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7 *Attorneys for Plaintiffs*
Aiden Stockman, Nicolas Talbott,
8 Tamasyn Reeves, Jaquice Tate,
John Does 1-2, Jane Doe, and
9 Equality California

10 UNITED STATES DISTRICT COURT
11 CENTRAL DISTRICT OF CALIFORNIA

12
13 AIDEN STOCKMAN; NICOLAS
TALBOTT; TAMASYN REEVES;
14 JAQUICE TATE; JOHN DOES 1-2;
JANE DOE; and EQUALITY
15 CALIFORNIA,

16 Plaintiffs,

17 v.

18 DONALD J. TRUMP, in his official
capacity as President of the United
19 States; JAMES N. MATTIS, in his
official capacity as Secretary of
20 Defense; JOSEPH F. DUNFORD, JR.,
in his official capacity as Chairman of
21 the Joint Chiefs of Staff; RICHARD V.
SPENCER, in his official capacity as
22 Secretary of the Navy; RYAN D.
MCCARTHY, in his official capacity as
23 Acting Secretary of the Army;
HEATHER A. WILSON, in her official
24 capacity as Secretary of the Air Force;
and ELAINE C. DUKE, in her official
25 capacity as Acting Secretary of
Homeland Security,

26 Defendants.

CASE NO. 17-CV-6516

**COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF**

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NATURE OF THE ACTION

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1. This action, brought on behalf of transgender individuals, seeks to ensure that all qualified Americans have an equal opportunity to serve in the United States military, that transgender individuals are free from arbitrary and invidious discrimination, and that the constitutional rights of transgender individuals to autonomy, privacy, and freedom of expression are respected and protected.

2. In June 2016, following an exhaustive multi-year review supported by reams of data, interviews, and analysis, the Department of Defense (“DOD”) announced that it would reverse its prior unconstitutional policy barring openly transgender people from serving in the military, and would implement a policy expressly allowing transgender people to serve openly in the United States armed forces (“June 2016 Policy”). Since that announcement, and in reliance thereon, hundreds of American servicemembers followed protocol and informed their chain of command that they are transgender. These transgender servicemembers have continued to serve without incident. In addition, as a consequence of the DOD’s announced policy, after years of unlawful exclusion, openly transgender persons have believed for the first time that it is possible for them to serve their country in the Armed Forces.

3. However, in a burst of Twitter statements on July 26, 2017, Defendant President Donald J. Trump abruptly announced that the United States military would return to discriminating unlawfully against transgender people solely because of their transgender status. By proclaiming that “the United States Government will not accept or allow Transgender individuals to serve in any capacity in the U.S. Military,” President Trump signaled that transgender troops would be barred altogether from serving openly in our Armed Forces.

4. On August 25, 2017, Defendant President Trump formalized the government’s policy, directing his co-Defendants as leaders of the DOD and

1 Department of Homeland Security (“DHS,” and together with the DOD, the
2 “Departments”) to reinstate the ban “on military service by transgender individuals
3 that was in place prior to June 2016” (the “August 25 Directive”). Specifically,
4 President Trump directed the Departments (i) to ban the “accession of transgender
5 individuals into military service,” (ii) to “halt all use of DOD or DHS resources to
6 fund sex reassignment surgical procedures for military personnel” except in limited
7 instances, and (iii) to implement a plan to return to the prohibition on military
8 service for transgender people, including those current servicemembers who, in
9 reliance on the June 2016 Policy, came out to their command. *See Memorandum*
10 *Regarding Military Service by Transgender Individuals*, -- Fed. Reg. -----
11 (entered Aug. 25, 2017) (publication forthcoming). President Trump’s August 25
12 Directive, which carries the force of law, does not reference any evidence, facts or
13 analysis to support the imposition of this categorical ban.

14 5. Plaintiffs here are (i) Aiden Stockman, Nicolas Talbott, and Tamasyn
15 Reeves, transgender individuals who have taken steps to enlist in the military,
16 (ii) Jaquice Tate and several other openly transgender active servicemembers,
17 proceeding as anonymous plaintiffs, who will be impacted by President Trump’s
18 August 25 Directive, and (iii) Equality California, the nation’s largest statewide
19 lesbian, gay, bisexual, transgender, and queer (“LGBTQ”) civil rights organization.

20 6. The August 25 Directive inflicts serious injuries upon Plaintiffs and
21 Plaintiff EQCA’s members. First, the August 25 Directive expressly forecloses
22 transgender people from acceding into military service. Second, the August 25
23 Directive causes immediate and concrete injury to the current servicemember
24 Plaintiffs, each of whom came out as transgender to their chain of command in
25 reliance on the June 2016 Policy lifting the prior ban. Specifically, the current
26 servicemember Plaintiffs will be subject to involuntary separation beginning
27 March 23, 2018, suspending their reasonable expectation of continued service.
28 Third, the August 25 Directive denies the current servicemember Plaintiffs equal

1 access to full medical care. Fourth, the August 25 Directive chills the speech and
2 expression of each of the Plaintiffs and Plaintiff EQCA’s members.

3 7. Fundamentally, without any rational basis, the August 25 Directive
4 denies Plaintiffs and their members the equal protection of the laws, their right to
5 freedom of expression, and their right to liberty and privacy, in violation of the
6 First and Fifth Amendments to the United States Constitution. Accordingly,
7 Plaintiffs seek a declaration that the August 25 Directive is unconstitutional, and an
8 injunction preventing Defendants from implementing and enforcing it.

9 **JURISDICTION AND VENUE**

10 8. This court has jurisdiction over the claims pursuant to 28 U.S.C.
11 Sections 1331 and 1343. This Court has further remedial authority under the
12 Declaratory Judgment Act, 28 U.S.C. Sections 2201 and 2202 *et seq.*

13 9. Venue is proper in the Central District of California under 28 U.S.C.
14 Section 1391(e) because Plaintiffs reside in this judicial district and a substantial
15 part of the events giving rise to this action occurred in this District.

16 **PARTIES**

17 10. Plaintiff Aiden Stockman is a transgender man who wants to serve his
18 country through military service, and has taken steps to do so. Mr. Stockman, 20,
19 was raised and currently resides in California. Mr. Stockman has long been
20 interested in serving his country and intended to join the Air Force. As a young
21 man, Mr. Stockman spoke with friends and neighbors who were stationed at
22 nearby Twenty-Nine Palms Air Force Base to discuss what it is like to serve in the
23 Air Force. Mr. Stockman came out to his family as transgender in the eighth
24 grade. At or about that time, he began seeking medical advice related to gender
25 transition. In June 2014, when he was in the eleventh grade, Mr. Stockman began
26 hormone replacement therapy (“HRT”). Later that year, Mr. Stockman took the
27 Armed Services Vocational Aptitude Battery (“ASVAB”) test consistent with his
28 intention of acceding into the military. He hoped to join the Air Force following

1 his graduation from high school, but wanted to complete a double-mastectomy
2 (i.e., “top surgery”) first. After finding a doctor, Mr. Stockman ultimately made
3 plans to undergo top surgery, planning to enlist thereafter. The June 2016 Policy
4 permitting open service by transgender people gave Mr. Stockman comfort that he
5 would be able to pursue a career of military service. However, upon learning of
6 the August 25 Directive, Mr. Stockman felt crushed, as he will no longer be able to
7 pursue his dream of serving his country in the Air Force.

8 11. Plaintiff Nicolas Talbott, 23, is a transgender man currently residing
9 in Ohio. After graduating from college with a degree in sociology and
10 criminology, he planned to enlist in the military in pursuit of a career in counter-
11 terrorism. Prior to issuance of the June 2016 Policy, Mr. Talbott contacted military
12 recruiters on several occasions to express his interest in serving his country, but
13 each time he was informed that regulations prohibited his service because he is
14 transgender. After the June 2016 Policy was announced, Mr. Talbott found a
15 recruiter for the Air Force National Guard who advised that he would help him
16 enlist. Mr. Talbott met with the recruiter in December 2016 and filled out
17 paperwork confirming his interest in acceding into the military. The recruiter
18 asked Mr. Talbott to obtain a letter from his doctor confirming that being
19 transgender did not have any adverse effects on his life or his ability to perform
20 military-related duties. The recruiter advised that the next step in the process
21 would be to meet with the regional Military Entrance Processing Station (“MEPS”)
22 for a physical exam and to take the ASVAB test, but later advised that MEPS
23 would not begin processing for transgender enlistees until mid-2017. Mr. Talbott
24 scheduled his appointment with his doctor, began studying practice ASVAB
25 exams, and was training regularly for the physical exam, all in anticipation of
26 enlisting in 2017. However, when President Trump tweeted about the re-
27 enactment of the ban on transgender military service and then issued the August 25

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1 Directive, Mr. Talbott was devastated and knew that he would no longer be able to
2 pursue a military career.

3 12. Plaintiff Tamasyn Reeves is a transgender woman currently residing
4 in California. Ms. Reeves, 29, has wanted to join the Navy since she was 17. Her
5 family has a tradition of service in the military: her grandfather served in the Navy
6 during the Korean War, two of her uncles served in the Air Force, and two of her
7 cousins served in the Navy. Ms. Reeves first spoke to a recruiter at age 21. The
8 recruiter told Ms. Reeves that she was not eligible to enlist because of the
9 military’s then-policy banning LGBTQ individuals from military service. At age
10 23, Ms. Reeves began HRT, but continued to be barred from enlistment.
11 Following issuance of the June 2016 Policy, Ms. Reeves decided to enlist as soon
12 as the final procedures for accession of transgender individuals were
13 solidified. The abrupt reversal in the August 25 Directive prevents her accession
14 into the military, despite her longstanding desire to do so.

15 13. Plaintiff Jaquice Tate is a transgender man currently serving in the
16 Army. He enlisted in 2008 because he wanted a career in which he could take
17 pride. He hopes to serve a twenty year term. Mr. Tate has served domestically and
18 internationally, including a deployment to Iraq. Currently, he is a Military Police
19 Officer and he has served on drug suppression teams. Each of his command
20 leaders awarded him a Colonel Coin of Excellence and he has received numerous
21 Army Achievement Medals. The Army has approved his application to become a
22 Drill Sergeant. In reliance on the June 2016 Policy, Mr. Tate informed his chain of
23 command of his true gender. His chain of command has supported him throughout
24 his process of medical transition. However, since issuance of the August 25
25 Directive, Mr. Tate fears that he will lose his job and retirement opportunities after
26 his nearly ten years of dedicated service. Mr. Tate and his wife had planned to
27 begin the process of having children next year, but the financial uncertainty caused

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1 by the August 25 Directive is forcing them to place their future family on hold
2 indefinitely.

3 14. Plaintiffs John Doe 1-2 and Jane Doe are active duty servicemembers
4 who serve openly as transgender persons. They proceed under pseudonyms for
5 fear of retribution.

6 15. Plaintiff John Doe 1 is a transgender man who has served in the
7 United States Air Force since 2012. John Doe 1 comes from a military family; his
8 father served in the military for 30 years. John Doe 1 has plans make a career out
9 of military service as well. John Doe 1 currently is stationed and resides in
10 California. In reliance on the June 2016 Policy permitting open service by
11 transgender servicemembers, John Doe 1 felt that the military had become an
12 “open space” to come out. In April 2017, John Doe 1 came out to his chain of
13 command. John Doe 1 subsequently met with Air Force medical doctors and
14 psychologists to discuss gender transition, and received a diagnosis of gender
15 dysphoria. John Doe 1 is awaiting a meeting with his medical team and
16 commander to discuss his transition plan. John Doe 1 recently was awarded
17 Academic Achievement and Distinguished Graduate distinctions from the Airmen
18 Leadership School, and received a “Must Promote” performance report. Although
19 his colleagues and chain of command have been supportive of John Doe 1 since he
20 came out, John Doe 1 believes that the August 25 Directive will preclude him from
21 obtaining promotions and further advancing his career in the Air Force.

22 16. Plaintiff John Doe 2 is a transgender man currently serving in the
23 Army. John Doe 2 voluntarily enlisted with the Army to serve his country, to
24 achieve financial security, and to honor his family’s tradition of service. His
25 technical expertise pertains to the operations, diagnostics, and maintenance of the
26 multichannel communications systems necessary for the Army to make real-time
27 strategic and tactical decisions. His position requires Secret-level Security
28 Clearance. John Doe 2 earned an early promotion wavier to become an Army

1 Specialist and was awarded two Colonel Coins of Excellence. In reliance on the
2 June 2016 Policy, he came out as transgender to his unit, his chain of command,
3 and his medical providers. John Doe 2 has begun medical transition to his true
4 gender, and has received the support of his chain of command and his unit. John
5 Doe 2's current term of enlistment ends in 2020. He had hoped to become a
6 twenty-year veteran, but under the shadow of the August 25 Directive, John Doe 2
7 fears that his future in the military, and his ability to support his family, is in
8 jeopardy.

9 17. Plaintiff Jane Doe is a transgender woman currently serving in the Air
10 Force. In the seven years since she enlisted, Jane Doe has been deployed twice.
11 She currently is stationed abroad as a Staff Sergeant. Jane Doe joined the military
12 in hopes of serving her country, achieving financial stability and garnering
13 personal skills such as discipline, self-respect and service of others. After the ban
14 on transgender service was lifted by the June 2016 Policy, Jane Doe came out to
15 her chain of command. She found her military colleagues to be supportive. Jane
16 Doe carefully reviewed the guidance and policies issued by the DOD, and after
17 meeting with her doctors, made the decision to pursue transition-related medical
18 care. While she has received early promotions, two achievement medals and one
19 commendation medal, she now fears that the August 25 Directive compromises her
20 ability to achieve promotion, jeopardizes her medical benefits and ultimately
21 forecloses her ability to continue her career in the military.

22 18. Plaintiff Equality California ("EQCA") is an I.R.S. 501(c)(4)
23 organization dedicated to LGBTQ civil rights. Specifically, EQCA is dedicated to
24 combatting discrimination and injustice on the basis of sexual orientation and
25 gender identity, and to protecting the fundamental rights of those within the
26 LGBTQ community and the vulnerable communities of which they are a part. Its
27 more than 500,000 members include transgender individuals in active military
28 service, transgender military veterans, and transgender individuals who have taken

1 steps to serve and ultimately intend to pursue long-term careers in the United
2 States Armed Forces. EQCA’s membership also includes family members and
3 dependents of openly transgender individuals, each of whom share an interest in
4 ensuring that all qualified individuals wishing to serve their country through
5 military service are permitted to do so regardless of their gender identity.

6 19. Defendant Donald J. Trump is President of the United States and
7 Commander in Chief of the Armed Forces of the United States. On July 26, 2017,
8 President Trump announced via Twitter that transgender people would not be
9 permitted to serve “in any capacity in the U.S. military.” On August 25, 2017, he
10 delivered an official executive directive to the Departments concerning “Military
11 Service by Transgender Individuals.” The August 25 Directive, which is to be
12 formally published in the Federal Register, unlawfully bans transgender persons
13 from enlisting or serving openly in the military and prohibits the military from
14 paying for certain forms of healthcare related to gender transition.

15 20. Defendant James N. Mattis is the United States Secretary Defense.
16 Secretary Mattis directs the Department of Defense, which has been charged with
17 execution and implementation of the President’s unlawful August 25 Directive.

18 21. Defendant Joseph F. Dunford, Jr. is a United States Marine Corps
19 General and serves as the current Chairman of the Joint Chiefs of Staff. In
20 conjunction with co-defendants, General Dunford, Jr. has been charged with
21 execution and implementation of the President’s unlawful August 25 Directive.

22 22. Defendant Richard V. Spencer is the United States Secretary of the
23 Navy. Secretary Spencer directs the Department of the Navy and the United States
24 Marine Corps, which have been charged with execution and implementation of the
25 President’s unlawful August 25 Directive.

26 23. Defendant Ryan D. McCarthy is the Acting United States Secretary of
27 the Army. Secretary McCarthy directs the Department of the Army, which has

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1 been charged with execution and implementation of the President’s unlawful
2 August 25 Directive.

3 24. Defendant Heather A. Wilson is the United States Secretary of the Air
4 Force. She directs the Department of the Air Force, which has been charged with
5 execution and implementation of the President’s unlawful August 25 Directive.

6 25. Defendant Elaine C. Duke is the Acting United States Secretary of
7 Homeland Security. She directs the DHS, which is responsible for the
8 administration and operation of the United States Coast Guard, and which has been
9 charged with execution and implementation of the President’s unlawful August 25
10 Directive.

11 **FACTUAL BACKGROUND**

12 **A. Following an Exhaustive Review in 2015-2016, the DOD Concluded that**
13 **Open Service by Transgender People Best Served the Interests of U.S.**
14 **Armed Forces**

15 26. In May 2014, then-Secretary of Defense Chuck Hagel directed the
16 DOD to review whether transgender people should be permitted to serve openly in
17 the U.S. armed forces.

18 27. In August 2014, the DOD amended its physical disability policy to
19 remove references to mandatory exclusion based on “sexual gender and identity
20 disorders,” and issued a new regulation instructing each branch of the armed forces
21 to assess whether there was any justification to maintain a ban on service by
22 openly transgender persons.

23 28. In issuing this regulation, Secretary Hagel stated that “every qualified
24 American who wants to serve our country should have an opportunity to do so if
25 they fit the qualifications and can do it.”

26 29. Secretary Hagel was succeeded as Secretary of Defense by Secretary
27 Ashton B. Carter. In July 2015, Secretary Carter announced that the military
28 would comprehensively analyze whether there was any justification to maintain the
ban on service by openly transgender persons. Accordingly, Secretary Carter

1 created a working group to address this issue including the Armed Services, the
2 Joint Chiefs of Staff, the service secretaries, and personnel, training, readiness, and
3 medical specialists from across the DOD. The lengthy and comprehensive review
4 process that followed included an examination of all available data, including but
5 not limited to existing studies and research and input from transgender service
6 members, commanding officers who supervised transgender service members,
7 military readiness and personnel experts, outside expert groups, and medical
8 professionals. The review process also included a careful analysis of the eighteen
9 other countries that permit military service by openly transgender people. Doctors,
10 employers, and insurance companies were consulted regarding the provision of
11 medical care to transgender people.

12 30. The DOD also commissioned the RAND Corporation—a defense
13 consultancy formed after World War II to connect military planning with research
14 and development decisions, and which now operates as an independent think tank
15 financed by the U.S. government—to determine the impact of permitting
16 transgender servicemembers to serve openly. The study titled *Assessing the*
17 *Implications of Allowing Transgender Personnel to Serve Openly* (the “RAND
18 Study”) ultimately concluded that allowing transgender people to serve openly
19 would cost little and have no significant impact on unit readiness. As for the
20 potential impact on healthcare costs, the RAND Study concluded that health care
21 costs for transgender servicemembers, including costs related to gender transition-
22 related treatment, would “have little impact on and represents an exceedingly small
23 proportion of [DOD’s] overall health care expenditures.”

24 31. Based on the results of this comprehensive review process, on June
25 30, 2016, the DOD announced its conclusion that open transgender service would
26 best serve the military’s interests in recruiting and retaining the most highly
27 qualified personnel. In issuing the June 2016 Policy, Secretary Carter explained
28 that this conclusion was based on a number of considerations, including *inter alia*:

1 (a) the fact that thousands of transgender people already serve, and that the military
2 has already invested hundreds of millions of dollars to train them collectively;
3 (b) that the military benefits by retaining individuals who are already trained and
4 who have already proven themselves; (c) the need to provide both transgender
5 servicemembers and their commanders with clear guidance on questions such as
6 deployment and medical treatment; and (d) the principle that “*Americans who want*
7 *to serve and can meet our standards should be afforded the opportunity to compete*
8 *to do so.*”

9 32. Secretary Carter announced that “[e]ffective immediately, transgender
10 Americans may serve openly. They can no longer be discharged or otherwise
11 separated from the military just for being transgender.” This unequivocal
12 statement was accompanied by the formal issuance of Directive-Type
13 Memorandum 16-005, *Military Service of Transgender Service Members*, which
14 lifted the ban on military service and accession by openly transgender people.
15 Directive-Type Memorandum 16-005 sets forth the DOD’s conclusion, based on
16 thorough review and analysis, that:

17 The defense of the Nation requires a well-trained, all-
18 volunteer force comprised of Active and Reserve
19 Component Service members ready to deploy worldwide
20 on combat and operational missions. The policy of the
21 Department of Defense is that service in the United
22 States military should be open to all who can meet the
23 rigorous standards for military service and readiness.
24 Consistent with the policies and procedures set forth in
25 this memorandum, transgender individuals shall be
26 allowed to serve in the military. These policies and
27 procedures are premised on my conclusion that open
28 service by transgender Service members while being
subject to the same standards and procedures as other
members with regard to their medical fitness for duty,
physical fitness, uniform and grooming, deployability,
and retention, is consistent with military readiness and
with strength through diversity.

26 In accordance with Directive-Type Memorandum 16-005, transgender people were
27 to be permitted to enlist in the U.S. military and openly serve beginning on July 1,
28 2017.

1 33. In furtherance of its conclusions and in an effort to consistently and
2 effectively implement this change in policy, the DOD took the following actions:

- 3 • In September 2016, the DOD issued an implementation handbook
4 entitled *Transgender Service in the United States Military* setting forth
5 guidance and instructions to both military servicemembers and
6 commanders regarding how to understand and implement the new
7 policies enabling open service of transgender servicemembers.
- 8 • On October 1, 2016, the Office of the Undersecretary of Defense for
9 Personnel and Readiness issued DOD Instruction 1300.28 entitled *In-*
10 *Service Transition for Transgender Service Members*. The instruction set
11 forth further guidance to ensure open service by transgender
12 servicemembers, including details regarding revisions to medical
13 treatment provisions.
- 14 • The Acting Assistant Secretary of Defense for Health Affairs issued a
15 memorandum entitled *Guidance for Treatment of Gender Dysphoria for*
16 *Active and Reserve Component Service Members*.
- 17 • On November 29, 2016, the DOD revised Directive 1020.02E, *Diversity*
18 *Management and Equal Opportunity in the DOD*, expressly to prohibit
19 discrimination and harassment on the basis of gender identity.

20 34. In line with the guidance issued by the DOD, the United States Coast
21 Guard adopted similar policies and procedures for service by transgender
22 servicemembers.

23 **B. Defendants Institute an Arbitrary Ban on Transgender Servicemembers**

24 35. In a series of statements released via Twitter on July 26, 2017,
25 Defendant President Donald J. Trump abruptly announced that the United States
26 military would return to banning military service by transgender people.

27 36. He tweeted: “After consultation with my Generals and military
28 experts, please be advised that the United States Government will not accept or

1 allow Transgender individuals to serve in any capacity in the U.S. Military. Our
2 military must be focused on decisive and overwhelming victory and cannot be
3 burdened with the tremendous medical costs and disruption that transgender in the
4 military would entail. Thank you.”

5 37. This July 26, 2017 announcement was rendered without any
6 significant study or analysis and lacks a rational basis.

7 38. Shortly after the Twitter announcement, members of both major
8 political parties criticized this abrupt change in policy, and fifty six former generals
9 and admirals issued a public statement denouncing the new policy.

10 39. Less than one month following his initial Twitter statement,
11 Defendant President Trump issued the August 25 Directive formalizing the
12 administration’s policy. The August 25 Directive orders co-Defendants (i) to ban
13 the “accession of transgender individuals into military service,” (ii) to “halt all use
14 of DOD or DHS resources to fund sex reassignment surgical procedures for
15 military personnel” except in limited instances, and (iii) to implement a plan to
16 return to the prohibition on military service for transgender people, including those
17 current servicemembers who, in reliance on the June 2016 Policy, came out to their
18 command.

19 40. Similar to the July 26, 2017 Twitter announcement, the August 25
20 Directive was rendered without any significant study or analysis and lacks a
21 rational basis.

22 41. The stated bases offered in support of Defendants’ August 25
23 Directive are pretextual, arbitrary, capricious, and unsupported by facts, evidence,
24 or analysis. Indeed, the DOD previously concluded in Directive Type
25 Memorandum 16-005, after more than a year of exhaustive analysis, that “open
26 service by transgender Service members . . . is consistent with military readiness,”
27 as well as the “defense of the Nation” generally. Since issuance of Directive Type
28 Memorandum 16-005, transgender people have been serving openly without

1 incident or any negative impact upon military readiness, lethality, unit cohesion, or
2 the national defense generally.

3 42. The government-commissioned RAND Report concluded that the
4 “costs of gender transition related healthcare treatment are relatively low,” and
5 amount to possible increases of only between “\$2.4 million and \$8.4 million
6 annually, representing a 0.04% to 0.13% increase in active-component healthcare
7 expenditures.”

8 43. In contrast, separating and replacing currently serving transgender
9 service members would be costly and cause disruption, and also would undermine
10 unit cohesion, respect for military authority, and morale. Research from the Naval
11 Postgraduate School published by the Palm Center in August 2017 (the “Palm
12 Center Report”) concludes that the “financial cost of fully implementing President
13 Trump’s ban on transgender servicemembers would be \$960 million,” assuming
14 the military acted to expel the estimated 12,800 transgender servicemembers and
15 needed to replace them. Even assuming the military acted to expel and replace
16 only 1,320 transgender servicemembers, which was the RAND Report’s lowest
17 estimate of the total number of active transgender servicemembers, the Palm
18 Center Report indicates the financial cost of fully implementing President Trump’s
19 ban would still be at least \$99 million.

20 44. The August 25 Directive applies to currently serving open transgender
21 servicemembers, including Plaintiffs, who have not yet undergone gender
22 reassignment surgery, but have openly expressed their gender identity, as well as to
23 currently serving transgender servicemembers who have not yet come out to their
24 chain of command, but wish to do so.

25 45. The August 25 Directive bars currently serving transgender
26 servicemembers, including Plaintiffs, from re-enlisting.

27 46. The August 25 Directive bars currently serving transgender
28 servicemembers, including Plaintiffs, from earning and obtaining promotions in

1 rank, or from attaining the service record required to qualify for military retirement
2 benefits.

3 47. The August 25 Directive bars currently serving transgender
4 servicemembers, including Plaintiffs, from receiving equal access to full medical
5 care.

6 48. The August 25 Directive bars transgender people who wish to pursue
7 careers in the Armed Forces and are able to meet the standards for military service,
8 including Plaintiffs, from acceding into the military.

9 **FIRST CLAIM FOR RELIEF**

10 **Fifth Amendment – Equal Protection**

11 **(against all Defendants)**

12 49. Plaintiffs re-allege and incorporate by reference the preceding
13 allegations in this Complaint as if fully set forth herein.

14 50. The Due Process Clause of the Fifth Amendment prohibits the federal
15 government from denying persons the equal protection of the laws.

16 51. Defendants' August 25 Directive excluding transgender persons from
17 eligible military service discriminates against Plaintiffs and Plaintiff's members
18 based on their sex and transgender status, without lawful justification, in violation
19 of the Equal Protection component of the Due Process Clause of the Fifth
20 Amendment.

21 52. Defendants' exclusion of transgender persons from military service
22 lacks a rational basis, is arbitrary, and cannot be justified by any government
23 interest.

24 53. Defendants' August 25 Directive denying equal health benefits to
25 transgender persons also discriminates against Plaintiffs and Plaintiff's members
26 based on their sex and transgender status, without lawful justification, in violation
27 of the Equal Protection component of the Due Process Clause of the Fifth
28 Amendment.

1 identity, and unlawfully impinges upon Plaintiffs' privacy by penalizing and
2 stigmatizing them for expressing a fundamental aspect of their personal identity.

3 70. Defendants' August 25 Directive to exclude transgender persons from
4 service in and accession into the military is arbitrary and lacks any rational basis.

5 71. As a result of Defendants' implementation and enforcement of the
6 August 25 Directive, Plaintiffs and Plaintiff EQCA's members have suffered
7 injuries and will suffer further irreparable harm to their constitutional rights under
8 the Fifth Amendment if the directive is not declared unconstitutional and enjoined.

9 72. Plaintiffs have no adequate remedy at law.

10 **FOURTH CLAIM FOR RELIEF**

11 **First Amendment – Retaliation for Free Speech & Expression** 12 **(against all Defendants)**

13 73. Plaintiffs re-allege and incorporate by reference the preceding
14 allegations in this Complaint as if fully set forth herein.

15 74. The First Amendment grants Plaintiffs the constitutional right to
16 freedom of speech and expression.

17 75. By banning military service by transgender people, Defendants'
18 August 25 Directive violates Plaintiffs' and Plaintiff's members' rights of free
19 speech and expression under the First Amendment by impermissibly restricting,
20 punishing, and chilling all public and private speech that would tend to identify
21 Plaintiffs and Plaintiff's members as transgender people. The August 25 Directive
22 impermissibly burdens such speech on the basis of the content and viewpoint of
23 such speech.

24 76. As a result of Defendants' implementation and enforcement of the
25 August 25 Directive, Plaintiffs and Plaintiff's members have suffered injuries and
26 will suffer further irreparable harm to their constitutional rights under the First
27 Amendment if the directive is not declared unconstitutional and enjoined.

28 77. Plaintiffs have no adequate remedy at law.

