

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

MAXWELL KADEL, et al.,

*Plaintiffs,*

v.

DALE FOLWELL, et al.,

*Defendants.*

No. 1:19-cv-00272-LCB-LPA

**PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT**

Pursuant to Federal Rule of Civil Procedure 56(a) and Local Rule 56.1, Plaintiffs Maxwell Kadel; Jason Fleck; Connor Thonen-Fleck; Julia McKeown; Michael D. Bunting, Jr.; C.B., by his next friends and parents, Michael D. Bunting, Jr. and Shelley K. Bunting; Sam Silvaine; and Dana Caraway (collectively, "Plaintiffs"), respectfully move the Court for summary judgment on their Equal Protection claims, seeking declaratory and permanent injunctive relief.<sup>1</sup> Plaintiffs also move for partial summary judgment on their statutory claims, seeking declaratory and permanent injunctive relief on all Plaintiffs' claims under Section 1557 of the Affordable Care Act ("ACA") and Plaintiff

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<sup>1</sup> Plaintiff Sam Silvaine's Equal Protection claim is moot because he no longer works for the state.

Dana Caraway’s claims under Title VII of the Civil Rights Act of 1964 (“Title VII”), and reserving issues of damages on all statutory claims for trial.

Plaintiffs’ motion seeks a judgment as to liability on their claims that Defendants’ enforcement of categorical exclusions of gender-confirming care for transgender people in the North Carolina State Health Plan for Teachers and State Employees constitutes unlawful discrimination based on sex and transgender status in violation of the Equal Protection Clause of the Fourteenth Amendment, the ACA, and Title VII. Plaintiffs respectfully request that this Court issue a declaratory judgement finding that Defendants’ enforcement of the categorical exclusions violates Plaintiffs’ rights under the Equal Protection Clause, ACA, and Title VII, and permanently enjoin Defendants, their agents, employees, successors, and all others acting in concert with them, from enforcing the categorical exclusions of coverage for gender-confirming health care.

Dated: December 20, 2021

Respectfully submitted,

/s/ Amy E. Richardson

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\* Appearing by special appearance pursuant to L.R. 83.1(d).

## **CERTIFICATE OF SERVICE**

I certify that the foregoing document was filed electronically with the Clerk of Court using the CM/ECF system which will send notification of such filing to all registered users.

Dated: December 20, 2021

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