

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

Civil Action No. _____

GAYS AGAINST GROOMERS, a non-profit corporation;
ROCKY MOUNTAIN WOMEN'S NETWORK, an unincorporated association;
RICH GUGGENHEIM, an individual; and
CHRISTINA GOEKE, an individual,

Plaintiffs,

v.

LORENA GARCIA, in her individual and official capacities as a Colorado State Representative;
MIKE WEISSMAN, in his individual and official capacities as a Colorado State Representative and Chair of the House Judiciary Committee;
LESLIE HEROD, in her individual and official capacities as a Colorado State Representative;
JULIE GONZALES, in her individual and official capacities as a Colorado State Senator and Chair of the Senate Judiciary Committee; and
DAFNA MICHAELSON JENET, in her individual and official capacities as a Colorado State Senator,

Defendants.

COMPLAINT FOR INJUNCTIVE, DECLARATORY,
AND OTHER RELIEF

“For when people renounce lies, lies simply cease to exist. Like parasites, they can only survive when attached to a person.”

-Aleksandr Solzhenitsyn, LIVE NOT BY LIES (1974)

Americans disagree profoundly about transgender ideology. Some question the existence of biological sex and claim a scientific basis for a transgender worldview. To them, the sudden spike in individuals claiming transgender status in large urban centers is a sign of increased tolerance, acceptance, and knowledge. Others claim that there are only two sexes—that transgenderism is a social contagion, preys on the young and confused, or is a form of sexual mimicry that undermines the civil rights of women or gay Americans. Others see it as an outgrowth of queer theory, a strain of academic critical theory that seeks to “queer” existing categories. Many Americans aren’t sure about all this and are still figuring out what to think about trans ideology. In a pluralistic society, it is expected that people may disagree about issues as fundamental as biology, sex, and identity.

In many schools and workplaces, the ongoing debate about trans ideology has spawned pronoun rituals, with some people choosing to announce their pronouns as a matter of course and many transgender individuals insisting upon being referred to by their preferred pronouns, including fictional or plural pronouns. Americans also argue about whether, or when, to refer to people by their new trans-inspired names. And this debate has reached into the halls of government, with the Colorado

Legislature considering numerous bills purporting to promote transgender rights during the current session.

There is nothing wrong with Americans, or their elected representatives, debating trans ideology. Nor is it surprising that opinions differ widely on transgender issues. But “[i]f there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion, or force citizens to confess by word or act their faith therein.” *W. Va. State Bd. of Education v. Barnette*, 319 U.S. 624, 642 (1943). Similarly, “[c]ompelling individuals to mouth support for views they find objectionable violates that cardinal constitutional command, and in most contexts, any such effort would be universally condemned.” *Janus v. AFSCME, Council 31*, 138 S. Ct. 2448, 2463-64 (2018) (citing *Barnette*). And public figures are not immune to criticism—especially when they invoke their life story on behalf of legislation that others view as dangerous.

Defendants—Colorado Legislators and proponents of transgender ideology—are abusing their authority to put a thumb on the scale of the public’s debate about transgenderism. They have prescribed how critics of transgenderism must present their views during the public-testimony portion of committee hearings before the Colorado Legislature by prohibiting “misgendering” or “deadnaming” and otherwise requiring citizens to express fealty to transgender ideology under the guise of “civility” or “decorum.” And they have elevated favored transgender exemplars,

including legislative namesakes, above criticism. For those citizens who do not submit, Defendants silence their speech, even going so far as to erase it from the public record.

The First Amendment does not allow Defendants to force their ideological beliefs on Plaintiffs in this manner. Plaintiffs are entitled to relief securing their fundamental rights to free expression and petition and freedom from compelled speech.

JURISDICTION AND VENUE

1. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1343, as this action challenges Defendants' violation of Plaintiffs' civil rights pursuant to 42 U.S.C. § 1983.

2. Venue lies in this Court per 28 U.S.C. §§ 1391(b)(1) and (b)(2) because all the parties are residents of this judicial district and the events giving rise to these claims occurred and are occurring in this judicial district.

3. The effects of Defendants' censorial customs, policies, and practices are experienced by Plaintiffs in Colorado where Plaintiffs wish to speak freely, petition, be free from compelled speech, truthfully state their opinions opposing trans ideology and sex nullification, and freely discuss individuals for whom bills are named and whose life stories are invoked to support legislation.

THE PARTIES

4. Plaintiff Gays Against Groomers (GAG) is a non-profit corporation consisting of gays and others in the community who oppose the sexualization, indoctrination and medicalization of children under the guise of “LGBTQIA+.” GAG and its members oppose: the sterilization and mutilation of minors, drag and pride events involving children, propagandizing youth with LGBTQIA+ media, and queer theory and gender ideology being taught in K-12 classrooms. GAG’s members reject transgender ideology being forced onto youth that are still undergoing mental development, including the concepts of misgendering or deadnaming. GAG has a chapter that is active in Colorado. GAG brings this lawsuit on behalf of its members.

5. Plaintiff Rocky Mountain Women’s Network (RMWN) is an unincorporated association whose mission is to advocate for and protect women’s and girl’s sex-based rights. Its members reject transgender ideology, including the concepts of misgendering or deadnaming. RMWN has active members in Colorado and brings this lawsuit on behalf of its members.

6. Plaintiff Rich Guggenheim is a natural person and citizen of the United States, residing in Colorado. In his private capacity as a citizen and as a member of GAG, he often speaks about transgender issues, including pending legislation in his home state. He heads GAG’s Colorado Chapter and personally rejects transgender ideology, including the concepts of misgendering or deadnaming.

7. Plaintiff Christina Goeke is a natural person and citizen of the United States, residing in Colorado. Ms. Goeke is a woman and competitive weightlifter. She often speaks about transgender issues, including pending legislation in her home state. She is a co-founder and member of RMWN and personally rejects transgender ideology, including the concepts of misgendering or deadnaming.

8. Defendant Lorena Garcia is a Colorado State Representative for the 35th District and a member of the House Judiciary Committee. Representative Garcia promotes transgender ideology. She is sued in her individual and official capacities.

9. Defendant Mike Weissman is a Colorado State Representative for the 36th District and is Chair of the House Judiciary Committee. Representative Weismann promotes transgender ideology. He is sued in his individual and official capacities.

10. Defendant Leslie Herod is a Colorado State Representative for the 8th District and a member of the House Judiciary Committee. Representative Herod promotes transgender ideology. She is sued in her individual and official capacities.

11. Defendant Julie Gonzales is a Colorado State Senator for the 34th District and is Chair of the Senate Judiciary Committee. Senator Gonzales promotes transgender ideology. She is sued in her individual and official capacities.

12. Defendant Dafna Michaelson Jenet is a Colorado State Senator for the 21st District and is a member of the Senate Judiciary Committee. Senator Michaelson Jenet promotes transgender ideology. She is sued in her individual and official capacities.

FACTS

Transgender Bills and the Colorado General Assembly

13. The Colorado General Assembly is the state legislature for Colorado and is a bicameral legislature, comprised of the House of Representatives and Senate.

14. The House Judiciary Committee considers matters concerning courts and judges, civil liberties, Colorado's constitution, revision of the Colorado Revised Statutes, the state's correctional system and prison facilities, juvenile justice, and homeland security.

15. The Senate Judiciary Committee considers matters concerning civil and criminal proceedings, courts, judges, civil liberties, Colorado's constitution and statutes, the state's correctional system and prison facilities, homeland security, and juvenile justice.

16. During the current, ongoing regular session of the 74th General Assembly, Colorado's legislators have considered several bills concerning transgender issues, such as HB-24-1017– Bill of Rights for Foster Youth, HB24-1039 –Non-Legal Name Changes, SB-24-049–Content of Material in Libraries, HB-24-1071—Name Change to Conform with Gender Identity, SB-24-189—Gender-Related Bias-Motivated Crimes, and HB-24-1040—Gender-Affirming Health-Care Provider Study, including allocating time for public testimony during committee hearings.

Public Testimony Before the Colorado General Assembly

17. The Colorado General Assembly provides citizens with an opportunity to provide public comment on pending legislation in the form of testimony at a committee hearing. In Colorado, every bill receives a public hearing by one of the legislature's committees. At a legislative committee hearing, citizens have an opportunity to express their views and have them incorporated into the official legislative record. Although the legislature refers to this public comment as "testimony," members of the public who provide such comment are not sworn in and the rules of evidence are not applied to their speech. Speakers are allowed to state their opinions about bills, including urging a yes vote, no vote, neutrality, or amendment of a bill.

18. Members of the public may participate in committee hearings by submitting written comments, testifying via Zoom from anywhere within the state, or testifying in person.

19. Members of the public wanting to speak in person on a bill in a committee of reference must register. Registration opens when the bill is scheduled for a committee hearing. Registration closes when the committee chair ends the public testimony portion of the bill hearing.

20. Similarly, members of the public wanting to speak remotely must register in advance.

21. The Colorado General Assembly publishes a Memorandum on Public Participation in the Legislative Process dated January 10, 2024, the full text of which is located at <https://perma.cc/384G-JAQS> and a copy of which is attached as Exhibit A. The Memorandum provides the administrative rules for members of the public who wish to speak before legislative committees.

22. The Assembly's Memorandum provides an administrative rule that the "chair has the discretion and authority to limit testimony, ask the sergeant-at-arms to remove a disruptive person from the committee room, and clear the public from any hearing in the event of a disturbance that is disruptive to legislative proceedings."

23. The Assembly invites members of the public to sign up to speak via an online portal located at: <https://www2.leg.state.co.us/CLICS/CLICS2024A/commsumm.nsf/signIn.xsp>. The Assembly's online sign-up interface requires speakers to indicate their name, phone, email address, their position on the hearing item, and whether the speaker is representing him or herself or an organization.

24. The Assembly's online sign-up interface also provides speakers with an option to select from a limited set of preferred pronouns, including "she, her, hers," "he, him, his," or "they, them, theirs." Even the sign-up process suggests speakers should submit to trans ideology via this pronoun ritual.

25. In addition, the Colorado House has published an online Guide to Public Hearings, which is located at <https://perma.cc/5L6L-GRBQ>. The House’s Guide provides administrative rules that prohibit booing, cheering, or applauding during the hearing. It also provides an administrative rule that the “committee chairman may request a sergeant-at-arms to remove a person who is impeding, disrupting, or hindering a committee meeting or who endangers any member, officer, or employee of the General Assembly or any member of the public.”

26. The Colorado Senate publishes a functionally identical Guide to Public Hearings, which is located at <https://perma.cc/DGU2-WYCX>. The Senate’s guide has decorum and disruption rules that are identical to the House rules.

*Public Testimony on HB24-1071
Name Change to Conform with Gender Identity*

27. HB-24-1071 would make it easier for transgender individuals with felony convictions to legally change their names.

28. The Bill Summary provides: “Current law specifies the conditions a person must meet in order to change the person’s name if the person was convicted of a felony. Among those conditions is that the person must show good cause to be able to change the person’s name to a name different from the name the person was convicted under. The bill states that good cause includes changing the petitioner’s name to conform with the petitioner’s gender identity.”

29. The Prime Sponsors of HB-24-1071 include Defendant Garcia and Defendant Michaelson Jenet.

30. HB-23-1071's sponsors and supporters also refer to it as "Tiara's law," Tiara being the assumed name of a biological male with a criminal record.

31. Tiara is legally known as Duane Antonio Kelley, and, upon information and belief, has numerous criminal convictions in the State of Florida, which records him as a male. Kelley's criminal history currently makes a name change difficult in Colorado and this is why Kelley has advocated for a change in the law. Upon information and belief, Kelley has been unable to obtain a legal name change in Colorado.

32. Facilitating name changes for felons is a controversial topic, as many people believe that such name changes make it more difficult to learn whether a potential employee, caregiver, school volunteer, chaperone, babysitter, neighbor, roommate, or lover has a criminal past.

33. Plaintiffs Rich Guggenheim and Christina Goeke, both as individuals and as members of GAG and RMWN, respectively, oppose the adoption of HB-24-1071 because they believe it will make it easier for transgender individuals to conceal criminal convictions and thus pose a danger to children, women, and vulnerable populations. They also disagree with the concepts of "misgendering" or "deadnaming."

34. “Deadnaming” is the act of referring to a transgender person by a name they used prior to “transitioning,” such as their birth name. The concept of “deadnaming” is a part of transgender ideology.

35. “Misgendering” is the act of referring to others, usually through pronouns or form of address, in a way that does not reflect their self-perceived gender identity. “Misgendering” can be deliberate or accidental, such as using the “wrong” pronouns to describe someone, calling a person “ma’am” or “sir” in contradiction to the person’s self-perceived gender identity, using a person’s previous, “pre-transition” name in place of their current name (“deadnaming”). The concept of “misgendering” is a part of transgender ideology.

36. Plaintiffs Rich Guggenheim and Christina Goeke, both as individuals and as members of GAG and RMWN, respectively, consider adherence to a transgender person’s pronoun preferences, assumed gender, or assumed name to be a form of lying; and both Mr. Guggenheim and Ms. Goeke consider pronoun rituals, and the concepts of deadnaming and misgendering to be degrading and demeaning to themselves.

37. Ms. Goeke signed up to testify on HB-24-1071 in person before the House Judiciary Committee on January 30, 2024.

38. Mr. Guggenheim signed up to testify on HB-24-1071 remotely before the House Judiciary Committee on January 30, 2024.

*Defendants' Custom, Policy, or Practice of
Censoring Deadnaming or Misgendering During Public Testimony*

39. On January 30, 2024, the House Judiciary Committee heard public testimony on HB-24-1071.

40. When HB-24-1071 came up for discussion, Defendant Gonzalez, one of the bill's prime sponsors, thanked her colleagues "for engaging in respectful discourse by not using derogatory language or misgendering witnesses, or using a witness's deadname. But rather referring to the witnesses as their stated names and gender pronouns." She added, "I sincerely hope that the witnesses signed up to also testify will follow suit, and engage in respectful discourse and share their perspectives and opinions on this bill by not disparaging other members or our community or other witnesses," because "this room is one where people should be able to come, share their stories, be who they are, without fear of being attacked, without fear of being disparaged."

41. House Judiciary Committee Chair Mike Weissman then adopted these sentiments as rules for the forum. "I appreciate your comments about the tenor that we should aspire to and the way that we should and should not aim to have a discussion, and as Chair I affirm and ratify your comments."

42. Upon hearing these rules, Guggenheim left his place in line. He could not deliver his views and the views of his group if he could not use language he was

certain would be deemed “derogatory” about the bill’s namesake, or use language denying the validity of trans ideology. Guggenheim did not testify at the hearing.

43. Goeke, who had been patiently waiting her turn to speak in person, did not get all the way through her presentation before being repeatedly interrupted by Defendant Weissman for violating Defendants’ customs, practices, or policies against deadnaming, misgendering, and using allegedly “derogatory” or “disparaging” language about another person. Ms. Goeke was not allowed to use her full three minutes of allotted speaking time.

44. The exchange between Goeke, Defendant Weismann and Defendant Herrod during Goeke’s testimony occurred as follows:

Goeke: “The person who this bill is named after, they’re an admitted former prostitute...” [muttering and boos from the crowd begin]

Weissman: “Ms. Goeke, I’m going to urge you to be [cross-talk, including Goeke’s invocation of her First Amendment rights]... I am going to urge you to keep your testimony please to the bill, do not get into individual personalities.”

Goeke: “This bill is literally named after him.”

[Set off by Goeke’s use of the male pronoun, the pro-trans crowd that had been hissing and jeering Goeke erupted into louder boos, but Weissman made no effort to restore order.]

Goeke attempted to continue her speech: “Misgendering is not a crime, you know what? I’m correctly sexing, correctly sexing. You know, sex matters, gender is nothing it means nothing.”

Weissman: “Ms. Goeke...”

Goeke: “Misgendering is nothing, it means nothing. I correctly sex everybody.”

Weissman: “Alright...”

Goeke: “So the person this bill is written after, is literally an admitted former prostitute...”

Herrod: “Mr. Chair, I’m not going to allow that. I’m not going to allow it.”

Goeke: “He works with children...”

Weissman: “The committee is going to be in recess.”

45. And with that, Weissman loudly brought down the gavel. Goeke still had 31 seconds left on the clock, which was frozen from that point, and committee members and the audience began talking and milling about.

46. Goeke attempted to keep speaking, but Chair Weissman, at Herod’s urging, had prematurely terminated Goeke’s speaking time. After Weissman declared a recess and went off the record, Goeke expressed her frustration by stating “I let them spew their bullshit about gender.” And with that, she was confronted by the sergeant at arms and asked to leave.

47. When the hearing resumed, without Goeke, Defendant legislators repeatedly apologized to Duane Kelley/Tiara and other transgender attendees for having been exposed to Goeke’s speech.

48. Other speakers representing pro-trans viewpoints were able to give their testimony without being interrupted, having their time limited or terminated, or being excluded from the hearing, including Kelley/Tiara, and representatives from pro-trans groups such as Bread and Roses, the ACLU, Parasol Patrol, and Black Sex Workers of Colorado.

49. One speaker referred to Goeke as a “transphobe” who had been “ejected for bigotry.”

50. During her closing statement, Defendant Garcia referred to Goeke when she told pro-trans members of the public that they had “explicit hate thrown at you” and make pro-felon statements that sought to normalize criminal convictions as a form of victimization.

51. The Colorado General Assembly’s official audio record is located at: https://sg001-harmony.sliq.net/00327/Harmony/en/PowerBrowser/PowerBrowserV2/20240130/29/15228#info_. The hearing on HB-24-1071 begins at time stamp 6:22:26PM. A transcript of relevant excerpts from the hearing is attached as Exhibit B.

52. On March 27, 2024, the Senate Judiciary Committee held a hearing on HB-24-1071, which provided for public comment. Both Ms. Goeke and Mr. Guggenheim signed up to speak in-person and in opposition to the bill.

53. At the opening of public comment about the bill, Defendant Chair Gonzalez announced that she would not allow witnesses to fail to treat others with dignity and respect or a lack of decorum, and she threatened to have witnesses removed if they failed to exhibit decorum, dignity, or respect.

54. Senator Michaelson Jenet spoke next and purported to “elevate” the words of Chair Gonzalez by announcing that witnesses should not use “derogatory language,” “misgender,” “deadname,” or otherwise “disparage” those present.

55. Chair Gonzalez adopted Senator Michaelson Jenet’s speech restrictions by stating that she appreciated that addition to the rules on decorum, dignity, and respect and asked witnesses to adhere to those restrictions.

56. Plaintiff Goeke spoke in opposition to the bill based on her belief that it would allow felons to conceal their criminal history and endanger single moms, young women, or children. When she attempted to refer to “Tiara” as “Mr. Duane Powell,” Chair Garcia gaveled Ms. Goeke down and interrupted her. Ms. Goeke attempted to state her opinion that Mr. Duane Powell was impersonating a woman and had appropriated a female name.

57. In response, Chair Garcia enforced her speech rules against deadnaming or misgendering. Ms. Goeke stated that she would not tell a lie and that “[a] man is a man.” Chair Garcia reminded Goeke that she was not allowed to deadname or misgender. Ms. Goeke responded that she would not lie and could not advocate for women if she is not allowed to say what a woman is.

58. Chair Garcia told Goeke she had 24 seconds left to testify, but she again gaveled over Goeke’s speech and stole Goeke’s time as soon as Goeke dissented from trans ideology by saying “Mr. Duane Powell.”

59. Significant portions of Ms. Goeke’s speech were erased from the official audio record of the Senate Judiciary Committee hearing. *See* https://sg001-harmony.sliq.net/00327/Harmony/en/PowerBrowser/PowerBrowserV2/20240403/41/15772#agenda_ (timestamp: 6:32:54PM to 6:36:34PM). *Compare*

<https://bit.ly/4akyMvP> (timestamp 31:44 to 34:54); Exhibit D (transcript excerpt of censored speech).

60. Rich Guggenheim also spoke in opposition to the bill. Guggenheim stated he was speaking as a homosexual man, and he attempted to share pertinent facts about the gay liberation movement from Stonewall in 1969 by discussing Malcom Michaels Jr, and Tony Rivera, two black gay male sex workers and drag queens often falsely referred to as transgender women named Marsha P. Johnson and Sylvia Rivera. Chair Garcia interrupted Guggenheim, attempted to cut his microphone, and reminded Guggenheim of the rule against deadnaming or misgendering.

Chair Garcia: [Gavel] “I’m sorry. Dr. Guggenheim I did ask at the onset of this hearing that we refrain from deadnaming or misgendering people. I welcome you to proceed forward, with the rest of your comments, should you wish to continue.”

Guggenheim reminded Senator Garcia that he had not dead-named or misgendered anyone as these individuals never identified as trans but rather, as drag queen. His microphone was off during this time. Chair Garcia allowed Guggenheim to continue his comments, but when he later referred to Mr. Powell as black gay man, she gaveled Guggenheim again.

Chair Garcia: Gavel. “Dr. Guggenheim, thank you for joining us and sharing your perspectives with us today.”

61. Guggenheim was not allowed to complete his testimony and Chair Garcia stole at least 56 seconds of his time to speak against the bill.

62. During the hearing, proponents of the bill were not interrupted or silenced. At times, pro-trans audience members raised their hands or attempted to signify when they believed a witness was transgressing the speech restrictions against deadnaming or misgendering.

63. The hearing’s official meeting audio is located here https://sg001-harmony.sliq.net/00327/Harmony/en/PowerBrowser/PowerBrowserV2/20240328/41/15772#agenda_ and begins at timestamp 6:02:17 PM. While Ms. Goeke’s attempted testimony was initially posted in full, Defendants later erased significant portions of it from the public record and replaced it with silence.

64. A transcript of relevant portions of the hearing, but not the erased portion of Goeke’s testimony, is attached as Exhibit C. *Compare* Exhibit D (including erased speech).

65. On April 1, 2024, the Senate Judiciary Committee held a hearing on Senate Bill 24-189, which proposes the addition of gender identity and gender expression to the classes identified in bias-motivated crimes and harassment. Prior

to hearing public testimony, Defendant Sen. Gonzalez warned everyone that the Committee “want[ed] to make sure everyone here is being treated with dignity and respect.” Defendant Gonzalez then “ask[ed] people who are testifying to refrain from deadnaming or misgendering people.”

66. The hearing’s official meeting audio is located here: https://sg001-harmony.sliq.net/00327/Harmony/en/PowerBrowser/PowerBrowserV2/20240402/41/15800#agenda_ and begins at timestamp 1:42:47.

Current and Future Bills and Hearings on Trans-Involved Bills

67. The General Assembly is currently still in session and there is at least one more bill remaining that concerns transgender issues: SB24-189—Gender-Related Bias-Motivated Crimes, which may be set for a committee hearing in either chamber with an opportunity for public testimony.

68. HB-24-1040—Gender-Affirming Health-Care Provider Study, including allocating time for public testimony during committee hearings, has been removed from further consideration during this session, but it may re-appear again in a future session.

69. Transgender issues continue to arise in numerous contexts, and accordingly, to trigger significant public debate. As Colorado’s legislature has indicated a keen interest in addressing these topics, with many members committed to advancing the cause of the transgender movement, bills concerning transgender

issues will assuredly be introduced in future sessions of the Colorado Assembly, and debate on other bills will likewise implicate transgender concerns.

70. Plaintiffs Christina Goeke and Rich Guggenheim intend to continue to oppose trans ideology, including by providing public testimony on trans-related and other bills during legislative committee hearings during this session and future legislative sessions.

71. Plaintiffs Goeke and Guggenheim both want to continue to testify truthfully about trans issues, including making public comments at legislative hearings. Plaintiffs expect that Defendants will continue to censor them during testimony, interrupt them, steal their testimony time, and require that they express fealty to trans ideology.

72. Plaintiffs refuse to tell what to them are lies about a person's sex.

73. In the absence of protection from this Court, Plaintiffs Goeke and Guggenheim expect to self-censor by refraining from fully exercising their right to provide public comments at legislative committee hearings or alter the way they speak at such hearings in order to avoid being interrupted, gavelled down, ejected, having their testimony edited, or having to make ideological statements with which they disagree, including following pronoun rituals.

74. If Defendants' unlawful policies, customs, or practices remain in place, Plaintiffs expect to speak less, and differently, about issues of public importance.

FIRST CLAIM FOR RELIEF

VAGUENESS, EXCESSIVE DISCRETION U.S. CONST. AMENDS. I, XIV, 42 U.S.C. § 1983
AS-APPLIED AND FACIAL CHALLENGE TO SUBJECTIVE DECORUM, DIGNITY, AND
RESPECT RULES

75. Plaintiffs reallege and incorporate by reference paragraphs 1 through 74.

76. Defendants have created a limited public forum by opening legislative committee hearings to public comment.

77. Defendants maintain a written rule against decorum and disruption during public testimony. Defendants have enforced the rule in a selective, subjective, and viewpoint-discriminatory manner by announcing additional decorum rules against so-called deadnaming or misgendering; barring “disparaging” or “derogatory language” about individuals, including raising unwelcome facts about legislative namesakes; and requiring that speech be “respectful.”

78. Defendants’ decorum rule is vague and lacks objective criteria to prevent viewpoint discriminatory enforcement. *See, e.g., Minn. Voters All. v. Mansky*, 138 S. Ct. 1876, 1891 (2018).

79. Defendants’ custom, policy, or practice is to apply their decorum rule in ways that discriminate against dissenters from trans ideology, such as Christina Goeke, Rich Guggenheim, and other members of RMWN and GAG.

80. By enforcing their vague and subjective decorum rule, Defendants, under color of law, deprive Plaintiffs, and other similarly situated persons, of the right to

petition and free speech in violation of the First and Fourteenth Amendments to the United States Constitution. Accordingly, Plaintiffs are damaged in violation of 42 U.S.C. § 1983, and, therefore, are entitled to damages; declaratory and preliminary and permanent injunctive relief against continued enforcement and maintenance of Defendants' unconstitutional customs, policies, and practices; and attorney fees and expenses pursuant to 42 U.S.C. § 1988.

SECOND CLAIM FOR RELIEF

RIGHT OF FREE SPEECH AND PETITION, U.S. CONST. AMENDS. I, XIV, 42 U.S.C. § 1983
FACIAL AND AS-APPLIED CHALLENGE TO VIEWPOINT DISCRIMINATORY CUSTOM, POLICY,
AND PRACTICE

81. Plaintiffs reallege and incorporate by reference paragraphs 1 through 74.

82. The First Amendment embodies “a profound national commitment to the principle that debate on public issues should be uninhibited, robust, and wide-open, and that it may well include vehement, caustic, and sometimes unpleasantly sharp attacks on government and public officials.” *New York Times Co. v. Sullivan*, 376 U.S. 254, 270 (1964). The government may not silence speech because it criticizes government officials or employees, or their favorite ideas or initiatives, even if that speech does so in ways that many people may find unpleasant. Allegations of hurt feelings, real or spurious, do not justify censorship of public speech.

83. The government may not “regulat[e] speech when the specific motivating ideology or the opinion or perspective of the speaker is the rationale for the

restriction.” *Rosenberger v. Rector & Visitors of Univ. Of Va.*, 515 U.S. 819, 829 (1995); *see also Mesa v. White*, 197 F.3d 1041, 1047 (10th Cir. 1999).

84. The First Amendment’s viewpoint neutrality principle protects more than the right to identify with a particular side. It protects the right to create and present arguments for particular positions in particular ways, as the speaker chooses, including in ways that some people may find offensive. *See, e.g., Matal v. Tam*, 137 S. Ct. 1744 (2017).

85. Defendants created a limited public forum when they opened their legislative hearings to public testimony.

86. The First Amendment prohibits the exclusion of Plaintiffs’ viewpoints from testimony during the public testimony portion of legislative hearings.

87. On their face and as-applied against Plaintiffs, Defendants prohibitions on “misgendering,” “deadnaming,” and the use of “disparaging” or “derogatory language” about individuals, including raising unwelcome facts about legislative namesakes; and Defendants’ requirement that speech be “respectful,” violate Plaintiffs’ First Amendment rights to speak and petition and to dissent from trans ideology. These prohibitions are not designed to confine the forum to the limited and legitimate purposes for which it was created, but rather, to suppress ideologies and opinions respecting matters properly before the committee with which Defendants, and some audience members, disagree.

88. By enforcing their customs, policies, or practices barring “misgendering,” “deadnaming,” and the use of “disparaging” or “derogatory language” about individuals, including raising unwelcome facts about legislative namesakes; and requiring that speech be “respectful,” Defendants, under color of law, deprive Plaintiffs of the rights to free speech and petition in violation of the First and Fourteenth Amendments to the United States Constitution. Plaintiffs are thus damaged in violation of 42 U.S.C. § 1983, and are therefore entitled to damages, declaratory and preliminary and permanent injunctive relief against continued enforcement and maintenance of Defendants’ unconstitutional customs, policies and practices; and attorney fees and expenses pursuant to 42 U.S.C. § 1988.

THIRD CLAIM FOR RELIEF
RIGHT OF FREE SPEECH AND PETITION, U.S. CONST. AMENDS. I, XIV, 42 U.S.C. § 1983
AS-APPLIED CHALLENGE TO VIEWPOINT DISCRIMINATORY CUSTOM, POLICY, OR
PRACTICE: CENSORING, EDITING OR ERASING HEARING AUDIO RECORD

89. Plaintiffs reallege and incorporate by reference paragraphs 1 through 74.

90. Defendants not only interrupted, censored, and terminated Plaintiffs’ live testimony, but actually erased large portions of Ms. Goeke’s testimony from the audio record of the April 27, 2024 Senate Judiciary Committee hearing, in an Orwellian fashion, as if it had never occurred.

91. Defendants’ act of censoring, erasing, or editing Ms. Goeke’s speech out of the audio record of the committee hearing constitutes viewpoint discrimination in violation of the First Amendment.

92. By enforcing their customs, policies, or practices of censoring the misgendering, deadnaming, and the use of “disparaging” or “derogatory language” about individuals, including raising unwelcome facts about legislative namesakes; and requiring that speech be “respectful,” and editing any non-compliant speech out of the audio record, Defendants, under color of law, deprive Plaintiffs of the rights to free speech and petition in violation of the First and Fourteenth Amendments to the United States Constitution. Plaintiffs are thus damaged in violation of 42 U.S.C. § 1983, and are therefore entitled to damages, declaratory and preliminary and permanent injunctive relief against continued enforcement and maintenance of Defendants’ unconstitutional customs, policies and practices; and attorney fees and expenses pursuant to 42 U.S.C. § 1988.

FOURTH CLAIM FOR RELIEF

FREEDOM FROM COMPELLED SPEECH, U.S. CONST. AMENDS. I, XIV, 42 U.S.C. § 1983
FACIAL AND AS-APPLIED CHALLENGE TO COMPELLED ADHERENCE TO TRANS IDEOLOGY

93. Plaintiffs reallege and incorporate by reference paragraphs 1 through 74.

94. Defendants’ custom, policy, or practice of restricting deadnaming or misgendering compels citizens to mouth support for trans ideology as a condition for exercising their right to speak and petition in the form of testimony at a committee hearing.

95. Plaintiffs should not be compelled to embrace contested concepts such as the proposition that a biological man is actually a woman.

96. By enforcing their custom, policy, or practice against deadnaming and misgendering, Defendants, under color of law, continue to compel Plaintiffs, and other similarly situated persons, to mouth support for an ideology with which they disagree, in violation of the right to free speech in violation of the First and Fourteenth Amendments to the United States Constitution. Accordingly, Plaintiff are damaged in violation of 42 U.S.C. § 1983, and, therefore, are entitled to nominal damages, declaratory and preliminary and permanent injunctive relief against continued enforcement and maintenance of Defendants' unconstitutional customs, policies, and practices; and attorney fees and expenses pursuant to 42 U.S.C. § 1988.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs request judgment be entered in their favor and against Defendants as follows:

- A. An order preliminarily and permanently enjoining the Defendants, and their officers, agents, servants, employees, and all persons in active concert or participation with them who receive actual notice of the injunction from:
 - 1) Enforcing any restrictions on speakers at committee hearings against “misgendering,” “deadnaming,” or the use of “disparaging” or “derogatory language” about individuals, including raising unwelcome

facts about legislative namesakes; and that speech be “respectful,” during public testimony at legislative committee hearings;

- 2) Requiring speakers to express support for trans ideology by using preferred pronouns or non-legal names during public testimony at legislative committee hearings;
- 3) Discriminating on the basis of viewpoint or selectively enforcing decorum rules against dissenters from trans ideology during the public testimony portion of legislative committee hearings;
- 4) Failing to enforce generally applicable decorum rules against supporters of trans ideology during the public testimony portion of legislative committee hearings, and
- 5) Censoring Plaintiffs’ right to speak and petition by editing speech from the public record on the basis of viewpoint.

B. Declaratory relief consistent with the injunction;

C. Nominal damages in the amount of \$17.91 against each Defendant;

D. Costs and attorneys’ fees pursuant to 42 U.S.C. § 1988; and

E. Any other relief this Court may grant in its discretion.

Respectfully submitted,

Dated: April 4, 2024.

s/Endel Kolde

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