or what I've looked at in the published literature, if it's true that transgender children are more likely than their peers to be educated in private, virtual, charter or other nontraditional public school options, if that's true, that means that 90 percent figure isn't an accurate way to calculate the number of transgender children in South Carolina's brick and mortar public schools, right?

A. Well, I think there -- we don't have accurate data. At least my understanding is that there are no data related to that, as to what that looks like in South Carolina that I could find. So I think it's impossible to say exactly what those numbers would look like. These are the numbers that

we know exist that I could find regarding the number of transgender adolescents who are in the State of South Carolina, and then also what percentage of K through 12 kids are in public school system.

So it's -- it's challenging because we don't actually have the data that you're describing necessarily that's fully, but I think that this is -- it's -- it's enough data to extrapolate that there is -- you know, there are thousands of kids who are going to be impacted by these types of policies.

Q. I agree with you that we don't have hard numbers and that we're making extrapolations. I think we're on the same page there, right?

A. I think we can make accurate estimates that there are thousands of transgender children who will be impacted by the types of policies that are excluding them from using bathrooms that impact -- that are related to their gender.

So, this kind of data gives us important information about the range of students who are in South Carolina and they are not insignificant numbers.

Q. I don't know that I am necessarily disagreeing with you here. I think in some ways we're agreeing. We don't have specific numbers. But

I think they just don't exist, to be honest with you. You don't have them. I don't have them either. We don't have specific hard numbers about how many self-identifying or diagnosed transgender children there are in the K-12 public school system in South Carolina, right?

A. I haven't seen that data.

Q. And so what we're trying to do is take numbers, which in fairness I have some skepticism about. But let's leave that aside for now. We can agree that what we're doing is we're taking data that we can find, that's not exactly a one-to-one correlation to the question we're trying to answer, and we're making extrapolations from it, right?

A. I think we can make accurate estimates that there are thousands of kids who are going to be impacted by this in South Carolina.

Q. Based on the numbers we've just looked at and extrapolating from them. And my only question is, not that I'm asking you to concede something that you may not know. It may be that you don't know whether 90 percent of transgender children in this state are in public schools or whether it's a lesser number. Because as you pointed out, there may be reasons that they have felt the need to seek other

sources.

MR. WARDENSKI: Object. You've asked this question and it's been answered repeatedly for the last several minutes. So I would ask that you -- I would object to this as argumentative, at this point.

MR. COLEMAN: You've made your record. I would respectfully say it hasn't been answered yet, which is why I'm asking it yet again. But let me restart the question.

BY MR. COLEMAN:

Q. I'm not asking you to concede that a greater percentage of transgender children in this state seek schooling in options other than traditional, in-person public school, as compared to the general population. But you do admit, right, as you must, that if that percentage were greater than the general population, than the calculation you performed here in paragraph 54 of your report would be altered, right?

A. If the numbers were different, they would be different, yes.

Starting to get dark.

MR. COLEMAN: I think those are all the questions I have for right now. Thank you.

THE WITNESS: Thank you.

MR. WARDENSKI: I just have a couple questions to wrap up.

EXAMINATION

BY MR. WARDENSKI:

Q. Dr. Budge, even if your estimates are off, would it be your professional opinion that there's more than 40 transgender students with a consistent, persistent, and insistent gender identity that differs from their sex assigned at birth in the State of South Carolina?

A. Yes.

Q. And on what do you base that?

A. I base that off of the thousands of transgender children that are included in the Herman report.

Q. Is it based on your understanding of national data, are the estimates that range from, I think, 0.7 to over 1 percent of -- for transgender -- for the transgender population in that age group, 13 to 17, there's no reason to believe that those numbers are off?

A. No.

Q. Is there a reason to believe that they are inaccurate?

A. I don't have a reason to believe that from

what I've read.

Q. You mentioned that there are students that you have knowledge of from your clinical experience and otherwise who may attend virtual schools or be homeschooled because of their experiences with discrimination in public school, correct?

A. That's correct.

Q. Do you have an opinion one way or the other about if those discriminatory barriers to attending public school were removed, if some or all of those students might return to the traditional public school setting?

A. Yes. In the experiences that I've had that the youth who I talked to said that if they were able to use the restrooms at the school where they had attended previously that they would consider going back to that school.

MR. WARDENSKI: Okay. I have nothing further.

THE WITNESS: Okay. Thank you.

MR. SPATE: I don't think I have any other questions. Miles, do you?

MR. COLEMAN: None from me.

MR. SPATE: Dr. Budge, I think we're done. We appreciate your time and for meeting with us. And

it looks like we're getting in just before 5:00. So I appreciate you working with us to start a little bit earlier, too.

THE WITNESS: Oh, thank you. Better for everybody.

THE VIDEOGRAPHER: Time on the monitor is 4:55 p.m. and we're going off the record.

(The witness, after having been advised of her right to read and sign the transcript, does not waive that right.)

(Deposition was concluded at 4:55 p.m.)

CERTIFICATE OF REPORTER

I, MARY K. STEPP, Notary Public for the State of South Carolina at Large, do hereby certify that the foregoing transcript is a true, accurate, and complete record.

I further certify that I am neither related to nor counsel for any party to the cause pending or interested in the events thereof.

Witness my hand, I have hereunto affixed my official seal this 3rd day of January, 2025, at Campobello, Spartanburg County, South Carolina.

Mary K. Stepp, Notary Public
My Commission Expires:
March 1, 2028

I N D E X

	Page	Line
Examination		
By Mr. Spate	4	9
By Mr. Coleman	133	11
By Mr. Wardenski	169	3
Certificate of Reporter	172	2

REQUESTED INFORMATION

(No information requested.)

E X H I B I T S

Marked for Identification

Exhibit No. 1 Budge Declaration	6	17
Exhibit No. 2 Article "Changing Culture"	17	25
Exhibit No. 3 Article "Critical Cons."	45	22
Exhibit No. 4 Depo. Excerpt	58	25
Exhibit No. 5 Cantor Declaration	75	2

-

JOSEPH D. SPATE, ESQUIRE
joe@wardenskilaw.com

January 6, 2025

RE: Doe, John v. State Of South Carolina, Et Al.
12/19/2024, Dr. Stephanie L. Budge (#7073080)

The above-referenced transcript is available for review.

Within the applicable timeframe, the witness should read the testimony to verify its accuracy. If there are any changes, the witness should note those with the reason, on the attached Errata Sheet.

The witness should sign the Acknowledgment of Deponent and Errata and return to the deposing attorney. Copies should be sent to all counsel, and to Veritext at cs-southeast@veritext.com.

Return completed errata within 30 days from receipt of testimony.

If the witness fails to do so within the time allotted, the transcript may be used as if signed.

Yours,
Veritext Legal Solutions

Doe, John v. State Of South Carolina, Et Al.

Dr. Stephanie L. Budge (#7073080)

E R R A T A S H E E T

PAGE_____ LINE_____ CHANGE_____

_____

REASON_____

PAGE_____ LINE_____ CHANGE_____

_____

REASON_____

PAGE_____ LINE_____ CHANGE_____

_____

REASON_____

PAGE_____ LINE_____ CHANGE_____

_____

REASON_____

PAGE_____ LINE_____ CHANGE_____

_____

REASON_____

PAGE_____ LINE_____ CHANGE_____

_____

REASON_____

_____ _____

Dr. Stephanie L. Budge Date

Doe, John v. State Of South Carolina, Et Al.

Dr. Stephanie L. Budge (#7073080)

ACKNOWLEDGEMENT OF DEPONENT

I, Dr. Stephanie L. Budge, do hereby declare that I have read the foregoing transcript, I have made any corrections, additions, or changes I deemed necessary as noted above to be appended hereto, and that the same is a true, correct and complete transcript of the testimony given by me.

_____ _____

Dr. Stephanie L. Budge Date

*If notary is required

SUBSCRIBED AND SWORN TO BEFORE ME THIS

_____ DAY OF _____, 20___.

_____

NOTARY PUBLIC

&

& 2:10

0

0.7 169:18
0.9 161:15
06420 1:5

1

1 6:17,22,24 123:5 154:9 169:18 172:20 173:15
1,000 159:2,5
1.120. 126:13
1.14 125:1,6 154:19
1.14. 125:15
1.16 154:18
1.6 121:25 125:4,7,9 154:15
10 37:8 106:19 106:19 124:19 124:21
100 81:6
1000 2:19
10001 2:5
11 71:8,14,20 122:11,15 123:5 129:6,10 154:23 173:6
1143 99:15
12 125:24 126:3,7,17,17 129:9 161:4 166:4 167:5
12/19/2024 174:5
12:31 1:11 3:2
13 40:20 41:19 122:1 124:10 125:5,17 126:12,21 129:6,11,13,15 154:16 160:1 160:21,25 163:3,6,23 164:4 169:19
133 173:6
134 2:4
14 39:12,18,25 129:14
169 173:7
17 68:11,14 122:1 125:5,17 126:21 154:16 160:1,21,25 163:6,23 164:4 169:20 173:15 173:15
172 173:8
18 21:24,24 23:1 68:11,11 68:14 83:17
19 1:10 24:8 156:7,14,15,19
1975 73:22
19th 3:3
1:40 52:23,24
1:45 52:16

2

2 2:11 17:25 18:4 99:16 155:8 173:8,15 173:17
20 25:20,21 37:8 176:15
2011 73:22
2015 46:2
2017 123:12,12 123:17 155:14 157:16 158:17 158:25 159:18 159:19
2019 102:21 106:21 123:12
2020 102:20 106:20 108:21 123:12,17,20
2021 73:9 99:6
2022 74:22 76:9 122:3 124:4 149:19
2023 109:17
2024 1:10 3:3 124:2
2025 172:10 174:3
2028 172:20
21 96:20,24
21890 172:19
22 27:17,19 59:10,15 173:16
247,000 158:25 159:2,5
25 173:15,16
29201 2:20
29601 2:12
29th 2:4
2:24 1:5
2:47 95:16,17
2:50 95:12

3

3 7:25 21:14 22:6 39:17 45:22 46:1 53:5 155:7 173:7,16
3,315 126:9 161:6,12,16 162:18 163:20
3,700 122:1 124:25 125:5 125:10 160:19 160:25 161:15
30 134:21 174:16
316 75:10
34 79:23 108:25

35 42:17,18 44:22 58:3 108:22
350 143:2
37 70:24
38 93:11
386 75:14,15,16 76:1
3:15 113:14,15
3:46 133:6,7
3:55 132:25
3rd 172:10

4

4 18:12 19:11 39:17 58:25 59:4 70:24 124:7 155:18 155:19,25 156:3 173:5,16
40 169:7
400 2:11
45 173:16
46 108:14
4:55 171:7,11

5

5 19:11 30:16 33:12 46:7 49:9 66:23 75:2,6,8 173:17
53 96:1,4,11,12 98:18
54 121:20,24 125:3 126:6 154:9,12 160:17,23 162:16 168:18
57 109:12
58 173:16
5:00 171:1

6

6 53:8 173:15 174:3
63 108:24
66 105:16,21 108:21
68 96:6 97:15 109:13

7

7 27:18 36:23
70 75:23
7073080 174:5 175:2 176:2
709 2:4
75 173:17

8

8 27:18 98:25 99:7 107:1
88 102:24 105:14,19

9

9 102:14,19 107:1 108:23 124:6,7 173:5
90 31:14,19 126:7 161:4,15 163:13,14,16 163:23 165:16 167:22
95 32:5 48:22 49:16,21

a

a.m. 133:6
ability 48:4 101:16 133:23 134:2
able 12:9 29:17 33:9 51:20 54:6,20 58:23 63:14,24 64:24 76:15 77:9 80:21 84:18 87:12 92:6 94:14 97:22 102:8 103:15 103:23,24 104:6,14 105:9 106:4 110:10 111:19 112:4 114:3 115:16 116:12 118:19 121:18 148:19 170:15
above 8:5 105:19 174:6 176:7
academic 12:16 17:20 83:6 123:2 158:3
accepted 44:11 44:12,14
access 6:23 17:23 35:24 83:13 84:5 87:13 94:13 104:6,14 113:5 117:9 122:9 128:9 136:24 137:10,18 148:1 164:7
accommodati... 97:1 128:25
account 12:5 21:3 36:19,20
accuracy 158:21 174:9
accurate 7:6 19:3 20:3 76:25 134:3 165:17,21 166:14 167:15 172:4
accurately 133:24 153:18 154:5,19
achievement 123:2
acknowledge... 176:3

acknowledg... 174:12
active 18:24
activism 17:15 18:20,25 19:24 20:6,7,10
activist 16:19
actual 32:19 67:1 77:9 114:14 125:13 125:14
actually 12:21 13:12 15:24 20:13 31:15 35:17 36:11 48:10 51:6 55:18,23 57:9 63:11 65:20 67:20 73:24 84:12,20,21,23 86:7 98:21 100:15 104:12 104:15,18 119:22,25 120:17 121:1 130:1 152:3 166:6
addition 96:22 96:24 97:1 126:10
additional 8:19 70:7 92:15 107:8 108:4 138:13 148:14 148:19 154:11
additions 176:6
address 79:18 105:8 111:11
addresses 116:9
adds 106:8
administered 84:8
admit 168:15
adolescence 38:18,24 39:2 40:13
adolescent 29:21 30:12,21 37:3 51:16 52:1 58:15 60:10,24 61:16 61:24 62:11 63:2,14 64:10 65:10 67:24 68:1,3,18 69:3 70:16 86:25
adolescents 27:22,23 28:21 29:11,15 30:1 37:8,10,11,14 38:13 40:16 58:10,13 64:6 65:13 71:9,22 84:16 87:12 88:13 92:19 117:20 118:5 118:17,23 119:3 122:1 124:1 125:4 126:9 131:2 140:22 153:6 154:16 161:6 165:4 166:2
adopted 149:12 152:6,10
adult 107:8
adulthood 38:18,24 39:2 40:13
adults 28:19 38:13 153:13
advance 90:5
adverse 96:18
advice 62:8
advisable 87:19
advised 171:8
advocacy 17:14 17:19,20 18:19 18:24 20:5 91:9 141:20
advocate 16:19 17:2,6,8 19:2
advocates 17:1
affects 93:8,13
affirm 98:16
affirmation 70:13
affirmative 94:4
affirmatively 130:11 131:22
affirming 41:8 65:6 69:11,15 81:14 82:5,9 82:25 85:5 86:24 87:11 88:12 92:1 100:1,8 101:12 104:12,13 117:25 140:21 147:5,8 148:22 149:1 150:3,8 150:24 151:2 151:10
affixed 172:9
afraid 120:2 139:7
afternoon 3:2 133:13 135:19 146:14
age 22:6 39:12 39:18 68:6 93:15 123:1 124:9,14 125:17 126:11 126:12,20,25 163:3 169:19
ages 68:5,17 122:1 124:10 125:4 127:23 154:16 160:1 160:21,25 163:6,23 164:4

ago 139:10 140:8 142:20 148:24 149:5 149:20 150:15 150:23,25 152:18
agree 12:4,7 17:11,12 18:23 19:5,8 20:2 21:6 26:19 36:8 85:11 86:12 91:23 100:4 103:9,20 104:10 107:19 112:19 131:16 147:10 148:3 150:9 151:8,15 151:22 153:15 154:2 157:11 166:11 167:11
agreed 150:23 151:4
agreeing 166:25
ah 134:20
ahead 17:17 68:24 78:8 147:21 149:17 156:23
al 1:3,6 3:5,6 108:21 122:3 154:17 156:2 156:12 158:9 159:25 160:19 160:24 161:13 174:4 175:1 176:1
align 43:2 108:11 110:15 111:5 114:1 117:10 119:14 119:14
aligned 27:21 110:3 150:4 151:19
aligns 97:19,23 102:8 110:17 113:23 114:6 116:13
alleviate 77:13 77:15
alleviating 43:3
allotted 174:19
allow 106:5 112:4
allowed 100:13 110:17 114:17 114:25
allowing 99:24 111:13
alongside 35:7 58:14
alpha 15:17
altered 168:19
america 23:11
american 16:22 17:13
amount 11:24 35:16 86:9 116:14
analysis 87:18
analyze 110:7
anecdotally 165:11
answer 5:7 6:13 20:12,14 20:19 38:8 39:23 47:20 48:24 51:20 61:13 94:8 106:2 114:4,16 116:3 130:8,11 132:17,17 139:5 143:21 150:12,18 159:17 167:13
answered 39:20 86:2 168:3,7
answering 5:6 109:8 132:6 147:6
answers 5:8 95:3 103:13,19 131:21
anthony 2:16 3:23
anti 107:10
anxiety 53:23
anybody 4:2 49:11 52:7 88:23 94:19
anymore 78:13 78:16
apologize 142:1
appear 59:12 63:23 98:2
appearance 1:8 1:14
appearances 2:1
appears 18:8 18:16 59:7 98:5 124:13 126:17
appended 176:7
applicable 154:2 174:8
application 86:4
applied 141:22
apply 10:12
appointed 138:15
appreciate 33:14 57:13 78:2 89:4,5 95:3 105:12 108:6 170:25 171:2
approach 36:15
appropriate 60:23 61:7

152:20
appropriately 37:18
approximately 37:3 48:14 50:10 60:25 121:25 125:4 126:9 137:17 154:15 161:6
april 87:15
areas 25:8,12
argumentative 168:5
art 45:8 70:23
article 13:9,9 18:6,6 19:9 46:1 77:9,12 77:25 99:9 100:15 101:24 110:5,8 115:15 154:24 155:8 156:2,4,11,13 156:16 157:4,5 157:20,23 158:6 173:15 173:16
articles 13:12 83:7,25 84:19 92:3,4,5 110:21 116:15 118:13 134:8 146:1 164:15
aside 19:22,23 167:10
asked 6:13 7:15 8:18 12:15 46:21 51:7 73:6 87:1,9,21 115:20 130:12 131:2,6,14 134:12 142:1 146:14,21 157:25 168:2
asking 5:5 35:9 38:25 40:8 48:25 51:5 54:18 130:19 134:14 135:9 136:7 142:2 144:2 146:25 155:2 157:18 158:20 160:9 167:20 168:8 168:11
asks 17:1 128:23 130:2 130:14
aspect 42:20 58:5 89:18
aspects 43:5 81:13
assault 106:22
assembly 2:19
assert 5:24 6:4
assertions 22:13 25:1 26:13 43:11 44:3,5
assess 30:23 33:24 55:4 62:6
assessed 9:17 32:1
assessing 35:7 49:10
assessment 36:9,12 49:14 54:19
assessments 37:11
assigned 24:10 24:22 27:16,20 27:25 33:22 38:21 48:15 50:11 51:10 131:5,19 169:9
assigning 47:5 47:15
assist 46:10
assistance 135:22 138:6
assistant 2:19
assists 80:21
associated 24:13,15 42:25 43:3
association 16:22 17:13 23:25 44:13 79:25
assume 151:21 163:22
assumes 162:21 163:14
assumption 158:22 164:3
attached 174:11
attend 164:11 164:12 170:4
attendance 125:21
attended 170:16
attending 138:24 170:10
attention 6:21 7:24 59:4 70:22 121:9
attorney 2:2,7 2:14,18 3:18 4:16 6:3,11 174:13
attorneys 5:22
audio 4:4
authorities 7:20 23:16 26:18 91:21
authority 155:19
authors 155:3 155:20 157:23
availability 149:7 150:7
available 88:23 97:16 148:23

149:4 150:3,5 150:24 151:3 174:6
avoid 117:14
avoiding 107:6 107:24
aware 70:20 74:21 81:7,19 81:23 82:11,15 82:20,24 83:15 84:14 85:1,3 89:24 90:4,8 90:13,16,17,20 90:21,24,25 91:4,7,8 112:17 115:1,6 115:8,23 116:2 116:4,8,18,22 116:24 117:3 117:12,16,18 118:15,21 146:2,10,22 152:5,5,16 159:22

b

b 55:10 173:13
back 21:12,13 33:14 37:16 52:6,15 53:2 58:2 70:23,23 79:22 87:15 95:12,20,25 108:13 113:18 125:3 129:5 132:24 133:10 137:7 139:8 143:9 147:11 147:25 154:8 160:16 162:16 163:11 170:17
backed 148:5 150:6 151:18 151:23
background 14:1 138:12,14
ballpark 136:8 137:23
ban 82:5 83:10 83:25 84:11 88:16 147:4,17 151:9,10
banned 82:25 83:16 86:23 92:24 147:8 148:7
banning 147:12 147:25
barred 60:2
barriers 170:9
base 169:12,13
based 9:21 21:2 21:7 24:10 26:6,22 27:4 43:18,24 85:6 85:12,23 90:10 123:16 128:14 131:13,21,23 143:12,18 165:10 167:18 169:16
basically 72:21 85:20 99:16 120:15
basis 73:16 91:25 92:8,16
bathroom 52:8 99:10,24 100:7 100:13 101:17 101:18,20,21 102:8,12 104:6 104:14 106:13 110:10 111:19 112:9,23,24 113:3,4 116:12 120:21 121:2,4 121:12,16,17 121:19 136:21 136:24 137:10 137:18
bathrooms 98:21 99:23 101:3,11 104:2 104:11,19,22 104:24 110:6 111:5,24 117:5 120:20 121:10 166:17
battery 113:11
beat 11:2,3 150:21
began 157:18
beginning 41:1 65:4 66:5,6 133:15
begins 8:3
behalf 138:23
behavior 114:24 122:19 122:21 155:14 157:17
behaviors 156:7
beings 22:3 29:8,13 113:7 113:8 120:20 121:1
believe 6:23 42:15 46:1 80:6 93:11 96:4,6 98:17 104:10 108:12 110:3,17 113:23 114:6 119:2 122:15 124:20 169:20 169:23,25
believed 64:13
belong 23:24
beneath 103:3 124:13
beneficial 62:24 152:20
berkeley 2:16 3:22

best 34:2 78:12 78:15 86:7 139:21
better 15:11 53:13 61:21 78:18 171:4
beyond 147:23 149:16 152:12
biased 19:13,14
big 55:10
bigger 113:4
binary 100:11 100:12 103:6 117:8
biological 26:6
biologically 25:23
birth 24:9,22 27:21 130:15 169:9
bit 4:15 16:18 27:7 35:18,21 35:24 49:1 53:14 56:14 67:9,14 68:17 69:21 73:9,25 95:23 110:12 127:3 132:23 143:15 145:5 145:16 154:8 161:3 171:3
blockers 83:16 84:7
blocking 83:25
blog 46:5,6
blowing 96:2
board 2:8,15 3:15,21
bob 30:5
body 26:22,23 39:16
bold 155:9
born 24:11,14 27:16
bottom 18:12 19:11 108:18 155:18
bow 11:4
box 131:16
boy 100:12
boys 74:3 98:10 98:11 103:22 103:23 106:6,6 117:9
break 52:8,13 52:20 53:6 95:6,9 132:20 133:1
breaks 5:22 135:12
breed 120:18
breeds 121:10
brfss 123:13 130:1,23 155:4 157:7 158:10 158:13 159:1 159:20
brick 164:5,21 165:18
brief 4:20 113:10
briefly 71:17
bring 6:21 74:16
bringing 105:12 118:1
broad 104:18
broadest 138:20
broadly 139:12
brought 63:8 74:8,9
budge 1:9 3:4 4:7,13 6:20 8:18 9:3 19:11 19:16 53:4 89:15,24 95:22 108:6 113:20 133:13 169:5 170:24 173:15 174:5 175:2,24 176:2,4,12
budge's 149:16
built 120:24,25
bullied 108:22
bully 113:7
bullying 107:10 109:4 110:1,14 110:20,22 111:4,12 112:9 112:11,14,20 113:21,25 114:8,12,22 115:3

c

calculate 165:17
calculated 15:24 16:3
calculation 163:11 168:17
call 20:7 57:17 83:2 86:6 144:17 153:20 155:17
called 15:17 37:21 53:8 83:5
calls 20:11 138:23 147:20 157:1
campaign 138:18 139:25 140:5
campaigns 139:11,14
campobello 172:11
canada 72:12
canadian 45:2 108:20
candidate 140:8

candidates 139:14,23 142:23
cantor 71:19 75:9 76:13 173:17
cantor's 71:7 74:23
canvas 139:17
canvassing 140:7,13
captioned 8:5
captures 161:9
capturing 128:18
care 44:24 45:15 69:11,16 69:20 70:4,10 79:24 80:4 81:3,5,9,14,16 81:18 82:5,9 82:10 83:1,11 84:15 85:2,5,8 85:12 86:9,19 86:24 87:11,13 88:1,5,6,12,12 89:7,9,19,25 90:5,15 91:14 92:1,23,24 94:13 100:1 101:12 104:13 117:25 118:8 128:7 137:4,6 140:22 146:18 146:25 147:9 148:13,22 149:1,1,11 150:4,8,24 151:2,9,11,20 151:22 152:7,9 152:15,18
career 50:14
careful 5:1
carolina 1:1,6 2:8,8,8,9,12,14 2:15,17,20 3:6 3:14,15,15,16 3:18,20,21 4:16 7:2 11:13 11:16 121:23 121:25 123:23 124:1,20,24 126:9,10 127:7 127:12,20 129:4 130:23 131:2 156:18 157:14 158:9 158:14 159:7 160:2,20 161:1 161:6,7,19 162:9 164:5 165:23 166:3 166:21 167:6 167:17 169:10 172:3,11 174:4 175:1 176:1
carolina's 156:21 159:20 165:18
case 1:5 7:3,7 8:10 9:11,15 10:10,15 11:19 11:23 24:19 55:14 60:7 62:9 63:6 71:10 78:12,15 83:23 89:3,17 90:2 105:5 134:20,22 135:5 136:3,19 137:13,15 138:2,11 143:3 149:15 152:16
cases 62:1,4,9 62:15 72:1 80:23 84:8 120:18 134:24 136:5,10,12,13 136:23 137:4,5 137:10,12,15 137:17 138:3,4 143:11
cass 83:17 84:22 87:15,21 89:10,11 92:25 93:1 134:10
castration 91:1 91:5
categorical 83:10 84:2 88:16,20 147:4 151:9,10
categorically 82:25 147:8 148:6
categories 146:6
cause 16:20 55:18 79:16 119:23 172:7
caused 56:6 98:21
causes 103:22 116:14
causing 54:13 58:18 66:12,13 67:20
caution 64:17
cdc 156:1 158:18
cdc's 155:14 157:16
central 15:7
certain 15:3 77:16 82:12 84:8,8 118:15 121:3 139:19 142:20
certainty 152:8
certificate 172:1 173:8
certification 7:9 8:12
certify 172:3,6
certitude 138:1

cetera 138:24 148:4
challenges 153:8
challenging 166:5
chance 132:14
change 20:25 29:6,8 38:5,9 91:13 113:10 151:5 152:11 175:4,7,10,13 175:16,19
changed 20:23 37:22 146:17
changes 149:8 152:4,14 174:10 176:6
changing 18:8 173:15
characteristics 24:12,15 25:23 26:1,2,7
characterize 88:17 160:6
characterizing 88:18
charging 143:14
charleston 1:2
charter 162:13 164:20 165:15
check 81:4 143:5,8
checking 131:15
chest 68:4,14
child 10:19,23 39:7 62:6
childhood 38:12 40:3,5
children 27:22 27:22 28:18 33:15 76:4,5 77:4 93:19 94:2 119:11 120:4,13 126:11 158:14 160:1,25 161:18 162:8 162:22,24 163:3,15,16,23 164:4,9,18 165:13,18 166:15 167:4 167:22 168:12 169:14
choice 101:16 104:14 106:14 121:17,18
chromosomal 25:24
chromosomes 26:8
cigarettes 147:17
circumstances 62:25
cis 106:16
cisgender 27:19,20 32:23 33:10 74:3 119:17,24
citation 22:25 25:2 122:3 155:25 156:1,3 158:1
citations 25:6 25:11,11,14,15 25:19 26:25 43:13,14
cite 22:13,19,21 22:23 25:1 26:23 43:10,25 45:2 71:10 73:4 76:19,22 79:23 99:4 102:5,20 116:15 118:1 121:22 154:17 158:4 160:13
cited 26:18 76:21 81:5 98:18 123:19 134:8 155:20 160:3,19,24
citing 110:21 157:22
clarification 8:21 87:2 153:20
clarifications 5:13
clarify 8:16 31:18
clarity 98:1
class 7:9 8:11
clear 5:2 9:14 62:22 134:13 139:5
clearly 63:19
client 54:2 63:5 69:12
clients 37:15 41:15,20 46:3 47:22 51:2 58:20 59:24 60:14 62:2 94:12
clinic 50:24 51:13 52:3 62:11 72:12
clinical 20:9,16 20:22 31:13,16 32:10,20 33:18 35:16 36:25 37:13,13 41:21 43:21 50:18,22 54:19 55:14 56:9 59:23 60:21 64:19 65:12 78:20 82:7 84:5 88:22 111:3 116:9,16

143:18 165:3 170:3
clinically 28:12 43:2 58:20 63:19,20
clinics 72:12,13 73:22 82:6 83:14 84:7
close 145:17
closer 150:4
clubs 141:5
coaching 6:7
cohort 71:8,14 71:25 73:2,10 74:11 76:4
cohorts 74:8
coincide 34:16
coleman 2:11 3:19,19 52:9 52:18 95:7 132:15 133:4 133:12,16 144:15 145:3 147:22 149:24 150:19 157:10 168:6,10,23 170:23 173:6
collaboration 65:9
colleagues 141:2
collected 74:14
colloquially 33:6 144:17,21
columbia 2:20
column 99:20
columns 124:14
come 12:12,12 28:10 30:2 31:25 34:10 38:12,13,14 39:11 43:16 48:12 49:6 50:6,15 51:1,2 51:20 52:15 55:21 60:13 64:21 66:1 90:1 95:12 132:24 139:4,5 153:8 159:7 161:16 163:20
comes 30:12 34:11 35:8 36:1 39:25 47:5,15 49:2 155:4
comfortable 144:23 145:8 145:23
coming 30:21 35:19,23 50:19 60:15 66:6 153:9
comments 135:24 138:9
commission 172:20
common 22:14 25:10,17 28:16 56:15
commonly 24:12,15 25:4 26:15
communicate 63:15,24 65:17
communicated 34:19 63:19 135:8,12
communication 34:20 63:7
communities 83:4
community 23:5 27:9 44:7
comorbid 53:9 53:16 54:10
comorbidities 55:17 56:13
comorbidity 54:12,13,13 55:17,21,23 56:17
compared 164:12 168:14
compelling 20:23
competing 91:20
compiled 158:18
complete 7:6 134:2 172:5 176:8
completed 174:16
completely 40:10 51:19 133:24 147:12 148:6
component 43:20 55:10 58:21 101:23 104:7 105:8 106:8
components 9:9 12:15 34:13 39:15 42:2 55:4 60:22 65:6 66:16 77:14,15 77:21 79:14,17 82:18 100:9 106:10 115:13 144:11
composed 25:22
comprehensive 14:14
computer 139:7
concede 167:20 168:11
concept 14:22 22:1 23:2 33:4

39:14 57:23
concepts 12:10 20:16 32:18 44:11 56:13 104:3
concerned 19:12
concerns 50:6,9 51:17 57:25 87:16,20 92:25 93:3
conclude 101:10 116:19 116:25 117:13 117:19 118:22 131:12
concluded 55:22 171:11
concludes 77:3 118:16
conclusion 72:9 72:10 100:22 101:2 107:2 115:24 129:8 129:17 150:2,6 150:10 151:17 151:22 163:9
conclusions 12:6,13 43:16 43:18 66:1 72:22 74:18,18 76:12,16,24 77:10 82:22 93:2 107:20
119:1 123:14 146:11 160:14
conducted 3:7 12:24 14:19 85:4 92:4
conducting 82:22
conferences 5:21 80:19
confidentiality 63:5
conflicts 90:14
confusion 130:9
congruent 30:6 42:23 54:6
connect 80:21
connected 80:20
connection 139:2
cons 173:16
consensus 23:4 23:8 27:8 44:6 44:20
consent 152:22 153:3
consequences 96:17
conservative 163:2,4
consider 16:18 78:3 107:7 110:25 119:10
130:2,12 170:16
consideration 35:6 102:4
considerations 46:3
considered 35:15
considering 45:2 87:23 88:3 89:6 107:20
consistent 27:23 29:3 96:16 131:3,17 169:7
consistently 43:5
consolidate 132:22
constitute 27:3
constrained 139:21
consult 53:17 80:22
consulted 60:20 61:6,11 61:19 62:1,4 62:10,15
context 24:5 47:17,19 48:1 48:7 81:12 110:20
contexual 53:24
continue 6:13 53:4,7 79:10 79:19 82:9
continues 124:19
contrast 76:5
contribute 26:9 55:12 81:2
control 86:2
controvers 47:24
controversy 47:25
conversation 66:20 71:23 77:12
copies 174:14
coping 94:16
correct 7:14,22 7:23 8:7,8,13 9:7,13,15,16 10:7 11:9 14:9 19:20 21:17,18 21:22 28:2 29:5 31:21 32:8 33:2 37:1 37:2 42:13 44:4 46:22 47:11,12 58:7 59:20,21 68:16 79:3 80:8,12 98:4 107:17

109:7,14,15,18 109:22 122:3,4 123:8,17,20,24 124:2,3,21,22 125:11,14,16 125:19,22,23 127:1 132:1,4 134:25 135:3 143:4 150:10 151:1 160:3 161:17 162:20 170:6,7 176:8
corrections 176:6
correctly 19:19 22:10 24:23 26:10 39:11 43:8 46:13 47:8 54:7 56:2 60:5 97:12,24 100:2 103:7 107:13 109:2,8 123:14 124:11 126:14 130:20 156:9 158:22
correlation 167:13
corresponding 127:6,11
corresponds 99:24 101:22
counsel 1:13 2:1 3:8 5:17 8:4,15 172:7 174:14
counting 137:20
countries 23:17 45:14 81:12,14 81:15,17,19,24 82:1,3,13,14,19 82:25 83:9 86:18,20,23 87:14,25 88:3 88:9,13,24 92:17,21 146:16,23 147:3,8 148:3 148:10
country 45:19 147:15
county 2:16 3:22 172:11
couple 32:13 39:22 47:1 51:1 60:19 62:13 68:3,12 68:13 70:3 115:13 117:24 129:19,24 150:15,22 169:1
course 5:15 57:8 133:21 139:20
court 1:1,14 3:9 5:15,20 90:2
covered 10:24
creating 85:8
creation 81:3 90:15
creditability 89:25
critchfield 59:6
criteria 30:13 30:16,17,19 31:22 32:3 33:19 36:17,21 48:19,23 49:10 49:12,13,25 50:1 54:21 63:22 72:18 143:17 144:5
criterion 55:10
critical 46:2 173:16
criticism 91:7 91:11
criticisms 90:3 91:13,16,17
criticized 90:5 90:9,14,18,22 91:1,5,9
critique 90:12 90:24
critiques 83:6 90:20
critiquing 83:7
cronbach's 15:17
cs 174:15
culture 18:8 147:16 173:15
cup 52:10
currently 150:5
curtains 107:11
cv 1:5

d

d 2:18 173:2 174:1
dangerous 119:23
dark 168:22
data 15:20 16:15 21:4 28:23 31:16 43:19,25 44:19 74:13,14 79:1 109:25 110:13 110:19 111:7 112:17 114:3 115:1,6,8 119:22 121:22 122:5,17,18,19 123:12,17,19 123:25 125:21 125:21 126:2 126:16,17,20 127:8,21,22,25 128:5,9,19 130:22 146:7 146:10 153:17 153:18 154:5,6

155:3,4,5,21 156:1,15,19,20 157:13 158:4,8 158:10,13,18 159:5,11,24 160:10 163:7 164:13 165:21 165:22 166:6,8 166:19 167:7 167:11 169:17
date 1:10 3:3 175:24 176:12
day 172:10 176:15
days 174:16
de 109:16
dead 11:3,3 150:21
december 1:10 3:3 87:3,4
deciding 5:23
decision 87:6,7 91:17,18
decisions 46:9 46:11 53:9,16
declarants 10:15
declaration 6:25 7:2,6,13 7:21,25 9:7 16:7 21:13,14 21:24 22:22 25:1,7,9,13 26:17 27:1,18 36:24 42:18 43:15,25 45:3 57:24 58:3 66:3 71:10 73:2,5,10,14 74:17,23 75:9 76:20,22 77:1 79:22 80:9 86:21,22 93:5 96:1 102:4,6,7 102:20 116:16 119:10 121:21 125:2 126:5 134:7 154:9 160:14 173:15 173:17
declare 176:4
decrease 54:5
decreased 69:12
deemed 176:6
deeply 20:17 148:18
defendants 1:7 1:13 2:7,14 133:17
define 20:6 67:6 148:25
defined 123:13 132:4 139:12
defining 26:6
definitely 74:7
definition 27:9 27:11,13 37:16 131:10
definitions 5:13 22:14 23:7,9 130:9
delphi 84:18
demonstrate 29:16 42:11
denormalize 148:1
department 2:8 2:15 3:16,20
departures 86:21
dependent 143:19
depending 86:14 144:13
depends 23:23 24:5 37:12 45:4 52:3 158:5
depo 173:16
deponent 174:13 176:3
deposing 174:13
deposition 1:9 3:4,6 4:17,23 5:12,15,22 6:12,22 59:5 63:21 71:1 94:12 133:15 134:6,10 135:5 135:7,11,17 137:14 139:9 148:17 171:11
depositions 4:19 133:20
depressed 56:5
depression 54:24,25 55:12 56:6,21,24 57:1,10,11,15 57:20 144:2,6
depressive 50:9 53:22 54:11 55:22
deputy 2:19
describe 19:1 20:4 34:4 58:17 130:14 142:24 147:4
described 84:24 146:9
describing 29:23 49:21 64:25 115:15 145:15 166:6
designated 43:1 97:4
designating 107:7
desire 63:15
desired 148:13
desiring 63:11
desist 68:20 69:5,25 93:19 93:24 144:22

145:23
desistance 71:21 78:3 146:9
desisted 72:1
detail 118:20
determination 36:13
determinative 26:4,4
determine 15:15,18 30:17 33:16,17 36:9 53:21 54:12,20 81:13
determined 54:2 63:9
determining 26:5 33:20
detransition 37:21 38:1,3 146:13
detransitioned 70:19,21
detransitioning 145:12
developed 93:2
development 80:18
diagnose 30:19
diagnosed 31:9 32:21 55:25 145:22 146:3 167:4
diagnoses 30:24 51:8 53:9,17,19,22 54:20,21 72:22 143:18,24 144:3
diagnosing 143:23 144:10
diagnosis 31:22 32:12,15,20 33:4,7,11,18 35:5,11 36:18 46:12,16,22 47:6,10,11,16 47:25 48:3,5,6 48:10,16,19,23 49:5,11,12,13 49:19,25 50:2 50:2,12 51:12 51:18,23 54:10 55:11 67:1 72:19 88:24 143:17,25 144:13,19
diagnostic 36:21 67:10 143:17
diagnostically 55:6
difference 146:3
different 7:16 12:9,15,16,17 14:19,23 17:19 21:8 27:15,25 29:9,14,25 32:19 33:4,21 36:16 37:14 38:8,21 42:15 45:14,15 51:8 51:9 54:20 55:7 60:22 61:20 65:8 66:9 72:7 76:12 80:18,22 80:24 81:13 82:12 84:19 94:17 104:1 106:2 110:13 111:25 114:19 123:1,2 126:25 127:3,23 128:23 131:4 131:18 139:17 140:25 141:3 168:20,21
differentiating 53:19
differently 136:18
differs 24:21 169:9
difficult 53:21 150:20
difficulty 53:16
dignity 103:5
directly 10:2
directory 80:23
disagree 146:10
disagreeing 166:24
disclose 35:17
disclosed 34:16
discomfort 120:16
discouraged 101:21
discrimination 16:25 17:4 20:18 57:21 99:10 101:20 110:6,10 111:20 165:2,6 170:6
discriminatory 170:9
discuss 6:4 75:18 108:9 138:12
discussed 6:7 74:22 137:14 161:13
discusses 76:3
discussing 143:13
discussion 156:24
disentangle 57:6

disorder 50:10 53:22,23 54:11 55:22 63:7
disqualified 11:18
distal 57:17
distinct 25:22
distinction 49:8
distinguishing 144:18
distress 32:15 33:8,9 34:11 49:23 55:9,11 66:13 79:6 94:19,21,24 116:15
distressed 78:19
distribution 162:23
district 1:1,1 2:16 3:23 128:21,22
districts 129:1 156:8
divergence 26:2
divided 124:14
division 1:2
dixon 2:16 3:23
doctor 3:10
document 6:21 6:24 7:16,22 9:9 18:3 45:25 46:7 75:5,21 84:20 99:16 102:17 129:10
documents 5:14 135:15
doe 1:3 3:5 7:2 174:4 175:1 176:1
doing 14:13 20:9 23:24 37:11 54:18 87:25 89:10 142:2 163:14 167:11
donated 139:18 139:23,24 140:5
donations 139:22 142:22
door 138:22 140:7,13
doors 139:16
double 81:4
dr 1:9 3:4 4:7 6:20 8:18 9:2 53:4 71:7,19 74:22,23 76:3 76:8,13 77:3 83:17 87:15 89:10,11,15,24 95:22 99:6 108:6 113:20 133:13 149:16 169:5 170:24 174:5 175:2,24 176:2,4,12
drafting 111:1
draw 7:24 35:4
drawn 76:24
draws 76:13
dress 42:24
dressing 74:4,4
driven 63:12
drop 165:3
dropped 165:5
dsm 30:16 33:12 49:9 66:23
dues 80:15 81:1
duly 4:8
duplicate 136:3
duplicates 136:9
duty 17:2
dys 87:17
dysphoria 30:20,23 31:7 31:10,20,22 32:4,7,12,16,19 32:21,22 33:1 33:3,5,7,11,18 35:5,7,11 42:16,21 43:4 46:12,15,22 47:11,15 48:15 49:4,11,19,24 49:25 50:1,12 51:12,18,23 53:19 54:14 55:11,18,25 56:6,12 57:3 58:6,10,17,18 58:23 60:11 61:16,25 63:2 63:23 64:13 65:22 66:12,15 67:1,18,20 68:20,21 69:5 69:6,11,23,25 70:6,11,18 71:9 72:1,18 72:19,22 76:7 77:5,7,14,16,18 77:22 78:4,5 78:10,11,12,23 79:5,8,9,11,13 79:15,16,20 80:5 83:17 88:24 91:22 92:2 93:7,15 93:19,20 94:2 94:14 96:9 97:21 106:8 115:12 116:1 117:20 118:6 118:18,24 119:12 143:16 144:18,22 145:7,22 146:4
dysphoric 67:25

e

e 173:2,13 175:3,3,3
e.g. 97:4 107:11
earlier 4:15 40:1 44:10 48:18,21 49:21 50:22 64:5 67:14 73:25 83:18 94:11 104:9 137:14 146:14 148:16 171:3
early 65:13
easier 17:21,23
eat 52:11
ecosystem 162:22,24
ed 140:18
edchoice 125:22 126:2 126:16 161:25 162:3
editor 140:17
editorials 140:17
edits 135:25 138:8
eds 140:17
educated 165:14
education 2:8,9 2:9,15,15,16 3:15,16,17,20 3:21,22
educational 162:22,24
effective 43:3 80:5
effectively 92:7
effectiveness 82:23 118:8
efficacy 87:16
efficient 132:18 132:21
either 10:20,23 25:3 28:16 55:12 90:24 91:7 131:1 140:11 141:23 146:6,9 167:2
elected 138:15
election 140:12
elections 139:17
embedded 35:11
empirical 146:7
enacted 88:14
encounter 32:6
encountered 32:11 55:16 56:8
ended 34:6 61:8
engage 18:24 19:24 73:2 80:17 91:15
engaged 77:1 143:11
engaging 5:21 13:1 20:8,10
engines 12:17
england 82:16 82:20,21 83:15 146:23 148:4 148:23 149:10 150:2,6,6,14,25 151:9,17,23 152:14,18
enormous 116:14
enrolled 126:8 161:5
ensure 12:21 19:15
entirely 142:21 149:18
entirety 135:23 136:1
entitled 18:7 46:2 89:8 99:9
errata 174:11 174:13,16
especially 25:16 29:11 34:24 67:8 73:8 91:22 92:18 102:1 104:4
esquire 2:4,11 2:18 174:1
essential 104:7
established 21:25 23:3 79:24
estimate 136:8 159:25 161:14 161:14 162:17 163:2,4,21
estimates 124:5 124:8 166:14 167:15 169:5 169:17
et 1:3,6 3:5,6 108:21 122:3 138:24 148:4 154:17 156:2 156:11 158:9 159:24 160:19 160:24 161:13 174:4 175:1 176:1
ethical 16:24 17:2,5
ethics 17:12
eunuchs 91:1,5
europe 88:4 146:16
evaluate 30:13 84:18 92:6 153:17 154:4
evaluated 55:20

evaluating 42:7 81:24
evaluation 51:5 54:15,16 63:8 64:6,8
evaluations 32:2 33:14 36:22 37:12 41:20 55:8
events 47:24 138:24 172:8
eventually 49:18
everybody 36:16 50:19 52:16 104:16 104:25 132:19 171:5
evidence 13:15 13:18,19,20,25 14:2,15 20:23 21:2 85:12,17 85:18 86:4,6,7 86:17 90:10,22 91:25 92:8,16 92:20 115:10 119:25 120:1 146:7 148:14 148:18
evidentiary 22:12 24:25 26:13 43:11
exact 28:24 100:20 137:25
exactly 35:20 45:18 65:10 77:10 88:8 89:10 107:23 107:25 118:13 129:4 140:3 142:9,17 146:1 152:6,8,17 165:8,24 167:12
examination 4:9 9:22 133:11 169:3 173:4
examine 9:14 89:8
example 15:4 15:11,16,21 17:24 24:3 28:14 39:17,24 40:15,21,21 41:19 43:6 45:3 53:24 54:1 56:4,7 57:11 60:3 63:4,5,12 82:5 82:7 84:5 100:6 103:22 115:16 134:10 141:8,9 144:1 144:5,9 146:23 147:14 158:17
examples 16:3 127:18
except 5:23
exception 88:10
excerpt 173:16
exclude 121:3
excluded 96:19 104:22 121:16
excluding 108:10 166:17
executive 123:6
exhibit 6:17,22 17:25 18:4 45:22 46:1 53:5 58:25 59:4 70:23 75:2,8 98:25 99:7 102:14,19 106:19 122:11 122:14 123:5 125:24 126:3 129:6 154:9,23 158:20 173:15 173:15,16,16 173:17
exist 72:20 78:13 79:21 128:12 129:3 166:1 167:1
exists 79:1
expanded 81:20
expecting 137:25
experience 20:20 24:13,16 25:3 27:23 29:2,13 31:3 31:14 32:10,14 33:9 34:5 35:16 36:6 37:25 38:10 49:22,23 53:18 55:14 56:9 58:12 59:23 64:20 65:12 69:13 78:20 110:23 111:3 111:23 112:1 112:13 114:20 116:10,11,14 116:16 143:23 144:7,23 145:10,15,19 153:7 165:4,11 170:3
experienced 35:1 38:23 56:21 58:21 63:18 78:22,24 131:3 144:17 144:21 145:7
experiences 28:12 57:2,16 57:18,19,20,22 58:19 66:18 98:14 114:20 144:1 156:5

170:5,13
experiencing 16:25 17:4 20:18 31:4 34:1 35:3 39:7 40:18 55:24 58:24 66:15 94:19 108:24 111:4 114:23 117:20 118:5 118:17,23 146:4 165:2,6
expert 7:2 8:5 10:22 11:19 14:1 21:21 26:19 27:3,4 43:23,24 45:12 45:18 75:8 77:5 108:13 111:1 135:2,20 136:2,4,9,10,13 136:23 137:3 137:10 138:1,3 138:3,11 143:1 143:11,13 153:15 154:3 160:16 161:23
expertise 50:16 50:18,20 51:4 60:17
expires 172:20
explain 12:11 49:6 103:18 122:5,23
explained 143:16
explanation 57:13,24 58:1 73:1 120:6,8 122:17
explanations 5:13
exploration 65:8 67:15
explore 22:5 54:11
exploring 66:7 66:9
exposed 39:14
express 22:8 87:16
expresses 130:8
expressing 76:7 77:4
expression 30:9
extent 6:8 11:21 138:1 147:19 149:16 151:25 152:6 157:1
external 24:11 24:12,15 25:25 26:7 56:22
extraordinarily 64:21 85:15
extrapolate 163:13 166:8
extrapolated 125:21 163:21
extrapolating 167:19
extrapolation 162:18
extrapolations 166:12 167:14

f

face 110:15 157:13
facilities 43:1 95:24 96:14,15 105:7 108:11
facility 104:17
fact 30:14 41:18 71:7 98:14 112:23 117:4 146:22 154:18
factor 26:4,4 122:20
factors 26:9 53:24 56:23
facts 151:15
faculty 97:5
failing 90:14
fails 174:18
fair 8:20 10:8,8 10:14 11:1,5 12:11 38:20 78:2 81:7 159:23
fairness 167:9
familiar 4:18 12:2 13:15 23:18 24:1 44:23 74:24 76:9 81:10 149:19 150:14 150:15 151:21
familiarity 24:4
families 38:4 60:4
family 55:3 56:22 62:24
far 45:8 71:14 82:2 86:18 108:5 164:18
fashion 142:19
fear 121:11
federal 141:23
feel 30:6 38:3 46:12 54:6 56:17 65:6 67:3 79:2 92:6 98:8 100:7 105:16,21 114:16 120:4 120:14 130:16 153:9,12
feeling 98:15 119:6 120:16 144:4
feels 79:4

feeney 99:6 110:5 115:15
felt 51:9 54:25 119:2,11 167:25
female 22:3 24:10,17 130:13,13
females 24:16
feminine 74:5
femininely 74:4
fewer 159:2
field 16:21 17:1 17:5,15 25:3 25:10,18 26:16 36:14,20 40:23 43:20 45:12 148:16
field's 27:5 40:9
fields 17:8
fifth 137:21
figure 54:23 57:6 65:5,10 65:16 136:22 165:17
figuring 65:20 65:23
fill 52:10
final 83:18
financial 53:25 54:1
find 34:8 55:5 85:25 92:10,13 100:20 127:9 127:16 128:13 157:6 161:25 165:23 166:1 167:12
finding 12:18 98:22 102:2
fine 40:10 70:9 102:13
finish 5:5
finland 82:16 82:21 146:23 148:4
first 21:15 36:11 49:3 53:17 58:14 66:6 70:10 73:18 74:9 94:8 99:20 115:14 123:8,8 123:11 133:19 154:14 155:12 159:12,13 160:18,23
fit 131:10
fits 77:19 132:3
five 52:13,20 91:22 130:1 137:19,22
fluid 28:4,7,8 28:22
fluidity 28:11 28:15
flyers 138:22
focused 94:22 137:4,5
focusing 23:13 108:8
folks 108:20
follow 17:4 21:8,10 39:22 45:20 50:5 81:17 113:2 132:12 145:20
followed 73:23 76:4 146:2 152:9
following 42:19 72:20 81:9,15 90:9
follows 4:8 79:1 107:23
footnote 155:18 155:19,25
foregoing 172:4 176:5
form 6:12 17:16 19:15 28:5 34:7 68:23 78:7 81:22 93:14 94:5 100:24 119:5 143:21 150:11 152:1
forming 7:20 11:23
forms 13:25 14:2
forward 54:3 64:16
found 72:14 164:19
four 99:22 129:25 130:1 137:17,19,22
fourth 99:18
frame 73:25
framework 90:19
france 82:17,20
friends 38:4
front 18:9 28:24 46:7 59:13 69:22 73:20 76:15 77:9,25 90:2 154:24
froze 46:18,25
full 11:21 51:4 55:5 82:5
fully 28:3 39:22 40:24 166:7
funded 141:19
fundraising 138:24
funds 141:20
further 67:9 96:20 157:9 161:3 170:19 172:6

g

gain 94:15
gaining 35:23
gathered 122:6 122:17
gear 142:15
gears 95:23
gen 28:15 118:8
gender 11:22 14:7 16:20 20:24,25 21:16 21:25 22:4,5,8 22:18 23:3 24:21 25:5 26:1,3 27:14 28:3,7,8,22 29:1 30:8,9,20 30:23,23 31:5 31:7,10,20,22 32:1,4,7,12,16 32:18,21,22 33:1,3,5,10,11 33:18,24 35:5 35:7,11,20 37:21 38:10 40:4,12,25 41:6,16 42:4 42:16,21,24,25 43:2,4 46:12 46:15 47:11,15 48:15 49:4,10 49:19,25 50:1 50:12 51:4,9 51:12,18,22 53:20,25 54:1 54:6,9,14 55:11,18,25 56:6,12 57:3 57:19,21 58:6 58:10,16,18,23 60:10 61:16,24 63:2,8,23 64:13 66:12,15 67:1,18,20,24 68:1,20,21,21 69:4,5,6,10,11 69:15,23,25 70:1,6,11,14,17 70:18 71:9,21 72:1,11,12,13 72:14,18,19,22 74:2,10 76:7 77:5,7,14,15,17 77:21 78:3,4 78:10,11,12,22 79:5,8,9,10,13 79:15,20 80:5 81:11,13,24,25 82:5,6,9,25 83:14,17 84:6 84:16 85:4,5 86:24 87:11,17 87:17,18 88:12 88:23 91:21,23 92:1,2 93:7,15 93:19,20,20 94:2,3,4,14,17 94:20 96:7,9 96:16 97:8,16 97:20,21,23 98:3,16,17,21 99:23,25 100:1 100:7,12,14 101:3,11,12,14 101:22 102:9 102:11,12 103:4,11,15 104:2,3,7,11,12 104:13,23 106:8,14 107:7 107:16,21 108:12 110:3 110:16,18,24 111:20,24 112:5 113:24 114:2,7,18 115:11 116:1 116:13 117:10 117:19,20,25 118:4,5,17,22 118:23 119:12 119:15 121:4 127:6,12 128:19,25 130:10,13,16 140:21 143:16 144:18,21 145:7,22 147:5 147:8 148:22 149:1 150:3,8 150:24 151:2 151:10 159:21 166:18 169:8
gendered 96:14
general 2:18,19 11:6 15:8 16:17 22:16 23:18 27:21 28:9,13 29:24 29:25 30:1 33:7 35:4 41:15 42:6 45:11,12,20 46:22 50:8,24 50:24 51:13,14 63:17 64:19 65:23 73:21 77:11 109:9,20 109:21 112:25 119:8 127:15 128:24 141:7 144:13 145:12 147:13 162:23 163:15 164:10 164:19 168:15 168:17
general's 3:18 4:16
generalized 53:23
generally 10:24 13:20 29:13 44:18 51:7 63:16 88:23

109:5 112:25 146:5
genitalia 24:11
genitals 79:10
getting 33:14 69:25 78:17 157:24 171:1
girl 100:12
girls 98:11,12 103:24,24 105:9,10 106:5 106:5 117:10
give 5:8 7:7 63:3 76:2 136:8
given 4:22 33:11 49:4 106:15,15 122:25 126:7 176:9
gives 123:13 166:19
giving 10:9 73:3
global 44:7 45:11
globally 44:12
globe 44:18
go 4:6,19 15:10 17:17 19:10 21:13 46:25 47:3 49:9 51:4 52:10 54:17 58:14 60:1 64:16 68:24 70:12,18 71:1 73:20 75:14 78:7 83:23 94:3 99:21 108:13 123:10 124:18 129:6 129:19,25 139:16 147:21 149:17 154:8 155:7 156:23 157:20
goal 78:4,6,9 78:13
goals 90:6
goes 35:25 37:19 129:20 149:16
going 4:17 34:23 35:20 46:19 49:10 52:6,23 53:13 59:9 60:15 63:3 67:17 69:6 80:19 83:21 88:25 93:11,20 95:16 96:20 97:14 106:17 108:7,7 113:14 122:14 129:5,24 132:8 133:6 144:19 149:13 150:16 152:5 156:4 158:19 163:20 166:10 167:16 170:17 171:7
gold 85:12
good 3:1 4:4,6 6:20 48:17 52:9,16 75:22 79:5 95:14 104:25 105:1 133:13 143:15 152:25 160:11
gorse 109:16
gotten 141:22
government 141:23
governor 140:11
grade 84:17,21 84:23 85:16,19 86:4,13 90:19
grants 141:19 141:21
great 141:9
greater 115:2,2 146:8 150:7 168:12,16
greenville 2:12
group 17:3 37:10 56:25 60:12 97:4 124:10 141:1 169:19
groups 81:11 123:1 124:15 141:12,15,20 142:20
guardian 152:23 153:4
guess 51:20 111:15,17 115:22 125:6 148:2 149:25 151:16 156:22 159:11,13
guessing 10:21 31:15
guidelines 16:22,24 17:5 24:1

h

h 173:13 175:3
hair 30:6
halfway 96:23 102:25 107:1 155:12
hand 21:5 24:6 45:5 85:21 86:14 172:9
handful 68:13
handing 138:22
handwritten 132:22
happen 30:7 34:12 65:2 66:19 67:12 111:22 113:1 114:12 128:2

157:20
happened 38:1 56:23 87:5,6,7
happening 41:24 45:18,21 82:12,19 84:12 87:9,10 88:8,9 88:10 112:3 114:24 121:7 123:3 150:16 157:21
happens 29:23 112:13 165:7
harass 113:7
harassment 107:9 108:25 109:1,5 110:14 110:19,23 111:5,12,24 112:11,14 113:21,25 114:8,12,20,22 115:3
hard 20:18,19 48:21 114:10 114:15 166:11 167:3
harder 128:9
harm 97:20 103:22
harmful 93:8 93:12 96:8 97:17
harms 108:9,10 109:9 110:11
harris 139:24
harrison 2:23
hats 142:17
head 5:3,9 95:7 142:14
heading 46:8 53:8,13 75:17 76:2 103:1 123:6 129:22
headings 155:9
health 16:15 23:16 24:1 44:14 46:11 47:21 48:4 50:6,9 51:17 51:25 53:15 55:3 57:25 62:11,12,14 80:1 96:18 99:10 110:7 118:10 123:2 144:11 146:17 149:7,10 151:5 153:25 154:3 164:17
healthcare 23:16 81:8 82:16
hear 4:1,2 111:6
heard 90:3 91:11
held 138:15
hello 3:11
help 47:22 57:7 57:10 58:16 65:22 66:17 67:17,21 70:10 72:24 77:13,21 79:14 94:2,23 112:8
helpful 33:13 58:2 61:13 73:1 85:15 93:18 94:1,8 94:18,18 100:20 103:12 104:4,16,17 157:6
helping 93:19
helps 79:7 145:6
hereto 176:7
hereunto 172:9
herman 122:3 122:7 123:6 129:5 154:17 154:20,21,24 156:20 157:5 157:12 158:9 159:7,24 160:19,24 161:13 163:12 169:14
herman's 162:18
high 31:17 32:3 32:8,8 86:3 97:4 109:11 156:7 157:17
higher 159:8
highest 85:17
hindering 90:22
history 31:5 33:24 55:3 56:22
home 43:6 153:8,8
homeschool 164:11,20
homeschooled 170:5
homeschooling 165:1
honest 140:2 142:9 167:1
hope 54:5 78:15
hormonal 136:20
hormone 137:1
hormones 25:24
horse 11:3 150:21
hour 52:7 95:5 143:2
huh 5:10,10 18:14 22:14

70:3 75:7,11 145:11
human 22:3 29:8,13 105:3 112:22 113:7,8 119:7 120:20 121:1
humans 29:24 112:24 119:8
hypotheses 15:7 148:19
hypothetical 40:21 129:3 147:23

i

idaho 137:13
idea 28:20 36:14 68:6
ideas 120:18 121:11
identification 6:18 18:1 45:23 59:1 75:3 99:1 102:15 122:12 125:25 173:14
identified 55:24 71:8 74:8 131:9 155:2 159:3
identifies 37:19
identify 24:13 24:16 35:14 119:12 124:9 131:13,20,24
identifying 132:3 167:4
identities 29:14 111:25 119:21 127:7,12
identity 21:16 21:25 22:4,5,8 22:18 23:3 24:21 25:5 26:1,3 27:14 27:21 28:7,13 29:1,8,24 30:9 30:11,23 34:17 35:13,18,20 38:5,6 39:1 40:4,12,25 41:14,15,16 42:4,24,25 43:2 50:21 53:20 57:19,21 63:9 64:23 65:3,14,25 67:10 70:14 71:21 81:12 91:24 94:4,20 96:16 97:9,20 97:23 99:25 100:6,12,14 101:14,22 102:9,12 103:16,25 104:7,23 106:14 108:12 110:3,16,18 111:20 112:6 113:24 114:2,7 114:19 116:13 117:8,11 119:15 121:5 156:5 159:21 169:8
ignoring 92:19
iii 2:23
illustration 147:24
imagine 11:25 157:19
immigrants 142:11
immigration 142:11
impact 87:25 88:5 98:21 99:9 166:17
impacted 126:12 166:10 166:16 167:17
impacts 110:8 110:11 118:10 119:11
impair 133:23
impede 134:2
implies 134:23
import 161:9
importance 77:6
important 12:7 15:13 26:3 36:18 41:9 42:20 45:20 47:19 57:5 58:5 93:14 106:4 119:3,7 119:7 148:13 153:17 154:4 166:19
impossible 20:14 37:24 38:7 45:17 72:21 74:16 165:24
improve 93:8 93:13
inaccurate 26:8 169:24
incidence 158:13
incidents 162:21
include 13:9,12 14:10 16:10,10 22:25 25:2,6 25:18 43:13,14 69:17 73:12 79:14 81:20 116:5 136:3 163:2
included 7:22 9:9 13:4 14:8 14:13,17,20

15:22 16:10,16 34:13 66:3 79:17 80:25 86:6,11,11 110:7 115:15 115:18,22 128:8 144:5 156:14,19 157:8 159:12 159:20 160:4 169:14
includes 54:19 80:6 82:15 115:8
including 12:21 23:15 25:15,23 135:11 138:21
incongruence 53:20 54:1,10
incongruent 27:15 53:25 148:21
incorporated 135:25
increase 97:21 116:6,21
increased 57:25 143:12
indefinitely 83:16
independent 62:8
index 2:24
indicate 36:24 93:5 164:17
indicated 21:7 33:16 63:20 64:7 146:8
indicates 155:21
indicating 30:22
indication 148:12
individual 36:19 37:5,6,9 37:18,25 38:22 42:22 53:24 62:8 96:15 97:8
individual's 25:21 43:6
individualized 36:9,12,15 64:6
individuals 11:8 22:7 24:11,14,18,19 31:19 32:6,11 38:2,11 47:6 47:16 93:15 97:2 98:6,7 101:2 122:2 125:5,10 148:7 155:22 160:20
inescapable 150:1
infant 39:6
infants 24:10
influenced 25:23
inform 156:21
information 9:24,25 10:11 10:25 12:5,8 12:18 14:1 17:20,22 21:5 25:7 26:22 46:10 72:23 77:24 101:25 111:8,9 122:18 127:16 128:3 132:5 148:12 152:13 157:24 160:3 161:20 161:25 162:3 162:11,14 164:7,22,24 166:20 173:10 173:11
informed 46:8
ingredient 14:16,25 16:8
initially 81:20
injunction 7:9 8:11
injured 108:23
inpatient 52:1
input 138:6
inside 112:20 114:14
insignificant 166:21
insist 131:18
insistence 29:17 30:10 34:14,18 64:23
insistent 27:24 29:3 33:21 131:4,18 169:8
instance 15:6 25:16 48:20 63:10 65:2 100:8
instances 17:6 61:23 63:18 65:7 84:3 94:25 100:10 135:1 147:2 153:5,10
institute 51:25
institutes 164:17
intend 7:7
interact 20:17
interal 103:5
intercorrelate 16:1
interest 8:21 63:24 90:15 142:20
interested 172:8
interesting 34:15 50:13

111:2
interject 134:16
internal 22:2 24:20 25:25 29:4,6,7 30:10 33:21 34:17 38:15,17,20 39:5 40:2 143:19 144:7
international 23:15 24:4 44:15,17 45:1 81:8,10 152:14
internationally 45:9,21 87:10
internet 139:2
interpret 101:8 148:11 157:15
interpretation 157:25
interrupt 5:6
intervene 107:10
intervention 54:4 72:2
interventions 77:17 80:7
interviewers 130:9
introduce 3:8
introduced 4:14 133:14
introduction 155:9
invalid 97:9
invalidating 98:13 100:14 103:25
invalidation 106:9
invoice 143:6,8
involved 80:23 82:7,8 86:10 111:21 136:13 136:24,25 137:10 140:14
involves 136:19 136:21
involving 137:17,18
issue 23:4 47:22 106:3 111:16,25 138:23 140:9
issues 44:6,21 50:17 83:23 89:2 105:11 106:2 111:16 114:17 139:14 149:15
item 15:21,23 16:12,14
items 15:25
iteration 124:5

j

james 75:9
january 172:10 174:3
job 114:23
joe 2:5 52:9 132:13 134:11 134:14,15 135:24 143:6,7 143:8 174:2
john 1:3 3:5 174:4 175:1 176:1
johns 156:2,11
johnson 10:16 10:23
johnson's 10:18
joseph 2:4,18 3:11,13 4:15 174:1
josephspate 2:20
journals 20:6 92:5
june 86:22,23

k

k 1:14 126:7,17 161:4 166:3 167:5 172:2,19
kamala 139:24
keep 106:17 108:7
keeping 74:19
kid 102:11
kids 28:17 72:11,17,21 73:11,17,23 74:1,8,12 83:1 83:11,13 84:4 104:21 112:13 120:21,22 122:25 127:25 128:6,23 131:8 153:7,12 162:1 166:4,9 167:16
kind 5:13 11:1 11:4 16:18 18:12 19:2 21:19 28:21 29:13 31:4 32:24 33:14,19 34:11,25 35:4 36:4,20 37:12 37:16 38:14 41:8,23 42:5 43:19 50:4,4,8 50:24 51:13,15 52:3,5 56:13 57:5,22 61:12 63:3 64:5 65:13,16,24 66:7 67:8 68:6 68:13,21 70:1 70:13 71:2 74:2 76:1 77:19,23 82:13

84:25 85:13
95:22 96:19,21
105:19 108:8
115:9,10
120:18 122:22
122:24 139:17
141:24 146:4
157:22 166:19
kinds 17:14
123:1,3
knew 146:22
knocked
139:16
knocking
138:22 140:7
140:13
know 4:18 7:25
10:3,20 13:7
13:12 15:2,11
16:20 19:7
23:14,16 25:8
29:13,18 30:5
31:15 33:5,15
34:4,8 35:8
36:5,17 37:20
38:12,13 39:20
40:17,19 41:10
41:20,25 44:25
45:7,7,13,18
47:23 48:8,20
50:5 51:6,24
52:1,2,6,7
54:18,23,23,24
55:9 56:23,24
60:3,22,25
62:7 65:20
66:14,14 67:6
68:9 70:6 73:1
74:12,19 76:14
76:21,23 77:10
77:13,18 78:11
78:15,20 79:2
79:3,16,18
84:11 85:21,22
86:15 87:12,23
90:11 92:6,13
94:15,22
101:19,23
102:3,8,11
105:8 106:10
107:15,21
108:2 110:9
111:2,10,10,17
111:17 112:13
113:5 115:18
115:21 116:9
117:4 120:17
120:20,23
121:8,11
126:21 127:4
127:19,21
128:5 130:7,19
130:22,25
131:1,6,15,20
131:24 132:20
133:21 140:6
144:2,3,9,12,16
144:20 145:6
145:16,21,25
148:15 152:3,8
152:10 153:7
154:23 156:14
156:17 158:19
159:4,9,19
161:18 162:8
162:12 163:6
164:3,9 165:8
166:1,9,23
167:21,21
knowledge
9:21 10:5 12:9
12:25 45:10
152:13,22
153:3 170:3
known 25:4
39:13,16 40:24
42:8,9
knows 139:8

l

l 1:9 3:4 4:7
174:5 175:2,24
176:2,4,12
l.w. 74:23
lab 18:7,16,17
18:19 19:23
lab's 19:12
label 161:14
lack 119:23
152:12
lag 139:3
language 17:22
84:2 93:23
101:19
large 26:22,23
156:8 172:3
largest 108:19
lawsuit 133:17
lawyer 132:15
lawyers 135:8
138:9
lead 42:3 96:17
leading 34:6
leads 98:14
106:9 116:6,20
leant 56:24
learn 92:16
learning 93:1
leave 167:10
left 99:20
105:20
legal 90:6
135:25 174:23
length 34:1,9
35:12
lessening 149:6
lesser 167:23
letter 54:17,17
letters 46:3
140:17
level 23:15
32:14 60:17
79:20 80:17
112:14 124:8

lgbtq 107:10
liberal 47:4,14 47:18
licensed 11:10 11:13 48:4
life 22:9 39:8 41:4 42:3 43:6 56:23 78:18 140:4 147:14
lifetimes 29:10
likely 54:4 100:7 107:9 113:1 164:10 164:18 165:13
limit 101:1 148:1
limitation 100:23 149:6
limitations 16:13
limited 25:24 109:6 126:25 138:22
limits 139:21
line 35:4 59:11 83:22 114:13 146:19 149:14 173:3 175:4,7 175:10,13,16 175:19
lines 58:14
lisa 10:16,18,23
list 124:23
listed 7:16 18:4 27:2
listen 58:15
listening 116:10
listing 124:15
lists 8:6 162:4
listserv 80:20
literally 48:9
literature 11:22,25 12:2 12:3,14,22 13:1,3,6 14:12 14:14 38:1 165:12
litigation 8:18
little 4:15 16:18 27:7 48:21 49:1 52:7,11 53:14 56:14 67:13 68:17 69:21 71:2 73:9,25 95:23 110:12 114:15 127:2 132:23 145:5,16 154:8 161:3 171:2
local 5:15,20 133:17
location 1:12 109:6,20
locations 107:9
locker 106:21 107:12
logical 150:1
logically 163:22
long 31:3 33:25 34:25 35:3,14 36:2 40:17 65:15 66:2 75:21 134:19 145:4 154:13
longer 30:6 62:14
look 14:12 15:15 17:20 21:3,3 27:17 28:23 34:20,22 52:4 56:11 58:2 65:18 66:16 74:11 76:1 85:9,23 86:3 91:16 98:23 99:3,18 107:5 118:12 118:19,25 126:4 127:17 132:8 154:8,12 154:21 155:18 157:9 159:10 159:14,23 160:16 161:22 164:23 165:25
looked 31:16 105:14 156:18 158:12 159:16 161:24,25 162:4 165:12 167:18
looking 42:17 53:5,6 59:12 59:15 60:18 69:21 86:16 89:11,11 95:4 99:12,17 118:2 121:21 123:4 125:3 132:10 135:20 158:19 159:4 160:12 160:13 162:16
looks 95:4 122:19 156:3 165:23 171:1
loosely 68:13
lot 25:5 28:15 36:5 38:2 41:1 45:13 55:2,4 65:19 72:16 74:7,14 81:17 116:10 123:1 128:23
lots 29:14,25 37:9 54:19 55:6,13 80:24 83:6
love 148:17,18
lower 86:6 113:24 114:7
lowest 80:16 85:17

lumped 74:11
lying 139:5

m

machine 113:11
made 93:2 135:24 142:23 152:4 168:6 176:5
madison 1:12 18:16 62:12 128:21 142:13
madison's 18:7 18:17
main 8:21,21 71:20 98:5
maintaining 63:4
major 22:15 23:6,10,20 44:8 50:9 53:22 54:10 55:22
majority 12:1 16:9 28:18,25 31:17,24 32:3 32:8 50:23 57:14 72:1 73:24 136:11
make 5:10,18 5:24 6:1,5,9,15 7:11 8:22 11:3 14:13 25:24 36:12 37:17 38:16 39:9,22 40:6 46:20 49:8 56:10 63:4 69:8 72:21 73:12 74:18 76:15 82:3 91:17,18 93:23 96:9 98:7 100:9,22 102:2 114:23 115:25 136:17 137:20 154:2 157:25 158:7 160:17 163:9 166:14 167:15
makes 7:19 33:13 36:23 42:5 52:5 57:12 59:3 62:3 63:13 67:23 68:18 104:25 115:11
making 12:6 46:8,11 53:16 64:8 89:20 93:22 104:1 106:7 109:7 138:22 166:12 167:14
male 22:3 24:10,14 130:13,13
males 24:13
manage 90:14
manages 92:13
managing 82:14 94:23
manner 42:24
march 142:8,10 142:12 172:20
marches 142:5
marked 6:17 6:22 17:25 45:22 46:1 58:25 75:2 98:25 102:14 122:11 125:24 173:14
market 143:13
mary 1:14 172:2,19
match 101:14 104:22 110:24 111:24 130:15
matches 79:7 100:13,21 102:12 103:15 104:6 107:25 108:4 111:19 112:5 114:18 121:4
material 138:2
materials 135:16
math 160:18 163:14,19
mathematical 136:7 137:25 163:22
matter 3:5 8:5 59:6 74:24 149:10 152:19 163:22
matters 4:20
mean 15:10 20:4 21:10 23:3 29:8 38:16 44:17 45:10 48:8 52:11 56:16 62:5 64:18 68:9 73:19 77:20 80:13 86:12 91:22 93:24 104:25 105:3 110:4 112:2,4,22 113:1,4 114:14 119:6 127:14 138:21 143:7 149:1 163:1 164:23
means 21:17 27:10 36:6 80:14 98:15 112:7 114:21 120:19 121:12 131:16 165:16
meant 21:4 41:25 91:19

142:15
measure 15:16 15:18,22,23,25 100:16 101:23 102:9
measured 146:1
measures 16:12 16:14
media 84:10 121:9 150:17
medical 9:18 9:23 22:15 23:6,10,14,20 27:8 29:19 44:8 54:3 60:16 69:11,15 69:18,19 70:2 70:4,10 77:17 80:6 82:9,10 83:1,11 85:5 86:8,24 88:12 88:12,20,21 89:2,17 91:10 92:1,18,23,24 94:13 118:8 128:5,6 136:13 136:19,25 137:4,5,18 140:21 146:18 147:9 148:7 149:1 151:2,11 153:16,21,24
medicalized 81:20
medically 85:5 91:2,6 94:22
medications 133:22
medicine 11:6 22:1 90:10
meet 19:23 31:21 32:3 48:23 49:13,24 50:1 63:22 64:11,12
meeting 170:25
meets 49:11 54:21
member 80:10 80:13,16,17,23 80:25 141:5,10 141:12,15 151:21
members 18:18 18:19 19:23
membership 80:25
memory 68:11 68:16 71:22 77:11 137:7 139:21
men 24:13
men's 117:9
mendota 51:25
mental 46:10 47:21 48:4 50:6,9 51:17 51:25 53:15 55:3 57:25 62:14 96:18 99:10 110:7 118:10 123:2 144:10 153:24 154:3
mention 61:5 86:20
mentioned 22:24 60:12 63:20 73:4 80:10 86:18 94:11,25 140:8 148:4,16 150:13 170:2
mentioning 64:20
mentions 143:1
merits 8:17
met 10:14,18 48:19,20 66:22 72:17 132:15 134:11,18,20
method 84:17 84:18 160:8
methodologi... 74:15 87:20
methodology 12:12 13:8,10 13:14 84:21,23 86:13 159:15
methods 129:20,22
metropolitan 128:22
middle 71:2,2 105:15
miles 2:11 3:19 132:12 133:15 170:22
miles.coleman 2:12
mind 5:4 18:5 18:11 21:13 74:20 106:25 163:6
mindful 4:25
minor 9:15,18 9:21,22,23 10:5
minority 57:17 57:23
minors 72:1 81:21
minute 52:13 52:20 95:9 132:20,25
minutes 52:11 134:21 168:4
mischaracteri... 152:1
misgendered 98:15
misgivings 120:14

missed 46:19
missouri 137:15
mistaken 70:25 99:7 109:17
module 130:2 130:14
moment 40:12 40:25 42:3 113:10 139:10 140:8 150:23
money 139:23
monitor 3:2 52:22 53:1 95:15,19 113:13,17 133:5,9 171:6
months 36:7 42:10 146:17
morning 134:20
mortar 164:5 164:21 165:19
motion 7:8,9 8:11
motions 7:13 8:24
move 5:24 6:5 21:23 24:8 42:14 54:3 96:5 121:20 129:24 132:23 147:11 150:22
moved 67:8 81:8 86:19 147:15 149:11 151:18
moving 27:6 29:18 42:15 88:4 92:18,22 106:17,18 108:7 146:24
mullins 2:10
multi 105:25 112:16 113:23 114:1,6 115:4 117:14 120:4 127:5,11
multifaceted 25:22
multiple 15:25 54:21 81:7 88:3 122:25
multiplication 162:17
multiplied 161:15 163:13
multitude 26:9
mundane 133:19
murchison 106:20
mutism 63:6
myths 120:19 121:12

n

n 173:2
name 4:11,15 42:23 65:8 79:4 117:22 133:15
named 10:15
names 79:5
narratives 120:24
narrow 69:22 102:2
natal 144:24 145:8,23
national 122:25 149:7,10 151:5 157:17 160:10 164:16 169:17
nationally 159:2
nationwide 108:19 122:18
near 18:12 108:18 129:7
necessarily 19:7 35:15 39:13 41:13 83:2 88:17 105:4 132:2 148:20 152:8 163:21 166:7 166:23
necessary 14:16,22,25 15:6 16:7 91:2 91:6 176:6
need 4:25 5:12 29:16 32:20 35:14 52:7 61:20 70:4,10 73:19 76:14,25 77:8,25 85:9 85:20,21,23 86:15 91:15 92:12 94:13 95:5 108:2 113:10 118:12 118:19,25 120:14,15,15 120:21,22 121:2 145:25 154:12 157:3,8 159:10,14 164:23 167:25
needed 29:20 69:10
needing 60:1
needs 58:22 86:1
negative 96:17 121:9,9
neither 22:3 172:6
nelson 2:10
nelsonmullin... 2:12

neutral 96:7 97:16 98:3,21 99:23 100:7 101:3,11 102:12 103:4 103:11 104:2,3 104:11
never 61:17 73:17 74:8 141:3
new 2:5,5 66:7 88:14 164:22
news 150:17
newspaper 141:3
nhs 149:19 152:5
nice 52:14 95:11 103:10 104:5 105:7
nine 132:25
nodding 5:9
nods 5:3
nonaffiliated 141:24
nonbar 99:11
nonbinary 99:11 100:6 101:2 103:6 104:4
nonconforming 130:10,13
nonconformity 72:14 74:2,10
nonphysical 109:13
nonpolitical 141:24
nonprofits 141:25
nontraditional 165:15
normalizes 147:16
norway 82:17
notary 172:2 172:19 176:13 176:19
note 36:8 47:17 174:10
noted 176:7
notes 68:8 132:22 135:15
noticed 41:23
nuance 14:4 49:2 67:4 78:25 84:12 86:16 87:8
number 18:12 59:11 75:6,9 121:22 123:25 124:18,21 125:8,13,14,17 126:11 129:11 146:15,21 154:19,19 155:18 159:25 161:12,12 162:6,15,18,19 163:1,5,12,14 163:24 165:17 166:1 167:24
numbers 28:24 124:15 158:21 158:23 159:7 162:5 164:14 165:25,25 166:12,22,25 167:3,9,18 168:20 169:21
nurse's 97:5

o

object 83:21,22 147:19 149:13 168:2,5
objection 5:24 6:5 17:16 20:11 28:5 68:23 69:7 78:7 81:22 89:5,17,20 94:5 100:24 119:5 120:9 134:16 143:21 144:25 150:11 151:25 156:23 156:25
objections 89:1
objects 6:11,12
observe 144:12
obtain 84:4
occupancy 112:15,16 113:23 114:1,6 114:9,13 115:4 115:4,10,25 116:5,19 117:1 117:14,14 120:4 127:5,11
occur 66:20 107:9
occurrence 110:1,19 112:12
occurs 97:21
offered 82:1 97:2
offering 8:10 107:11
office 2:17 3:18 4:16 28:10 30:2,21 31:25 35:9,23,24 36:1 64:22 65:15 138:15
official 172:10
oftentimes 60:16
oh 31:24 40:19 56:8 75:20 87:4,4 92:11 171:4
okay 8:9 9:5,13 11:10 13:24

18:11 19:4 21:12 23:2 27:6 46:6,24 47:10 50:4 52:19 54:9 59:9,22 61:12 62:3,3 69:21 70:16 71:13,24 72:6 75:5,14 75:24,24 76:11 76:23 94:11 97:14 99:14 100:4 108:15 113:6 121:3 123:19 124:6 125:2,12,16 126:24 129:12 129:16,19 132:19 133:1,4 137:24 140:7 153:24 170:18 170:20

old 39:25 125:18

older 124:10

olson 74:22 76:21,22

olson's 75:18 76:3,8 77:3

once 19:23,24 26:12 67:16 107:15 134:20

one's 26:5,9

ones 23:13,19 71:21 73:7 136:24,25

onset 38:17 54:25

op 140:17,18

open 34:6

opening 46:9

operating 91:9

opine 7:15,18 12:16 73:6 87:1,9,21 96:7

opined 45:1

opinion 9:8 14:1 19:8 26:20 27:3,4 28:3 42:11 43:22,23 44:22 62:7,21 73:17 77:6 88:8 98:5 112:9 120:3 121:7 140:16 152:13 169:6 170:8

opinions 7:7,12 7:21 8:5,9,23 9:6,11 10:1,9 10:22 11:5,6,7 11:23 13:4 20:25 21:6,8 21:10,21 26:19 43:22,24 73:3 153:19 154:6

opportunities 66:9 80:19

opposed 164:21

opposite 111:13

option 97:19 100:7 105:1

options 104:5 107:11 130:6 130:17 165:16 168:13

order 5:25 6:5 12:14 93:7

organic 53:23

organization 23:9 44:15,17 80:15 81:1 91:10,12,19 143:7 151:20

organizations 22:16,17 23:7 23:10,15,20 24:4 44:9,19 44:20,21,24 45:1,8 141:6 141:13,16

organs 25:25

original 61:14 85:1

originally 55:25

othered 97:22 98:8

othering 106:9

outlets 141:1,3

outlined 24:2

outside 38:12 56:19 147:20

own 5:16 12:24 24:20 31:13,16 81:12 88:5 92:14,14 132:14,16 133:18

p

p.c. 2:3 3:12

p.m. 1:11 3:2 52:23,24,25 53:2 95:16,17 95:18,20 113:14,15,16 113:18 133:7,8 133:10 171:7 171:11

page 18:12,13 19:11,11 46:7 53:7,8 59:9,11 59:15 70:24 71:3 75:15,16 75:23 76:1 96:20,24 99:14 99:16 102:24 102:25 105:14 105:14,14,15 105:19 107:1,1 108:18 123:5

124:6,7,18,21
129:6,7,10,13
129:14 155:7,8
155:9,19
166:13 173:3
175:4,7,10,13
175:16,19
pages 27:18
59:12 132:23
paid 80:15
143:2,10
par 133:21
paragraph
7:25 8:3 19:10
21:14,24,24
22:25 24:8
25:3,20,21
26:18 27:17
36:23 42:17
43:12,14,17,23
44:2,6,22 46:9
47:2,3 53:12
58:3 79:23
93:10,11 96:1
96:4,6,11,12,23
97:15 98:18,19
99:19,21
108:14 109:9
121:20,24
123:7,8,11
125:3 126:6,6
129:23 154:9
154:12 155:12
160:17,23
161:4 162:16
168:18
paragraphs
19:21 26:15,24
26:25 47:1
96:6,7 98:1
99:21 129:20
paraphrasing
161:8
parent 63:7,12
153:4
parents 152:23
part 7:3 17:15
29:10 30:24
33:23 34:7,15
38:7 42:21
44:16 45:17
54:22 55:10
64:3,8 65:1,7
66:4,18,19
67:4 70:5
72:25 77:12
79:12 85:14
94:7 95:24
99:25 100:14
101:15 102:10
104:12 106:6
112:1 120:23
121:15 139:1
159:1
participated
138:17 139:11
139:15 142:4,8
142:10
participating
138:19
particular
10:10 17:24
29:21 34:7
40:21 41:13
42:3 44:3 57:9
60:23 61:3
65:21 66:20
76:16 79:17
86:8 87:22
90:12 93:24
101:4,7 102:10
105:5 106:2
109:6,19
115:14,17,19
116:3 132:7
143:25
particularly
94:17
party 172:7
passed 95:5
past 71:2
142:23
patience 96:3
patient 30:12
55:16,21 63:22
69:10 70:20
patient's
143:19
patients 36:25
37:4 48:12,15
48:18 49:17
50:5,11 51:16
51:16 55:20
61:1,3 67:24
67:25,25 68:1
68:3,6,19 69:4
69:25 70:3,12
70:17,19 78:21
143:24
paying 81:1
pdf 75:23
129:14,14
155:7
pediatric 62:10
pedro 109:16
pee 120:22
peers 97:7,10
165:14
pending 172:7
people 11:25
16:23,25 17:3
17:3,23 20:5
20:17 22:4,4
27:19,20 28:6
28:9,12 31:8
31:25 32:1,13
34:4,9,19
35:23 38:6,9
41:9,12 42:19
43:21 48:2,22
49:5,22,23
50:15,23,25
55:1,3 57:1,15
58:4 60:13,17
61:6 65:18
73:5,13,15

74:11,19 79:19
81:11,14 83:17
85:18 90:7
98:15 105:2
111:3,23,23
116:10 117:5,8
118:9 119:16
119:19,21,23
120:1,2,19
121:3,10
130:14 136:15
138:7 139:18
141:1 142:14
142:16 144:16
144:20 145:7
145:15,18,22
146:2,3,4,18
people's 119:17
percent 31:14
31:19 32:5
48:22 49:17,21
81:6 105:16,21
108:21,22,23
108:24,25
109:12,13
121:25 124:23
125:1,4,6,7
126:7 145:14
154:15 161:4
161:16 163:13
163:14,16,23
165:16 167:22
169:18
percentage
28:21 31:10,12
48:14 50:11
61:1 78:21
126:21,25
144:16,20
145:6,9,17,18
145:21 146:8
155:21 159:8
164:3,25 166:3
168:12,16
percentages
124:15 146:13
162:1,5 165:8
perfect 52:19
performed
74:22 168:18
period 157:24
periodical
140:23
permissible
88:22
permit 152:21
153:1
permitted 76:4
76:6
persist 39:19
persisted 76:6
77:4
persistence
29:16 30:10
34:3,24 39:4
40:8,15 42:7
42:11 64:12,22
71:8
persistent
27:24 29:3
33:20 40:3,4
64:9 131:3,17
169:8
persists 39:8
person 10:13
19:9 32:21,23
33:10 35:8
36:15 39:1,12
42:4 48:9
56:19,20 57:9
65:21 66:15,21
79:18 96:19
97:6 98:13
119:24 121:13
138:23 162:9
168:14
person's 22:2
26:6 37:25
144:6
personal 9:20
9:22 10:5 62:2
138:14 165:11
personally 9:25
164:13
perspective
105:7
pervasive
27:23 29:2
38:16 131:3,17
ph.d. 75:9
phase 8:17
phenomenon
29:22
phone 138:23
physical 24:12
24:15 26:7
96:18 108:25
109:5,12,21
physically
108:22
picked 141:3
picture 55:5
piece 13:3,7
34:14 39:4
77:19 110:6
113:6 115:22
pieces 7:16
12:19 14:5
15:2 29:19,20
34:12 36:20
45:13,21 46:10
65:24 66:14
67:10,19 79:15
79:18,20 82:14
86:5 94:17
122:10 134:9
pivoting 16:18
27:7
place 36:11
64:24 70:10
73:18 74:9
78:17 95:1
108:4 112:8
127:24 152:17

153:12
plaintiff 9:15 9:21,22 10:1,2 10:6
plaintiff's 7:8 9:18,23
plaintiffs 1:4 2:2 3:12 8:4 10:10,12
plans 127:24 127:25
please 3:8 4:11 5:5,8 69:1 77:2 88:2 93:25
plus 32:5 49:17
point 6:11 44:2 46:16 50:14 52:10 91:24 127:15 139:4 142:20 147:24 168:5
pointed 167:24
pointing 71:11
points 111:7
policies 82:12 107:6,25 108:3 112:8 146:17 150:14 152:17 166:10,16
policy 81:21 88:14 136:21 136:25 149:7 149:11,19 151:5 152:19
153:1
political 90:6 138:17 139:11 139:18 140:5 141:12 142:22
population 31:11 50:24 52:3 123:22 124:9 162:24 163:15 164:10 164:19 168:15 168:17 169:19
populations 124:5,16
portion 28:25
portions 136:3
position 41:5 147:25
positions 139:19
possibility 56:11 57:4 147:13
possible 28:17 29:7 50:25 56:16,17 74:25 111:22 126:24 127:2 128:4,5 134:11 138:21 140:6 147:11 164:24
post 46:5,6
potential 158:8 163:5
potentially 29:19 36:3 38:9 67:16 138:9 159:13 163:18,19
practice 11:10 16:23 23:18 160:9
practiced 11:15
practices 12:22
precisely 145:5
precision 136:7
predominantly 146:16
prejudice 120:6
prejudicial 119:20
preliminary 4:20 7:8 8:11
preparation 135:5
prepare 134:5
prescription 58:9,11
present 2:22 42:24 49:3 64:6
presented 5:14 20:23 21:2 51:16 64:11 69:22 83:23 124:2 149:15
presenting 102:3
presents 36:10 54:9
pressure 38:4
pretty 67:11 137:8
prevented 101:21
prevents 112:20
previous 26:14 151:18,23
previously 60:12 80:9 149:12 151:3 152:4,10 170:16
price 99:6 110:4,5 115:15
primarily 23:12
primary 16:24 30:15 120:7
principles 22:23 90:9
printed 46:7
prior 136:9,23 137:9 138:3,4 143:10 152:1
privacy 105:3 105:13,23,24 106:13 107:11 112:19

private 164:12 164:20 165:14
privilege 5:24 6:4
probably 34:2 48:22,23 65:14 68:9 128:17 139:6
problem 113:12
problems 74:15
procedure 86:8
procedures 35:25 66:2 83:8 95:1 136:14,20
proceed 4:21 89:19
process 29:18 30:24 34:22,23 36:2 51:13 54:18,22 59:25 60:1,3 64:4 65:1,14,16,18 65:25 67:9,14 70:5 104:8 106:7
processes 60:23
professional 23:25 44:13 47:22 79:25 80:18 138:12 138:14 141:18 153:16,21,25 154:4 169:6
professionals 46:11 53:15 62:2,5 80:20 80:21
progressives 142:24
prohibit 5:20
prohibited 96:15
promise 11:2 54:5
pronouns 42:23 79:4,6
properly 90:14 101:11
proposition 154:15 155:20 160:19,24
propositions 150:10
protective 5:25 6:5
protests 142:4
provide 8:5,18 12:14 21:21 23:9 25:11,11 26:12 44:22 48:3,5,6,10 49:12 56:14 105:24 109:25 122:16 130:9 134:2 157:13
provided 9:8 23:7 39:24 50:3
provider 48:4
provides 80:4
providing 9:11 10:11,25 25:13 88:12 99:23
proviso 126:13
psycho 69:17
psychological 16:22 17:13 21:16 22:2,15 23:6 27:9 36:22 37:11 44:9 49:14 78:14
psychologist 16:21 50:16 53:18 60:18 62:12,14 153:25
psychologists 60:20
psychology 11:7,11,15 22:1 29:10
psychotherap... 70:7
psychotherapy 54:12,16 69:17 69:24 93:6,12 93:18 94:1,18 94:23
puberty 83:16 83:25 84:7
public 16:15 126:8 127:7,12 138:15 152:20 153:1 161:5,7 161:19 162:9 162:10,13,13 163:15,17,24 164:5,12 165:5 165:15,19 166:4 167:5,23 168:14 170:6 170:10,12 172:2,19 176:19
publication 90:22 140:23
publicly 158:18
published 13:13 83:7,18 92:5 99:5 124:4 140:19 158:18 164:16 165:12
pull 42:18 75:5 102:17 126:2 126:17
pulled 8:1
pulling 18:5
purpose 5:23 85:21 104:20
purposes 26:17 126:3 151:14

put 89:2 158:19
pyramid 13:16 13:19

q

qualitative 14:23
quality 13:19 13:20 78:18 85:17,17 86:4 86:6
quantitative 14:18,20,21,24 15:5,12 16:10
question 5:5 6:13,14 8:16 16:17 20:14,19 27:7 33:23 38:8,19 39:11 39:20 40:7 48:17,24 50:5 50:13 51:7 55:19 61:14,20 68:25 71:3 85:1,23 86:14 88:2,18 93:25 93:25 94:7 103:20 106:3 110:12,13 113:22 114:4 116:3,9 130:11 130:19 131:7 132:7,17 136:16 139:4 142:22 144:4 144:19 145:2 145:21 148:2 152:24 153:23 159:6,18,21 163:11 167:13 167:19 168:3,9
questioning 53:5 83:22 115:19
questionnaire 159:1,20
questions 5:9 5:14 15:7 31:1 31:5 34:2,5,18 35:10 51:5,8 51:11 66:19 86:11 89:1,20 92:12,15 128:24 131:13 132:9,13,16,24 133:18,20 134:11 135:9 138:13 146:15 146:19,20 149:14 150:22 154:10,11 158:24 160:10 168:24 169:2 170:22
quick 52:12
quickly 132:24
quite 34:12 35:3,18,21,24 36:2,5 66:22 66:23,24 67:9
quotes 19:13 47:18 48:7,8

r

r 175:3,3
rabbit 15:10
rallies 142:5
randomized 86:2
range 12:8 73:23 125:17 127:1 145:17 159:17 166:20 169:17
ranges 68:6 126:21
ranks 13:19,20
rare 42:1 64:21
rate 143:12
rates 109:11
rather 5:16 11:7 33:7 62:6 133:19 159:18
raw 162:5
reach 159:25
reached 72:9 72:10 82:21 115:24
read 19:19 22:10 24:23 26:10 43:8 46:13 47:7 53:13 54:7 60:5 72:16 73:7 74:13,25 75:17 76:2,10 76:17,18 82:18 83:24 84:10,20 90:7 92:2 96:13 97:12,24 100:2,23 101:1 101:5 102:1 103:7 107:13 109:2 117:24 119:16 123:7 123:14 124:11 126:5,14 130:20 134:7,8 134:9 145:11 145:13,25 148:9,9,14 156:4,9,11 157:3,4 158:1 160:7 164:13 170:1 171:9 174:9 176:5
readily 148:22 149:4 150:3,24
reading 25:20 84:4 151:7 156:13 158:22 160:8
reads 24:9 25:21 46:9 129:23

realization 35:19 38:15 39:25 41:4,19
realized 38:23
really 15:13 16:14 37:24 42:1 47:19 51:19 64:18,18 76:15 85:25 94:18 103:10 111:6 128:18 141:11 146:2
realm 115:19
rear 2:24
reask 139:6 154:1
reason 4:5 17:7 55:23 60:14 169:20,23,25 174:11 175:6,9 175:12,15,18 175:21
reasonable 163:9
reasoning 17:11
reasons 38:9 41:2 60:14 167:25
recall 69:9,12 110:21 133:23 140:14 141:11 141:21 142:17 156:13 162:7
receipt 174:17
receive 32:12 49:18
received 51:17 51:22
recent 47:23 50:18 123:20 123:24 124:3,5 140:10,12 146:17
recently 38:14 90:1 139:24 143:12 151:7
recess 52:24 95:17 113:15 133:7
recesses 5:23
recognize 22:8 80:16
recognized 160:11
recollection 139:22 140:10
recommend 63:16,25 64:16 66:8,24
recommendat... 62:18 64:3 65:5 104:1 116:25 120:12
recommendat... 82:2 87:11 103:1,3,17 105:20 128:7
recommended 60:9 61:1,4,15 61:18,23 62:19 63:1 67:17
recommending 61:9 67:1 91:1 91:5
record 4:12 5:2 5:21 6:4 8:16 52:23 53:2,14 89:21 95:16,20 113:10,14,18 122:22 133:6 133:10 156:24 168:6 171:7 172:5
recorded 3:4
records 9:18,23 128:14
reduce 42:21 58:5,16,23 65:22 66:17 67:18,21 70:5 70:11 77:21 79:8,15 93:7 93:12 94:2,14 112:8
reduces 79:5 117:19 118:5 118:22
reduction 78:11,14,22,25 79:2
refer 144:21
referenced 174:6
referral 54:17
referred 72:11 72:13 73:21 74:1 79:23
referring 22:1 63:21
refers 47:10 59:20 76:8 109:19
reflect 153:18 154:6
reflects 154:19
refuse 48:5,11 130:8
regarding 27:9 35:12 43:14 45:15 71:8 87:11 101:3 109:25 127:22 146:18 152:14 158:13 166:1
regardless 47:2 47:21 56:21 57:1 106:13,16
regional 124:8
reiterate 84:25
rejection 57:18
relate 10:1
related 9:25 30:9 32:18 33:9 35:6

36:21 38:10 39:16 43:20 49:24 50:16,20 51:8,11 55:12 57:2,16,19,20 57:21 60:22 62:15 65:20 67:19 72:22 73:13 77:14 79:6 81:13 82:18 85:4 94:16,19,21 105:4 113:5,6 128:19 132:6 138:13 148:10 165:22 166:18 172:6
relates 34:24
relating 10:22 68:19 69:4 70:17 84:15 136:14
relation 7:8 8:10
released 127:20
relevance 149:14
relevant 7:12 12:5,21 13:3 14:7 23:21,24 25:18 44:25 45:7 77:5 83:22 86:25 87:18 89:2,6 89:12 142:21 157:13
reliability 14:15,17,20,21 14:25 15:6,13 15:14,15,18,20 15:23,24 16:3 16:7,11,13 89:8
reliable 15:16
reliance 87:25 88:5 89:6 91:14
relied 7:20 85:8 159:25
relies 157:12
religious 141:15
relook 68:8
rely 153:18 154:5 155:4 158:9
relying 156:20
remain 79:19
remains 47:25 48:24
remember 71:13 140:3 142:9 146:19 146:20,25 147:5,7 155:1
remind 73:16
remit 145:10
remittance 146:8
remotely 3:7
removed 170:10
renew 88:25
repeat 68:25 88:2 93:25 136:16,17 152:25
repeatedly 168:3
rephrase 55:19 145:1
replacement 136:20 137:1
replicate 136:4
replicates 136:9
report 10:12 12:13 13:5 14:9,11 71:7 84:22 87:3,8 87:15,21,22 89:11 92:25 93:1,3 100:21 103:21 108:13 111:1,11 127:22 129:13 129:15 134:10 135:20,21,23 136:1,2,9,11 138:1,10,11 143:1 144:8,14 145:18 146:13 147:20 149:17 154:20,21,22 160:4,8,8,16 161:23,24 168:18 169:15
reported 1:14 16:12 71:25 108:21,24,25 109:11 156:15
reporter 1:14 3:9,25 4:3 113:9 157:2 172:1 173:8
reports 136:4 136:23 138:3,4 138:7 148:10
represent 3:14 3:20 133:16 142:18 158:16 164:15
representation 18:24
reproductive 25:25
repurposed 138:2
reputable 13:13 92:5
reputation 160:11
requested 173:10,11

require 5:16 40:23 97:2 127:20
required 17:9 17:10 32:15 42:8 97:18 176:13
requirement 64:12,13
requiring 98:6
reread 134:9
research 14:16 14:18,19,20,21 14:23,24 15:3 15:5,7,12 16:4 16:6,8 18:7,16 18:17,18,18,20 19:5,14,22,23 20:9,15 24:6 28:21 43:19 45:8 84:19 86:14 92:12 98:20 127:15 148:17
researcher 92:11 148:15 158:2
researchers 164:16
resemble 142:15
resiliency 93:8 93:13
respected 43:5
respectfully 168:7
responded 147:3 159:6
respondent 130:8
respondents 130:7,11 155:22 157:18 159:3
response 78:3 130:6,17
responses 131:23
restart 139:7 144:19 168:9
restate 38:19 89:16 152:24
restricted 101:17
restrictions 83:12 106:21 149:21
restrictive 107:6,25 108:3
restroom 79:7 95:6 97:3,5,7 97:19,22 98:2 98:3,11,12 100:19 103:15 103:23,24 105:10,24,25 106:5,6 110:2 110:17 112:5 112:15,16,20 112:21 113:23 114:1,6,9,14,18 115:4,5,17 119:4 120:5 127:6,11
restrooms 43:1 96:8 97:16,18 98:7 103:11 104:4,16 105:13 106:18 106:21 107:8 107:16,17,21 107:22 110:15 110:23 111:14 113:21 115:11 115:25 116:5 116:20 117:2 117:10,14,15 119:13,17,18 170:15
result 96:17 149:7 151:5
results 53:20
retained 8:4 21:20 135:1 136:13 137:3 153:15 154:3
retentions 137:9
return 148:2 170:11 174:13 174:16
reveal 49:6
reversed 81:21
review 14:6 83:18 85:24 116:8,22 117:16 118:16 118:17 174:7
reviewed 9:17 11:21,24 12:1 12:20 16:6 23:14 44:19
reviews 12:20 12:25 14:2,10 14:11 82:22 83:2,3,6 84:14 85:2,3,7,11,14 90:23 115:9,24 116:2,4,18,24 117:12,18,23 117:25 118:4,7 118:21
right 3:1 6:6 7:3 9:10 10:4 15:1 21:9,21 23:12 24:9 27:3 28:1 29:4 32:5 41:6 42:12 44:1,3 46:4,16 49:16 49:19 50:14 56:21 57:3 58:6 61:9 66:10,22 67:20 74:3 80:1,2,7

80:11 93:9,16 96:10 98:3,8 99:3,12 101:12 102:24 103:3 103:21 105:6 109:6,20 111:16,18,25 118:14 122:16 124:16 125:18 126:18,19 131:15 132:10 134:24 139:4,7 139:12,13 143:3 144:22 146:11 147:10 147:12,17,25 148:3,8 149:4 149:12 151:3,5 151:9,12 156:2 158:10 160:2,5 160:21 161:1,2 161:9,16,21 162:5,19,25 163:3,17,25 165:19 166:13 167:6,14 168:15,19,24 171:9,10

rights 111:18

rigorous 13:14 21:1 92:4

riley 2:10

risk 106:22 111:12 113:24 114:7 115:2,2 122:19,20 155:14 156:6,7 157:17

rmg 1:5

roe 59:6

role 62:13

rooms 106:21 107:12

roosevelt 2:23

rooted 119:19

rule 34:25

rules 5:16,20

running 139:18

s

s 173:13 175:3

sad 144:4

safe 102:21 105:16,21 119:7 120:14 153:9,11,11

safety 82:23 87:16 103:5 105:24 119:2 119:11,24

saw 50:23

saying 5:9 8:3 19:14 31:18,24 32:9 33:5 66:7 79:12 84:10 90:7 111:16 128:15,16 147:7 151:16

says 18:21 19:4 19:11,16,21 21:15,25 27:19 43:20 47:4 53:15 59:16,23 71:3,7 76:3 96:14,19,22,23 97:15,20 103:1 103:4 105:15 105:15,21 107:2,5,24 108:19 109:10 109:24 117:4 117:17 123:5 123:11,16 124:7,25 125:6 125:14 126:7 129:8,13,17 130:1,6 155:9 157:16 158:6,6

scag.gov 2:20

scarborough 2:10

scattered 132:22

scenario 24:6 64:25 78:12,16 115:14

scenarios 64:19 84:8

scholar 158:2

scholars 164:16

scholarship 141:18

school 2:16 3:23 43:7 97:5 105:17,22 106:21 109:12 109:13,20,22 125:21 126:11 127:21 128:2 128:14,21,22 129:1 152:20 152:22 153:1,2 153:9 156:7,8 157:18 161:7 161:19 162:1,9 163:24 164:11 164:12,12,20 164:21 165:5,6 165:15 166:4 167:5 168:14 170:6,10,12,15 170:17

school's 114:23

schooling 165:1 168:13

schools 103:4 103:11 104:2 107:6,20 114:25 126:8 127:7,13 128:12,17 153:6,7 161:5 162:10,13,13 163:16,17 164:6,19,20 165:2,19

167:23 170:4
science 11:6 21:2,7,7,9,11 91:23 92:9,10 92:14 148:15
scientific 13:14 14:16 15:20 23:4 44:7 83:4
scientist 92:13
scientists 12:4
scope 147:20 149:16
screen 46:18,25
scroll 46:6 59:9 97:14 99:14 102:24 124:6
scrolling 18:11 100:17 106:25
scrutiny 90:1
seal 172:10
search 12:16,17 14:14
searches 13:1
second 46:19 46:25 62:7 96:5 99:17,18 99:21 107:5
secondary 25:25
section 75:17 76:2
see 6:7 17:2 18:21 19:17,25 21:4,14 27:19 38:25 42:18 47:1 50:4,15 50:19,19 53:10 56:1 59:17 60:13,15,17 70:23 71:5,11 75:12 80:3 85:9 96:2,20 96:21,21,23 99:4,15 100:16 101:7 102:22 102:25 105:15 105:20 106:23 107:3 108:19 118:13 119:1 121:14 124:19 125:10 129:8 129:17,19,23 129:25 130:4 132:11 137:8 146:1 151:16 155:8,10,15,22 159:15 160:13
seek 127:5,10 167:25 168:13
seeking 50:16 51:3 62:7,7 69:23 127:5,10 128:6
seemed 19:20
seems 25:9 60:21 61:7 63:20 118:14 149:20 159:16 161:11
seen 30:2 48:19 49:17 68:19 69:4,24 70:17 73:8 90:12 111:8 121:8 146:13 167:7
selected 63:6
self 144:8,14 167:4
sending 97:4
sends 128:22
sense 5:10,18 6:1,9,15 7:19 22:2 24:20 27:24 29:4,6,7 30:11 33:13,21 35:1 36:5,23 38:15,16,17,20 39:5,9 40:2,2 42:5 49:8 51:15 52:5 57:12 59:3 62:3 63:13 67:23 68:18 73:12 100:10 131:4,18 136:18 138:21 143:20 158:7 159:4 161:9
sent 6:23 129:1 158:25 174:14
sentence 47:4 47:18,20 59:15 59:23 93:24 99:18 100:9,23 101:1,4,8,9 107:5 109:10 109:23 123:8 123:10,14 125:13 126:6 145:4 154:14 155:13,15 157:16,16 158:3,6 160:18 160:23
sentences 99:22 129:25
separate 55:15 56:13 97:3 103:16 104:3 105:11 111:15 114:17
separated 95:24 97:10 108:11
sequence 47:24
series 146:15
services 63:9 81:25,25 83:14
set 84:6 154:13
sets 160:10
setting 36:25 51:15 52:1 88:22 170:12
settings 50:25
settled 91:24

seven 132:20
several 7:15 39:8 46:10 98:18 134:8 140:25 141:2 165:4 168:4
sex 24:9,20,21 25:5,21 26:1,5 26:6,9 27:15 27:20,24,25 33:21,22 38:21 38:21 43:1 95:24 108:11 111:13 127:6 127:11 130:15 131:4,5,18,19 144:24 145:8 145:24 169:9
sexual 43:4 76:5 106:22 108:24,25 156:7
shakes 95:7
shape 19:15
share 121:12
sharing 30:25 100:21 101:25 106:3 119:17 119:18 120:4
sheet 174:11
shift 38:6 58:22 152:11
shifts 29:9,24 30:4 82:4
short 95:10
shorter 145:6
show 18:3 45:25
shown 13:7
shy 18:19
sic 133:6
side 73:25
sign 171:9 174:12
signature 172:19
signed 174:19
significant 87:20 92:25 126:11
significantly 138:2
similar 26:14 93:22 145:20
similarly 138:8
simply 30:25
single 16:12,14 45:19 96:8 97:7 98:2,7,20 104:11,15,19 104:24 105:13 105:23 106:13 106:18 107:17 107:21 112:15 112:20 113:3 114:9,13 115:3 115:4,10,25 116:5,19 117:1 117:5,14 127:6 127:11
situation 149:23
situations 60:21 61:6,8 63:13
six 8:6 9:8 42:10
size 77:19
skepticism 167:9
skipped 142:3
skrmetti 74:24 90:2
slightly 161:8
slowly 139:1
small 28:25 31:10 145:18 146:13
smoking 147:16
social 29:18 38:3 42:19,22 43:14 45:6 58:4,8,13,22 59:25 60:9,15 61:2,4,9,15,23 62:18,20 63:1 63:15,24 64:3 66:2,4,9,25 67:2,3,5,5,7,12 70:1,12 77:6 77:13 78:22 80:6 94:25 95:24 104:8 141:5 152:21 153:2
socially 63:25 64:14 76:6
solely 26:7
solicitor 2:19
solid 92:2,16
solutions 174:23
somebody 27:11,14 28:8 30:18,25 34:16 35:17,18 40:11 40:24 48:11,20 51:3 54:21 56:4,18 64:2 64:21 65:2 67:8,13 69:22 78:16 111:18 114:22 127:9 144:2
somebody's 78:18 111:17 111:18
someone's 77:21
sooner 123:19
sorry 3:25 27:20 31:23 32:24 46:18,24 62:3 75:18,20 82:21 87:4

96:22 99:17 100:17 105:18 107:1 129:10 139:6 160:22
sound 95:13
sounds 66:8 95:14 145:13 159:12
source 158:8 159:24 160:13
sources 13:13 22:20,21 98:19 98:20 157:12 168:1
south 1:1,6 2:7 2:8,8,9,12,14 2:15,17,20 3:6 3:14,14,15,16 3:17,20,21 4:16 7:2 11:13 11:16 121:23 121:25 123:23 124:1,20,24 126:8,10 127:7 127:12,20 129:4 130:22 131:2 156:18 156:21 157:13 158:9,14 159:7 159:20 160:1 160:20,25 161:5,7,18 162:8 164:4 165:18,23 166:3,21 167:5 167:17 169:10 172:3,11 174:4 175:1 176:1
southeast 174:15
space 153:11
spartanburg 172:11
spate 2:18 3:13 3:13,25 4:2,4 4:10,15 6:19 8:20 9:1 18:2 20:21 45:24 52:15,19 53:3 59:2 69:2,14 75:4,25 89:4 89:14,22,23 94:9 95:12,21 99:2 100:25 102:16 113:9 113:12,19 119:9 120:11 122:13 126:1 132:8 133:3 146:14 154:10 155:1 170:21 170:24 173:5 174:1
speak 5:1 39:6 41:4
speakers 4:5
speaking 4:1 13:20 139:1
specialty 50:15
specific 11:7,8 12:19 15:4 25:14 36:20 60:13 64:18 79:15 86:8 87:13 98:23 100:19 101:16 101:18 102:7 123:21,22 126:20 127:21 166:25 167:3
specifically 10:13,23 51:2 69:18,19 98:9 99:23 100:11 100:17,18 101:13 103:14 112:11 118:9 118:11,20 119:1 152:16 157:5 158:6 159:8,15
spectrum 47:5 47:14
speculation 20:12 157:1
spent 135:19
spoken 10:15 135:4,7,12 143:15
spot 155:2
sta 15:14
staff 107:10
stage 154:13
stages 65:4 66:6
stall 104:11,15 104:19,24 105:13,23 106:13,18 107:17,21 112:20 113:3 117:5
stand 47:3,21
standard 4:20 31:4 58:9,11 85:12 149:11 150:7 151:24 152:9,15
standardized 36:17 54:19
standards 44:24 79:24 80:4 81:3,5,9 81:16,18 84:15 85:2,8 86:19 88:1,4,6 89:7,9 89:19,25 90:5 90:15 91:14 146:24 148:5 150:5 151:19 151:19,22 152:7,18
stands 27:1
start 16:5 30:8 39:7,18 96:12

134:15 139:22 149:2 171:2
started 40:1 41:18 157:24
starting 19:22 38:23 65:3 82:3 96:1,13 129:24 168:22
starts 18:15 47:2 99:22 155:14
state 1:6 2:7,15 2:15 3:5,14,21 3:22 4:11 45:7 121:24 124:8 126:10 133:16 154:14 166:2 167:23 168:13 169:9 172:2 174:4 175:1 176:1
stated 7:13,21 9:7
statement 7:6 20:3,3 100:4 102:5 103:9,20 104:18 107:23 112:25 117:3
statements 45:15
states 1:1 23:13 23:19 44:10,23 124:14 147:15 156:8,14,15,19
statistically 15:15
statistics 15:23 16:11 156:21 157:8
step 52:6
stephanie 1:9 3:4 4:7,13 174:5 175:2,24 176:2,4,12
stepp 1:14 172:2,19
steps 66:5
stigma 93:8,13
stigmatized 74:6,7
stipulations 35:14
stopping 52:10
street 2:4,11,19
strength 153:17 154:4
stress 43:3 57:18,23
strong 30:11
stronger 76:15
strongest 13:21 14:2
strongly 107:7 107:20
struggling 149:25
student 97:5,17 106:15 113:2 120:5 152:21 153:2
student's 152:23 153:3
students 89:18 103:14 106:12 108:10 110:15 111:13 113:2,3 117:13 119:13 121:15 123:23 126:8 127:4,10 156:7 157:18 161:5 162:6,15 164:10 166:20 169:7 170:2,11
studies 14:23 16:9 45:2 71:8 71:15,20,25 72:5,9,10,17,20 72:23 73:3,4,7 73:10,12 74:15 86:9,10 98:24 102:18 108:20 115:9 145:11 145:13 146:7 146:12
study 25:14 28:13 73:19 74:21 75:1 76:3,4,8,9,12 76:16,17,19,21 77:3 99:5 101:10 102:5 102:10,19 106:20 109:11 122:6,7 123:6 123:11 129:6 154:22 156:20
study's 107:19
stuff 114:15
sub 21:15
subjective 143:19 144:7
subjects 6:6
submit 140:24 143:6,7
submitted 86:22 87:8 136:2,4,10,23 140:25 141:2
subscribed 176:14
substance 156:6
suffer 31:20,20 32:16,25 119:12
suffering 31:7 31:9
suggestion 17:12 53:17
suggests 8:17
suicidality 116:21 118:23
suicide 116:6 117:19 118:5 118:11,17 156:6

suite 2:4
summarize 21:19 32:24 71:17
summary 123:7
super 28:16 150:13
superintendent 2:9,16 3:17,22
supervised 37:13
supervision 107:8
supplementat... 137:2
supplementat... 136:20
support 8:24 22:12 24:25 25:7 26:13 27:2 36:14 43:11 44:2 45:15 70:7,7 84:15 85:2 88:11 93:6,14 94:16,23 98:17 100:1 116:16 119:22 127:24 152:21 153:1 153:11,13,14 155:20 160:24
supported 29:17 117:7 139:15 141:19
supportive 60:4 65:21 153:13
supports 101:24
suppose 147:23
supposed 142:18
supreme 90:2
sure 7:11 8:22 10:21 11:4 14:13 37:17 39:22 40:6 46:20 51:1 56:7,10 57:12 63:4 64:8 69:3 69:8 81:6 93:22,23 94:1 94:10 95:8 106:7 109:7 114:23 130:7 130:18 131:8 137:8,20 139:2 147:18 149:18 154:22 160:17 161:10 163:18
surgeries 68:15
surgery 68:2,4 68:7
surgical 137:2
surveillance 122:20
survey 122:21 130:23,24,25 131:10,23 155:15 157:17 157:17
surveys 122:25 128:22 129:1 131:2 158:25 159:2
swear 3:9
sweden 82:16 82:21 146:24
switch 95:22
switched 4:5
sworn 3:24 4:8 176:14
syllogism 150:1
symptoms 42:21 54:5 78:14
synonymous 107:16
synonymously 98:3
system 30:15 85:19 122:20 139:3 161:7,19 162:2 163:5 166:4 167:5
systematic 12:20,24 14:2 14:6,10,11 82:22 83:2,3,5 83:18 84:14 85:1,3,7,11,14 85:24 115:9,24 116:2,4,8,18,22 116:24 117:12 117:16,18,22 117:23,24 118:4,7,16,21 127:14 128:18
systems 58:5 81:8 82:16 127:21,23 128:2,6 129:3

t

t 173:13 175:3 175:3
table 19:16 124:7,19 125:15
tainting 19:12
take 12:4 21:3 35:21 36:12,19 42:6 52:6,19 95:8 102:4 113:9 132:20 161:14 167:8
taken 1:13 52:24 59:10 65:15 95:17 113:15 133:7
takes 35:17 36:9,11 64:24
talk 6:3 22:17 30:22 41:16 57:23 66:3 71:21 72:5

73:5,10 77:24 85:16,18 103:21 110:22 111:3 112:17 115:6 116:11 118:7,20 127:23 134:11 145:12
talked 64:5 73:8,9 87:24 92:22 110:4 117:25 134:14 134:17 154:18 170:14
talking 15:19 15:19 25:5,14 33:6 36:3 40:14,22 44:9 46:15 48:1,18 57:6 67:5 69:18,19 71:14 71:18 73:14 88:21 100:10 103:13 104:8 104:21 105:5 105:11 106:1 107:24 108:1,5 112:10,24 113:20 154:23 155:10,23
talks 85:16 86:5 110:5,9 118:9
taylor 102:19 108:21
team 62:6,13 62:16,19,23 135:25
teams 62:17
tell 7:1,5 31:2 33:25 77:9 97:17 134:13 134:18 157:15
telling 35:22 134:17
ten 140:5
tend 47:4
term 14:17 21:25 48:9 69:16 139:12 144:23
terms 12:17 19:2 30:7 67:10
test 148:19 164:2
testified 4:8
testify 133:23
testimony 8:19 134:3 147:20 152:1 174:9,17 176:8
thank 4:14 6:20 9:5 27:6 58:1 89:22 96:2 133:13 157:2 168:24,25
170:20 171:4
thanks 52:21
therapies 136:21
therapy 37:5,6 37:9,10 41:22 68:19 69:4,17 70:17
thereof 172:8
thing 4:25 45:11 64:9 82:11 121:6
things 7:17,18 13:25 25:18 29:25 30:7 32:2 40:14 41:23 42:23 55:1,7 58:16 58:18 60:4 66:13 67:7,12 67:15,16 70:8 74:5 80:24 84:6 108:4 112:3 123:1,3 128:1,24 129:2 144:1,11,12 148:18 151:15 152:7 160:12
think 4:4,5 8:16,21 15:9 16:2 17:11,19 19:3,8,14 20:5 20:13,14 21:1 21:15 22:17
23:23 24:5 25:16,17 29:22 30:1 34:9 36:18 37:6 38:7 39:3,10 39:21 40:8 41:9,16 45:4 45:10,13,17,20 47:19 48:17,19 49:1,20 50:13 52:2 53:7 56:15,25 57:7 60:14 61:14,17 61:18 62:22 64:15,25 65:1 65:5 66:11,17 67:3,8,16,18 71:22 74:2,25 75:6 76:14 77:11 78:6,13 78:25 79:1,12 79:13 81:4 83:5 84:9 87:3 88:7,16 89:5,7 89:9,11 92:9 92:15,17 93:9 93:10 94:6,11 94:18,20 95:5 95:10 99:5,6 100:8 101:13 101:15,24 102:10,18,20 103:10,11,13 103:14 104:3

104:15,16,18
104:20,24
105:2,6,6
106:1,3,19,20
108:13 109:8
109:16 110:12
111:3,8 112:1
112:22 114:3
114:10,11,14
114:16 115:21
117:3 118:3
119:6 120:17
120:23 121:6
121:15 122:9
122:16 127:19
128:17 130:16
131:12 137:7
137:20 138:20
139:10 140:15
141:14,14
142:3,3,16
143:6 146:23
148:10,14,20
149:20 150:17
151:8 152:2,19
152:25 153:5
153:10 154:12
157:4 158:5
161:8 162:4
163:1,4,7,9
164:24 165:7
165:20,24
166:7,13,14,24
167:1,15
168:23 169:18
170:21,24
thinking 25:4
40:18 69:9
119:20
third 59:15,22
thirds 155:13
thought 73:6
thoughts
119:17,18
thousands
166:9,15
167:16 169:13
threatened
108:22,23
threats 109:5
three 83:9
129:25 151:14
threshold
66:23
thumb 34:25
tie 11:4
time 1:11 3:2
8:10,14,24 9:5
9:12 20:17
29:6,8,25 34:1
34:9 35:6,12
35:17,18,21,24
36:1,5 39:19
40:12,25 41:23
52:22 53:1
55:13 65:15
66:2 68:17
73:23,25 74:3
95:4,15,19
113:13,17
132:19 133:5,9
133:14 135:19
140:10 145:10
147:14 157:23
170:25 171:6
174:18
timeframe
174:8
times 13:11
60:20 134:18
140:5 146:21
161:15 163:13
title 102:21
156:4,9
today 4:17 74:6
87:23 102:3
104:21 133:22
134:1,16
135:16 143:15
148:23 151:14
159:19 162:4
today's 3:3
135:7,11
told 97:6,8
98:10,11
100:18 101:17
115:16 116:12
took 161:12
tool 93:6 94:1,4
tools 94:16
top 75:10 96:13
124:7 129:7
155:8
topic 11:22
14:7 21:15,23
42:15,16 45:4
45:6 91:21
95:23 106:18
108:8 140:20
topics 8:6
21:20 23:22
totally 102:13
140:2
towards 110:1
tr 30:16 33:12
traditional
162:9,12 164:5
164:21 168:14
170:11
trail 15:10
training 50:23
107:10
trajectories
28:13
trans 18:7,16
18:17 28:10
31:1,8,9 35:15
35:15 37:14
41:10 42:9
46:3 47:6,16
48:13 49:3,7
49:18 50:7,17
61:9 72:15
73:11,17 74:9
74:12 83:11,13
84:4 87:12

103:5 104:21
105:9 106:5,6
106:16 111:23
117:5,7 119:12
119:22 120:19
124:5 127:25
128:6 153:6,6
164:9
transcript 2:24
59:5 171:9
172:4 174:6,19
176:5,8
transgender
16:23,25 21:17
22:7 23:25
24:18,19 27:10
27:12,22 28:14
29:2,15 30:1
30:14,18 31:6
31:19 32:6,11
32:17,20 33:1
33:15 35:2,8
35:13 36:10,11
36:25 37:4,17
37:19,23 39:1
39:12 40:2
41:14 42:19
43:6,21 44:14
45:16 50:20
56:19,20 58:4
58:10,12,15
59:24 60:10
61:16,24 62:11
63:2,14,23
64:2,7,11,14
67:24 68:19
69:3 70:16
73:5,13,14
74:19 79:25
80:1 86:25
87:13 88:13
89:18 93:14
96:8,14,19
97:2,6,17 98:6
98:7,10,11
99:11 103:22
103:23 106:22
108:10,20
109:11 110:2
110:14 111:12
112:13 113:22
114:5 115:1,11
115:25 116:6,7
116:20,20,21
117:1,8,13
118:9 119:13
119:18,20,21
120:5 121:9,13
121:22 122:2
123:23 124:1,9
125:5 126:9,11
127:4,22 130:3
130:10,15,17
130:18,18
131:9,10,13,20
131:25 132:3,4
136:14 140:22
145:14 146:18
148:7 154:16
155:21 156:5
157:19 158:13
159:3 160:1,20
161:1,6 162:22
163:5,16,23
164:4,18,25
165:13,18
166:2,15 167:4
167:22 168:12
169:7,14,18,19
transition
11:22 14:7
16:20 20:24,25
29:19,19 37:20
42:20,22 43:4
43:15 45:6
48:14 49:4,7
58:4,8,13,22
59:25 60:10,16
60:16,22 61:2
61:5,9,15,24
62:18,20 63:1
63:15,25 64:1
64:15 66:2,4,9
66:25 67:2,3,5
67:6,7,12 68:1
68:22 69:6
70:1,5,13,18
76:5,6 77:6,13
78:22 80:6
81:20 84:16
87:17,19 88:20
88:21 89:2
92:18,19 93:21
95:1,25 104:8
106:7 117:19
118:4,22
152:21 153:2
transitioned
77:4
transitions
64:3 94:3
translating
17:21
transparent
90:18
treat 56:12
treating 77:7
treatment
42:16,20 57:8
58:5 78:4,6,10
80:5 89:18
91:21 92:1
93:7 136:14
137:1,2 147:5
148:7
treatments
78:14 82:23
92:9 137:18
trends 45:11
trial 86:2 88:22
trials 82:8 84:5
tricky 142:3
trouble 53:25
54:1 103:19
true 36:21
47:13 49:14

61:22 77:16
105:3 106:11
132:2 165:10
165:13,16
172:4 176:8
truthful 134:3
try 5:6 34:8
57:5 65:5 66:8
77:20 79:14
136:17 145:4
trying 11:2,3
36:4 39:3 40:6
52:2 54:22,23
55:5 65:10,16
69:8 81:11,12
96:21 136:19
136:22 137:19
150:20 152:2
167:8,13
turn 21:12 59:4
70:22 95:25
129:5
turning 79:22
two 19:21
52:11 95:9
99:21 103:16
104:3 111:15
129:25 137:3,5
137:8,15,18
146:6 148:23
149:4,19
150:25 152:18
155:13 157:12
type 15:4,12
29:16 36:22
41:21 42:2
49:14 58:21
78:25 86:10,11
86:16,24
101:16 110:22
114:19 152:9
types 12:16
14:12,19,22
15:3 16:8
17:19 77:16
80:18,22 86:8
94:17 127:24
166:10,16
typical 12:22
16:15 27:11
36:4 51:12
73:23
typically 12:18
17:21 24:10,11
25:13 33:25
41:7 42:22,25
57:17 66:11
67:11 83:3
145:14
typo 125:9

u

u.s. 90:1,2
124:9
uh 5:10,10
18:14 22:14
70:3 75:7,11
145:11
uhm 9:8 49:20
80:14 105:2
137:13 139:16
uk 82:4,6 83:12
84:13 87:5,9
88:10,14 89:12
ultimately
51:17
umbrella 69:16
uncomfortable
120:4
uncommon
42:1 64:25
under 21:15
46:8 53:13
83:17 90:1
123:6 126:12
129:22 163:3
underlying
40:4 159:24
understand
7:11 11:4
12:10 15:11
17:22 20:16
22:5 30:8
34:21 37:18
38:2 39:1,11
39:18 40:11
41:1,7,13,14
44:16 53:12
57:8 61:21
65:3 72:8,25
81:11 85:19
86:13 92:3
93:23 94:7
107:18 160:18
understandable
40:11
understanding
8:23,25 9:2
12:8 13:18,22
13:24 14:3
20:24 21:16
23:22 25:10
26:16 27:5
30:4 35:19
39:10,23 40:7
40:9,10 42:4
56:1,10 59:19
61:13 65:25
71:18,19,24
72:2,4,7 76:11
77:23 82:2
83:8 84:1,3,9
88:9,19 89:12
89:12 91:25
92:14,21
103:19 119:19
122:24 125:20
126:4 139:20
147:9 148:18
149:3,9,22
151:6 157:6
165:21 169:16
understood
26:15 39:15
40:24

undisputed 151:15
undocumented 142:11
unit 62:15
united 1:1 23:13,19 44:10 44:23 147:15
university 141:23
unpack 53:14
unquestioning 160:5
unquestionin... 160:7
unsound 13:8,9
unusual 18:20 19:5
upper 31:14,19
ups 39:22
urban 156:8
use 12:12 16:11 19:2 30:13,15 30:17,19 36:17 43:1 48:7 68:12 79:7 83:16 84:23 95:23 97:3,7 97:18,19,22 98:6,7,10,12 99:24 100:13 100:19 101:3 101:18 102:8 103:15,23,24 105:9,25 106:5 106:6 110:10 110:17 111:13 111:19 112:5 112:14,15 113:22 114:5 114:18 115:10 115:17 116:1,5 116:12,19 117:1,5,13 119:3,13 120:21 121:2 121:17,18 126:16 127:5 127:10 132:19 135:16 147:17 156:6 158:17 170:15
used 8:24 12:16 12:17,18,23 13:14 14:11 15:17 16:14 22:15 84:18,21 85:9,10 90:18 93:4 110:2 113:25 114:8 123:11 150:3 174:19
useful 45:11 93:6 104:19
user 96:8 97:7 98:2,20
uses 84:17
using 48:9 57:11 65:8 79:3,4 84:1 90:5 93:22 96:15 98:2 101:21 104:22 110:15 115:3 120:20 121:2,4 121:10,16 123:16 166:17
usually 15:17 15:19 22:4 34:5 35:21 62:9 67:14 77:15 78:17 95:1 97:3 105:16,21 145:18
uterus 142:15
uw 18:7,15,16

v

v 174:4 175:1 176:1
vague 63:4
valid 91:17
validity 91:16
valuative 33:19
value 143:13
variation 22:6
variety 96:16
various 133:16
verbal 5:8 108:24
verify 174:9
veritext 174:14 174:23
veritext.com. 174:15
version 59:13 59:13
versus 3:5 7:2 35:2 49:5 59:6 74:23 90:1 112:23 115:4 162:10,13
victimization 109:13 156:6
video 3:4 4:22
videographer 2:23 3:1 52:22 53:1 95:15,19 113:13,17 133:5,9 171:6
videotaped 1:8
view 19:13
viewed 99:25 101:11
violence 109:12 109:21 110:1 112:12 156:5
virtual 162:10 164:11,19 165:1,14 170:4
vouch 158:20
vs 1:5

w

wait 5:5 64:17 66:25
waiting 114:13
waive 171:10
wake 19:24
walk 150:2
want 16:17 37:17 42:14 48:13 49:3,7 57:9 70:22 77:24 85:25 86:15 93:23 108:13 117:6 121:20 129:6 134:13 150:21 154:11 160:17 164:2
wanted 21:23 30:5 53:4 58:2 64:14 75:17 138:12
wanting 8:22 74:5
wardenski 2:3 2:4 3:11,12,12 8:15 17:16 20:11 28:5 68:23 69:7 75:23 78:7 81:22 83:21 87:2 88:25 89:16 94:5 95:8 100:24 119:5 120:9 133:2 134:23 135:13 143:21 144:25 147:19 149:13 150:11 151:25 156:23 156:25 168:2 169:1,4 170:18 173:7
wardenskila... 2:5 174:2
washington 2:11
washrooms 103:4 105:17 105:22
water 52:8,10 95:6
way 19:14 33:24 38:2 41:7 49:20 58:22 61:21 79:13 84:10 85:16 88:17 92:3 95:2 100:15 128:13 128:16,19 130:16 139:15 141:19 147:6 155:13 161:11 165:17 170:8
ways 12:9 16:15 22:16 25:4,17 26:15 29:9 55:13 85:15 92:4 119:20 128:18 147:17 166:24
we've 52:6 87:24 107:23 108:1,5 143:15 147:15,16 154:17,17 167:18
weakest 13:21 13:25
weapon 108:23
wearing 142:17
website 164:17
week 19:24 87:6 88:11,15
went 78:21 160:9
west 2:4,11
westlaw 59:10 59:12
westlaw's 59:13
wide 12:7
widest 11:24
wilson 71:4
wisconsin 1:12 137:16 140:11 142:13
witness 3:24 6:7 17:18 20:13 28:6 52:13,17,21 59:16,19 68:25 69:8 75:24 78:9 81:23 83:24 87:4 94:6 95:10,14 119:6 120:10 135:2 143:23 145:1 149:18 150:13 152:2 153:16 154:3 157:3 168:25 170:20 171:4,8 172:9 174:8,10 174:12,18
witnesses 143:14
women 24:16
women's 117:9 142:8,12
wondering 125:7
word 33:8 103:3
wording 100:20
words 5:14 18:15 145:9
wore 142:14
work 18:6,17 18:18 19:12 20:9,16,22 26:22,23 28:9 29:15 30:3

31:25 36:22,24 37:13,14 41:16 43:7,21 57:10 57:10 62:5 65:19 81:2,5 94:15 136:10 141:18 143:2
worked 37:4,9 51:24 57:15 59:24 69:10 70:4 94:13 134:23
working 16:23 43:21 58:12 100:17 171:2
works 20:24 29:11 133:2,3 144:10 163:20
world 23:11,21 23:25 44:13 45:19 79:25
worldwide 45:14
worse 96:9 115:12 116:1
wpath 24:2 44:24 80:1,10 80:13 81:3,5 84:17 85:8 89:25 90:4,8 90:13,17,21,25 91:4,8 146:24 148:5 150:4,7 151:19 152:6
wpath's 81:9 81:15,17 84:15 85:2 86:19 88:1,4,5 89:6,9 89:19 91:14
wrap 169:2
writes 143:5
writing 17:22 19:9 46:3 74:17 135:22 138:7
written 140:16 140:18 158:3
wrong 37:22 125:16
wrote 46:2 134:7 135:20 135:21,23 136:1 138:3,9 141:1 161:22

x

x 173:2,13

y

y 141:10
yeah 20:13 36:7 41:22 46:24 49:23 51:6,19 52:15 56:8 71:19 92:11 93:5 95:10 96:22 113:12 137:22 146:12
year 39:25 40:19 42:10 83:19 142:9 150:25 159:5 159:13,14
years 36:3,7 39:8 50:22 62:13 91:22 125:18 142:20 146:17 148:23 149:4,20 150:15 152:18 159:11,17,20
yep 75:13
ymca 141:7
york 2:5,5
younger 41:24 42:2
youth 28:14 34:7 45:16 61:10 62:24 63:6,8,10,11 82:8 96:9 100:5,11,18 101:13 103:6 104:4 105:16 105:21 106:22 108:20,21 109:11 110:2 113:22 114:5 115:2,11 116:20,21 117:1 121:23 122:2,20
124:25 127:22 131:12 155:14 157:17 159:17 163:5 164:25 170:14
youths 82:7 99:11,24 116:6 116:7
yrbs 123:12 130:14,23 155:4,21,25 156:20 157:7 158:4 159:14

z

zoom 1:8,14 3:7

Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

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

(A) to review the transcript or recording; and

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

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

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY. THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS

COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

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

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

fashion to authenticated parties who are permitted to access the material. Our data is hosted in a Tier 4 SSAE 16 certified facility.

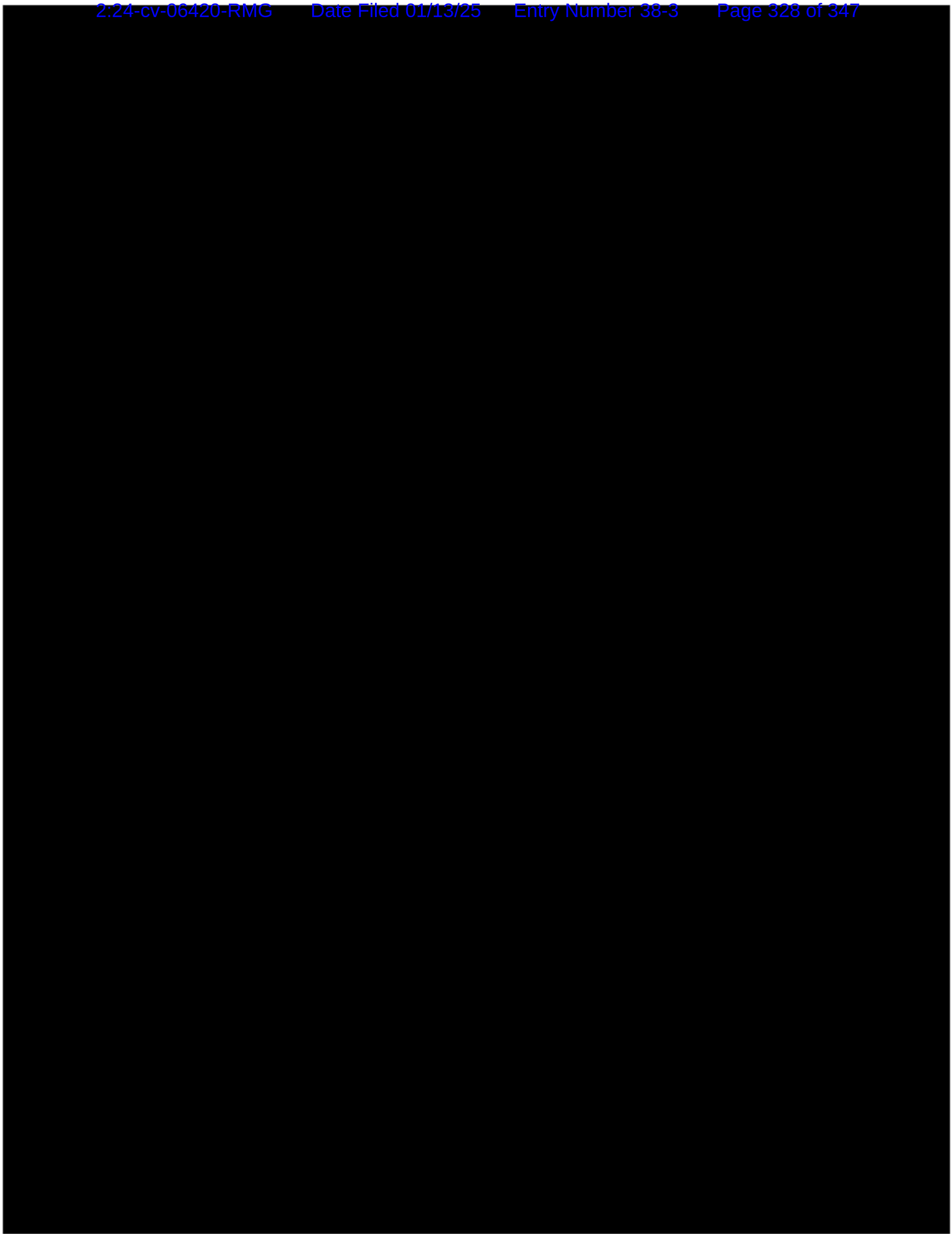
Veritext Legal Solutions complies with all federal and State regulations with respect to the provision of court reporting services, and maintains its neutrality and independence regardless of relationship or the financial outcome of any litigation. Veritext requires adherence to the foregoing professional and ethical standards from all of its subcontractors in their independent contractor agreements.

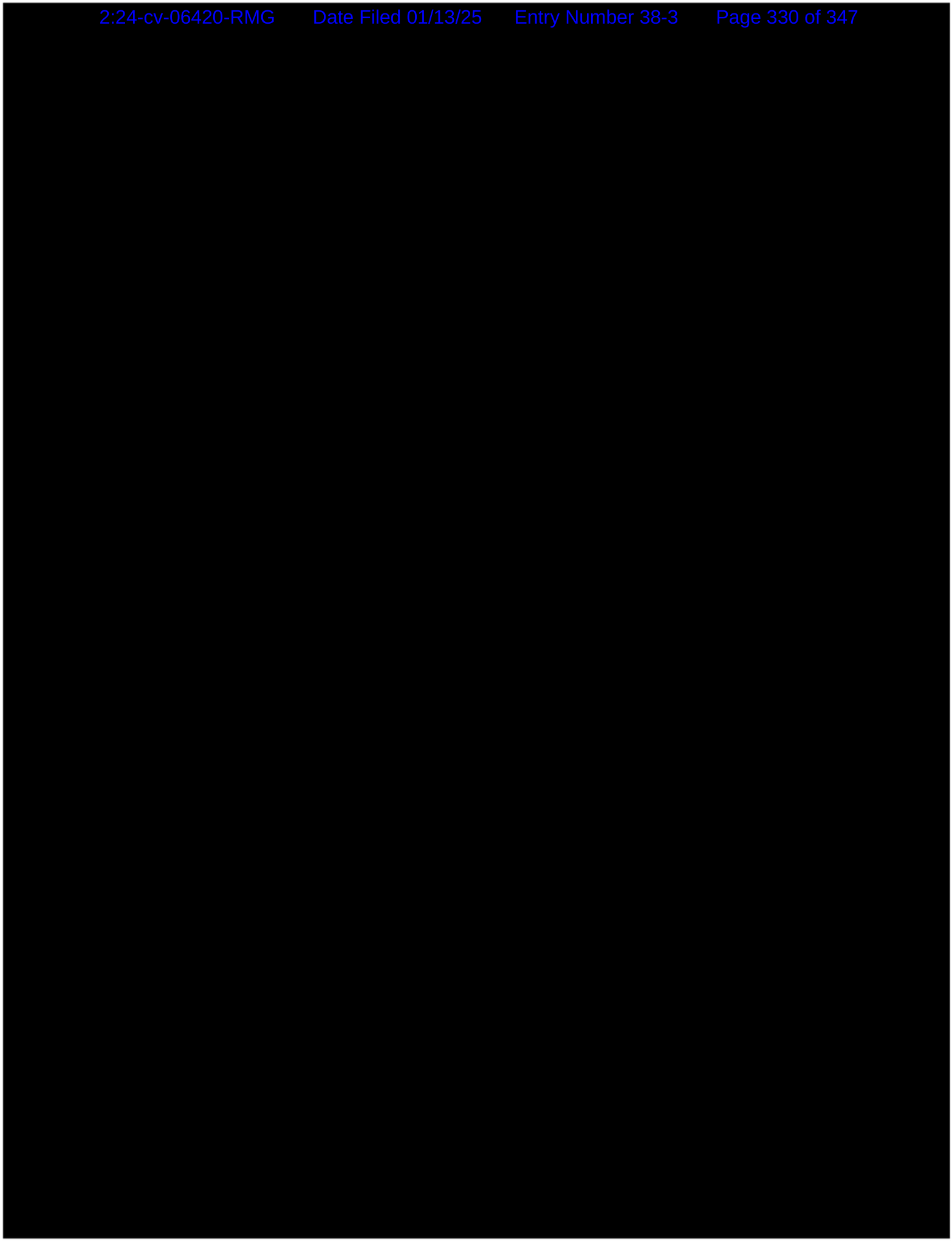
Inquiries about Veritext Legal Solutions' confidentiality and security policies and practices should be directed to Veritext's Client Services Associates indicated on the cover of this document or at www.veritext.com.

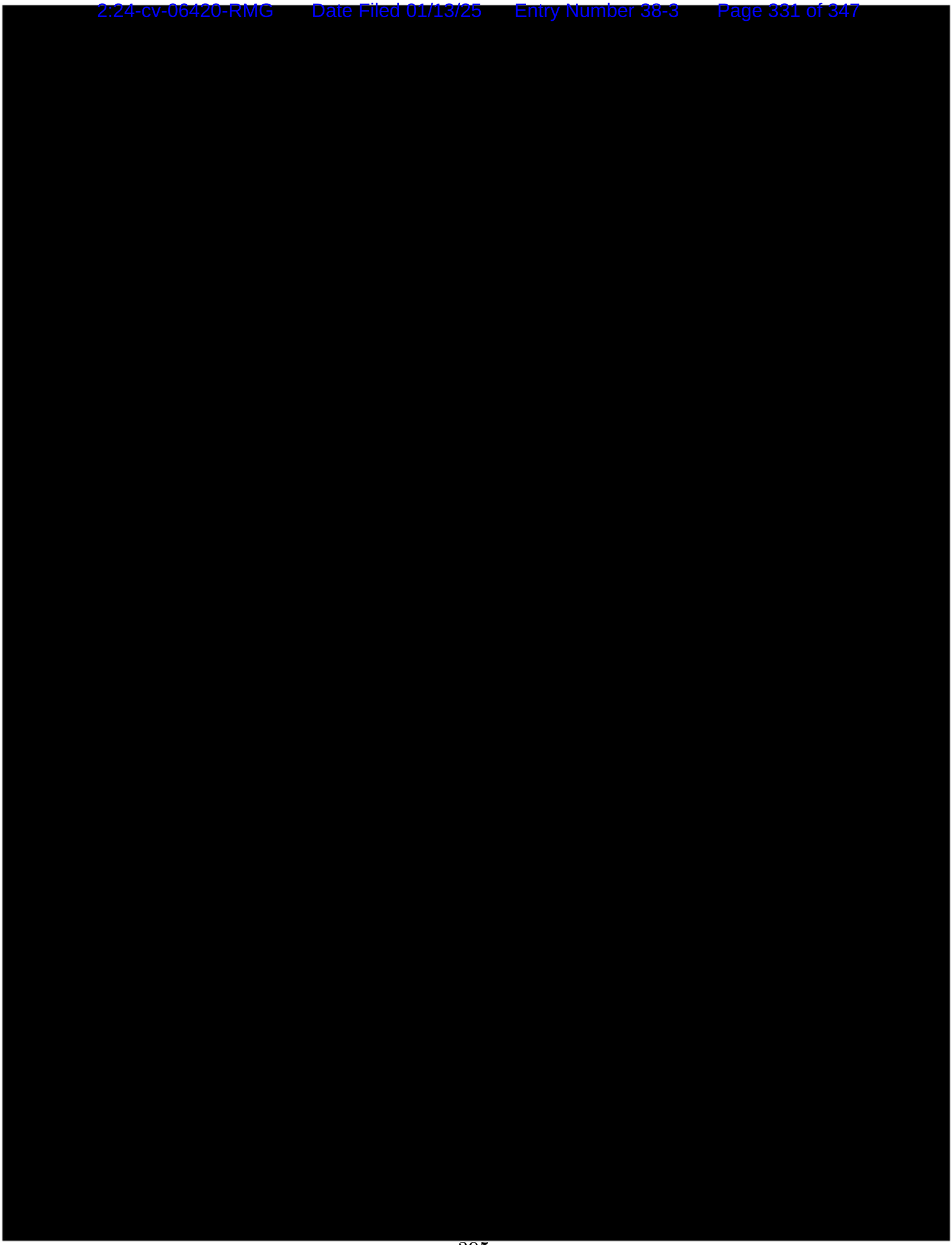
EXHIBIT C

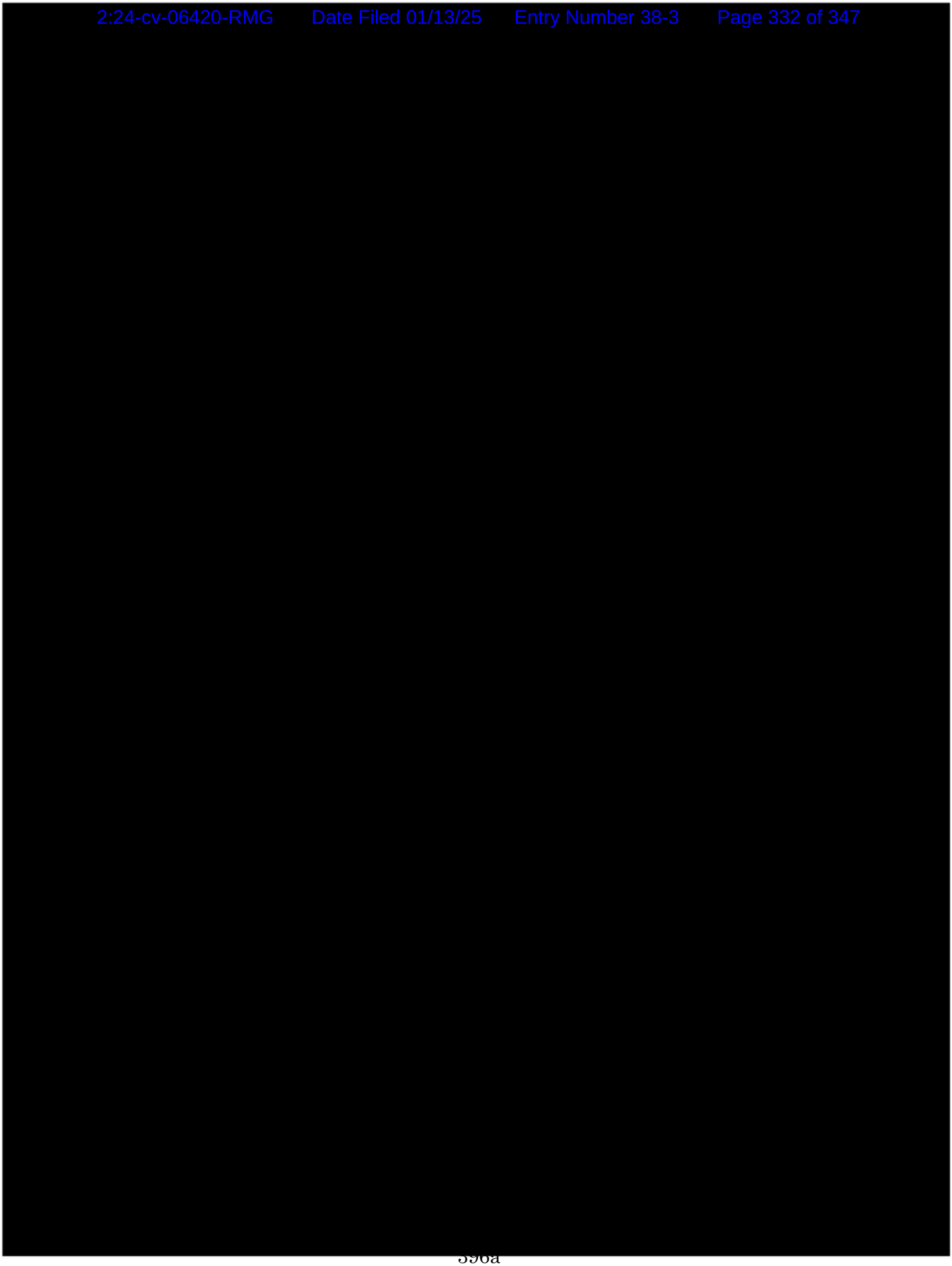
EXHIBIT D

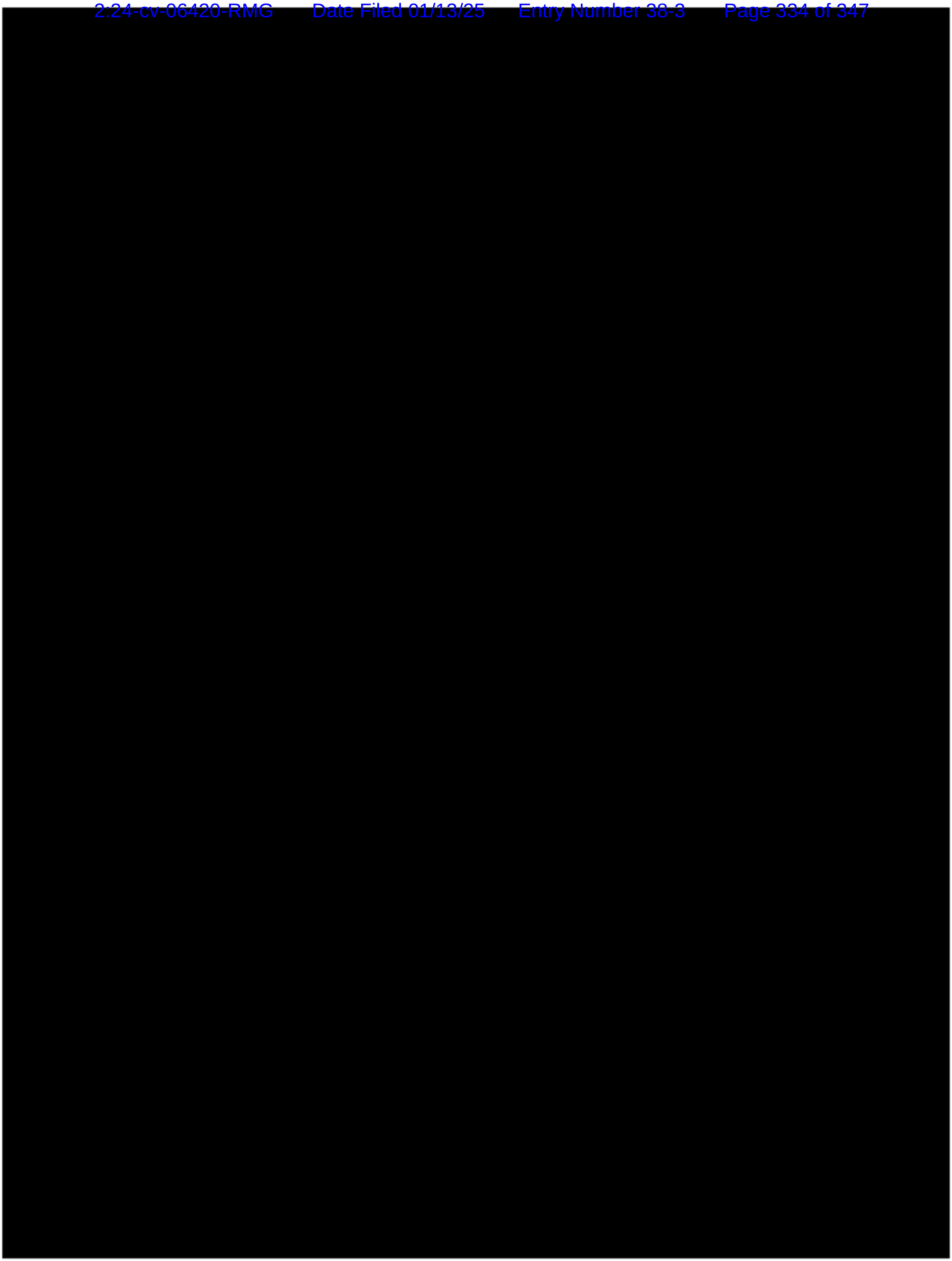
EXHIBIT E

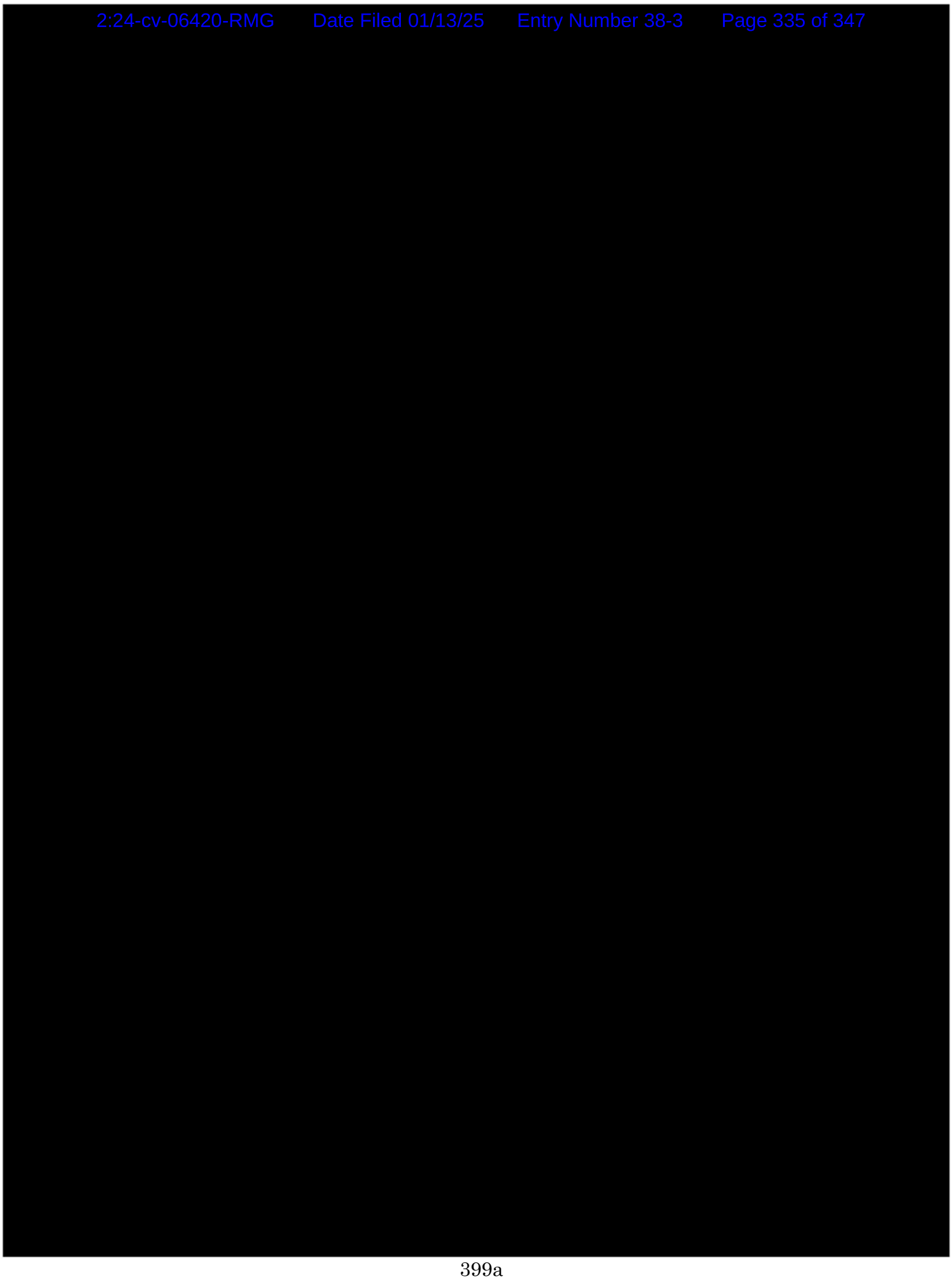












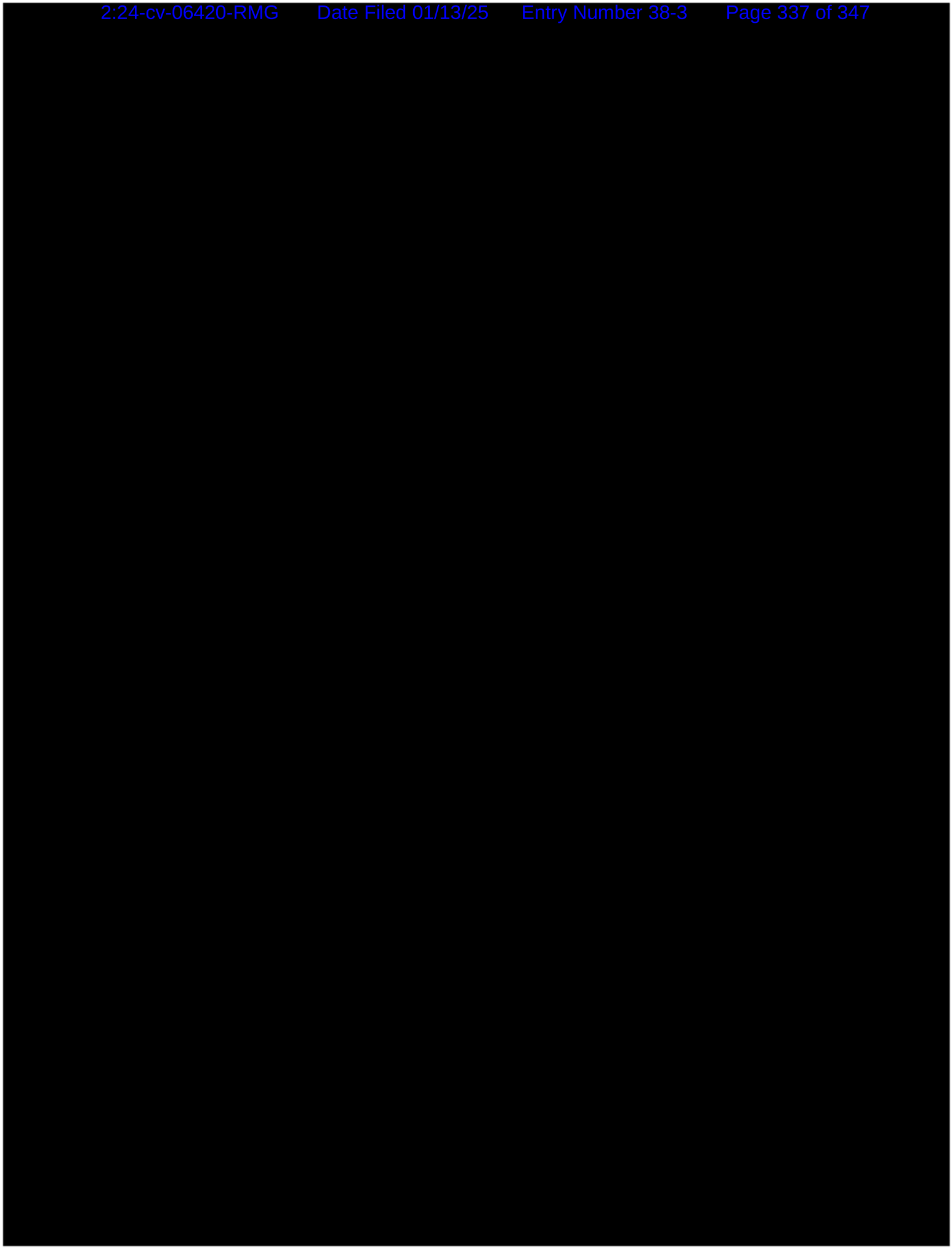
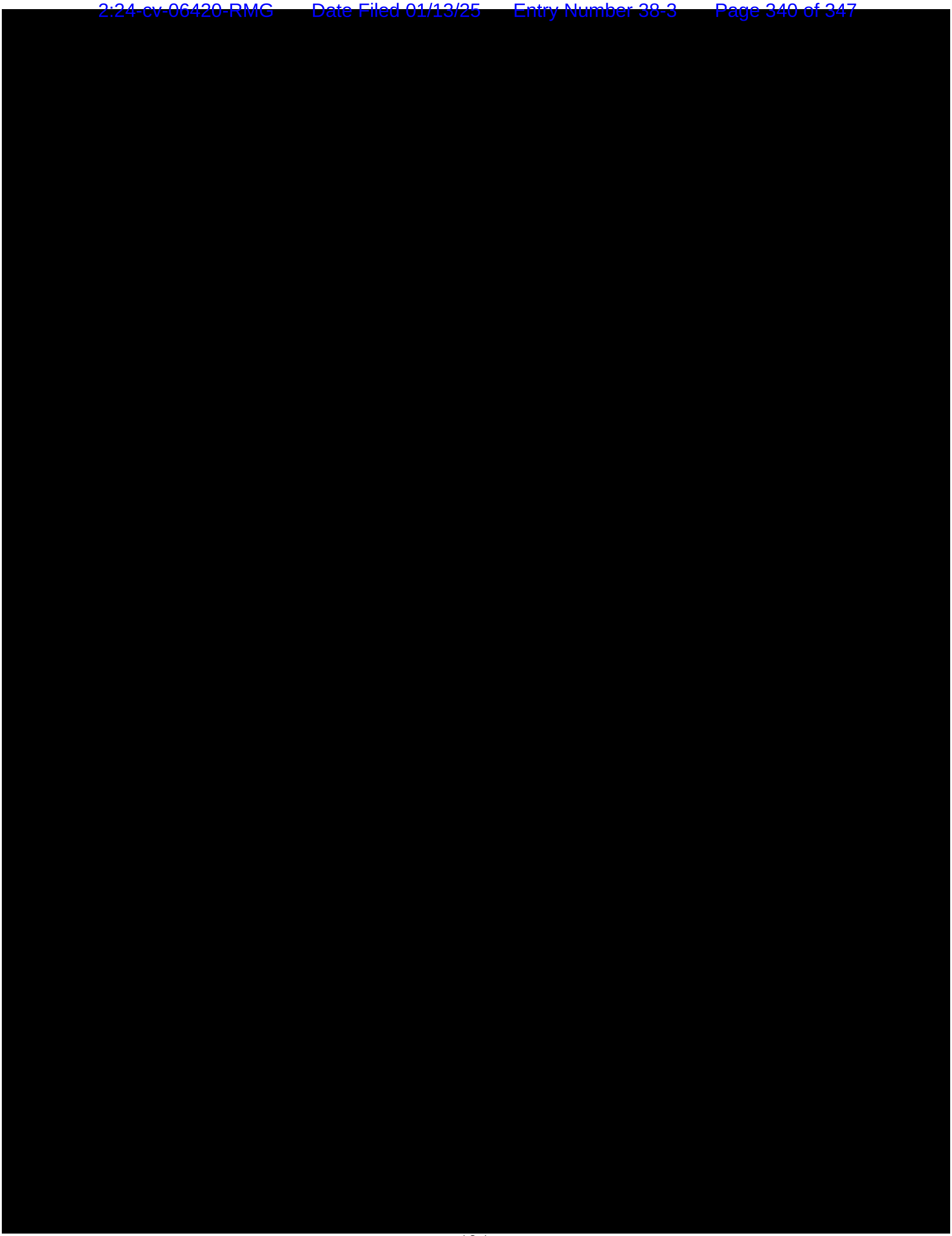
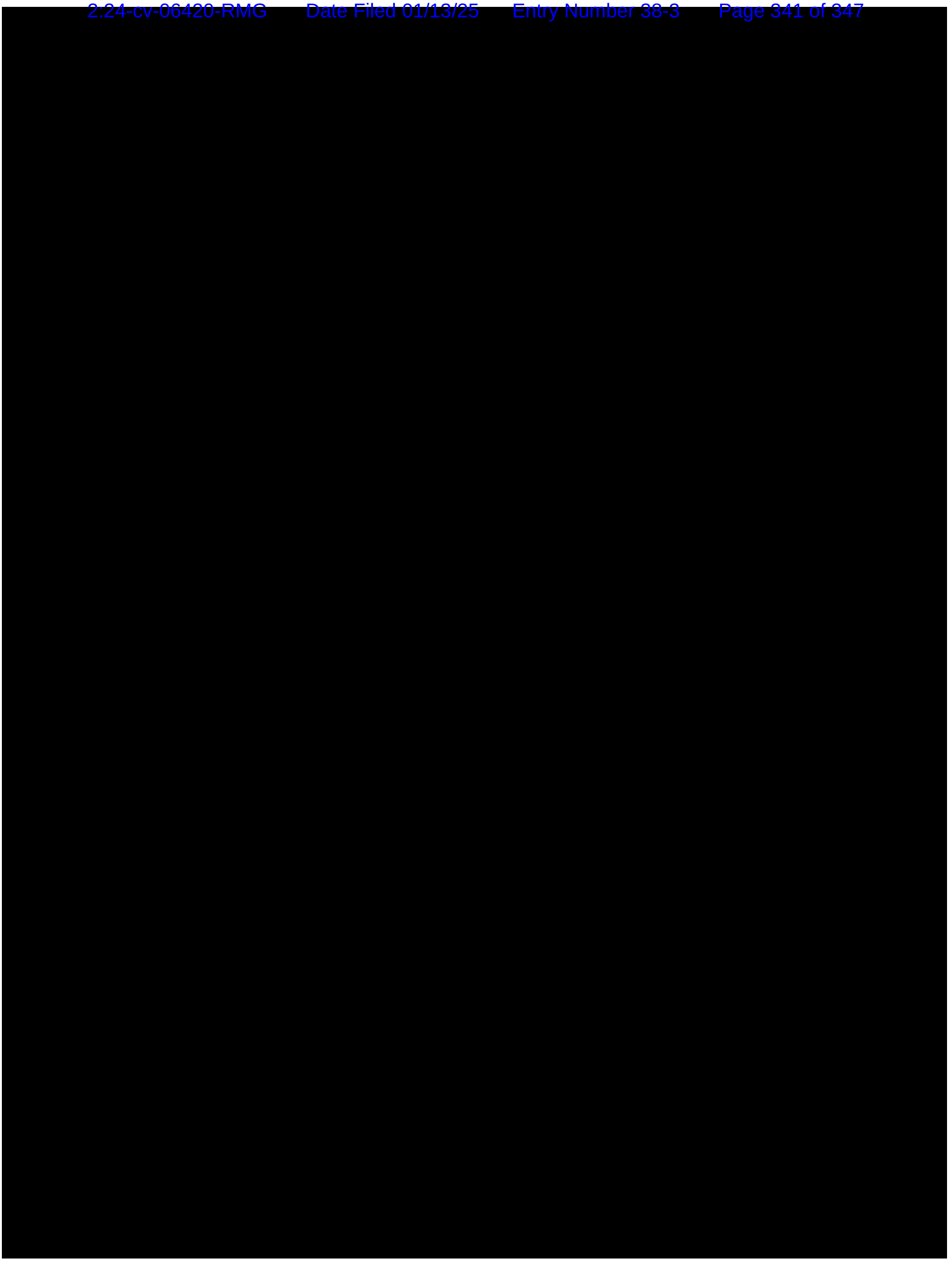


EXHIBIT F





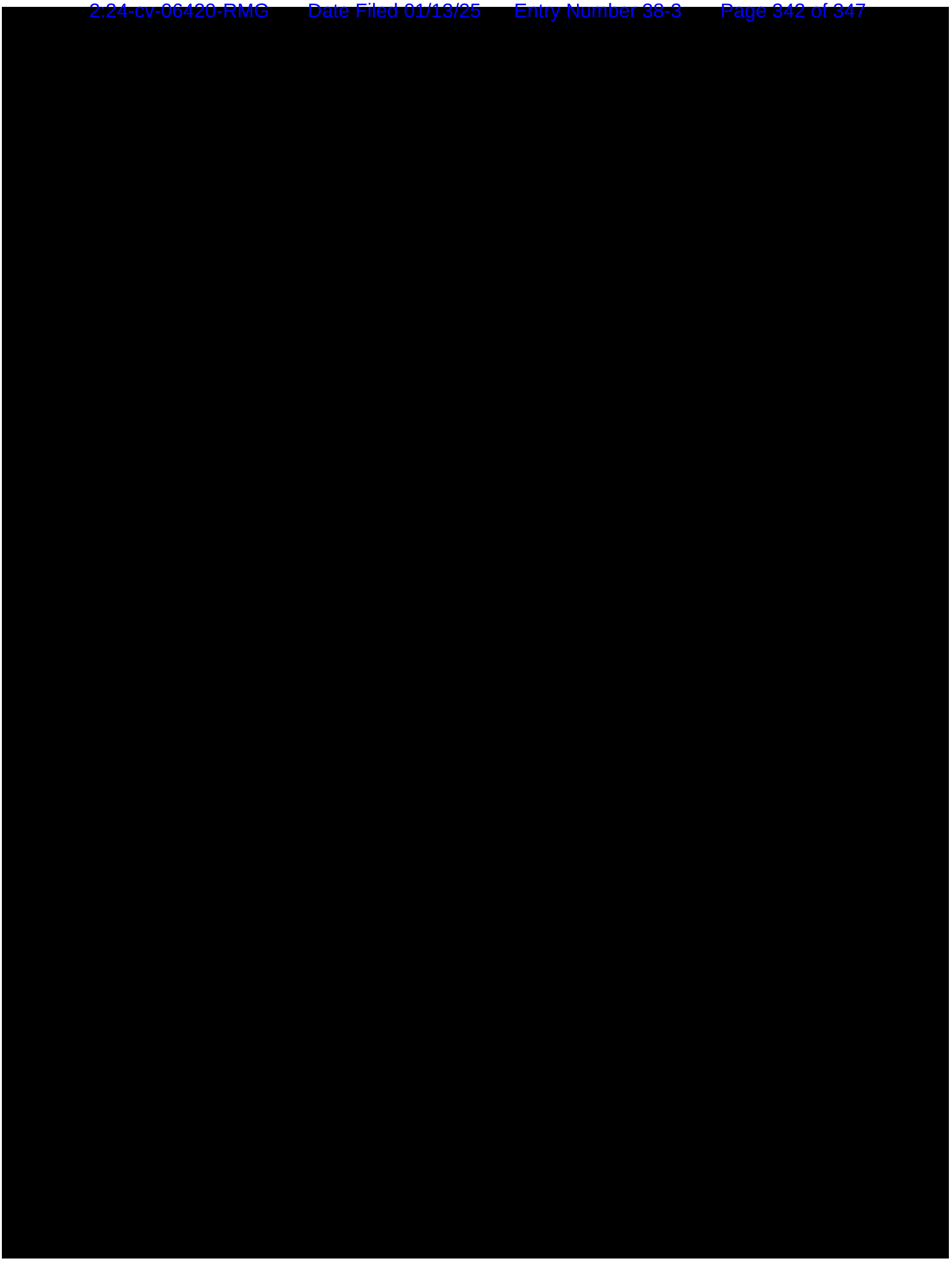
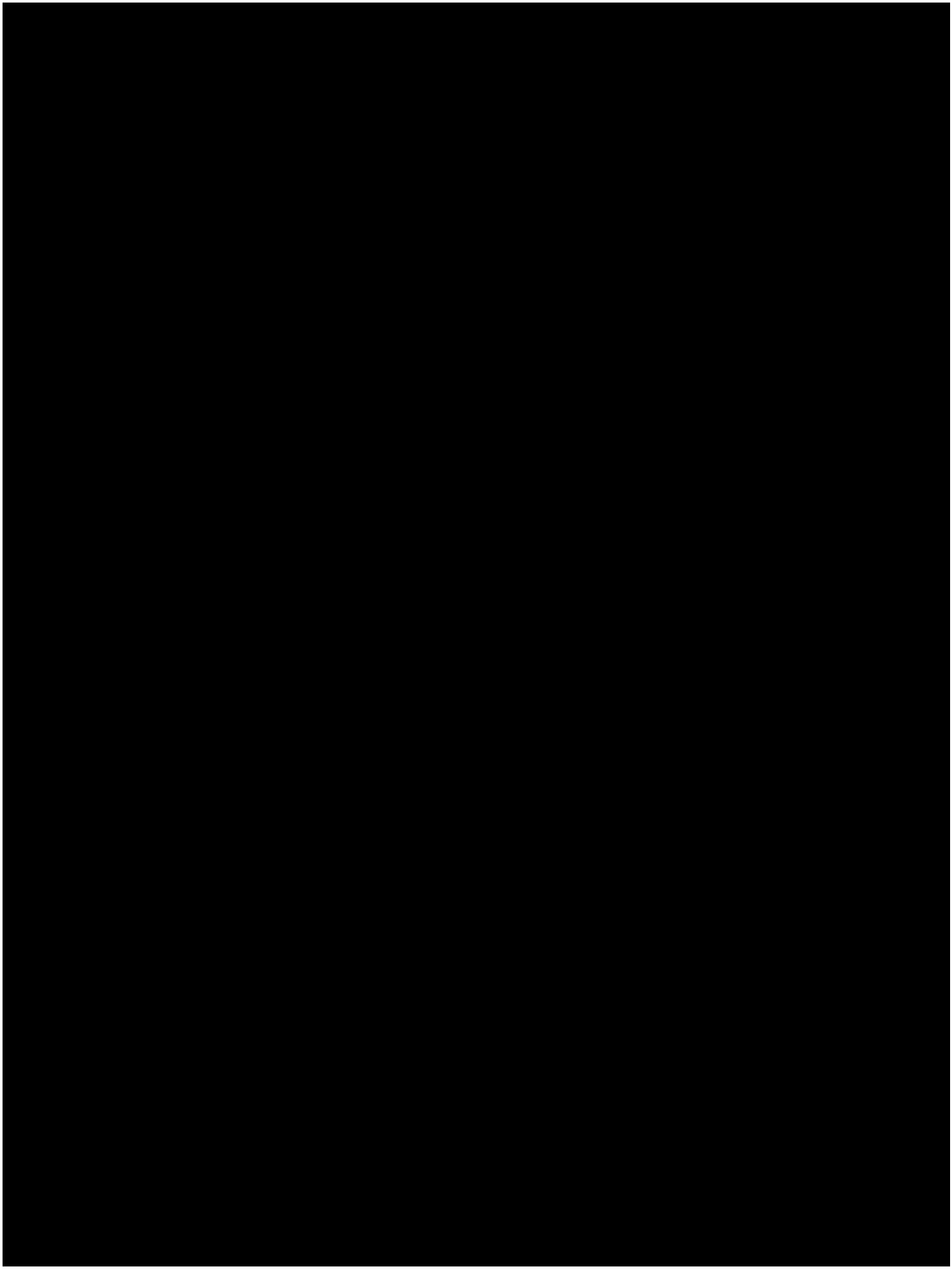
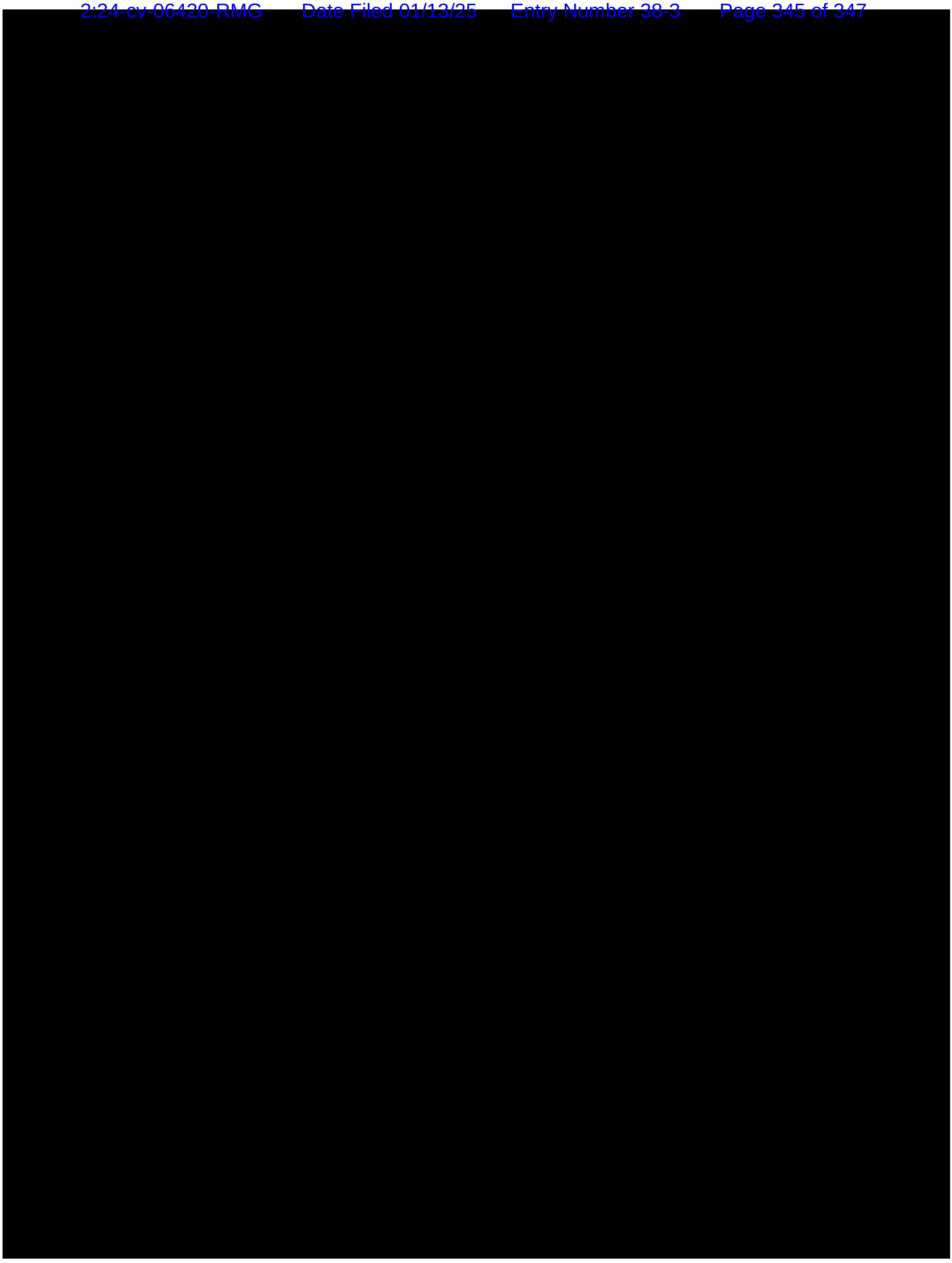
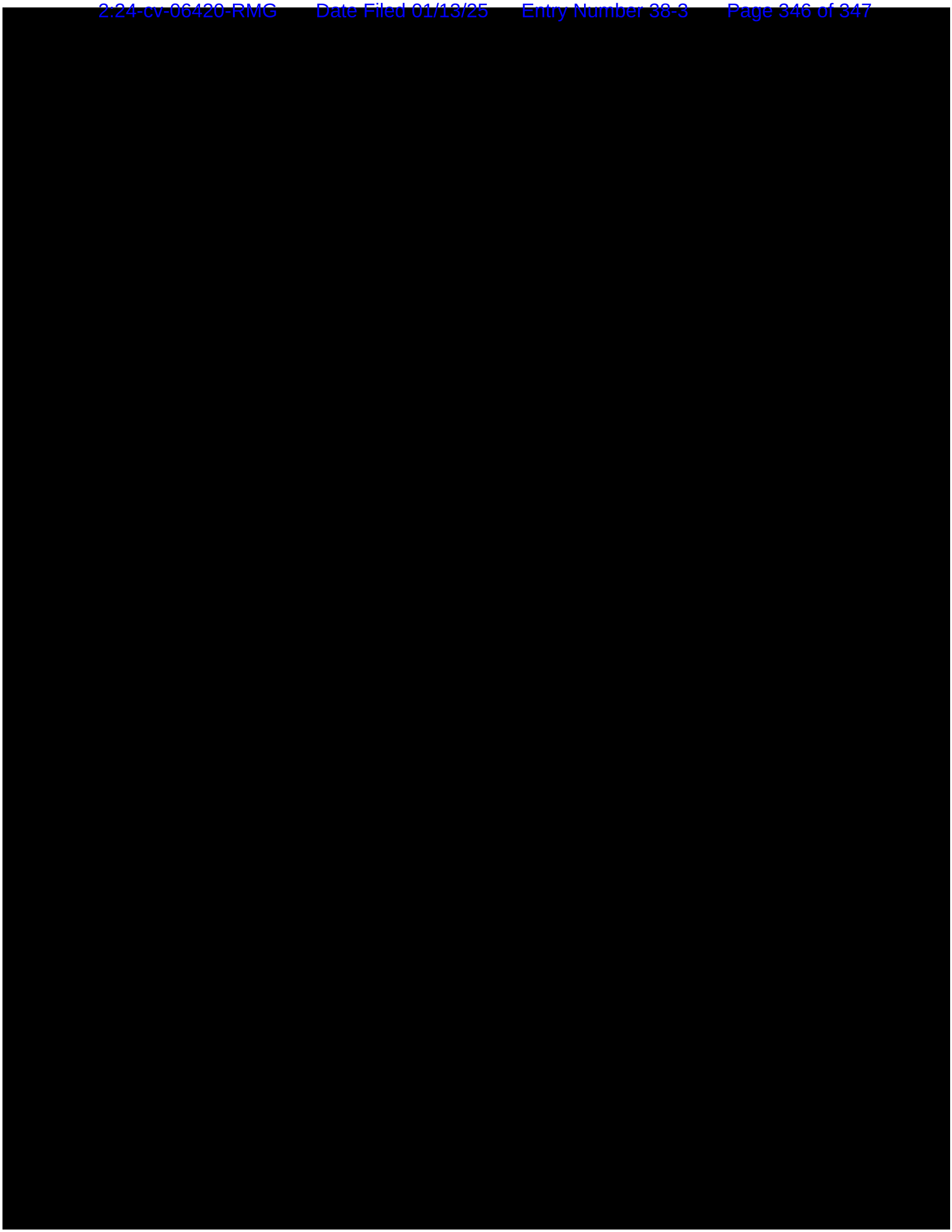
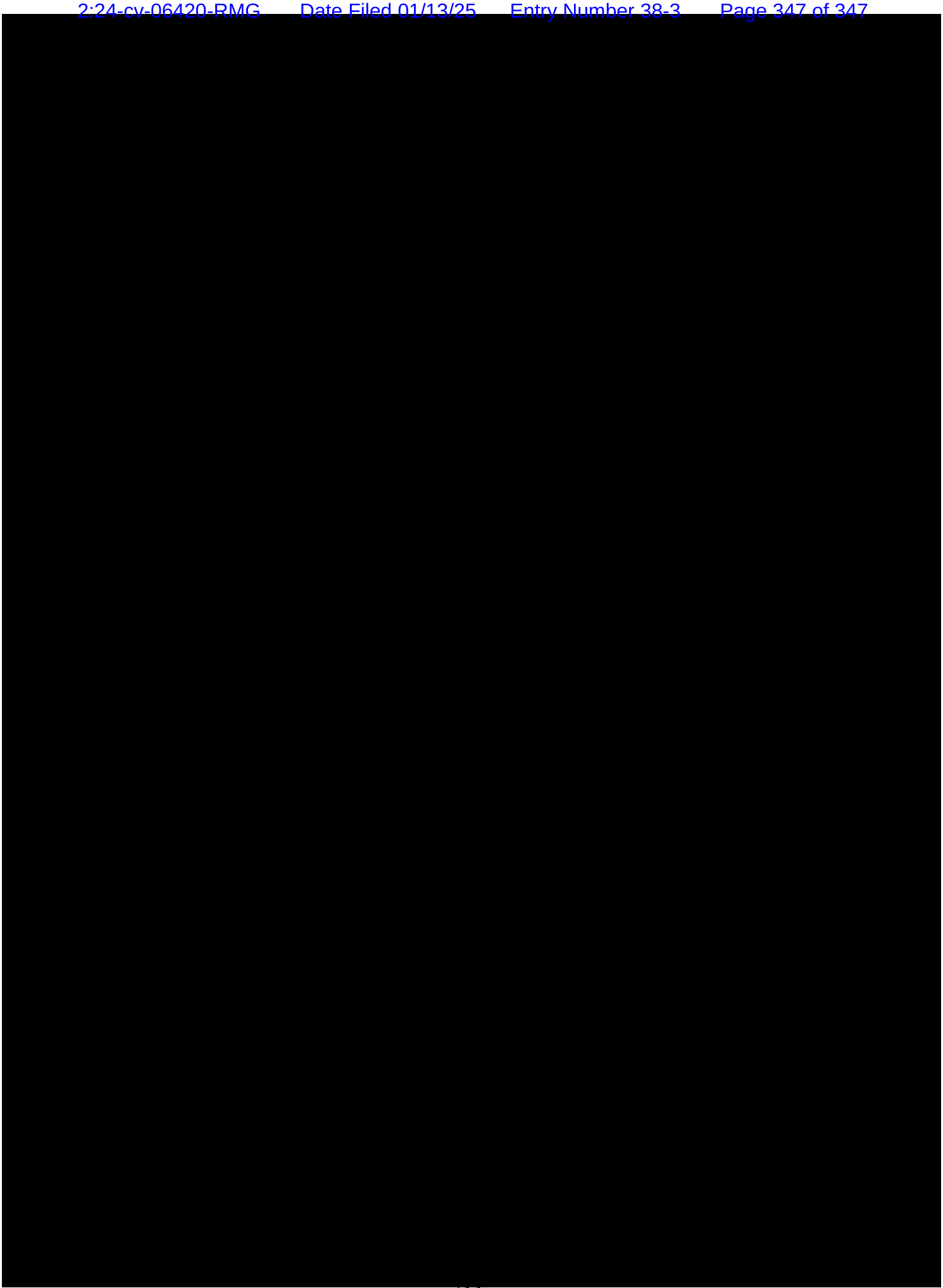


EXHIBIT G









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

JOHN DOE, *et al.*, Plaintiffs, v. STATE OF SOUTH CAROLINA, *et al.*, Defendants.	Civil Action No. 2:24-cv-06420-RMG

DECLARATION OF JOSEPH D. SPATE

I, Joseph D. Spate, declare under penalty of perjury that the following is true and correct, and state:

1. I am an Assistant Deputy Solicitor General with the Office of the South Carolina Attorney General, located at 1000 Assembly Street, Columbia, South Carolina 29201. The following is true of my own personal knowledge, and, if called as a witness, I would and could testify competently thereto.

2. As set forth below, I have reviewed audio recordings produced by the Minor Plaintiff, captioned as "John Doe," in discovery. Each excerpt that I reviewed is accurately described in the respective Exhibit using the timestamp of testimony available on the recordings themselves. I have also provided hyperlinks where the audio recordings are available for review, and passwords for those hyperlinks are being sent to the court contemporaneously with the filing of this declaration. As of the date of this filing, each of the hyperlinks is in working order.

3. The undersigned's knowledge of the dates of the recordings and identities of the speakers is based on the information provided by Minor Plaintiff, along with information contained within the filename and the recordings themselves, and is on information and belief.

The identities of several of the speakers are stated during the course of the audio recordings, and the dates of the recordings are evident from the filenames of the audio recordings. Further, by email dated January 7, 2025, and subsequent to the submission of the transcripts to Minor Plaintiff on January 6, 2025, counsel for Minor Plaintiff Joseph Wardenski confirmed the dates of recordings and identities of speakers based on counsel's "best understanding, at this time, of the approximate dates of the audio recordings and the relevant speakers in each one."

4. Attached hereto is Exhibit 2 to the Expert Witness Declaration of Dr. Geeta Nangia, M.D. Attached as Exhibit F to Dr. Nangia's Expert Witness Declaration is a true and correct transcript of excerpts from a recorded conversation dated by Minor Plaintiff as occurring on or around September 5, 2024. The filename provided by Minor Plaintiff is "Note_20240905_1249." A recording of the conversation is also accessible at: [redacted] (last accessed January 13, 2025).

5. Attached hereto is Exhibit 2 to the Expert Witness Declaration of Dr. Geeta Nangia, M.D. Attached as Exhibit G to Dr. Nangia's Expert Witness Declaration is a true and correct transcript of excerpts from a recorded conversation dated by Minor Plaintiff as occurring on or around August 25, 2024. The filename provided by Minor Plaintiff is "Note_20240825_1516." A recording of the conversation is also accessible at: [redacted] (last accessed January 13, 2025).

I declare that under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed on the 13th day of January 2025.

s/ Joseph D. Spate
Joseph D. Spate