

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

SANDER SABA,

Plaintiff,

-against-

ANDREW M. CUOMO, in his official
capacity as Governor of the State of New
York, et al.,

Defendants.

No. 20-cv-5859 (LJL)

**DECLARATION OF PLAINTIFF SANDER SABA IN SUPPORT OF THEIR
OPPOSITION TO DEFENDANTS' MOTION TO DISMISS**

I, Sander Saba, hereby declare as follows:

1. I am the named Plaintiff in the in the above-captioned action. I have actual knowledge of the matters stated in this declaration.
2. The facts set forth herein are based on my personal knowledge and I submit this declaration in support of my Opposition to Defendants' Motion to Dismiss, filed herewith.
3. On May 26, 2020, I sent a letter to Mark Schroeder, Commissioner of the Department of Motor Vehicles ("DMV"), requesting that the DMV advise me on how to obtain a New York driver's license with an "X" gender marker or confirm that the DMV prohibits me from doing so.
4. On June 7, 2020, I spoke with Brandon Flynn, who identified himself as an employee of the Department of Motor Vehicles in the New York Licensing Bureau who was tasked with responding to my letter. Mr. Flynn confirmed that the DMV would not issue me a New York driver's license with an "X" gender marker.
5. No one else from the DMV offered to provide me with a driver's license with an

X gender marker—manually altered or otherwise—before this litigation began.

6. As I understand the offer the DMV made to me after I filed this lawsuit, it would assign to me an inaccurate binary gender designation in order to generate my motorist identification number within its system, but manually replace that gender designation in the driver's license it prints with an "X" gender marker. The DMV would accompany this altered license with a letter of authenticity.

7. This temporary proposal not only continues to cause the harms explained in my complaint, but exacerbates them.

8. I am troubled and confused by how the DMV could make such an incorrect binary gender assignment as it would be an inaccurate reflection of my identity.

9. My understanding is that the MI-number, and the inaccurate binary gender designation connected to it, would then be communicated to countless state, federal and private third party systems automatically.

10. Having the State convey an incorrect gender identification to other people is one of the principal harms I seek to avoid by bringing this lawsuit, and one that would in fact be exacerbated by this proposal, as currently I possess no inaccurate identification documents.

11. Inaccurately conveying my gender identification to other people harms my dignity and well-being in a manner that I should not have to endure.

12. I fear that third parties who access incorrect or outdated inaccurate gender information may save local copies of my DMV profile, meaning there may be no way to undo the disclosure of this false information, even should the State later rescind its Gender Marker Policy and remove any internal references to an inaccurate gender designation in its system.

13. This fear is based on my experience when transitioning, when I continued to find

inaccurate references to my sex-assigned-at-birth in various parts of my school's systems even through graduation.

14. Additionally, my understanding is that I would be the only person in the State of New York with such a license, and I expect to encounter suspicion from agency officials and other people to whom I presented the license.

15. I anticipate that this proposal would single me out for additional questioning, embarrassment, public harassment, and even rejection if I were to present such a license to state, federal or private officials.

16. This is the type of specific and targeted harm based on my gender identity that I brought this lawsuit to avoid experiencing.

17. My New Jersey driver's license expired on November 17, 2020.

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

Executed on November 20, 2020.

New York, New York



Sander Saba