

**UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION**

RHONDA FLEMING,

Plaintiff,

v.

Case No. 4:21-cv-325-MW-MJF

ERICA STRONG,
WARDEN OF FCI-TALLAHASSEE,

Defendant.

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**ORDER DIRECTING THE CLERK TO NOTIFY
BAR MEMBERS OF THE OPPORTUNITY TO
REPRESENT THE PLAINTIFF *PRO BONO***

The clerk of the court shall send a notice to all attorneys registered with the court's electronic filing system. The notice will state:

This is a notice of an opportunity to provide *pro bono* representation in the case of *Fleming v. Strong*, No. 4:21-cv-325-MW-MJF.¹

Plaintiff is a woman who is incarcerated by the Bureau of Prisons ("BOP"). Plaintiff is challenging the BOP's policy (Program Statement

¹ The docket reflects the title of this case when it was filed: *Fleming v. Federal Bureau of Prisons, et al.* Since then, several claims have been dismissed and several Defendants have been terminated. *See* ECF Nos. 17, 91. The only remaining claim is an official-capacity claim for declaratory and injunctive relief against Warden Strong, which is described in more detail in the body of this order. This official-capacity claim is, in essence, a claim against the United States. *See Kentucky v. Graham*, 473 U.S. 159, 165–66 (1985) ("Official-capacity suits . . . 'generally represent only another way of pleading an action against an entity of which an officer is an agent.'") (quoting *Monell v. Dep't of Soc. Servs.*, 436 U.S. 658, 690 n.55 (1978)).

5200.08, titled Transgender Offender Manual) that authorizes BOP wardens to house with women prisoners inmates who identify themselves as “female.”

Plaintiff claims that this policy violates her constitutional right to bodily privacy because it forces her to share housing—where cells, toilets, showers, and other “intimate spaces” are in open view—with inmates who are men. According to Plaintiff, this policy forces her to expose her nude or partially nude body to prisoners of the opposite sex and forces her to be exposed to the nude bodies of these inmates. Plaintiff’s claim is described more fully in documents filed in this case. *See* ECF Nos. 10, 14, 88.

Plaintiff’s claim has survived Defendant’s motion to dismiss. ECF No. 91. Defendant filed an answer on March 8, 2023. ECF No. 94.

Public funds are not available for payment of attorney’s fees. If Plaintiff prevails, however, fees may be recoverable under applicable law. *See* 28 U.S.C. § 2412.

An attorney who desires to represent Plaintiff first must contact Plaintiff and obtain her consent to such representation. Counsel then shall file a notice of appearance.

When Plaintiff initiated this case, the BOP had confined her at the Federal Correctional Institution in Tallahassee, Florida. The BOP now confines Plaintiff at the Federal Correctional Institution in Dublin, California. Counsel may contact Plaintiff through the U.S. mail at the following address:

Rhonda Fleming
Register No. 20446-009
FCI-Dublin
5701 8th Street
Dublin, CA 94568

Members of the District’s bar will be afforded access to the electronic docket without charge for the purpose of considering whether to undertake the representation.

SO ORDERED this 16th day of March, 2023.

/s/ Michael J. Frank

Michael J. Frank

United States Magistrate Judge