

**U.S. District Court
Southern District of Ohio (Cincinnati)
CIVIL DOCKET FOR CASE #: 1:18-cv-00540-WOB**

Whitaker et al v. Kirby
Assigned to: Judge William O. Bertelsman
Cause: 28:2201 Declaratory Judgment

Date Filed: 08/03/2018
Date Terminated: 10/30/2018
Jury Demand: None
Nature of Suit: 440 Civil Rights: Other
Jurisdiction: Federal Question

Plaintiff

Stephanie Leigh Whitaker

represented by **Anne L Tamashasky**
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Plaintiff

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V.

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Date Filed	#	Docket Text
08/03/2018	<u>1</u>	COMPLAINT against Joseph W. Kirby (Filing fee \$ 400 paid – receipt number: 0648-6544720), filed by Stephanie Leigh Whitaker, Jane Doe, Jennifer Shaul. (Attachments: # <u>1</u> Civil Cover Sheet) (Engel, Joshua) (Entered: 08/03/2018)
08/03/2018	<u>2</u>	MOTION to Expedite <i>AND SPEEDY HEARING OF A DECLARATORY-JUDGMENT ACTION</i> by Plaintiffs Jane Doe, Jennifer Shaul, Stephanie Leigh Whitaker. (Attachments: # <u>1</u> Text of Proposed Order) (Engel, Joshua) (Entered: 08/03/2018)
08/03/2018	<u>3</u>	MOTION <i>FOR LEAVE TO PROCEED ANONYMOUSLY</i> by Plaintiff Jane Doe. (Attachments: # <u>1</u> Text of Proposed Order) (Engel, Joshua) (Entered: 08/03/2018)
08/06/2018		If this case is referred, it will be to Magistrate Judge Karen L. Litkovitz. (jlw) (Entered: 08/06/2018)

08/06/2018	<u>4</u>	CERTIFICATE OF SERVICE by Plaintiffs Jane Doe, Jennifer Shaul, Stephanie Leigh Whitaker re <u>2</u> MOTION to Expedite <i>AND SPEEDY HEARING OF A DECLARATORY–JUDGMENT ACTION</i> , <u>1</u> Complaint, <u>3</u> MOTION FOR LEAVE TO PROCEED ANONYMOUSLY (Engel, Joshua) (Entered: 08/06/2018)
08/07/2018	<u>5</u>	ORDER granting <u>3</u> Motion for Leave to Proceed Anonymously signed by Judge William O. Bertelsman on 08/07/2018. (bjc) (Entered: 08/07/2018)
08/08/2018	<u>6</u>	NOTICE OF WITHDRAWAL OF DOCUMENT by Plaintiffs Jane Doe, Jennifer Shaul, Stephanie Leigh Whitaker re <u>2</u> MOTION to Expedite <i>AND SPEEDY HEARING OF A DECLARATORY–JUDGMENT ACTION</i> (Engel, Joshua) (Entered: 08/08/2018)
08/08/2018	<u>7</u>	MOTION to Expedite <i>AND SPEEDY HEARING OF A DECLARATORY–JUDGMENT ACTION</i> by Plaintiffs Jane Doe, Jennifer Shaul, Stephanie Leigh Whitaker. (Attachments: # <u>1</u> Affidavit Joshua Langdon, # <u>2</u> Text of Proposed Order) (Engel, Joshua) (Entered: 08/08/2018)
08/09/2018	<u>8</u>	NOTICE of Appearance by John Stephen Teetor for Defendant Joseph W. Kirby (Teetor, John) (Entered: 08/09/2018)
08/09/2018	<u>9</u>	NOTICE of Appearance by Aaron Michael Glasgow for Defendant Joseph W. Kirby (Glasgow, Aaron) (Entered: 08/09/2018)
08/10/2018	<u>10</u>	WAIVER OF SERVICE Returned Executed. Waiver sent to Joseph W. Kirby on 8/3/2018, answer due 10/2/2018. (Engel, Joshua) (Entered: 08/10/2018)
08/14/2018	<u>11</u>	ORDER – IT IS ORDERED that a telephonic status conference be, and hereby is, SET FOR THURSDAY, AUGUST 16, 2018 AT 1:00 P.M. Counsel for the parties shall connect to the conference five minutes before the call is scheduled to begin. To connect to the call, dial 877–336–1280. Then, when prompted to enter the participant access code, enter 4610163. Signed by Judge William O. Bertelsman on 08/14/2018. (bjc) (Entered: 08/14/2018)
08/16/2018		Minute Entry for proceedings held before Judge William O. Bertelsman: Motion Hearing held on 8/16/2018 re <u>7</u> MOTION to Expedite <i>AND SPEEDY HEARING OF A DECLARATORY–JUDGMENT ACTION</i> filed by Jane Doe, Jennifer Shaul, Stephanie Leigh Whitaker. Joshua Engel, Joshua Langdon, and Anne Tamashasky represented the plaintiffs. Stephen Teetor, Aaron Glasgow, and Keith Anderson represented the defendant. Order to follow. (Court Reporter: Joan Averdick) (bjc) (Entered: 08/16/2018)
08/16/2018	<u>12</u>	ORDER – (1) Plaintiffs motion to expedite (Doc. 7) be, and is hereby, GRANTED; (2) Defendant shall file his proposed motion to dismiss on or before August 31, 2018; plaintiff shall respond within the time set by the Local Rules or more quickly if possible; and defendant shall file his reply brief within five (5) days thereafter; and (3) The parties may engage in written discovery only prior to the Courts ruling on the motion to dismiss.. Signed by Judge William O. Bertelsman on 08/16/2018. (bjc) (Entered: 08/16/2018)
08/20/2018	<u>13</u>	NOTICE by Plaintiffs Jane Doe, Jennifer Shaul, Stephanie Leigh Whitaker of <i>Withdrawal as Co–Counsel of Joshua Engel and Anne Tamashasky</i> (Engel, Joshua) (Entered: 08/20/2018)
08/28/2018	<u>14</u>	MOTION to File Document Under Seal / <i>Redacted Documents</i> by Defendant Joseph W. Kirby. (Glasgow, Aaron) (Entered: 08/28/2018)
08/31/2018	<u>15</u>	MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM by Defendant Joseph W. Kirby. (Attachments: # <u>1</u> Exhibit Exhibit A, # <u>2</u> Exhibit Exhibit B, # <u>3</u> Exhibit Exhibit C, # <u>4</u> Exhibit Exhibit D, # <u>5</u> Exhibit Exhibit E, # <u>6</u> Exhibit Exhibit F, # <u>7</u> Filing Fee Receipt Exhibit G, # <u>8</u> Exhibit Exhibiit H) (Glasgow, Aaron) (Entered: 08/31/2018)
09/07/2018	<u>16</u>	ORDER – IT IS ORDERED that said motion (Doc. 14) be, and hereby is, GRANTED. Defendant shall file the redacted documents in support of his motion to dismiss (Doc. 15) under seal. Signed by Judge William O. Bertelsman on 09/07/2018. (bjc) (Entered: 09/07/2018)

09/10/2018	<u>17</u>	MOTION for Leave to Appear Pro Hac Vice (Filing fee of \$200 paid, receipt number 100CIN035002) of Shannon Minter by Plaintiffs Jane Doe, Jennifer Shaul, Stephanie Leigh Whitaker. (Langdon, Joshua) (Additional attachment(s) added on 9/11/2018: # <u>1</u> Filing Fee Receipt) (eh). (Entered: 09/10/2018)
09/10/2018	<u>18</u>	MOTION for Leave to Appear Pro Hac Vice (Filing fee of \$400 paid, receipt number 100CIN035002) of Asaf Orr, Chris Stoll by Plaintiffs Jane Doe, Jennifer Shaul, Stephanie Leigh Whitaker. (Attachments: # <u>1</u> Orr – Certificate of Good Standing, # <u>2</u> Stoll – Certificate of Good Standing, # <u>3</u> Minter – Certificate of Good Standing) (Langdon, Joshua) (Additional attachment(s) added on 9/11/2018: # <u>4</u> Filing Fee Receipt) (eh). (Entered: 09/10/2018)
09/10/2018	<u>19</u>	RESPONSE in Opposition re <u>15</u> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM filed by Plaintiffs Jane Doe, Jennifer Shaul, Stephanie Leigh Whitaker. (Langdon, Joshua) (Entered: 09/10/2018)
09/11/2018	<u>20</u>	MOTION to Expedite <i>Speedy Trial</i> by Plaintiffs Jane Doe, Jennifer Shaul, Stephanie Leigh Whitaker. (Attachments: # <u>1</u> Affidavit Linda Hawkins, PhD, MEd, LPC Declaration, # <u>2</u> Exhibit Linda Hawkins, PhD, MEd, LPC C.V.) (Langdon, Joshua) (Entered: 09/11/2018)
09/11/2018	<u>21</u>	Unopposed MOTION for Extension of Time to File Response/Reply as to <u>19</u> Response in Opposition to <u>15</u> Motion New date requested 9/21/2018. by Defendant Joseph W. Kirby. (Glasgow, Aaron) Modified to create link to motion on 9/12/2018 (eh). (Entered: 09/11/2018)
09/12/2018		NOTICE by Clerk re <u>17</u> & <u>18</u> MOTIONS for Leave to Appear Pro Hac Vice – documents filed without certificates of service as required pursuant to S.D. Ohio Civ. R. 5.2. To correct the filings, please file a one page certificate of service, using the Certificate of Service event found under Civil Events–Initial Pleadings and Service–Service of Process and link the event to docs. <u>17</u> & <u>18</u> when prompted. (eh) (Entered: 09/12/2018)
09/12/2018	<u>22</u>	CERTIFICATE OF SERVICE by Plaintiffs Jane Doe, Jennifer Shaul, Stephanie Leigh Whitaker re <u>18</u> MOTION for Leave to Appear Pro Hac Vice (Filing fee of \$400 paid, receipt number 100CIN035002) of Asaf Orr, Chris Stoll, <u>17</u> MOTION for Leave to Appear Pro Hac Vice (Filing fee of \$200 paid, receipt number 100CIN035002) of Shannon Minter (Langdon, Joshua) (Entered: 09/12/2018)
09/12/2018	<u>23</u>	ORDER granting <u>21</u> Motion for Extension of Time to File Response/Reply re <u>15</u> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM Replies due by 9/21/2018.. Signed by Judge William O. Bertelsman on 09/12/2018. (bjc) (Entered: 09/12/2018)
09/14/2018	<u>24</u>	BRIEF by Amicus The Trevor Project. (Cox, Brandon) (Entered: 09/14/2018)
09/17/2018	<u>25</u>	MOTION to Strike <u>24</u> Brief of <i>Non-Party The Trevor Project</i> by Defendant Joseph W. Kirby. (Glasgow, Aaron) (Entered: 09/17/2018)
09/18/2018	<u>26</u>	[FORMER DOC. 26 – PLEASE DISREGARD. FILED IN ERROR.] MOTION for Leave to File <i>Brief as Amicus Curiae</i> by Amicus The Trevor Project. (Cox, Brandon) Modified docket text and document security on 9/18/2018 (eh). (Entered: 09/18/2018)
09/18/2018	<u>27</u>	MOTION for Leave to File <i>Brief as Amicus Curiae</i> by Amicus The Trevor Project. (Attachments: # <u>1</u> Exhibit Memorandum in Support of Motion for Leave to File Brief as Amicus Curiae by The Trevor Project and in Opposition to Defendant's Motion to Strike) (Cox, Brandon) (Entered: 09/18/2018)
09/19/2018	<u>28</u>	ORDER granting <u>17</u> Motion for Leave to Appear Pro Hac Vice of Shannon Minter; granting <u>18</u> Motion for Leave to Appear Pro Hac Vice of Asaf Orr and Chris Stoll. Signed by Judge William O. Bertelsman on 09/18/2018. (bjc) Modified Attorney Names on 9/20/2018 (bjc). (Entered: 09/19/2018)
09/19/2018		Notice of Correction re: <u>27</u> MOTION for Leave to File <i>Brief as Amicus Curiae</i> This document is also a Response in Opposition to <u>25</u> MOTION to Strike. Counsel will file the same document using Civil Events Motions and Related Filings Responses and Replies Response in Opposition to Motion so that both events are captured. (jlw) (Entered: 09/19/2018)

09/19/2018	<u>29</u>	RESPONSE in Opposition re <u>25</u> MOTION to Strike <u>24</u> Brief of Non-Party The Trevor Project filed by Amicus The Trevor Project. (Cox, Brandon) (Entered: 09/19/2018)
09/21/2018	<u>30</u>	REPLY to Response to Motion re <u>15</u> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM <i>Reply in Support of Defendant's Motion to Dismiss</i> filed by Defendant Joseph W. Kirby. (Glasgow, Aaron) (Entered: 09/21/2018)
09/24/2018	<u>31</u>	MOTION for Leave to File <i>Surreply</i> by Plaintiffs Jane Doe, Jennifer Shaul, Stephanie Leigh Whitaker. (Attachments: # <u>1</u> Exhibit Exhibit A – Proposed Surreply, # <u>2</u> Exhibit Exhibit B) (Langdon, Joshua) (Entered: 09/24/2018)
10/01/2018	<u>32</u>	RESPONSE in Opposition re <u>27</u> MOTION for Leave to File <i>Brief as Amicus Curiae</i> filed by Defendant Joseph W. Kirby. (Glasgow, Aaron) (Entered: 10/01/2018)
10/01/2018	<u>33</u>	RESPONSE in Opposition re <u>20</u> MOTION to Expedite <i>Speedy Trial</i> filed by Defendant Joseph W. Kirby. (Glasgow, Aaron) (Entered: 10/01/2018)
10/02/2018	<u>34</u>	ORDER – IT IS ORDERED that: (1) The motions for leave to file the amicus brief of The Trevor Project (Docs. 26, 27) be, and are hereby, GRANTED; (2) The motion to strike (Doc. 25) be, and is hereby, DENIED; (3) Plaintiff shall tender to the Court and opposing parties a proposed draft of the exact language of the declaratory judgment it seeks within ten (10) days of the entry of this Order; (4) Formal oral argument on the above matters be, and is hereby, SET FOR WEDNESDAY OCTOBER 24, 2018 AT 1:00 P.M. IN COURTROOM 4, ROOM 842; and (5) The parties shall promptly file in this record copies of their briefs filed in the Ohio Court of Appeals. Signed by Judge William O. Bertelsman on 10/02/2018. (bjc) (Entered: 10/02/2018)
10/05/2018	<u>35</u>	NOTICE by Plaintiffs Jane Doe, Jennifer Shaul, Stephanie Leigh Whitaker <i>In Response to Court Order on October 2, 2018</i> (Attachments: # <u>1</u> Exhibit CA201807069, Ohio Court of Appeals Brief,) (Langdon, Joshua) (Entered: 10/05/2018)
10/08/2018	<u>36</u>	NOTICE by Defendant Joseph W. Kirby re <u>34</u> Order Setting Hearing on Motion,,, Order to Show Cause,,, Terminate Motions,, <i>NOTICE OF DEFENDANT JUDGE KIRBY IN RESPONSE TO COURT ORDER ON OCTOBER 2, 2018</i> (Teetor, John) (Entered: 10/08/2018)
10/08/2018	<u>37</u>	NOTICE of Appearance by Keith Wendell Anderson for Defendant Joseph W. Kirby (Anderson, Keith) (Entered: 10/08/2018)
10/12/2018	<u>38</u>	NOTICE by Plaintiffs Jane Doe, Jennifer Shaul, Stephanie Leigh Whitaker re <u>1</u> Complaint <i>Proposed Declaratory Judgment</i> (Attachments: # <u>1</u> Text of Proposed Order Proposed Declaratory Judgment) (Langdon, Joshua) (Entered: 10/12/2018)
10/12/2018	<u>39</u>	REPLY to Response to Motion re <u>20</u> MOTION to Expedite <i>Speedy Trial</i> filed by Plaintiffs Jane Doe, Jennifer Shaul, Stephanie Leigh Whitaker. (Langdon, Joshua) (Entered: 10/12/2018)
10/12/2018	<u>40</u>	ORDER – IT IS ORDERED that the formal oral argument hearing currently set for Wednesday, October 24, 2018 at 1:00 P.M. in Courtroom 4, Room 842, will begin at 2:00 P.M. Signed by Judge William O. Bertelsman on 10/12/2018. (bjc) (Entered: 10/12/2018)
10/25/2018	<u>41</u>	Minute Order for Proceedings Held before Judge William O. Bertelsman on 10/24/18: Oral Argument regarding various motions. Joshua Langdon and Asaf Orr represented the plaintiffs. Steve Teeter, Aaron Glasgow, and Keith Anderson represented the defendant. IT IS ORDERED that Doc. <u>15</u> <u>20</u> <u>25</u> <u>26</u> <u>27</u> <u>31</u> be, and are hereby, TAKEN UNDER SUBMISSION. Signed by Judge William O. Bertelsman on 10/25/2018. (Court Reporter Joan Averdick, Official (KYED).) (bjc) (Entered: 10/25/2018)
10/26/2018	<u>42</u>	NOTICE by Plaintiffs Jane Doe, Jennifer Shaul, Stephanie Leigh Whitaker <i>re Timeline for Resolution of Whitaker Appeal</i> (Attachments: # <u>1</u> Exhibit Letter) (Langdon, Joshua) (Entered: 10/26/2018)
10/30/2018	<u>43</u>	ORDER – IT IS ORDERED that defendants motion to dismiss (Doc. 15)be, and is hereby, GRANTED; plaintiffs motion to expedite (Doc.20) be, and is hereby, DENIED AS MOOT; and plaintiffs motion forleave to file surreply (31) be, and is hereby, GRANTED NUNC PROTUNC. A separate judgment shall enter concurrently

		herewith. This 30th day of October, 2018. Signed by Judge William O. Bertelsman on 10/30/2018. (bjc) (Entered: 10/30/2018)
10/30/2018	<u>44</u>	JUDGMENT signed by Judge William O. Bertelsman on 10/30/2018. (bjc) (Entered: 10/30/2018)