

The Honorable Marsha J. Pechman

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE**

RYAN KARNOSKI, et al.,

Plaintiffs,

v.

DONALD J. TRUMP, et al.,

Defendants.

No. 2:17-cv-1297-MJP

**DEFENDANTS' ANSWER TO THE
COMPLAINT IN INTERVENTION
BY STATE OF WASHINGTON**

Defendants, through their undersigned counsel, hereby answer the Complaint in Intervention by State of Washington for Declaratory and Injunctive Relief (the "Intervenor Complaint") as follows:

I. INTRODUCTION

- 1. This paragraph consists of Plaintiffs' characterization of this action, to which no answer is required. To the extent an answer may be deemed required, deny.
- 2. This paragraph consists of Plaintiffs' characterization of this action, to which no answer is required. To the extent an answer may be deemed required, deny.

II. JURISDICTION AND VENUE

- 3. This paragraph consists of legal conclusions, to which no response is required. To the extent a response may be deemed required, denied.

1 4. The first sentence of this paragraph consists of legal conclusions, to which no response is
 2 required. To the extent a response may be deemed required, denied. Regarding the second
 3 sentence of this paragraph, admitted that the President of the United States, United States
 4 agencies, and United States officers sued in their official capacities are named defendants.
 5 But denied that those are the only defendants, because the United States of America is an
 6 additional named defendant in this case.

7 **III. Parties**

8 **Intervenor-Plaintiff State of Washington**

9
 10 5. Defendants lack knowledge or information sufficient to form a belief as to the truth of the
 11 allegations in this paragraph, which cover matters of state government and state law.

12 Moreover, to the extent the allegations in this paragraph constitute legal conclusions, they
 13 do not require a response. To the extent a response may be deemed required, denied.

14 6. This paragraph consists of legal conclusions, to which no response is required. To the
 15 extent a response may be deemed required, denied.

16 7. This paragraph consists of legal conclusions, to which no response is required. To the
 17 extent a response may be deemed required, denied.

18 8. This paragraph consists of legal conclusions, to which no response is required. To the
 19 extent a response may be deemed required, denied.

20 9. The first and third sentences of this paragraph consist of legal conclusions, to which no
 21 response is required. To the extent a response to those sentences may be deemed required,
 22 denied. Defendants lack knowledge or information sufficient to form a belief as to the
 23 truth of the allegations in the second sentence of this paragraph.

24 10. The first, second, and third sentences of this paragraph are admitted. Regarding the fourth
 25 sentence of this paragraph, admitted that in order to join the military, Washingtonians must
 26
 27
 28

1 meet the accession standards of the Department of Defense (“DOD”), including its
2 policies regarding military service by transgender individuals. Denied that those policies
3 constitute a “ban” on transgender military service.

4 11. Defendants lack knowledge or information sufficient to form a belief as to the truth of the
5 allegations in first and second sentences of this paragraph, except to admit that the
6 Washington National Guard is a member of Washington’s militia. Regarding the third
7 sentence of this paragraph, admitted that recruitment for the Washington National Guard
8 is subject to DOD policies governing military service by transgender individuals. Denied
9 that those policies constitute a “ban” on transgender military service.
10

11 **Intervenor-Defendants**

12 12. Admitted that Donald Trump is the President of the United States and admitted that on
13 August 25, 2017 he issued the Executive Memorandum entitled “Military Service by
14 Transgender Individuals” (the “Presidential Memorandum”). Denied that the Presidential
15 Memorandum constituted a “ban” on transgender military service.
16

17 13. Admitted that the United States of America includes all government agencies and
18 departments responsible for implementation of the Presidential Memorandum. Denied
19 that the Presidential Memorandum constituted a “ban” on transgender military service.
20

21 14. Defendants admit that James N. Mattis is the United States Secretary of Defense. The
22 duties and responsibilities of the Secretary of Defense are specified in 10 U.S.C. § 113.
23 Denied that the referenced policies constitute a “ban” on transgender military service.
24

25 15. Admitted.

26 16. Defendants clarify that Kirstjen Nielsen is the Secretary of Homeland Security. The duties
27 and responsibilities of the Secretary of Homeland Security are specified in 6 U.S.C. § 112.
28 Denied that the referenced policies constitute a “ban” on transgender military service.

17. Admit.

IV. ALLEGATIONS

18. The allegations in this paragraph are vague and ambiguous because they do not specify a particular policy or period of time to which Plaintiffs refer. Defendants therefore lack sufficient information to admit or deny.

19. The allegations in this paragraph are vague and ambiguous because they refer to a report without identifying the report itself. Defendants therefore lack sufficient information to admit or deny.

20. Admit.

21. This paragraph appears to characterize Department of Defense Directive-Type Memorandum (“DTM”) 16-005, “Military Service of Transgender Service Members” (June 30, 2016). Defendants respectfully refer the Court to DTM 16-005 for a complete and accurate statement of its contents. To the extent Plaintiffs’ characterizations constitute legal conclusions or are inconsistent with DTM 16-005, Defendants deny the allegations.

22. This paragraph appears to characterize DTM 16-005. Defendants respectfully refer the Court to DTM 16-005 for a complete and accurate statement of its contents. To the extent Plaintiffs’ characterizations constitute legal conclusions or are inconsistent with DTM 16-005, Defendants deny the allegations.

23. Admit.

24. This paragraph appears to characterize the Presidential Memorandum. Defendants respectfully refer the Court to the Presidential Memorandum itself for a complete and accurate statement of its contents. To the extent Plaintiffs’ characterizations constitute legal conclusions or are inconsistent with the Presidential Memorandum, Defendants deny the allegations.

1 25. Defendants deny the first and second sentences of this paragraph to the extent they allege
2 that President Trump relied on *only* his own judgment. Regarding the third sentence of this
3 paragraph, admitted that the quoted statement reflects President Trump’s judgment, but
4 denied that the statement reflects his judgment alone. Finally, this paragraph quotes from
5 the Presidential Memorandum. Defendants respectfully refer the Court to the Presidential
6 Memorandum itself for a complete and accurate statement of its contents. To the extent
7 Plaintiffs’ quotes are inconsistent with the Presidential Memorandum or are legal
8 conclusions, Defendants deny the allegations.
9

10 26. This paragraph appears to characterize the Presidential Memorandum. Defendants
11 respectfully refer the Court to the Presidential Memorandum itself for a complete and
12 accurate statement of its contents. To the extent Plaintiffs’ characterizations constitute legal
13 conclusions or are inconsistent with the Presidential Memorandum, Defendants deny the
14 allegations.
15

16 **V. LEGAL CLAIMS**

17 **FIRST CAUSE OF ACTION**
18 **(EQUAL PROTECTION VIOLATION)**

- 19 27. The answers to all preceding paragraphs are incorporated herein by reference.
20 28. This paragraph consists of legal conclusions, to which no response is required. To the
21 extent a response may be deemed required, denied.
22 29. This paragraph consists of legal conclusions, to which no response is required. To the
23 extent a response may be deemed required, denied.
24 30. This paragraph consists of legal conclusions, to which no response is required. To the
25 extent a response may be deemed required, denied.
26 31. This paragraph consists of legal conclusions, to which no response is required. To the
27 extent a response may be deemed required, denied.
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

32. This paragraph consists of legal conclusions, to which no response is required. To the extent a response may be deemed required, denied.

**SECOND CAUSE OF ACTION
(SUBSTANTIVE DUE PROCESS VIOLATION)**

33. The answers to all preceding paragraphs are incorporated herein by reference.

34. This paragraph consists of legal conclusions, to which no response is required. To the extent a response may be deemed required, denied.

35. This paragraph consists of legal conclusions, to which no response is required. To the extent a response may be deemed required, denied.

36. This paragraph consists of legal conclusions, to which no response is required. To the extent a response may be deemed required, denied.

37. This paragraph consists of legal conclusions, to which no response is required. To the extent a response may be deemed required, denied.

38. This paragraph consists of legal conclusions, to which no response is required. To the extent a response may be deemed required, denied.

VI. PRAYER FOR RELIEF

39–45. Defendants deny that Plaintiffs are entitled to the relief requested in their Prayer for Relief or to any relief whatsoever.

Defendants hereby specifically deny each and every allegation in the Intervenor Complaint not expressly admitted or denied in this Answer, or to which they have responded that they have insufficient information to admit or deny.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Dated: February 26, 2018

Respectfully submitted,

CHAD A. READLER
Acting Assistant Attorney General
Civil Division

BRETT A. SHUMATE
Deputy Assistant Attorney General

JOHN R. GRIFFITHS
Branch Director

ANTHONY J. COPPOLINO
Deputy Director

/s/ Ryan B. Parker
RYAN B. PARKER
Senior Trial Counsel
ANDREW E. CARMICHAEL
Trial Attorney
United States Department of Justice
Civil Division, Federal Programs Branch
Telephone: (202) 514-4336
Email: ryan.parker@usdoj.gov

Counsel for Defendants

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE

I hereby certify that on February 26, 2018, I electronically filed the foregoing answer, causing a notice of filing to be served upon all counsel of record.

Dated: February 26, 2018

/s/ Ryan Parker

RYAN B. PARKER
Senior Trial Counsel
United States Department of Justice
Civil Division, Federal Programs Branch
Telephone: (202) 514-4336
Email: ryan.parker@usdoj.gov

Counsel for Defendants