

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

Mayday Health and Nancy Turbak)	
Berry,)	
)	
Plaintiffs,)	No. 4:26-cv-04096-CCT
)	
v.)	
)	
Governor Larry Rhoden and)	
Attorney General Marty Jackley,)	
sued in their official capacities,)	
)	
Defendants.)	
_____)	

**Plaintiffs’ Motion to Strike State’s Supplemental
Response to Motion for Preliminary Injunction (Doc. 29)**

Plaintiffs move to strike the State’s Supplemental Response to Motion for Preliminary Injunction (Doc. 29) because it contravenes D.S.D. Civ. LR 7.1B and this Court’s scheduling order, and because it is irrelevant because its factual predicate is a chatbot (“Chatbot Charley”) that no longer is on Mayday’s website.

Dated: June 22, 2026

Respectfully submitted,

/s/ James D. Leach

James D. Leach
Attorney at Law
1617 Sheridan Lake Rd.

Rapid City, SD 57702
Tel: (605) 341-4400
jim@southdakotajustice.com
Attorney for Plaintiffs

Certificate of Service

I certify that on June 22, 2026, I filed this document by CM/ECF, thereby causing automatic electronic service to be made on all other parties.

/s/ James D. Leach
James D. Leach

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**Declaration of James D. Leach in Support of
Plaintiffs’ Motion to Strike State’s Supplemental
Response to Motion for Preliminary Injunction (Doc. 29)**

1. Attached as Exhibit 1 is a hard copy of two emails I sent to the State. The first was sent at 6:00 p.m. last night advising the State that Mayday Health would remove Chatbot Charley from its website. The second was sent at 6:18 a.m. this morning advising the State that Chatbot Charley was removed from Mayday’s website last night, and that the State could verify this by going to the website.

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

Executed on June 22, 2026.

/s/ James D. Leach
James D. Leach

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/s/ James D. Leach

James D. Leach

Jim Leach

From: Jim Leach
Sent: Monday, June 22, 2026 6:18 AM
To: 'marty.jackley@state.sd.us'; 'Miiller, Amanda'
Cc: 'Dempsey, Jacob'; 'Swedlund, Paul'; 'Whitley, Christina'
Subject: RE: Mayday v. Rhoden - Notice of change to Mayday's website

Greetings:

Chatbot Charley was removed from Mayday's website last night.

You are welcome to verify this by going to the website.

Sincerely,

Jim Leach
Attorney
1617 Sheridan Lake Rd
Rapid City, SD 57702
Tel: 605 341 4400

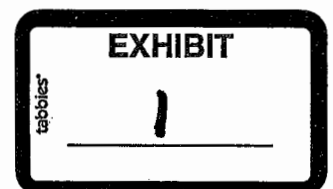
From: Jim Leach
Sent: Sunday, June 21, 2026 6:00 PM
To: marty.jackley@state.sd.us; 'Miiller, Amanda' <Amanda.Miiller@state.sd.us>
Cc: Dempsey, Jacob <Jacob.Dempsey@state.sd.us>; Swedlund, Paul <Paul.Swedlund@state.sd.us>; Whitley, Christina <Christina.Whitley@state.sd.us>
Subject: Mayday v. Rhoden - Notice of change to Mayday's website

Greetings:

Mayday Health has decided to remove Chatbot Charley from its website. We believe this will be accomplished tomorrow (Monday). If not, it will definitely be accomplished this coming week. The rest of the website will remain the same.

Sincerely,

Jim Leach
Attorney
1617 Sheridan Lake Rd
Rapid City, SD 57702
Tel: 605 341 4400



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**Memorandum in Support of
Plaintiffs’ Motion to Strike State’s Supplemental
Response to Motion for Preliminary Injunction (Doc. 29)**

The Local Rules authorize a motion, a response, and a reply. D.S.D. Civ. LR 7.1B. The parties stipulated to dates for the State’s response brief and plaintiffs’ reply brief. Docs. 12 and 13. The State filed its response brief by its deadline of June 16. Then on June 21 at 3:39 p.m., without any prior notice to plaintiffs, the State filed an unauthorized, putative “Supplemental Response” brief, shortly before plaintiffs’ 6:00 p.m. deadline to file both their reply brief and their Response to the State’s

Motion to Dismiss Nancy Turbak Berry. The “Supplemental Response” violates both Local Rule 7.1B and this Court’s order, so should be stricken.

In addition, the factual predicate for the State’s motion is “Chatbot Charley” on Mayday’s website. Doc. 29 at 4-5. As the State filed Doc. 29, Mayday was finalizing its decision to remove Chatbot Charley from its website. Plaintiffs informed the State at 6:00 p.m. that it had decided to remove Chatbot Charley. Later that evening, Chatbot Charley was removed. Declaration of James D. Leach. So the State’s Supplemental Brief is irrelevant and should be stricken on that basis also.

Dated: June 22, 2026

Respectfully submitted,

/s/ James D. Leach

James D. Leach

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jim@southdakotajustice.com

Attorney for Plaintiffs

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/s/ James D. Leach

James D. Leach