

CAUSE NO: _____

THE STATE OF TEXAS

§

IN THE DISTRICT COURT

§

Plaintiff,

§

v.

§

§

U.S. MASTERS SWIMMING, INC.;

§

ARKANSAS LOCAL MASTERS

§

SWIMMING COMMITTEE; NORTH

§

TEXAS LOCAL MASTERS

§

DENTON COUNTY, TEXAS

SWIMMING COMMITTEE; GULF

§

LOCAL MASTERS SWIMMING

§

COMMITTEE; SOUTH TEXAS

§

LOCAL MASTERS SWIMMING

§

COMMITTEE; NEW MEXICO LOCAL

§

MASTERS SWIMMING COMMITTEE

§

§

Defendants.

§

_____ JUDICIAL DISTRICT

THE STATE OF TEXAS' ORIGINAL PETITION

U.S. Masters Swimming is the largest adult competitive swimming program in the country. Founded in 1970, U.S. Masters Swimming started with only forty-seven members, growing into an organization of 70,000 dedicated swimmers, spanning all ages and skill levels.

Unfortunately, it and its regional associations (collectively, "U.S. Masters Swimming" or "Defendants") have failed female athletes. Namely, U.S. Masters Swimming has latently permitted biological men who identify as girls to compete against female athletes. And, unbeknownst to these female athletes—who paid to compete against (or otherwise participate alongside) other women—they have been paying to participate in events and competitions that include biological men.

But this is not about participation alone. U.S. Masters Swimming has also allowed these same delusional biological men to steal records, rankings, and recognition from these women too.

Indeed, in April of this year, a biological man competed in—and won—five women’s titles in U.S. Masters Swimming’s Spring Nationals in San Antonio, Texas.

As a result of the public pressure that came from that event and an investigation by Attorney General Ken Paxton, U.S. Masters Swimming subsequently revised its transgender participation policy to (1) prevent men from receiving *recognition* for their participation in women’s events, and (2) require women to acknowledge the participation of transgender athletes before they can sign-up for memberships and events. The new policy does not, however, prevent biological men from competing in women’s events.

This is all too little, too late. U.S. Masters Swimming cannot save itself from the damage that it has done. U.S. Master’s Swimming swindled countless women and it must be held accountable.

For the reasons addressed herein, the State of Texas (the “State”) files this Original Petition (the “Petition”). In support hereof, the State would show as follows:

I. DISCOVERY CONTROL PLAN

1. Discovery is intended to be conducted under Level 3 of Rule 190.4 of the Texas Rules of Civil Procedure.

II. THE PARTIES

2. Plaintiff, the State of Texas, is a sovereign entity that “has an intrinsic right to enact, interpret, and enforce its own laws.” *State v. Naylor*, 466 S.W.3d 783, 790 (Tex. 2015). The State brings this action by and through Texas Attorney General Ken Paxton.

3. Defendant, U.S. Masters Swimming Inc., is a foreign non-profit corporation organized under the laws of the State of Florida and may be served through its registered agent,

Blalock Walters, P.A. at 802 11th St. W, Bradenton, FL 34205, or anywhere its registered agent may be found. A citation is requested at this time.

4. Defendant, North Texas Local Masters Swimming Committee, is an unincorporated non-profit association, as defined by Chapter 252 of the Texas Business Organizations Code and may be served through its Chair, Jacky Merianos, who is an officer, a managing or general agent, or a person authorized to participate in the management of its affairs, at 6760 Hillbriar Dr., Dallas, TX 75248, or anywhere she may be found. A citation is requested at this time.

5. Defendant, Gulf Local Masters Swimming Committee, is an unincorporated non-profit association, as defined by Chapter 252 of the Texas Business Organizations Code and may be served through its Chair, Nicole Christensen, who is an officer, a managing or general agent, or a person authorized to participate in the management of its affairs, at 11503 Dakar Dr., Houston, Texas 77065, or anywhere she may be found. A citation is requested at this time.

6. Defendant, South Texas Local Masters Swimming Committee, is an unincorporated non-profit association, as defined by Chapter 252 of the Texas Business Organizations Code and may be served through its Chair, Timothy Murphy, who is an officer, a managing or general agent, or a person authorized to participate in the management of its affairs, at 4112 Stanyan Cove, Round Rock, Texas 78681, or anywhere he may be found. A citation is requested at this time.

7. Defendant, New Mexico Local Masters Swimming Committee, (“NMLMSC”), is a foreign non-profit association that may be served through the Secretary of State, the agent for service on NMLMSC, pursuant to Texas Civil Practice and Remedies Code 17.044(b), or

anywhere it may be found. NMLMSC engages in business in Texas, but does not maintain a regular place of business in Texas. Moreover, NMLMSC does not have a designated agent for service of process. This lawsuit arises from NMLMSC's business in Texas. A citation is requested at this time.

8. Defendant, Arkansas Local Masters Swimming Committee ("ALMSC"), is a foreign non-profit association that may be served through the Secretary of State, the agent for service on ALMSC, pursuant to Texas Civil Practice and Remedies Code 17.044(b), or anywhere it may be found. ALMSC engages in business in Texas, but does not maintain a regular place of business in Texas. Moreover, ALMSC does not have a designated agent for service of process. This lawsuit arises from ALMSC's business in Texas. A citation is requested at this time.

III. MISNOMER/ALTER-EGO

9. In the event that any parties are misnamed or not included herein, it is the State's contention that such was a "misnomer" and/or such parties are/were "alter egos" of parties named herein.

IV. JURISDICTION AND VENUE

10. Venue is proper in Denton County because a substantial part of the events or omissions giving rise to the State's claims occurred in Denton County and because Defendants have done business in Denton County. *See e.g. infra* at ¶¶ 19-20; Tex. Civ. Prac. & Rem. Code § 15.002(a)(1); Tex. Bus. & Com. Code § 17.47 (b).

11. Jurisdiction is proper because Defendants have established minimum contacts in Texas such that maintenance of this suit does not offend traditional notions of fair play and substantial justice, *see Int'l Shoe Co. v. State of Wash., Off. of Unemployment Comp. & Placement*, 326

U.S. 310, 316 (1945), and because Defendants do business in Texas and are therefore subject to Texas’ long-arm statute, *see* Tex. Civ. Prac. & Rem. Code §§ 17.01-93.

12. The Court, alternatively, has specific jurisdiction over Defendants because they purposefully availed themselves of the privileges of conducting activities in Texas and the causes of action in this suit arise out of or relate to Defendants’ contacts in Texas. *State v. Volkswagen Aktiengesellschaft*, 669 S.W.3d 399, 412-13 (Tex. 2023).

V. STATEMENT OF RELIEF

13. Pursuant to Rule 47(c) of the Texas Rules of Civil Procedure, the State seeks monetary relief over \$1,000,000 and non-monetary relief.

VI. FACTUAL ALLEGATIONS

14. ***Organization of U.S. Masters Swimming.*** U.S. Masters Swimming “is a community of nearly 70,000 adult fitness swimmers across the country living a healthy and active lifestyle,” providing consumers with the opportunity to participate in 700 “pool and open water events, clinics, and camps.” *U.S. Masters Swimming Membership*, U.S. MASTERS SWIMMING (2025), <https://tinyurl.com/4u37a9u2>. Across the country, U.S. Masters Swimming consists of “more than 1,500 USMS adult swimming programs.” *Start a USMS Club*, U.S. MASTERS SWIMMING (2025), <https://tinyurl.com/57yeax6z>.

15. Structurally, U.S. Masters Swimming consists of ten “zones,” spanning the entire United States, with 52 “committees,” or regions. Five different regions comprise Texas, including the: Arkansas, North Texas, Gulf, South Texas, and New Mexico Local Masters Swimming Committees. *Local Masters Swimming Committees (LMSCs) and Zones*, U.S. MASTERS SWIMMING

(2025), <https://tinyurl.com/4tb8emrc>. And within those regions are “clubs.” *Club Finder*, U.S. MASTERS SWIMMING (2025), <https://tinyurl.com/mr25r8mz>.

16. Each region is governed by a Local Masters Swimming Committee (LMSC), which sanctions all U.S. Masters Swimming events for its respective region.

17. Over the last five years, in Texas alone, at least 48 different events have been held. *Meet Results Database* (North Texas LMSC Meets), U.S. MASTERS SWIMMING (2025), <https://tinyurl.com/29fcj92y>; *Meet Results Database* (Gulf LMSC Meets), U.S. MASTERS SWIMMING (2025), <https://tinyurl.com/5n8ahbky>; *Meet Results Database* (South Texas LMSC Meets), U.S. MASTERS SWIMMING (2025), <https://tinyurl.com/j74kfrdk>; *Meet Results Database* (New Mexico LMSC Meets), U.S. MASTERS SWIMMING (2025), <https://tinyurl.com/y2z93asr>.

18. Attending those events were thousands of Texans. That is, of the areas within each committee that are located in Texas, there are at least 3,063 members, spread across seventy-three clubs. *See id.*

19. Notably, Denton County hosts two U.S. Masters Swimming “clubs.” *Club Finder*, U.S. MASTERS SWIMMING (2025), <https://tinyurl.com/mr25r8mz>.

20. Moreover, in the last five years, before Defendants’ purported policy change in July 2025, at least eight (8) events were held in Denton County, including the: (1) 2025 TFAM Sprinting Into Spring Invitational, 03/15-16/2025; (2) North Texas Masters 2025 Fast Five Pentathlon, 02/02/2025; (3) 2024 TFAM Sprinting into Spring Invitational, 03/23-24/2025; (4) 2023 TFA Masters Thanksgiving Prep Invitational, 11/18-19/2023; (5) 2023 TFAM Chasing Cuts Invitational, 06/17-18/2023; (6) 2023 South Central Zone Short Course Championships, 03/31/2023; (7) The King Marlin Swim Club Pro-Am Classic 2022, 12/16-19/2022; and (8) the

USMS 2021 South Central Zones SCY Championships – North Texas Region, 05/15-16/2021.

Past US Masters Swimming Swim Events, CLUB ASSISTANT (2025), <https://tinyurl.com/2jseued8>.

21. **Dues.** U.S. Masters Swimming charges swimmers dues to train and compete in the organization. These dues can be paid on either an annual basis or per event. *National Registration Fees and Membership Options*, U.S. MASTERS SWIMMING (2025), <https://tinyurl.com/yuaybfe3>.

22. In addition to national dues, each club also typically charges its own dues. *E.g., Join, GEORGETOWN MASTERS* (2025), <https://tinyurl.com/phd8892u> (charging \$40-65 per month in dues). Ultimately, Defendants receive millions in revenue as a result of dues.

23. **Recognition.** Relevant here, U.S. Masters Swimming offers a variety of methods in which swimmers can earn recognition. Recognition available through U.S. Masters Swimming is comprised of various “competitive recognition programs,” including, for example, “USMS records, Top 10, All-American and All-Star status, placing and scoring of points at all sanctioned events, and all similar LMSC-level competitive recognition programs.” *Interim USMS Eligibility Policy*, U.S. MASTERS SWIMMING (June 9, 2025), <https://tinyurl.com/muj2svnx>.

24. First, U.S. Masters Swimming records include “all records that have been properly documented and verified by the Records and Tabulations Committee,” while on the other hand, the Top 10 consists of “the Top 10 times that have been swum in every individual and relay event for each of the . . . pool courses.” *Pool USMS Records*, U.S. MASTERS SWIMMING (2025), <https://tinyurl.com/m7fs6w4f>; *USMS Top 10*, U.S. MASTERS SWIMMING (2025), <https://tinyurl.com/3a22zw7u>.

25. All-Star recognition is saved for those “who have achieved the most first place finishes in their age group during the year in Top Ten competition,” while “All-American”

swimmers “must post the fastest time in an event/age group in at least one course of the three official courses as listed in the USMS Top 10 Tabulation or in one of the recognized Long Distance Championships.” *See id.*; *USMS All-American Listings*, U.S. MASTERS SWIMMING (2025), <https://tinyurl.com/mpjjpvsk>.

26. Award points are assigned to swimmers based on placement in each event. *2025 U.S. Masters Swimming Rule Book (Article 103.19)*, U.S. MASTERS SWIMMING (2025), <https://tinyurl.com/2s4kzhz6>.

27. U.S. Masters Swimming divides its programs into three categories: men, women, and combined. Until July 2025, U.S. Masters Swimming allowed biological men to compete for recognition in *women’s* swimming. *Interim USMS Eligibility Policy*, U.S. MASTERS SWIMMING (June 9, 2025), <https://tinyurl.com/muj2svnx>. Now, biological men are still permitted to compete in the women’s category, but they cannot receive recognition. Saliently, all clubs are required to adhere to the policies set out by U.S. Masters Swimming. U.S. Masters Swimming exercises control over the recognition programs.

A. Biological Males Steal Five Gold Medals in the Women’s Category at the 2025 USMS Spring National Swimming Championship

28. While not the only instance of participation by biological males in its women’s events, an unmistakable symptom of U.S. Masters Swimming’s decision to permit biological males to compete in women’s sports can be found in the 2025 U.S. Masters Spring Nationals in San Antonio, which had 1,738 participants enter to compete, with 715 registrants for the women’s category, and more than 260 teams, or clubs represented. *Cf. 2025 U.S. Masters Swimming Spring Nat’l Championship*, U.S. MASTERS SWIMMING (April 27, 2025), <https://tinyurl.com/9zvvsuy>.

29. At the Spring Nationals, multiple biological male swimmers competed, including “Ana” Caldas and “Jennifer” Rines. Dan D’Addona, *U.S. Masters Swimming Under Investigation After Alleged Trans Athlete Wins Five Gold at Nationals*, SWIMMING WORLD (May 20, 2025), <https://tinyurl.com/mvj3mw2p>; *Guest Editorial: A Lane for Every Woman*, SWIMMING WORLD (May 23, 2025), <https://tinyurl.com/ycycrd96>. Worse yet, consumers did not know that biological men were competing in the women’s events.

30. “Ana” Caldas (born Hugo Caldas), won first place in five different races, including, for example, the 50-and-100 Yard Breaststroke, Freestyle, and the 100 Yard Individual Medley. By way of example, Caldas won the 50 Yard Breaststroke by a three second margin, and the 100 Yard Breaststroke by a *four second margin*. Likewise, Caldas won the 100 Yard Freestyle by over three seconds. *Results*, U.S. MASTERS SWIMMING (April 27, 2025), <https://tinyurl.com/3xwcjz4v>.

31. According to scholars at the Journal of Sports Science and Medicine, these races are “often decided in hundredths of a second.” Antonio Garcia-Hermoso, *Relationship Between Final Performance and Block Times with the Traditional and the New Starting Platforms with A Back Plate in International Swimming Championship 50-M and 100-M Freestyle Events*, JOURNAL OF SPORTS SCIENCE AND MEDICINE (December 1, 2013), <https://tinyurl.com/53ptmxha>.

32. “Jennifer” Rines on the other hand, participated in the 500 Yard Freestyle, the 1650 Yard Freestyle, the 100 Yard Breaststroke, the 100 Yard IM, the 400 Yard IM, the 200 Yard Freestyle Relay, and the 200 Yard Medley Relay. Rines also finished ahead of dozens of women in these competitions. U.S. Masters Swimming’s reckless decision implicates considerations of fairness. *Results*, U.S. MASTERS SWIMMING (April 27, 2025), <https://tinyurl.com/3xwcjz4v>.

B. U.S. Masters Swimming and Its History of Men in Women’s Sports

33. Although U.S. Masters Swimming titles its programs to appear as if they are separated by sex, U.S. Masters Swimming has a long history of latently permitting male participation in the women’s category. Hugo Caldas participated in 364 events, ranking first place in *281 events*, further achieving: (1) 144 individual and 36 relay Top Ten Achievements; (2) 7 years of individual All-American Honors, as well as 5 years of relay All-American Honors; and (3) 3 years of All-Star Honors. *See e.g., “Ana” Caldas, U.S. MASTERS SWIMMING (2025), <https://tinyurl.com/bpah7x28>; see also USMS Individual Meet Results for “Ana” Caldas, U.S. MASTERS SWIMMING (2025), <https://tinyurl.com/4ev7jrzm>.*

34. What’s more, as a result of U.S. Masters Swimming’s unlawful actions, Caldas currently holds a whopping *thirteen* U.S. Masters Swimming Records. *See id.*

35. And when Caldas is not swimming, he has served as a Sports Medicine and Science Committee Member, “educat[ing] members and the public on topics of swimming related sports medicine and science.” *USMS Sports Medicine and Science Committee Session, U.S. MASTERS SWIMMING (July 14, 2020), <https://tinyurl.com/24ar2dyc>.*

36. Further, “Jennifer” Rines, a member of the same club as Hugo Caldas, swam in 27 events, finishing first in *five events*, earning two individual Top Ten Achievements, and six relay Top Ten Achievements. “Jennifer” Rines, *U.S. MASTERS SWIMMING (2025), <https://tinyurl.com/3vp6ykf4>; USMS Individual Meet Results for “Jennifer” M. Rines, U.S. MASTERS SWIMMING (2025), <https://tinyurl.com/45j8j5uy>.*

37. Moreover, “Kerri” McCaffrey, another biological male competing in women’s events, has participated in twenty-one swims, earning first place in *twenty events*, further achieving two individual top ten achievements. “Kerri” McCaffrey, *U.S. MASTERS SWIMMING (2025),*

<https://tinyurl.com/2rcv8k34>; *USMS Individual Meet Results for “Kerri” McCaffrey*, U.S. MASTERS SWIMMING (2025), <https://tinyurl.com/pab86nrj>.

38. Ultimately, consumers that were the subject of U.S. Masters Swimming’s deception are not limited to those who have swam alongside transgender athletes. Tex. Bus. & Com. Code Ann. § 17.45(4) (“‘[c]onsumer’ means an individual, partnership, corporation, this state, or a subdivision or agency of this state who seeks or acquires by purchase or lease, any goods or services.”).

C. Lack of Fairness of Men in Women’s Sports

39. Despite only publishing men’s, women’s and combined gender categories in U.S. Masters Swimming policy, U.S. Masters Swimming, allowed biological males to compete in women’s events, and deceived consumers in this manner. *2025 Rule Book*, U.S. MASTERS SWIMMING (2025), <https://tinyurl.com/3xpumkya>.

40. Just as athletes utilizing performance enhancing drugs would have an advantage in competition, biological males possess various physical advantages over females.

41. That is, men tend to be taller, possess increased muscle mass and strength, stronger bones, a different skeletal structure, and have better adapted cardiorespiratory systems. Alison Heather, *Transwoman Elite Athletes: Their Extra Percentage Relative to Female Physiology*, INT J ENVIRON RES PUBLIC HEALTH (Jul 26, 2022), <https://tinyurl.com/37fhcwu6>; Reem Alsalem, *Report of the Special Rapporteur on violence against women and girls, its causes and consequences*, U.N. (Aug. 17, 2024), <https://tinyurl.com/5n9bnzev>; Sandra K. Hunter, *et al.*, *The Biological Basis of Sex Differences in Athletic Performance: Consensus Statement for the American College of Sports*

Medicine, MEDICINE & SCIENCE IN SPORTS & EXERCISE (December 1, 2023), <https://tinyurl.com/278jbvk2>.

42. Scientifically, through early development, males are often more competitive and aggressive, with higher motor and visual special skills, in addition to elevated sensory input from vision and proprioception, which in turn improve coordination and athletic performance. *See id.*

43. As a result of testosterone secreted before birth, postnatally, and then after puberty, various physiological sex differences are present between male and female athletes. At a foundational level, this results in adult males having testosterone levels 10-15x higher than females. *Id.*

44. And even for biological males taking cross-sex hormones, who have reduced testosterone levels, males still retain muscle mass and hemoglobin levels significantly higher than that of women, with greater strength, muscle fiber density, muscle memory, and performance, in addition to longer limbs, greater bone mass, narrower pelvic structure, and greater cardiorespiratory size, which are unaffected. Alison Heather, *Transwoman Elite Athletes: Their Extra Percentage Relative to Female Physiology*, INT J ENVIRON RES PUBLIC HEALTH (Jul 26, 2022), <https://tinyurl.com/37fhcwu6>; Taryn Knox, et al., *Transwomen in elite sport: scientific and ethical consideration*, JOURNAL OF MEDICAL ETHICS (July 1, 2019) (concluding that the testosterone levels to <10 nmol/L for 12 months is an intolerable unfairness to women competitors), <https://tinyurl.com/3a6n5dve>.

45. This lack of fairness has downstream effects on consumers. Without a sense of fairness in a sport, there is no trust. U.S. Masters Swimming undermined the trust of consumers through false, deceptive, and misleading practices.

VII. LEGAL CLAIMS

46. The State incorporates the foregoing allegations with the same force and effect as if such allegations are set forth fully herein.

COUNT I

Engaging in false, misleading, or deceptive acts or practices in the conduct of any trade or commerce.

47. Texas Bus. & Com. Code § 17.46(a) prohibits “false, misleading, or deceptive acts or practices in the conduct of any trade or commerce.”

48. Defendants have, as described above, engaged in false, misleading, or deceptive acts or practices in the conduct of trade or commerce in violation of the DTPA.

COUNT II

Causing confusion or misunderstanding as to the source, sponsorship, approval, or certification of goods or services.

49. Texas Bus. & Com. Code § 17.46(b)(2) provides that “false, misleading, or deceptive acts or practices” includes “causing confusion or misunderstanding as to the source, sponsorship, approval, or certification of goods or services.” *See Webster College v. Speier*, 605 S.W.2d 712 (Tex. Civ. App.—Eastland 1980, *judgment aff’d in part, rev’d in part*, 616 S.W.2d 617 (Tex. 1981)) (school’s solicitations falsely represented that its “Master of Arts Individualized (MAI) program was fully accredited and that it was recognized by the State of Texas; that hours acquired at Webster College would be transferable to other graduate schools.”); *see also Scholtz v. Sigel*, 601 S.W.2d 516 (Tex. Civ. App.—Dallas 1980) (misrepresentation that a horse had attained the highest ranking by the American Quarterhorse Association).

50. Defendants regulated the criteria for participation in their women’s sporting events and programs.

51. Alternatively, consumers reasonably believe, or were reasonably likely to believe, that Defendants regulate the criteria for participation in their women’s sporting events and programs.

52. Consumers reasonably believed, or were likely to reasonably believe, that Defendants approve or certify that the consumers in their women’s events are, in fact, women. *See* CERTIFICATION, Black’s Law Dictionary (12th ed. 2024) (“The act of attesting; esp., the process of giving someone or something an official document stating that a specified standard or qualification has been met.”); *e.g.*, *Lone Star Ford, Inc. v. McGlashan*, 681 S.W.2d 720, 722 (Tex. App.—Houston [1st Dist.] 1984) (used-car seller said it would transfer clear title on payment but did not); *Potere, Inc. v. National Rlty. Serv.*, 667 S.W.2d 252, 257 (Tex. App.—Houston [14th Dist.] 1984) (realtor made misleading statements about who would make purchase decision in guaranteed sale of franchise).

53. Defendants used the language of women’s or female categories to describe their sporting events and programs, but allowed both biological males and females to compete in said events, even without notice to biological female athletes.

54. Defendants controlled the advertising and marketing around their sporting events.

55. Defendants caused confusion and misunderstanding, or were likely to cause confusion and misunderstanding, as to the approval or certification of their goods or services by using the same name, logos, slogans, titles, descriptions, insignia, banners, symbols, seals, or language that they used when their women’s sporting events were restricted to biological females, despite subsequently permitting those same events to include both biological male and female participants. *Fort Worth Mortg. Corp. v. Abercrombie*, 835 S.W.2d 262, 265–266 (Tex. App.—

Houston [14th Dist.] 1992) (switching of policies without notice certainly sufficient to cause confusion or misunderstanding as to the source of the insurance coverage).

COUNT III

Representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities which they do not have or that a person has a sponsorship, approval, status, affiliation, or connection which the person does not.

56. Representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities which they do not have or that a person has a sponsorship, approval, status, affiliation, or connection which the person does not.

57. Texas Bus. & Com. Code § 17.46(b)(5) provides that “false, misleading, or deceptive acts or practices” includes “representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities which they do not have or that a person has a sponsorship, approval, status, affiliation, or connection which the person does not.” *See Dal-Chrome Co. v. Brenntag Sw., Inc.*, 183 S.W.3d 133, 138–39 (Tex. App.—Dallas 2006) (affirming a jury verdict finding that a chemical supplier delivered acid contaminated with foreign substances after promising to meet manufacturer’s specifications for acid quality and that the supplier would perform quality control measures to ensure the acid met same); *see also 2 Fat Guys Inv. v. Klaver*, 928 S.W.2d 268, 271–72 (Tex. App.—San Antonio 1996) (affirming a jury verdict finding against an automobile service and repair shop that represented a vehicle’s oil had been changed properly when it had not).

58. Defendants represented to consumers that participation in their women’s or female sporting events and programs was restricted to biological females when, in fact, biological males were also permitted to participate, and Defendants failed to notify consumers when biological

males were participating. *See, e.g., Jackson v. Dooley*, No. 10-91-002-CV, 1992 WL 12932969 (Tex. App.—Waco June 17, 1992) (affirming in part a DTPA judgment against a seller who sold a female ostrich to a consumer, but accidentally missexed the ostrich and instead sold the consumer a deformed male ostrich).

59. Biological men competing in women’s sporting events fundamentally changes the characteristics, uses, and benefits of those events for consumers who purchased the associated goods and services, in order to compete, supporting female empowerment, and enjoying fair, equitable, and safe competition among biological women. *Pennington v. Singleton*, 606 S.W.2d 682, 687 (Tex. 1980) (affirming the trial court’s ruling that a seller’s representations that a used boat was in “perfect condition” and “just like new” violated the DTPA when, in fact, the gear housing was cracked); *see also Serova v. Sony Music Ent.*, 13 Cal. 5th 859, 877, 515 P.3d 1 (2022) (holding that consumers stated an actionable claim under the California DTPA where they alleged that Sony misled them by falsely representing that Michael Jackson was the musician who recorded the songs on the posthumous album *Michael*).

COUNT IV

Advertising goods or services with intent not to sell them as advertised.

60. Advertising goods or services with intent not to sell them as advertised.

61. Texas Bus. & Com. Code § 17.46(b)(9) provides that “false, misleading, or deceptive acts or practices” includes “advertising goods or services with intent not to sell them as advertised.”

62. Defendants advertised that some of their sporting events were women’s or female events with the intent to actually provide consumers with mixed sporting events where biological

males and females both compete, failing to notify consumers when biological males were participating. *See, e.g., Innovative Office Sys. v. Johnson*, 906 S.W.2d 940, 947 (Tex. App.—Tyler 1995, writ granted w.r.m.) (seller advertised new copy system at trade show with intent not to sell components of system as demonstrated or advertised).

63. Defendants knew and approved of males competing in their women’s sporting events because they had rules governing the testosterone levels that male participants must meet to participate in women’s sporting events.

COUNT V

Failing to disclose information concerning goods or services which was known at the time of the transaction if such failure to disclose such information was intended to induce the consumer into a transaction into which the consumer would not have entered had the information been disclosed.

64. Failing to disclose information concerning goods or services which was known at the time of the transaction if such failure to disclose such information was intended to induce the consumer into a transaction into which the consumer would not have entered had the information been disclosed.

65. Texas Bus. & Com. Code § 17.46(b)(24) provides that “false, misleading, or deceptive acts or practices” includes “failing to disclose information concerning goods or services which was known at the time of the transaction if such failure to disclose such information was intended to induce the consumer into a transaction into which the consumer would not have entered had the information been disclosed.”

66. Defendants failed to disclose that their women’s sporting events were actually mixed sporting events with both biological males and females participating, further failing to notify consumers when biological males were participating.

67. Defendants were aware that many consumers purchasing goods and services associated with women's sporting events did not know that males may be competing.

68. Defendants knew that consumers oppose men competing in women's sports.

69. Defendants knew that if consumers knew that males were competing in their women's competitions, biological females would not participate in said events and programs, purchasing goods and services associated with those events and programs.

70. Defendants failed to disclose that some of their women's sporting events and programs are mixed sex events and programs with the intent to induce consumers seeking to participate women's sports to purchase the associated goods and services.

71. Many consumers would not purchase goods and services associated with Defendants' women's sporting events and programs if they knew that biological males were participating. *See e.g., American Commercial Colls., Inc. v. Davis*, 821 S.W.2d 450, 452–53 (Tex. App.—Eastland 1991, writ denied) (affirming a jury verdict against a college for violating the DTPA where the catalog advertised qualified teachers, modern equipment, a low teacher to student ratio, and excellent training aids, but provided the consumer with one unqualified teacher, who was also the registrar, a classroom with 42 students all taking different level courses, only two 10-key adding machines, and an unused overhead projector).

VIII. NOTICE OF LIEN

72. Pursuant to Tex. Bus. Orgs. Code § 12.201, this filing operates as a notice of lien on all of Defendants' property in this state.

IX. PRAYER FOR RELIEF

The State incorporates by reference the preceding paragraphs as if fully set forth herein.
As explained above, Defendants engaged in deceptive trade practices in violation of state law.

NOW THEREFORE, the State respectfully prays that the Court enter judgment in its favor and order the following:

- a. Civil penalties in favor of the State in an amount of not more than \$10,000 per DTPA violation;
- b. Permanent injunctive relief pursuant to Tex. Bus. & Com. Code § 17.47(b);
- c. Attorneys' fees and all costs and expenses pursuant to Texas Government Code § 402.006; and
- d. Any and all further relief to which the State may be entitled.

[signature page to follow]

Dated: July 16, 2025.

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