

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WISCONSIN**

CODY FLACK,  
SARA ANN MAKENZIE,  
MARIE KELLY, and  
COURTNEY SHERWIN,

Plaintiffs,

v.

WISCONSIN DEPARTMENT OF  
HEALTH SERVICES and  
LINDA SEEMEYER, in her official capacity  
as Secretary of the Wisconsin Department of  
Health Services,

Defendants.

Case No. 3:18-cv-00309-wmc

Judge William Conley

**DECLARATION OF JOSEPH J. WARDENSKI**

I, Joseph J. Wardenski, declare as follows:

1. I am a Counsel at Relman, Dane & Colfax PLLC (the “Firm”). I submit this declaration in support of Plaintiffs’ Motion for Class Certification. I have personal knowledge of the facts stated herein.

2. The Firm is co-counsel for the Plaintiffs in the above-captioned matter with McNally Peterson, S.C. and the National Health Law Program. I am the lead attorney on the case.

3. Relman, Dane & Colfax is a national civil rights law firm based in Washington, D.C. The Firm is highly regarded within the civil rights community for its expertise in civil rights litigation, including experience in class action lawsuits. The Firm’s experience as class counsel is described in the declaration of my colleague, Jennifer I. Klar, the Firm’s supervising partner on the case.

4. I have been a practicing attorney since 2007. Before joining the Firm since 2015, I was a trial attorney at the U.S. Department of Justice, Civil Rights Division, from 2010-2015, and a litigation associate at Davis Polk & Wardwell LLP in New York from 2007-2009.

5. I received my J.D. from Northwestern Pritzker School of Law, a Master in Public Policy degree from Harvard University, and an A.B. from Princeton University.

6. I am a member in good standing of the bars of the District of Columbia and New York. I am admitted to practice in the U.S. Supreme Court, the U.S. Court of Appeals for the Seventh Circuit, and a number of federal district courts. I was admitted *pro hac vice* to practice in this Court for this case.

7. My litigation docket at the Firm has included complex civil rights cases involving housing, lending, education, and insurance discrimination, including several cases involving the rights of lesbian, gay, bisexual, and transgender (LGBT) individuals. My significant litigation matters at the Firm have included: *Whitaker v. Kenosha Unified School Dist. No. 1 Bd. of Educ.*, No. 2:16-cv-943, 2016 WL 5239829 (E.D. Wis. Sept. 22, 2016), *aff'd*, 858 F.3d 1034 (7th Cir. 2017), *cert. dismissed*, 138 S. Ct. 1260 (2018) (transgender student rights case under Title IX and the Equal Protection Clause); *Buckeye Community Hope Foundation v. Village of Tinley Park*, No. No. 1:16-cv-04430 (N.D. Ill. filed Apr. 19, 2016) (Fair Housing Act housing discrimination case); and *National Fair Housing Alliance v. Travelers Indemnity Co.*, 261 F. Supp. 3d 20 (D.D.C. 2017) (Fair Housing Act insurance discrimination case).

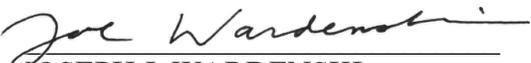
8. I have significant experience with transgender rights issues. Of note, I served as the lead attorney in *Whitaker*, a case in which the Firm co-counseled with the Transgender Law Center and McNally Peterson, S.C. (also our co-counsel in this case), which established in the Seventh Circuit that discrimination against transgender individuals is sex discrimination

actionable under Title IX and the Equal Protection Clause. In that case, I engaged in extensive discovery and legal briefing, including briefing and arguing a successful preliminary injunction motion in the Eastern District of Wisconsin, briefing and arguing the appeal of that injunction before the Seventh Circuit, engaging in fact and expert witness discovery, and engaging in mediation and intense settlement negotiations leading to resolution of the case in January 2018. In addition to my work on *Whitaker*, during my time at the Justice Department, I was involved in enforcing Title IX of the Education Amendments and Title IV of the Civil Rights Act of 1964 to protect the rights of transgender and gender nonconforming students. That work included being a member of the attorney team of DOJ and Department of Education attorneys who handled the first enforcement action against a school district for discrimination against a transgender student under Title IX and Title IV, *In re Arcadia Unified School District*. I have also spoken frequently on transgender rights issues at national conferences, law schools, and other convenings.

9. Based on my knowledge, experience, and the resources of the Firm, I am prepared to litigate this action effectively on behalf of the Proposed Class.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed this 18th day of October, 2018.

  
JOSEPH J. WARDENSKI