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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF IDAHO

ADREE EDMO,

Plaintiff,

v.

IDAHO DEPARTMENT OF  
CORRECTION; HENRY ATENCIO, in his  
official capacity; JEFF ZMUDA, in his  
official capacity; HOWARD KEITH  
YORDY, in his official and individual  
capacities; CORIZON, INC.; SCOTT  
ELIASON; MURRAY YOUNG; RICHARD  
CRAIG; RONA SIEGERT; CATHERINE  
WHINNERY; AND DOES 1-15;

Defendants.

CIVIL ACTION FILE

NO. 1:17-cv-151-BLW

**CORIZON DEFENDANTS' RESPONSE  
TO PLAINTIFF'S MOTION FOR  
PRELIMINARY INJUNCTION AND  
MEMORANDUM OF POINTS AND  
AUTHORITIES IN SUPPORT  
THEREOF**

COME NOW Defendants, Corizon Inc., Scott Eliason, Murray Young, and Catherine Whinnery ("Corizon Defendants"), by and through their counsel of record, Parsons Behle &

Latimer, and submit this response to Plaintiff's Motion for Preliminary Injunction and Memorandum of Points and Authorities in Support Thereof (Dkt. 62).

## **I. INTRODUCTION**

With respect to Corizon Defendants, this case primarily involves the treatment and care for Plaintiff who was diagnosed with Gender Dysphoria in 2012. At the end of the day, the evidence will clearly show that Plaintiff has and continues to receive appropriate care and treatment for her Gender Dysphoria (GD) and that there has been no deliberate indifference on the part of Corizon Defendants. Plaintiff's preliminary injunction should be denied because Plaintiff is not likely to succeed on the merits of the case, not likely to suffer irreparable harm in the absence of preliminary relief, the balance of the equities does not tip in Plaintiff's favor, and the injunction is not in the public interest.

Corizon Defendants are treating this brief similar to a trial brief in which to educate the Court on some of the anticipated facts and some of Corizon Defendants' positions and defenses in this case. Corizon Defendants do not waive the right to assert other facts, defenses and arguments, however. As of the time of filing this brief, most of the parties' experts have not been deposed. Further, the Court set an evidentiary hearing for October 10-12, 2018. Accordingly, Plaintiff's Motion for Preliminary Injunction cannot be fully briefed at this time because discovery is ongoing and the evidentiary hearing related to Plaintiff's Motion has not yet occurred. Corizon Defendants anticipate there will be an opportunity for closing arguments at the hearing and will likely request an opportunity for more briefing after the facts and testimony at the hearing have been established.

## **II. PROCEDURAL POSTURE OF THE CASE**

On April 4, 2017, Plaintiff filed her Complaint pro se.

On June 8, 2017, Plaintiff filed her First Amended Complaint.

Plaintiff subsequently retained counsel and then, on September 1, 2017, Plaintiff filed her Second Amended Complaint.

In November 2017, Corizon Defendants filed a motion seeking to limit and bar some of Plaintiff's claims in her Complaint. In early June 6, 2018, the Court issued a decision dismissing some claims, but not all.

On June 1, 2018, before the Court had ruled on Corizon Defendants' motion, Plaintiff's filed a Motion for Preliminary Injunction.

With respect to Corizon and its medical providers, Plaintiff alleges that the World Professional Association for Transgender Health (WPATH) establishes the applicable standard of care for gender dysphoria. Plaintiff argues that treatment for GD can include hormone therapy, surgery to change primary and/or secondary characteristics, and/or psychotherapy addressing the negative impact of gender dysphoria and stigma on mental health. They claim that sex-reassignment surgery (aka SRA or "gender confirmation surgery") is medically necessary for some individuals with GD. Ultimately, Plaintiff claims that Corizon Defendants have refused to provide appropriate treatment and care for her GD, including allegedly refusing to provide a sex-reassignment surgery, not adequately monitoring and adjusting her feminizing hormones, and denying her access to other medically necessary treatments for reducing her GD.

Plaintiff's Motion concludes by requesting that the Court issue a preliminary injunction:

1. Ordering Defendants to provide Edmo immediate access to necessary medical treatment, including:
  - a. Sex-reassignment surgery;
  - b. Reinstatement of spironolactone, or an equivalent type of care;
  - c. Access to gender-appropriate underwear, clothing, and commissary items;

- d. Any other treatment a medical professional qualified to assess and treat gender dysphoria determines to be medical urgent.
2. Prohibiting Defendants from:
    - a. Implementing their policy and/or practice of blanket denial of access to such treatment for transgender persons incarcerated in the Idaho Department of Corrections; and
    - b. Disciplining or retaliating against Plaintiff for expressing her gender identity, including wearing gender-appropriate underwear and clothing and adhering to female grooming standards with regards to makeup and hair styling.

### **III. FACTS**

#### **A. General Overview of Plaintiff's Medical Care and Treatment History at IDOC Prisons.**

The following is a brief summary of the medical and mental health care at issue in this case. This summary is not all inclusive, but is intended to give the Court an overview of the facts from Corizon Defendants. These and other facts will be supported by the medical and mental health care records as well as testimony at the evidentiary hearing.

This case involves Plaintiff Adree Edmo (a.k.a. Mason Dean Edmo, a.k.a. Mason Dean Meeks) who has been incarcerated since about April 2012 and who is currently an inmate at Idaho State Correctional Institution (ISCI). Plaintiff is incarcerated for sexual abuse of a child under 16 as well as for drawing checks without funds. Plaintiff's current "sentence satisfaction date" (date when she would complete her sentence, if no early parole) is listed as July 3, 2021.

At birth, Plaintiff was assigned the gender of male and had male characteristics, including a penis and testicles. Before incarceration, Plaintiff apparently first came out as a homosexual,

but when she was incarcerated then felt that “I was not a gay man, but actually a woman.” (She has a prior history of suicide attempts.) While in prison, on or about July 19, 2012, she was diagnosed with Gender Dysphoria (formally Gender Identity Disorder (“GID”)) by Claudia Lake, a Corizon Psychologist, and also by Scott Eliason, M.D., Corizon’s Regional Psychiatrist Director. Plaintiff had numerous appointments with Dr. Eliason over the years regarding her mental health issues, such as anxiety, depression, and alcohol and substance abuse disorders.

On August 23, 2012, a team of Corizon and IDOC employees/providers met at a Management and Treatment Committee (MTC) meeting and agreed Plaintiff could start hormone therapy, among other things. Dr. Eliason was often a part of these MTC meetings, as were clinicians, psychologists, and IDOC correctional staff.

Hormone therapy was started for Plaintiff. Cathy Whinnery, M.D., who was the ISCI Medical Director at the time and a defendant in this case, ordered hormone therapy and monitored and adjusted it as she deemed appropriate in her clinical judgment. Dr. Whinnery treated Plaintiff at various times from about August 20, 2012 to January 15, 2015, including about eight chronic care visits and numerous orders adjusting Plaintiff’s hormone medications over this time period. The hormone therapy caused Plaintiff to develop breasts and the testicles shrank over time.

Medical providers completed medical memos allowing Plaintiff to get a bra. She has had access to a bra soon after she was diagnosed with GD. Medical providers ordered a jock strap and pads to help Edmo tuck her penis as she wanted. Plaintiff currently has panties at the prison.

On November 6, 2013, an MTC meeting note indicates that Plaintiff had been moved to another facility (Idaho Correctional Institution-Orofino (ICI-O)) on August 12, 2013 as a precautionary measure after receiving a Disciplinary Offense Report for sexual activity and increased acting-out while housed at ISCI. Plaintiff was placed into the Sex Offender Treatment

Program at ICI-O, but signed a refusal to participate in the program. She has not completed this program to date.

On February 11, 2014, Plaintiff submitted a Health Services Request indicating that she wanted to see Dr. Craig, IDOC's psychologist, for gender reassignment surgery.

In February and March 2014, Plaintiff was put on suicide watch because she indicated she would harm herself.

On September 29, 2015, Plaintiff attempted to remove her scrotum with a razor blade. The attempt was unsuccessful, the bleeding was controlled with pressure, the area was irrigated, and steri-strips were applied. No stitches were needed. Plaintiff was given a tetanus shot. There were subsequently no signs of infection. Plaintiff was then placed on suicide watch.

On March 24, 2016, a social worker noted that Plaintiff was struggling to remain DOR-free (a.k.a. avoiding a disciplinary write-up) and had received eight since June 2015. Some of these DORs were for fighting or sexual activity.

On April 20, 2016, Dr. Eliason indicated that Plaintiff was doing alright, but had not been granted parole because she continued receiving DORs. Plaintiff also indicated that she wanted to discuss sexual reassignment surgery. Dr. Eliason assessed Plaintiff for Sexual Reassignment Surgery (SRS) and determined that SRS was not medically necessary at that time. She did not meet criteria for SRS at that time, including:

1. Congenital malformations or ambiguous genitalia would likely require sexual reassignment or reparative surgery;
2. Severe and devastating dysphoria that is primarily due to genitals could potentially meet criteria for gender reassignment surgery;
3. Some type of medical problem in which endogenous sexual hormones were causing severe physiological damage.

Dr. Eliason was also treating Plaintiff's underlying mental health issues, including Major Depressive Disorder (MDD). Dr. Eliason also noted that there may also be other situations which could be determined as medically necessary as more information becomes available. He also indicated that he staffed this issue with Murray Young, M.D., Jeremy Stoddart, M.D., and Jeremy Clark, LCPC (clinical supervisor and WPATH member), who agreed with Dr. Eliason's assessment. Dr. Eliason concluded that "for the time being, it is my opinion that the combination of hormonal treatment and supportive counseling is sufficient for her gender dysphoria."

On June 10, 2016, MTC meeting minutes documented that Plaintiff consistently had verbal confrontations with staff and a history of inappropriate sexual behaviors with other inmates who live in the general population.

On August 10, 2016, the MTC reconvened to provide more information on why Plaintiff should not be moved out of Unit 16 into the general population at ISCI. Additional details were provided, including that Plaintiff recently physically assaulted another inmate with GD who did not fight back.

On December 31, 2016, Plaintiff again attempted self-castration by lacerating her scrotum with a razor blade. She was transported to St. Alphonsus hospital to address the injury. The attempt at self-castration was unsuccessful.

On April 6, 2017, Plaintiff filed her Complaint in this lawsuit.

Plaintiff has continued to receive medical and mental health care and treatment at the prison facility.

Since about December 2016, Plaintiff has also been seen by an offsite Gender Dysphoria specialist, Dr. Alviso, who, among other things, has managed her hormone therapy.

As recent as this year, Plaintiff has not been cooperative with her providers and their recommended treatment, including refusing to meet with her assigned clinician and refusing to attend recommended mental health groups. (*See* Declaration of Dylan A. Eaton, Exhibit A, expert report of Keelin Garvey, M.D., CCHP (“Dr. Garvey Report”), p. 42.)

**B. Plaintiff’s history before prison.**

Plaintiff claims in her declaration and to her experts that she lived full time as a woman prior to being incarcerated. However, Plaintiff has presented no evidence that she was living full time as a female prior to incarceration and she did not disclose such in her Pre-Sentencing Investigation reports that were presented to the Court before she was sentenced on her current crime. Her medical and mental health care records prior to incarceration are also silent regarding any references to her appearing to live like a female. Plaintiff’s inconsistency regarding how she lived pre-incarceration is significant for many reasons. Among other reasons, living as a female for a significant period of time (such as a year) is often one of several important criteria or factors before SRS is indicated.

Plaintiff also has a long history of mental health disorders, including major depression, anxiety, alcohol use disorder, stimulant use disorder, and opioid use disorder. (Dr. Garvey Report, pp. 19-20.)

**IV. PRELIMINARY INJUNCTION STANDARD**

Under the Prison Litigation Reform Act (“PLRA”):

In any civil action with respect to prison conditions, to the extent otherwise authorized by law, the court may enter a temporary restraining order or an order for preliminary injunctive relief. Preliminary injunctive relief must be narrowly drawn, extend no further than necessary to correct the harm the court finds requires preliminary relief, and be the least intrusive means necessary to correct that harm. The court shall give substantial weight to any adverse impact on public safety or the operation of a criminal justice system.

18 U.S.C. § 3626(a)(2).

“A plaintiff seeking a preliminary injunction must establish 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. Natural Resources Defense Council, Inc.*, 555 U.S. 7, 20, 129 S.Ct. 365, 172 L.Ed.2d 249 (2008). “[S]erious questions going to the merits and a balance of hardships that tips sharply towards the plaintiff can support issuance of a preliminary injunction, so long as the plaintiff also shows that there is a likelihood of irreparable injury and that the injunction is in the public interest.” *Alliance for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1135 (9th Cir.2011) (internal quotation marks omitted).

“A preliminary injunction is an extraordinary remedy never awarded as of right.” *Winter*, 555 U.S. at 24, 129 S.Ct. 365. It may take two forms. “A prohibitory injunction prohibits a party from taking action and preserves the status quo pending a determination of the action on the merits.” *Marlyn Nutraceuticals, Inc. v. Mucos Pharma GmbH & Co.*, 571 F.3d 873, 878 (9th Cir.2009) (internal alterations and quotation marks omitted). A mandatory injunction orders a party to take action. *Id.* at 879. Because a mandatory injunction “goes well beyond simply maintaining the status quo pendente lite [it] is particularly disfavored.” *Id.* (internal alterations omitted). “In general, **mandatory injunctions ‘are not granted unless extreme or very serious damage will result and are not issued in doubtful cases** or where the injury complained of is capable of compensation in damages.’ ” *Id.* (quoting *Anderson v. United States*, 612 F.2d 1112, 1115 (9th Cir.1979)) (emphasis added).

## V. ANALYSIS

### A. Plaintiff is Unlikely to Succeed on the Merits

#### i. Corizon Defendants are Not Deliberately Indifferent

##### 1. Deliberate Indifference Standard

“[D]eliberate indifference to serious medical needs of prisoners constitutes the ‘unnecessary and wanton infliction of pain’ proscribed by the Eighth Amendment.” *Estelle v. Gamble*, 429 U.S. 97, 104, 97 S.Ct. 285, 50 L.Ed.2d 251 (1976) (internal citation omitted). Such indifference may be “manifested by prison doctors in their response to the prisoner’s needs or by prison guards in intentionally denying or delaying access to medical care or intentionally interfering with the treatment once prescribed.” *Id.* In the Ninth Circuit, a plaintiff alleging deliberate indifference must first “show a serious medical need by demonstrating that failure to treat a prisoner’s condition could result in further significant injury or the unnecessary and wanton infliction of pain.” *Jett v. Penner*, 439 F.3d 1091, 1096 (9th Cir.2006) (citing *Estelle*, 429 U.S. at 104, 97 S.Ct. 285) (internal quotation marks omitted). Second, she “must show the defendant’s response to the need was deliberately indifferent.” \*1186 *Id.* This second prong “is satisfied by showing (a) a purposeful act or failure to respond to a prisoner’s pain or possible medical need and (b) harm caused by the indifference.” *Id.* An inadvertent or negligent failure to provide adequate medical care does not suffice to state a claim under Section 1983. *Estelle*, 429 U.S. at 105–06, 97 S.Ct. 285. “Medical malpractice does not become a constitutional violation merely because the victim is a prisoner.” *Id.* at 106, 97 S.Ct. 285. Moreover, mere indifference, medical malpractice, or negligence will not support a cause of action under the Eighth Amendment. *Broughton v. Cutter Labs.*, 622 F.2d 458, 460 (9th Cir.1980) (per curiam).

Additionally, there is no vicarious liability in 1983 actions. *See Monell v. Dept. of Social Services*, 436 U.S. 658, 98 S.Ct. 2018, 56 L.Ed.2d 611 (1978); *Bonner v. Lewis*, 857 F.2d 559, 565 (9th Cir.1988) (doctrine of *respondeat superior* is not applicable in prisoner's claim against Director of Arizona Department of Corrections). To assert a § 1983 claim against a private entity, such as Corizon, Plaintiff must meet the test articulated in *Monell v. Department of Social Services*, 436 U.S. 658, 690–94, 98 S.Ct. 2018, 56 L.Ed.2d 611 (1978); *see also Tsao v. Desert Palace, Inc.*, 698 F.3d 1128, 1139 (9th Cir. 2012) (applying *Monell* to private entities). Under *Monell*, the requisite elements of a § 1983 claim against a municipality or private entity performing a state function are the following: (1) the plaintiff was deprived of a constitutional right; (2) the municipality or entity had a policy or custom; (3) the policy or custom amounted to deliberate indifference to the plaintiff's constitutional right; and (4) the policy or custom was the moving force behind the constitutional violation. *Mabe v. San Bernardino Cnty.*, 237 F.3d 1101, 1110–11 (9th Cir.2001).

To create liability, an unwritten policy or custom must be so “persistent and widespread” that it constitutes a “permanent and well settled” practice. *Monell*, 436 U.S. at 691, 98 S.Ct. 2018 (quoting *Adickes v. S.H. Kress & Co.*, 398 U.S. 144, 167–168, 90 S.Ct. 1598, 26 L.Ed.2d 142 (1970)). “Liability for improper custom may not be predicated on isolated or sporadic incidents; it must be founded upon practices of sufficient duration, frequency and consistency that the conduct has become a traditional method of carrying out policy.” *Trevino v. Gates*, 99 F.3d 911, 918 (9th Cir.1996). Further, a municipality or private entity performing a state function “may be held liable under § 1983 when the individual who committed the constitutional tort was an official with final policy-making authority or such an official ratified a subordinate's unconstitutional decision or

action and the basis for it.” *Clouthier v. County of Contra Costa*, 591 F.3d 1232, 1250 (9th Cir.2010).

## 2. Analysis

Plaintiff focuses solely on the World Professional Association for Transgender Health (WPATH) manual in an attempt to establish the standards of care for treating individuals with Gender Dysphoria, including for SRS. While WPATH is one resource that practitioners can consider when treating GD patients, it does not establish the applicable standard of care. Indeed, some providers consult with WPATH guidelines and others have created their own criteria and requirements for surgery, which they think are best suited for their patients. WPATH even recognizes that its guidelines should be flexible. Further, as an example, the evidence, trials and peer reviews are low or non-existent in supporting WPATH guidelines, especially as to incarcerated individuals. (Dr. Garvey’s Report, pp. 27-30; 40-42.) The cases cited by Plaintiff’s counsel that relied on WPATH standards did not address these deficiencies. Accordingly, Corizon Defendants dispute that the WPATH establishes the applicable standard of care in treating GD patients and, more specifically, in treating Plaintiff. WPATH is no substitute for clinical judgment.

Corizon Defendants do not contest that Plaintiff has Gender Dysphoria. Corizon’s psychologist, Dr. Lake, and its psychiatrist, Defendant Dr. Eliason, appropriately evaluated Plaintiff and determined in 2012 that Plaintiff had Gender Identity Disorder (now called Gender Dysphoria). Corizon’s expert also opines that Plaintiff has Gender Dysphoria. (Dr. Garvey Report, pp. 17-18.)

Contrary to Plaintiff’s representations, however, Corizon Defendants provided appropriate care and treatment to Plaintiff for her Gender Dysphoria. Plaintiff was quickly assessed and diagnosed with GD and then timely started receiving hormone therapy. The hormone therapy

provided was appropriate and within the applicable standard of care. Further, Plaintiff has been satisfied with her hormone therapy. (Dr. Garvey Report, pp. 23-26.)

Additionally, her psychiatric treatment was appropriate and within the applicable standard of care. (Dr. Garvey Report, pp. 21-23.)

Plaintiff also apparently seeks Sex Reassignment Surgery, which can include a complete hysterectomy, bilateral mastectomy, chest reconstruction or augmentation ... including breast prostheses if necessary, genital reconstruction (by various techniques which must be appropriate to each patient ...) and certain facial plastic reconstruction. It is not entirely clear what SRS Plaintiff wants, but it appears she may want a vaginoplasty. **Such a surgery is permanent and irreversible.** Therefore, medical providers and the Court, for that matter, should be extremely careful and hesitant to order such a procedure. In this case, SRS is not indicated at this time for Plaintiff.

WPATH guidelines list the following criteria for vaginoplasty:

1. Persistent, well documented gender dysphoria
2. Capacity to make a fully informed decision and to consent to treatment
3. Age of majority in a given country
4. If significant medical or mental health concerns are present, they must be well controlled
5. 12 continuous months of hormone therapy as appropriate to the patient's gender goals
6. 12 continuous months of living in a gender role that is congruent with their gender identity

Even if WPATH guidelines are followed, Corizon Defendants' expert opines that Plaintiff does not meet criteria 1, 4 and 6 above. (Dr. Garvey Report, pp. 26-40.)

Additionally, because clinical experience with SRS in correctional setting is non-existent, there are other factors beyond those in WPATH that can be considered for SRS, such as:

1. Prominent genital anatomic GD
2. A long period of expected incarceration after SRS
3. A satisfactory disciplinary record and demonstrated capacity to cooperate with providers and comply with recommended treatment;
4. A period of psychotherapy, if recommended by the responsible practitioner; and
5. Willingness to be assigned to a women's prison after SRS

Corizon Defendants' expert also opines that Plaintiff meets criteria 5 above and may meet criteria 2, but does not meet the remainder of these criteria. (Dr. Garvey Report, pp. 40-42.)

Corizon does not have policies regarding treatment and care for GD. (It currently has some guidelines regarding hormone therapy.) Corizon providers are to work with the IDOC Standard Operating Procedure regarding Gender Identity Disorder and Gender Dysphoria and to exercise their medical judgment regarding the treatment and care of GD patients.

Corizon and its providers have not been negligent as to treatment and care of Plaintiff and their actions or inactions have not been deliberate indifference. (Dr. Garvey report, pp. 42-44.) Indeed, the medical providers diagnosed Plaintiff with GD and have provided appropriate treatment and care, including hormone therapy, ordering bras and types of underwear that could help her, and treating her mental health conditions, including Major Depressive Disorder.

Even if Plaintiff could show that Corizon Defendants violated the WPATH standards, it is still insufficient to prove deliberate indifference under the Eighth Amendment. Treatment and care for GD has been evolving over the years and there still are not clear and well-established guidelines (even with WPATH), especially regarding Sex Reassignment Surgery, which are supported by adequate medical evidence, trials and peer reviews. This is particularly true

regarding treatment and care for inmates with GD. Therefore, it is not deliberate indifference for Corizon's medical providers to exercise their best medical judgment in treating Plaintiff. Moreover, Corizon and its providers were not negligent in treatment of Plaintiff, but even if they were, such is not enough to establish deliberate indifference. *Broughton*, 622 F.2d at 460.

Additionally, Plaintiff's experts do not establish deliberate indifference. At most, Plaintiff's experts disagree with Corizon's qualified treatment providers (and qualified expert) regarding the care provided. But, mere disagreement among providers is insufficient to establish deliberate indifference. *See Mintun v. Corizon Med. Servs.*, No. 1:16-CV-0037-DCN, 2018 WL 1040088 at \*5.

At a minimum, there is clearly enough doubt about whether Corizon Defendants are deliberately indifferent and if SRS (a permanent and irreversible surgery) is appropriate for Plaintiff at this time and that Plaintiff's preliminary injunction should be denied. *Marlyn Nutraceuticals, Inc.*, 571 F.3d at 878 (holding mandatory injunctions – orders for a party to take action - should not be issued in doubtful cases).

**ii. Corizon Defendants are Not Discriminating Against Plaintiff on the Basis of Sex.**

Since Corizon Defendants provided appropriate care and treatment to Plaintiff within the applicable standard of care, they are not discriminating against Plaintiff. Corizon Defendants reserve for further briefing on this issue.

**B. Plaintiff is Not likely to Suffer Irreparable harm in the absence of a Preliminary Injunction; the Balancing of Equities does Not Tip in Plaintiff's Favor; and Injunction is Not in the Public Interest.**

Corizon Defendants join IDOC Defendants' briefing on this issue and incorporate it herein. (See Dkt. 99, pp. 17-20.) Corizon Defendants reserve further briefing on this issue.

**VI. CONCLUSION**

The facts and law will show that Corizon Defendants have properly treated and cared for Plaintiff and her Gender Dysphoria and that Plaintiff's Motion for Preliminary Injunction should be denied.

DATED this 14<sup>th</sup> day of September, 2018.

PARSONS BEHLE & LATIMER

By: /s/ Dylan A. Eaton

Dylan A. Eaton  
Counsel for Defendants Corizon Inc.,  
Scott Eliason, Murray Young, and  
Catherine Whinnery

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 14<sup>th</sup> day of September, 2018, I filed the foregoing electronically through the CM/ECF system, which caused the following parties or counsel to be served by electronic means, as more fully reflected on the Notice of Electronic Filing:

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