

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  
PLAINTIFFS' FIRST AMENDED  
COMPLAINT**

Defendants, through their undersigned counsel, hereby answer Plaintiffs' First Amended Complaint for Declaratory and Injunctive Relief (the "Amended Complaint") as follows:

**NATURE OF THE ACTION**

1. The first sentence of this paragraph contains Plaintiffs' characterization of this action, to which no answer is required. To the extent an answer may be deemed required, deny. The second sentence of this paragraph contains Plaintiffs' characterization and opinion about the nature of transgender service members' military service, and about the nature of transgender individuals' desire to serve in the military, both of which do not require a response. To the extent a response may be deemed required, Defendants admit that some open transgender persons are serving in the military, and admit that some open transgender persons may desire to join the military. The third sentence of this paragraph contains Plaintiffs' characterization and opinion about the nature of transgender service members' military service, to which no response is required. The final sentence

1 of this paragraph consists of a legal conclusion, to which no response is required. To the  
2 extent a response may be deemed required, denied.

- 3 2. The first three sentences of this paragraph appear to characterize Directive-Type  
4 Memorandum (“DTM”) 16-005, “Military Service of Transgender Service Members” (June  
5 30, 2016). Defendants respectfully refer the Court to DTM 16-005 for a complete and  
6 accurate statement of its content. To the extent Plaintiffs’ characterizations constitute legal  
7 conclusions or are inconsistent with DTM 16-005, Defendants deny the allegations. The  
8 fourth sentence of this paragraph contains Plaintiffs’ characterization and opinion about  
9 the nature of transgender service members’ military service, to which no response is  
10 required. The final sentence of this paragraph is denied.
- 11 3. This paragraph purports to characterize tweets posted by President Trump on July 26,  
12 2017. Defendants respectfully refer the Court to the July 26 tweets for a complete and  
13 accurate statement of their contents. To the extent Plaintiffs’ allegations are inconsistent  
14 with the July 26 tweets, or call for legal conclusions, this paragraph is denied.
- 15 4. Denied.
- 16 5. This paragraph appears to characterize the Executive Memorandum entitled “Military  
17 Service by Transgender Individuals,” which was issued on August 25, 2017 (the  
18 “Presidential Memorandum”). Defendants respectfully refer the Court to the Presidential  
19 Memorandum itself for a complete and accurate statement of its contents. To the extent  
20 Plaintiffs’ characterizations constitute legal conclusions or are inconsistent with the  
21 Presidential Memorandum, Defendants deny the allegations.
- 22 6. This paragraph consists of legal conclusions, to which no response is required. To the  
23 extent a response may be deemed required, denied.

## PARTIES

### A. Plaintiffs

- 24 7. Defendants lack knowledge or information sufficient to form a belief as to the truth of the  
25 allegations in this paragraph.  
26  
27  
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- 1 8. The first and second sentences are admitted, except that Defendants lack knowledge or  
2 information sufficient to form a belief as to the truth of the allegations concerning Staff  
3 Sergeant Schmid's residency. Defendants also lack knowledge or information sufficient to  
4 form a belief as to the truth of the allegations in the final sentence of this paragraph.
- 5 9. Defendants lack knowledge or information sufficient to form a belief as to the truth of the  
6 allegations in this paragraph.
- 7 10. The first and second sentences are admitted, except that Defendants lack knowledge or  
8 information sufficient to form a belief as to the truth of the allegations concerning Chief  
9 Warrant Officer Three Muller's residency. Defendants also lack knowledge or information  
10 sufficient to form a belief as to the truth of the allegations in the final sentence of this  
11 paragraph.
- 12 11. Admit.
- 13 12. The first and second sentences are admitted. Defendants lack knowledge or information  
14 sufficient to form a belief as to the truth of the allegations in the final sentence of this  
15 paragraph.
- 16 13. The first and second sentences are admitted. Defendants lack knowledge or information  
17 sufficient to form a belief as to the truth of the allegations in the final sentence of this  
18 paragraph.
- 19 14. Defendants lack knowledge or information sufficient to form a belief as to the truth of the  
20 allegations in the first, second, and third sentences of this paragraph. Defendants admit  
21 that Plaintiff Doe has sought leave to proceed as a Doe plaintiff.
- 22 15. Defendants lack knowledge or information sufficient to form a belief as to the truth of the  
23 allegations in this paragraph.
- 24 16. Defendants lack knowledge or information sufficient to form a belief as to the truth of the  
25 allegations in this paragraph.
- 26 17. Defendants lack knowledge or information sufficient to form a belief as to the truth of the  
27 allegations in this paragraph.
- 28

1 18. Defendants lack knowledge or information sufficient to form a belief as to the truth of the  
2 allegations in this paragraph.

3 **B. Defendants**

4 19. The first sentence is admitted. The second sentence appears to characterize the  
5 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' characterizations constitute legal conclusions or are inconsistent with the  
8 Presidential Memorandum, Defendants deny the allegations. Defendants also deny that  
9 the Presidential Memorandum constitutes a "ban" on transgender military service.

10 20. Admitted that the United States Government includes federal government departments  
11 and agencies, among them the Departments of Defense and Homeland Security, which are  
12 tasked with implementing the government's policies with regard to the military service of  
13 transgender individuals. Denied that those policies constitutes a "ban" on transgender  
14 military service.

15 21. Defendants admit that James N. Mattis is the United States Secretary of Defense. The  
16 duties and responsibilities of the Secretary of Defense are specified at 10 U.S.C. § 113.  
17 Denied that current policy regarding transgender military service constitutes a "ban" on  
18 such service.

19 22. Regarding the first and second sentences of this paragraph, the components of the  
20 Department of Defense are set out at 10 U.S.C. § 111, and the duties and responsibilities of  
21 the Secretary of Defense are specified at 10 U.S.C. § 113. Denied that current policy  
22 regarding transgender military service constitutes a "ban" on such service.

23 **JURISDICTION AND VENUE**

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

26 24. Denied that current policy related to transgender military service constitutes a "ban" on  
27 such service. This paragraph otherwise consists of legal conclusions, to which no response  
28 is required. To the extent a response may be deemed required, denied.

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

3 26. Denied that current policy related to transgender military service constitutes a “ban” on  
4 such service. This paragraph otherwise consists of legal conclusions, to which no response  
5 is required. To the extent a response may be deemed required, denied.

6 **FACTUAL ALLEGATIONS**

7 **A. Background Information Regarding Transgender Individuals**

8 27. The first sentence of this paragraph is admitted. Defendants lack knowledge or  
9 information sufficient to form a belief as to the truth of the allegations in the second and  
10 third sentences of this paragraph, which cover subjects that require medical expertise.

11 28. The first sentence of this paragraph is admitted. Defendants lack knowledge or  
12 information sufficient to form a belief as to the truth of the allegations in the second  
13 sentence of this paragraph, which covers subjects that require historical and/or medical  
14 expertise.

15 29. The first sentence of this paragraph is admitted. Defendants lack knowledge or  
16 information sufficient to form a belief as to the truth of the allegations in the second  
17 sentence of this paragraph, which covers subjects that require medical and/or clinical  
18 expertise.

19 30. Defendants lack knowledge or information sufficient to form a belief as to the truth of the  
20 allegations in this paragraph, which covers subjects that require medical and/or clinical  
21 expertise.

22 31. The first sentence of this paragraph is admitted. Defendants lack knowledge or  
23 information sufficient to form a belief as to the truth of the allegations in the second  
24 sentence of this paragraph, which covers subjects that require medical and/or clinical  
25 expertise.

26 32. Defendants lack knowledge or information sufficient to form a belief as to the truth of the  
27 allegations in the first sentence of this paragraph, which covers subjects that require  
28 medical and/or clinical expertise. The second sentence of this paragraph is admitted.

1 33. Defendants lack knowledge or information sufficient to form a belief as to the truth of the  
2 allegations in this paragraph, which covers subjects that require medical and/or clinical  
3 expertise.

4 34. Defendants lack knowledge or information sufficient to form a belief as to the truth of the  
5 allegations in this paragraph, which covers subjects that require medical and/or clinical  
6 expertise.

7 35. Admitted.

8 36. Defendants lack knowledge or information sufficient to form a belief as to the truth of the  
9 allegations in this paragraph, which covers subjects that require medical and/or clinical  
10 expertise.

11 37. Defendants lack knowledge or information sufficient to form a belief as to the truth of the  
12 allegations in this paragraph, which covers subjects that require medical and/or clinical  
13 expertise.

14 **B. Plaintiff Ryan Karnoski**

15 38. Defendants lack knowledge or information sufficient to form a belief as to the truth of the  
16 allegations in this paragraph.

17 39. Defendants lack knowledge or information sufficient to form a belief as to the truth of the  
18 allegations in this paragraph.

19 40. Defendants lack knowledge or information sufficient to form a belief as to the truth of the  
20 allegations in this paragraph.

21 41. Defendants lack knowledge or information sufficient to form a belief as to the truth of the  
22 allegations in this paragraph.

23 42. Denied that current policy related to transgender military service constitutes a “ban” on  
24 such service. Defendants otherwise lack knowledge or information sufficient to form a  
25 belief as to the truth of the allegations in this paragraph.

26 43. Defendants admit that the United States Military employs service members, contractors,  
27 and DoD civilians as social workers. Defendants otherwise lack knowledge or information  
28 sufficient to form a belief as to the truth of the allegations in this paragraph.

1 44. Defendants lack knowledge or information sufficient to form a belief as to the truth of the  
2 allegations in this paragraph.

3 45. Defendants lack knowledge or information sufficient to form a belief as to the truth of the  
4 allegations in this paragraph.

5 46. Defendants lack knowledge or information sufficient to form a belief as to the truth of the  
6 allegations in this paragraph.

7 47. Defendants lack knowledge or information sufficient to form a belief as to the truth of the  
8 allegations in this paragraph.

9 48. Defendants lack knowledge or information sufficient to form a belief as to the truth of the  
10 allegations in this paragraph. Moreover, to the extent the allegations in this paragraph  
11 constitute legal conclusions, they do not require a response. To the extent a response may  
12 be deemed required, denied.

13 49. Defendants lack knowledge or information sufficient to form a belief as to the truth of the  
14 allegations in this paragraph. Moreover, to the extent the allegations in this paragraph  
15 constitute legal conclusions, they do not require a response. To the extent a response may  
16 be deemed required, denied.

17 **C. Plaintiff Staff Sergeant Cathrine Schmid**

18 50. Defendants lack knowledge or information sufficient to form a belief as to the truth of the  
19 allegations in this paragraph, except to admit that Staff Sergeant Schmid was born at K.I.  
20 Sawyer Air Force Base in Michigan.

21 51. Admitted, except that Defendants lack knowledge or information sufficient to form a  
22 belief as to the truth of the allegations in this paragraph concerning Staff Sergeant Schmid's  
23 former role as a Counterintelligence Agent.

24 52. Defendants lack knowledge or information sufficient to form a belief as to the truth of the  
25 allegations in this paragraph.

26 53. Defendants lack knowledge or information sufficient to form a belief as to the truth of the  
27 allegations in this paragraph.  
28

1 54. Defendants lack knowledge or information sufficient to form a belief as to the truth of the  
2 allegations in this paragraph.

3 55. Defendants lack knowledge or information sufficient to form a belief as to the truth of the  
4 allegations in this paragraph.

5 56. Defendants lack knowledge or information sufficient to form a belief as to the truth of the  
6 allegations in this paragraph, except to admit that Staff Sergeant Schmid changed her name  
7 to Cathrine and her gender to female on her passport. Moreover, to the extent the  
8 allegations in this paragraph constitute legal conclusions, they do not require a response.  
9 To the extent a response may be deemed required, denied.

10 57. The allegations in the first sentence of this paragraph that Staff Sergeant Schmid has  
11 “worked with” her chain of command and that they have “been supportive” of her are  
12 vague; they therefore do not require a response. To the extent a response may be deemed  
13 required, denied. The second sentence of this paragraph is admitted.

14 58. Admitted, except that Defendants lack knowledge or information sufficient to form a  
15 belief as to the truth of the allegations in this paragraph concerning how Staff Sergeant  
16 Schmid is recognized and treated in social interactions.

17 59. Defendants lack knowledge or information sufficient to form a belief as to the truth of the  
18 allegations in the first sentence of this paragraph. Admitted that Staff Sergeant Schmid  
19 performs valuable services for the Army. The remaining allegations of this paragraph are  
20 denied.

21 60. Defendants lack knowledge or information sufficient to form a belief as to the truth of the  
22 allegations in this paragraph.

23 61. The first and second sentences of this paragraph are admitted. The third sentence of this  
24 paragraph is denied.

25 62. The first sentence of this paragraph appears to characterize Department of Defense  
26 Instruction (“DoDI”) 6130.03, *Medical Standards for Appointment, Enlistment, or Induction in the*  
27 *Military Services*. Defendants respectfully refer the Court to DoDI 6130.03 itself for a  
28 complete and accurate statement of its contents. To the extent Plaintiffs’ characterizations

1 constitute legal conclusions or are inconsistent with DoDI 6130.03, Defendants deny the  
2 allegations. Regarding the second sentence of this paragraph, Defendants admit that Staff  
3 Sergeant Schmid was informed in writing in July 2017 that her application to become a  
4 warrant office was placed on hold in accordance with the memorandum issued by the  
5 Secretary of Defense on September 14, 2017, titled *Military Service by Transgender*  
6 *Individuals—Interim Guidance*, and DoDI 6130.03. The third sentence of this paragraph is a  
7 legal conclusion, to which no response is required. To the extent a response may be  
8 required, denied.

9 63. Admitted that Staff Sergeant Schmid has an approved medical treatment plan for gender  
10 transition. Defendants otherwise lack knowledge or information sufficient to form a belief  
11 as to the truth of the allegations in this paragraph. Moreover, to the extent the allegations  
12 in this paragraph constitute legal conclusions, they do not require a response. To the  
13 extent a response may be deemed required, denied.

14 **D. Plaintiff D.L.**

15 64. Defendants lack knowledge or information sufficient to form a belief as to the truth of the  
16 allegations in this paragraph.

17 65. Defendants lack knowledge or information sufficient to form a belief as to the truth of the  
18 allegations in this paragraph, except to admit that Survival, Evasion, Resistance and Escape  
19 Specialist training involves training on survival-related techniques needed for various  
20 terrains and climates, and during dangerous events (i.e. aircraft crashes).

21 66. The first sentence of this paragraph is admitted. Defendants lack knowledge or  
22 information sufficient to form a belief as to the truth of the allegations in the second and  
23 third sentences of this paragraph.

24 67. Defendants lack knowledge or information sufficient to form a belief as to the truth of the  
25 allegations in this paragraph.

26 68. Defendants lack knowledge or information sufficient to form a belief as to the truth of the  
27 allegations in this paragraph. *See* Declaration of Phillip A. Layman ¶ 4, which was filed  
28

1 with Defendants' Motion to Dismiss and in Opposition to Plaintiffs' Application for a  
2 Preliminary Injunction (ECF No. 71) (hereinafter "Layman Decl.").

3 69. Denied that current policy related to transgender military service constitutes a "ban" on  
4 such service. Defendants otherwise lack knowledge or information sufficient to form a  
5 belief as to the truth of the allegations in this paragraph.

6 70. Defendants lack knowledge or information sufficient to form a belief as to the truth of the  
7 allegations in this paragraph.

8 71. Defendants lack knowledge or information sufficient to form a belief as to the truth of the  
9 allegations in this paragraph.

10 72. Defendants lack knowledge or information sufficient to form a belief as to the truth of the  
11 allegations in this paragraph.

12 73. Defendants lack knowledge or information sufficient to form a belief as to the truth of the  
13 allegations in this paragraph. *See* Layman Decl. ¶ 4. Moreover, to the extent the allegations  
14 in this paragraph constitute legal conclusions, they do not require a response. To the  
15 extent a response may be deemed required, denied.

16 **E. Plaintiff Chief Warrant Officer Muller**

17 74. Admitted, except to deny that Chief Warrant Officer Three Muller enlisted in 2000, and to  
18 instead aver that she enlisted in 1999.

19 75. Admitted that Chief Warrant Officer Three Muller served in Operation Iraqi Freedom, and  
20 multiple assignments in the Republic of Korea. Defendants otherwise lack knowledge or  
21 information sufficient to form a belief as to the truth of the allegations in this paragraph.

22 76. Admitted.

23 77. The first and second sentences of this paragraph are admitted. The third sentence of this  
24 paragraph is vague and ambiguous because it alleges that Chief Warrant Officer Three  
25 Muller's "performance has been consistently recognized throughout her career" without  
26 naming any specific awards or recognitions. It therefore does not require a response. To  
27 the extent a response is required, Defendants lack knowledge or information sufficient to  
28 form a belief as to the truth of the allegations in the last sentence of this paragraph.

1 78. Defendants lack knowledge or information sufficient to form a belief as to the truth of the  
2 allegations in this paragraph.

3 79. Defendants lack knowledge or information sufficient to form a belief as to the truth of the  
4 allegations in this paragraph.

5 80. Defendants lack knowledge or information sufficient to form a belief as to the truth of the  
6 allegations in this paragraph.

7 81. Defendants admit that Chief Warrant Officer Three Muller has taken steps to transition.

8 Defendants otherwise deny the allegations in this paragraph, and aver that as of February  
9 13, 2018, Chief Warrant Officer Three Muller is on convalescent leave after receiving  
10 gender reassignment surgery, which was part of her transition plan.

11 82. Defendants lack knowledge or information sufficient to form a belief as to the truth of the  
12 allegations in this paragraph, except to admit that Chief Warrant Officer Three Muller has  
13 changed her name to Lindsey and her gender marker to female on her passport. Moreover,  
14 to the extent the allegations in this paragraph constitute legal conclusions, they do not  
15 require a response. To the extent a response may be deemed required, denied.

16 83. Defendants lack knowledge or information sufficient to form a belief as to the truth of the  
17 allegations in the first sentence of this paragraph. Admitted that Chief Warrant Officer  
18 Three Muller performs valuable services for the Army. The remaining allegations of this  
19 paragraph are denied.

20 84. Defendants lack knowledge or information sufficient to form a belief as to the truth of the  
21 allegations in this paragraph.

22 85. Admitted that Chief Warrant Officer Three Muller has an approved formal gender  
23 transition plan. Defendants otherwise lack knowledge or information sufficient to form a  
24 belief as to the truth of the allegations in this paragraph. Moreover, to the extent the  
25 allegations in this paragraph constitute legal conclusions, they do not require a response.  
26 To the extent a response may be deemed required, denied.

27 **F. Plaintiff Petty Officer Lewis**

1 86. Defendants lack knowledge or information sufficient to form a belief as to the truth of the  
2 allegations in this paragraph.

3 87. Admit.

4 88. Defendants admit the first and second sentences. Defendants lack knowledge or  
5 information sufficient to form a belief as to the truth of the remaining allegations this  
6 paragraph.

7 89. Defendants lack knowledge or information sufficient to form a belief as to the truth of the  
8 allegations in this paragraph.

9 90. Defendants admit the first sentence of this paragraph. Defendants deny that the  
10 President's tweets or any subsequent policy related to transgender military service  
11 constitute a "ban" on such service. Defendants otherwise lack knowledge or information  
12 sufficient to form a belief as to the truth of the allegations in this paragraph.

13 91. Defendants admit the first sentence of this paragraph and admit that Petty Officer Lewis  
14 has changed her first name to Terece. Defendants otherwise lack knowledge or  
15 information sufficient to form a belief as to the truth of the allegations in this paragraph.

16 92. Defendants admit that Petty Officer Lewis has worked with her chain of command  
17 throughout her transition and admit that her chain of command has acted—and continues  
18 to act—in accordance with DoD policy.

19 93. Defendants lack knowledge or information sufficient to form a belief as to the truth of the  
20 allegations in the first sentence of this paragraph. Admitted that Petty Officer Lewis  
21 performs a valuable service for the Navy. The remaining allegations in this paragraph are  
22 denied.

23 94. Defendants lack knowledge or information sufficient to form a belief as to the truth of the  
24 allegations in this paragraph.

25 95. Defendants lack knowledge or information sufficient to form a belief as to the truth of the  
26 allegations in this paragraph.

27 96. Admitted that Petty Officer Lewis disclosed to her chain of command a diagnosis of  
28 gender dysphoria, and admitted that Petty Officer Lewis requested, and was approved for,

1 a formal gender transition plan. Defendants otherwise lack knowledge or information  
2 sufficient to form a belief as to the truth of the allegations in this paragraph. Moreover, to  
3 the extent the allegations in this paragraph constitute legal conclusions, they do not require  
4 a response. To the extent a response may be deemed required, denied.

5 **G. Plaintiff Petty Officer Stephens**

6 97. Admitted that Plaintiff Petty Officer Stephens currently serves as an Aviation Structural  
7 Mechanic in the United States Navy. Defendants otherwise lack knowledge or  
8 information sufficient to form a belief as to the truth of the allegations in this paragraph.

9 98. Defendants lack knowledge or information sufficient to form a belief as to the truth of the  
10 allegations in this paragraph.

11 99. Defendants admit that Petty Officer Stephens is transgender and admit that he was  
12 assigned the sex of female at birth. Defendants lack knowledge or information sufficient  
13 to form a belief as to the truth of the remaining allegations in this paragraph.

14 100. Defendants lack knowledge or information sufficient to form a belief as to the truth of  
15 the allegations in this paragraph.

16 101. Admitted that on Petty Officer Stephens deployed to the Persian Gulf. Denied that  
17 current policy related to transgender military service constitutes a “ban” on such service.  
18 Defendants otherwise lack knowledge or information sufficient to form a belief as to the  
19 truth of the allegations in this paragraph.

20 102. Denied that current policy related to transgender military service constitutes a “ban” on  
21 such service. Defendants otherwise lack knowledge or information sufficient to form a  
22 belief as to the truth of the allegations in this paragraph. Moreover, the last sentence of  
23 the paragraph is a legal conclusion, to which no response is required. To the extent a  
24 response may be deemed required, denied.

25 103. Defendants lack knowledge or information sufficient to form a belief as to the truth of  
26 the allegations in this paragraph. Moreover, to the extent the allegations in this paragraph  
27 constitute legal conclusions, they do not require a response. To the extent a response may  
28 be deemed required, denied.

1 104. Admitted that Petty Officer Stephens' chain of command has approved his gender  
2 transition plan. Defendants otherwise lack knowledge or information sufficient to form a  
3 belief as to the truth of the allegations in this paragraph.

4 105. Defendants lack knowledge or information sufficient to form a belief as to the truth of  
5 the allegations in the first sentence of this paragraph. Admitted that Petty Officer  
6 Stephens performs a valuable service for the Navy. The remaining allegations in this  
7 paragraph are denied.

8 106. Admitted that Petty Officer Stephens has disclosed his transgender status to his chain of  
9 command and has received approval of his formal gender transition plan. Defendants  
10 otherwise lack knowledge or information sufficient to form a belief as to the truth of the  
11 allegations in this paragraph. Moreover, to the extent the allegations in this paragraph  
12 constitute legal conclusions, they do not require a response. To the extent a response may  
13 be deemed required, denied.

14 **H. Plaintiff Petty Officer Winters**

15 107. Admit.

16 108. Admitted that Plaintiff Petty Officer Winters performs a valuable service for the Navy.  
17 The remaining allegations in this paragraph are denied.

18 109. Defendants lack knowledge or information sufficient to form a belief as to the truth of  
19 the allegations in this paragraph.

20 110. Admitted the Petty Officer Winters is transgender, and admitted that she was assigned the  
21 sex of male at birth. Defendants lack knowledge or information sufficient to form a  
22 belief as to the truth of the remaining allegations in this paragraph.

23 111. Defendants lack knowledge or information sufficient to form a belief as to the truth of  
24 the allegations in this paragraph.

25 112. Denied that current policy related to transgender military service constitutes a "ban" on  
26 such service. Defendants otherwise lack knowledge or information sufficient to form a  
27 belief as to the truth of the allegations in this paragraph.

28

1 113. Admitted that Petty Officer Winters disclosed her transgender status openly in the  
2 military. Denied that current policy related to transgender military service constitutes a  
3 “ban” on such service. Defendants otherwise lack knowledge or information sufficient to  
4 form a belief as to the truth of the allegations in this paragraph. Moreover, the allegation  
5 that Petty Officer Winters openly expressed her gender identity “in reliance” on any  
6 government policy is a legal conclusion to which no response is required. To the extent a  
7 response may be deemed required, denied.

8 114. Admitted that Petty Officer Winters has an approved formal gender transition plan, and  
9 admitted that her plan includes hormonal therapy. Defendants otherwise lack knowledge  
10 or information sufficient to form a belief as to the truth of the allegations in this  
11 paragraph.

12 115. Denied. *See* Declaration of Susan Breyerjoyner ¶ 7, which was filed with Defendants’  
13 Motion to Dismiss and in Opposition to Plaintiffs’ Application for a Preliminary  
14 Injunction (ECF No. 75).

15 116. Defendants admit that Petty Office Winter has changed her name in DEERS.  
16 Defendants lack knowledge or information sufficient to form a belief as to the truth of  
17 the remaining allegations in this paragraph. Moreover, to the extent the allegations in this  
18 paragraph constitute legal conclusions, they do not require a response. To the extent a  
19 response may be deemed required, denied.

20 117. Admitted that Petty Officer Winters’ gender marker in DEERS has changed, and  
21 admitted that Petty Officer Winters has worked with her chain of command on her formal  
22 gender transition plan. Defendants otherwise lack knowledge or information sufficient to  
23 form a belief as to the truth of the allegations in this paragraph.

24 118. Defendants lack knowledge or information sufficient to form a belief as to the truth of  
25 the allegations in the first sentence of this paragraph. Admitted that Petty Officer Winters  
26 performs a valuable service for the Navy. This paragraph is otherwise denied.

27 119. Defendants lack knowledge or information sufficient to form a belief as to the truth of  
28 the allegations in this paragraph.

1 120. Admitted that Petty Officer Winters has disclosed her transgender status to her chain of  
2 command and has received approval of her formal gender transition plan. Defendants  
3 otherwise lack knowledge or information sufficient to form a belief as to the truth of the  
4 allegations in this paragraph. Moreover, to the extent the allegations in this paragraph  
5 constitute legal conclusions, they do not require a response. To the extent a response may  
6 be deemed required, denied.

7 **I. Plaintiff Jane Doe**

8 121. Defendants lack knowledge or information sufficient to form a belief as to the truth of  
9 the allegations in this paragraph.

10 122. Defendants lack knowledge or information sufficient to form a belief as to the truth of  
11 the allegations in this paragraph.

12 123. Defendants lack knowledge or information sufficient to form a belief as to the truth of  
13 the allegations in this paragraph.

14 124. Denied that current policy related to transgender military service constitutes a “ban” on  
15 such service. Defendants otherwise lack knowledge or information sufficient to form a  
16 belief as to the truth of the allegations in this paragraph.

17 125. Defendants lack knowledge or information sufficient to form a belief as to the truth of  
18 the allegations in this paragraph.

19 126. The first sentence of this paragraph purports to characterize tweets posted by President  
20 Trump on July 26, 2017. Defendants respectfully refer the Court to the July 26 tweets for  
21 a complete statement of their contents. To the extent Plaintiffs’ allegations are  
22 inconsistent with the July 26 tweets, or call for legal conclusions, the first sentence of this  
23 paragraph is denied. Defendants lack knowledge or information sufficient to form a belief  
24 as to the truth of the allegations in the second sentence of this paragraph.

25 127. Defendants lack knowledge or information sufficient to form a belief as to the truth of  
26 the allegations in this paragraph.

27 128. Denied that Jane Doe has “been forced to postpone the steps required for her to  
28 transition.” And denied that current policy related to transgender military service

1 constitutes a “ban” on such service. Defendants otherwise lack knowledge or information  
2 sufficient to form a belief as to the truth of the allegations in this paragraph.

3 129. Denied that current policy related to transgender military service constitutes a “ban” on  
4 such service. The second sentence of this paragraph is also denied. Defendants otherwise  
5 lack knowledge or information sufficient to form a belief as to the truth of the allegations  
6 in this paragraph.

7 **J. Plaintiff Conner Callahan**

8 130. Defendants lack knowledge or information sufficient to form a belief as to the truth of  
9 the allegations in this paragraph.

10 131. Defendants lack knowledge or information sufficient to form a belief as to the truth of  
11 the allegations in this paragraph.

12 132. Defendants lack knowledge or information sufficient to form a belief as to the truth of  
13 the allegations in this paragraph. *See* Layman Decl. ¶ 3.

14 133. Defendants lack knowledge or information sufficient to form a belief as to the truth of  
15 the allegations in this paragraph.

16 134. Defendants lack knowledge or information sufficient to form a belief as to the truth of  
17 the allegations in this paragraph.

18 135. Defendants lack knowledge or information sufficient to form a belief as to the truth of  
19 the allegations in this paragraph.

20 136. Defendants lack knowledge or information sufficient to form a belief as to the truth of  
21 the allegations in this paragraph. Moreover, to the extent the allegations in this paragraph  
22 constitute legal conclusions, they do not require a response. To the extent a response may  
23 be deemed required, denied.

24 137. Defendants lack knowledge or information sufficient to form a belief as to the truth of  
25 the allegations in this paragraph. *See* Layman Decl. ¶ 3.

26 138. Denied that current policy related to transgender military service constitutes a “ban” on  
27 such service. Defendants otherwise lack knowledge or information sufficient to form a  
28 belief as to the truth of the allegations in this paragraph.

1 139. Defendants lack knowledge or information sufficient to form a belief as to the truth of  
2 the allegations in this paragraph. *See* Layman Decl. ¶ 3. Moreover, to the extent the  
3 allegations in this paragraph constitute legal conclusions, they do not require a response.  
4 To the extent a response may be deemed required, denied.

5 **K. Plaintiff Human Rights Campaign**

6 140. Defendants lack knowledge or information sufficient to form a belief as to the truth of  
7 the allegations in this paragraph.

8 141. Denied that current policy related to transgender military service constitutes a “ban” on  
9 such service. Defendants otherwise lack knowledge or information sufficient to form a  
10 belief as to the truth of the allegations in this paragraph. Moreover, to the extent the  
11 allegations in this paragraph constitute legal conclusions, they do not require a response.  
12 To the extent a response may be deemed required, denied.

13 **L. Plaintiff Gender Justice League**

14 142. Defendants lack knowledge or information sufficient to form a belief as to the truth of  
15 the allegations in this paragraph.

16 143. Denied that current policy related to transgender military service constitutes a “ban” on  
17 such service. Defendants otherwise lack knowledge or information sufficient to form a  
18 belief as to the truth of the allegations in this paragraph. Moreover, to the extent the  
19 allegations in this paragraph constitute legal conclusions, they do not require a response.  
20 To the extent a response may be deemed required, denied.

21 **M. Plaintiff American Military Partner Organization**

22 144. Defendants lack knowledge or information sufficient to form a belief as to the truth of  
23 the allegations in this paragraph.

24 145. Denied that current policy related to transgender military service constitutes a “ban” on  
25 such service. Defendants otherwise lack knowledge or information sufficient to form a  
26 belief as to the truth of the allegations in this paragraph. Moreover, to the extent the  
27 allegations in this paragraph constitute legal conclusions, they do not require a response.  
28 To the extent a response may be deemed required, denied.

1 **N. Prior Military Ban Against Transgender Individuals**

2 146. The first sentence of this paragraph is admitted. The second sentence of this paragraph is  
3 vague and ambiguous because it states that the military “previously” had a policy, but does  
4 not specify what the policy was “previous” to. Accordingly, Defendants lack sufficient  
5 information to respond to this sentence, except to admit that there was a time during  
6 which the military excluded openly transgender people from military service.

7 147. The first sentence of this paragraph is denied. Defendants lack knowledge or information  
8 sufficient to form a belief as to the truth of the allegations in the second sentence of this  
9 paragraph, which covers subjects that require medical and/or clinical expertise.

10 148. This paragraph is vague and ambiguous because it contains allegations of the historical  
11 service of transgender individuals in the military, but does not identify any sources for  
12 the allegations. Defendants thus lack sufficient information to admit or deny the  
13 allegations. This paragraph also purports to characterize a statement by former Secretary  
14 of Defense Ashton Carter. Former Secretary Carter’s statements speak for themselves  
15 and are the best evidence of their content. To the extent Plaintiffs’ allegations are  
16 inconsistent with former Secretary Carter’s statements, this paragraph is denied.

17 149. This paragraph is vague and ambiguous because it refers to “essential, mission-critical”  
18 roles without defining those roles, and because it refers to “a transgender woman” who  
19 “served on Navy SEAL Team 6” without identifying the individual. Defendants  
20 therefore lack knowledge or information sufficient to form a belief as to the truth of the  
21 allegations in this paragraph.

22 150. This paragraph is vague and ambiguous because it refers to “a 2014 study conducted by  
23 the Williams Institute at the University of California, Los Angeles,” but does not identify  
24 the title of the study. Defendants therefore lack knowledge or information sufficient to  
25 form a belief as to the truth of the allegations in this paragraph. Moreover, the study  
26 itself, rather than Plaintiffs’ characterization of it, would be the best evidence of its  
27 findings. To the degree Plaintiffs’ characterization of the study is inconsistent with the  
28 study itself, Defendant’s deny the allegations in this paragraph.

1 151. Defendants lack knowledge or information sufficient to form a belief as to the truth of  
2 the allegations in this paragraph, which covers subjects that require statistical and/or  
3 mathematical expertise.

4 **O. Rescission of Prior Military Ban Against Transgender Individuals**

5 152. Deny.

6 153. This paragraph appears to characterize a 2014 report issued by the think tank the Palm  
7 Center titled “Report of the Transgender Military Service Commission” Defendants  
8 respectfully refer the Court to the report itself for a complete and accurate statement of  
9 its contents. To the extent Plaintiffs’ characterizations constitute legal conclusions or are  
10 inconsistent with the report, Defendants deny the allegations.

11 154. This paragraph purports to characterize statements made by Former Secretary of  
12 Defense Chuck Hagel, which speak for themselves and are the best evidence of their  
13 content. To the extent Plaintiffs’ allegations are inconsistent with the statements, this  
14 paragraph is denied.

15 155. This paragraph purports to characterize statements made by Former Secretary of  
16 Defense Ashton Carter, which speak for themselves and are the best evidence of their  
17 content. To the extent Plaintiffs’ allegations are inconsistent with the statements, this  
18 paragraph is denied.

19 156. Admitted as of the time of the filing of the amended complaint, except that the working  
20 group was chaired by persons either “acting” or “performing the duties of” the Under  
21 Secretary of Defense for Personnel and Readiness.

22 157. Admit.

23 158. Defendants admit that, to the best of their knowledge, no cases for separation on the  
24 basis of gender identify were presented for approval to the Acting Under Secretary of  
25 Defense for Personnel and Readiness between July 2015 and June 2016. Defendants  
26 otherwise deny the allegations in this paragraph.

27 159. Denied that the RAND Corporation’s research related to transgender military service  
28 constituted a “study” of the issue. Defendants otherwise respectfully refer the Court to

1 Agnes, Gereben, Shaefer et al., *Assessing the Implications of Allowing Transgender Personnel to*  
2 *Serve Openly*, RAND Corporation (2016) (hereinafter the “RAND Report”), for a  
3 complete and accurate statement of its contents. To the extent Plaintiffs’  
4 characterizations constitute legal conclusions or are inconsistent with the RAND Report,  
5 Defendants deny the allegations.

6 160. Defendants respectfully refer the Court to the RAND Report for a complete and  
7 accurate statement of its contents. To the extent Plaintiffs’ characterizations constitute  
8 legal conclusions or are inconsistent with the RAND Report, Defendants deny the  
9 allegations.

10 161. The first and second sentences of this paragraph are admitted. As to the third sentence  
11 of this paragraph, Defendants admit that the working group examined the experiences of  
12 foreign militaries that permit transgender people to serve openly, as well as experiences  
13 from the private sector. The third sentence otherwise contains Plaintiffs’ subjective  
14 characterization and argument about the scope of the examination, to which no response  
15 is required.

16 162. This paragraph purports to characterize statements made by Former Secretary of  
17 Defense Ashton Carter, which speak for themselves and are the best evidence of their  
18 content. To the extent Plaintiffs’ allegations are inconsistent with the statements, this  
19 paragraph is denied.

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

24 164. The first sentence of this paragraph is admitted. The second sentence of this paragraph  
25 purports to characterize the section of the Department of Defense’s website titled  
26 “Department of Defense Transgender Policy.” Defendants respectfully refer the court  
27 to that section of the Department of Defense’s website for a full and accurate statement  
28

1 of its contents. To the extent Plaintiffs' characterizations constitute legal conclusions or  
2 are inconsistent with the website, Defendants deny the allegations.

3 165. Admit.

4 166. This paragraph purports to characterize the Department of Defense's implementation  
5 handbook, "Transgender Service in the U.S. Military." Defendants respectfully refer the  
6 court to the handbook for a full and accurate statement of its contents. To the extent  
7 Plaintiffs' characterizations constitute legal conclusions or are inconsistent with the  
8 handbook, Defendants deny the allegations.

9 167. This paragraph appears to characterize the Assistant Secretary of Defense (Health  
10 Affairs) Memorandum of July 29, 2016 "Guidance for Treatment of Gender Dysphoria  
11 for Active and Reserve Component Service Members." Defendants respectfully refer the  
12 court to the memorandum of July 29, 2016 for a full and accurate statement of its  
13 contents. To the extent Plaintiffs' characterizations constitute legal conclusions or are  
14 inconsistent with the memorandum of July 29, 2016, Defendants deny the allegations.

15 168. Admit.

16 169. This paragraph is vague and ambiguous because it is written in the passive voice and does  
17 not identify who "envisioned" that the military would begin accessing transgender people  
18 who met all relevant standards. Defendants therefore lack sufficient information to  
19 admit or deny. Moreover, to the extent a response may be deemed required, Defendants  
20 deny that under DTM 16-005, transgender individuals were subject to the same accession  
21 standards as non-transgender individuals.

22 170. The first sentence of this paragraph is admitted. The second sentence of this paragraph  
23 is denied.

24 171. This paragraph is hypothetical and speculative. Defendants therefore lack sufficient  
25 information to admit or deny. To the extent a response may be deemed required, denied  
26 that current policies related to transgender military service constitute a "ban."

27 **P. Current Policy of Discrimination Against Transgender Individuals in Military  
28 Service**

1 172. This paragraph purports to characterize tweets posted by President Trump on July 26,  
2 2017. Defendants respectfully refer the Court to the July 26 tweets for a complete  
3 statement of their contents. To the extent Plaintiffs' allegations are inconsistent with the  
4 July 26 tweets, or call for legal conclusions, this paragraph is denied.

5 173. This paragraph purports to characterize tweets posted by President Trump on July 26,  
6 2017. Defendants respectfully refer the Court to the July 26 tweets for a complete  
7 statement of their contents. To the extent Plaintiffs' allegations are inconsistent with the  
8 July 26 tweets, or call for legal conclusions, this paragraph is denied.

9 174. This paragraph purports to characterize tweets posted by President Trump on July 26,  
10 2017. Defendants respectfully refer the Court to the July 26 tweets for a complete  
11 statement of their contents. To the extent Plaintiffs' allegations are inconsistent with the  
12 July 26 tweets, or call for legal conclusions, this paragraph is denied.

13 175. This paragraph purports to characterize tweets posted by President Trump on July 26,  
14 2017. Defendants respectfully refer the Court to the July 26 tweets for a complete  
15 statement of their contents. To the extent Plaintiffs' allegations are inconsistent with the  
16 July 26 tweets, or call for legal conclusions, this paragraph is denied.

17 176. Deny.

18 177. The first sentence of this paragraph is denied. Regarding the second sentence of this  
19 paragraph, admitted that Secretary Mattis was away from the Pentagon on July 26, 2017.  
20 This sentence is otherwise vague and ambiguous because it refers to facts that have  
21 allegedly been "reported[]," without identifying the source of the reporting. Defendants  
22 therefore lack sufficient information to admit or deny.

23 178. Denied that current policy related to transgender military service constitutes a "ban" on  
24 such service. Also, this paragraph is vague and ambiguous because it refers to "top  
25 pentagon officials," as well as unnamed individuals with "concerns," without identifying  
26 any of those officials or individuals. Defendants therefore lack sufficient information to  
27 admit or deny.  
28

- 1 179. Denied that the President’s tweets or any subsequent policy related to transgender  
2 military service constitute a “ban” on such service. Defendants otherwise lack  
3 knowledge or information sufficient to form a belief as to the truth of the allegations in  
4 this paragraph, which concern the states of minds of individuals who are not parties to  
5 this case.
- 6 180. This paragraph purports to characterize a statement made by Chairman of the Joint  
7 Chiefs of Staff General Joseph Dunford, which speaks for itself and is the best evidence  
8 of its content. To the extent Plaintiffs’ allegations are inconsistent with the statement,  
9 this paragraph is denied.
- 10 181. Denied that the President’s tweets or any subsequent policy related to transgender  
11 military service constitute a “ban” on such service. Also, the first sentence of this  
12 paragraph is vague and ambiguous because it states that the Pentagon press office was  
13 “unaware” of a decision without specifying any individual in that office that lacked  
14 awareness of the decision. Defendants therefore lack knowledge or information  
15 sufficient to form a belief as to the truth of the allegations in the first sentence of this  
16 paragraph. The second sentence of this paragraph purports to characterize a statement  
17 made by Navy Captain Jeff Davis, which speaks for itself and is the best evidence of its  
18 content. To the extent Plaintiffs’ characterizations are inconsistent with Captain Davis’  
19 statement, the second sentence of this paragraph is denied.
- 20 182. Denied that current policy related to transgender military service constitutes a “ban” on  
21 such service. This paragraph also purports to characterize statements made by White  
22 House Press Secretary Sarah Huckabee Sanders, which speak for themselves and are the  
23 best evidence of their content. To the extent Plaintiffs’ allegations are inconsistent with  
24 Press Secretary Sanders’ statements, this paragraph is denied.
- 25 183. Denied that the President’s tweets or any subsequent policy related to transgender  
26 military service constitute a “ban” on such service. The allegations in this paragraph are  
27 vague and ambiguous because they refer to “White House lawyers and aides,” “one  
28

1 White House official,” and “a White House official,” without identifying any of the  
2 relevant individuals. Defendants therefore lack sufficient information to admit or deny.

3 184. The allegation in this paragraph is vague and ambiguous because it characterizes the  
4 nature of President Trump’s discussions without citing any source for that  
5 characterization. Defendants therefore lack sufficient information to admit or deny the  
6 allegations, except to deny that the President ever proposed or decided to institute a  
7 “ban” on transgender military service.

8 185. Each sentence of this paragraph is vague and ambiguous. The first sentence of this  
9 paragraph refers to “[s]everal congressional and White House sources” without  
10 identifying who those sources are. The second sentence of this paragraph uses the  
11 passive voice to say there “was concern,” without identifying what individual(s) was/were  
12 concerned. The third sentence of this paragraph refers to a proposed amendment  
13 rejected by the United States House of Representatives without citing to or identifying  
14 the proposed amendment. The fourth sentence of this paragraph refers to “these  
15 Republican members” without identifying any of the relevant members of Congress.  
16 Defendants therefore lack sufficient information to admit or deny each sentence of this  
17 paragraph, except to deny that the President ever instituted a “ban” on transgender  
18 military service. Moreover, the fourth sentence of this paragraph consists of Plaintiffs’  
19 characterization of tweets posted by President Trump on July 26, 2017. Defendants  
20 respectfully refer the Court to the July 26 tweets for a complete statement of their  
21 contents. To the extent Plaintiffs’ allegations are inconsistent with the July 26 tweets, or  
22 call for legal conclusions, this paragraph is denied.

23 186. The allegations in this paragraph are vague and ambiguous because they refer to “A  
24 Trump administration official” without identifying the official. Defendants therefore  
25 lack sufficient information to admit or deny. Moreover, the official’s statement itself,  
26 rather than Plaintiffs’ characterization of it, would be the best evidence of its content.  
27 To the extent Plaintiffs’ characterizations of the statement are inconsistent with the  
28 statement itself, or are legal conclusions, Defendant’s deny the allegations.

1 187. The allegations in this paragraph are vague and ambiguous because they refer to  
2 “reports” without identifying the relevant reports. Defendants therefore lack sufficient  
3 information to admit or deny.

4 188. This paragraph purports to characterize statements made by former Deputy Assistant to  
5 the President Sebastian Gorka, which speak for themselves and are the best evidence of  
6 their content. To the extent Plaintiffs’ characterizations are inconsistent with Mr.  
7 Gorka’s statements, or are legal conclusions, this paragraph is denied.

8 189. The first sentence of this paragraph is vague and ambiguous because it refers to  
9 “widespread opposition and condemnation” of an alleged decision without identifying all  
10 individuals opposed to the alleged decision, or at least the number or percentage of  
11 individuals opposed to it. Defendants therefore lack sufficient information to admit or  
12 deny the first sentence. The second, third, and fourth sentences of this paragraph  
13 purports to characterize statements made by several senators, which speak for themselves  
14 and are the best evidence of their content. To the extent Plaintiffs’ characterizations are  
15 inconsistent with the senators’ statements, those characterizations are denied. The fifth  
16 sentence of this paragraph purports to characterize a letter joined by members of the  
17 United States House of Representatives. Defendants respectfully refer the court to the  
18 letter itself for a complete and accurate statement of its contents. To the extent  
19 Plaintiffs’ characterizations constitute legal conclusions or are inconsistent with the letter,  
20 Defendants deny the allegations in the fifth sentence of this paragraph. Denied also that  
21 the President ever instituted a “ban” on transgender military service.

22 190. This paragraph purports to characterize a letter joined by the attorneys general of 19  
23 states and the District of Columbia. Defendants respectfully refer the court to the letter  
24 itself for a complete and accurate statement of its contents. To the extent Plaintiffs’  
25 characterizations constitute legal conclusions or are inconsistent with the letter,  
26 Defendants deny the allegations in this paragraph.

27 191. This paragraph purports to characterize a public statement by fifty-six retired generals  
28 and admirals, which speaks for itself and is the best evidence of its content. To the

1 extent Plaintiffs' characterizations are inconsistent with the statement, this paragraph is  
2 denied.

3 **Q. Implementation of Discrimination Against Transgender Individuals in Military**  
4 **Service**

5 192. This paragraph purports to characterize statements made by Navy Captain Jeff Davis,  
6 which speak for themselves and are the best evidence of their content. To the extent  
7 Plaintiffs' characterizations are inconsistent with Captain Davis' statements, this  
8 paragraph is denied.

9 193. This paragraph purports to characterize statements made by Secretary of Defense James  
10 Mattis, which speak for themselves and are the best evidence of their content. To the  
11 extent Plaintiffs' characterizations are inconsistent with Secretary Mattis' statements, this  
12 paragraph is denied.

13 194. This paragraph purports to characterize the Presidential Memorandum. Defendants  
14 respectfully refer the Court to the Presidential Memorandum itself for a complete and  
15 accurate statement of its contents. To the extent Plaintiffs' characterizations constitute  
16 legal conclusions or are inconsistent with the Presidential Memorandum, Defendants  
17 deny the allegations.

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

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

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

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

6 199. Admit.

7 200. Admitted that President Trump, the United States, Secretary of Defense Mattis, and the  
8 Department of Defense, are responsible for implementing policy with regard to the  
9 military service of transgender individuals. Denied that that policy constitutes a "ban" on  
10 transgender military service.

11 **R. Purported Justifications for Policy of Discrimination Against transgender**  
12 **Individuals**

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

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

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

19 **1. Medical Costs**

20 204. This paragraph purports to characterize the RAND report. Defendants respectfully refer  
21 the Court to the RAND Report for a complete and accurate statement of its contents.  
22 To the extent Plaintiffs' allegations are inconsistent with the RAND Report, this  
23 paragraph is denied.

24 205. This paragraph is vague and ambiguous because it refers to an article published in the  
25 New England Journal of Medicine without identifying the title or author of the article.  
26 Defendants therefore lack sufficient information to admit or deny. Moreover, even if  
27 Defendants could identify the article, the article would speak for itself and be the best  
28 evidence of its content. To the extent Plaintiffs' characterizations are inconsistent with  
the article, Defendants would deny the allegations.

1 206. This paragraph purports to characterize a statement made by the surgeon general of the  
2 Navy, which speaks for itself and is the best evidence of its content. To the extent  
3 Plaintiffs' characterizations are inconsistent with the statement, this paragraph is denied.

4 207. The first sentence of this paragraph is vague and ambiguous because it refers to "other  
5 costs" without identifying what those costs are. Defendants therefore lack sufficient  
6 information to admit or deny the first sentence of this paragraph. The second sentence  
7 of this paragraph purports to characterize the RAND Report. Defendants respectfully  
8 refer the Court to the RAND Report for a complete and accurate statement of its  
9 contents. To the extent Plaintiffs' allegations are inconsistent with the RAND Report,  
10 the second sentence of this paragraph is denied.

11 208. The first and second sentences of this paragraph are denied. The third sentence of this  
12 paragraph is vague and ambiguous because it refers to "[a] recent study" without  
13 identifying the study. Defendants therefore lack sufficient information to admit or deny  
14 the third sentence of this paragraph. Moreover, even if Defendants could identify the  
15 study, the study would speak for itself and be the best evidence of its content. To the  
16 extent Plaintiffs' characterizations are inconsistent with the study, Defendants would  
17 deny the allegations.

## 18 **2. Military Readiness**

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

21 210. This paragraph purports to characterize the RAND Report. Defendants respectfully  
22 refer the Court to the RAND Report for a complete and accurate statement of its  
23 contents. To the extent Plaintiffs' allegations are inconsistent with the RAND Report,  
24 this paragraph is denied.

25 211. Deny.

26 212. Admitted that the military adapted to the racial integration of the military, the end of the  
27 "Don't Ask, Don't Tell" policy, and the integration of women into direct combat roles.  
28 The second sentence of this paragraph is denied.

1 213. The first sentence of this paragraph is admitted. The second sentence of this paragraph  
2 purports to characterize the RAND Report. Defendants respectfully refer the Court to  
3 the RAND Report for a complete statement of its contents. To the extent Plaintiffs'  
4 allegations are inconsistent with the RAND Report, the second sentence of this  
5 paragraph is denied.

6 **CAUSES OF ACTION**

7 **FIRST CAUSE OF ACTION**  
8 **EQUAL PROTECTION VIOLATION**  
9 **(By All Plaintiffs Against All Defendants)**

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

11 215. This paragraph contains Plaintiffs' characterization of their cause of action, to which no  
12 answer is required. To the extent an answer may be deemed required, Defendants deny  
13 that Plaintiffs have properly stated their cause of action, and deny that the current policy  
14 with regard to transgender military service members constitutes a "ban" on their service.

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

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

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

21 219. This paragraph purports to characterize the Department of Defense's Transgender  
22 Service Member Policy Implementation Fact Sheet. Defendants respectfully refer the  
23 Court to the fact sheet for a complete statement of its contents. To the extent Plaintiffs'  
24 allegations are inconsistent with the fact sheet, or are legal conclusions, the second  
25 sentence of this paragraph is denied.

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

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

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

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

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

9 **SECOND CAUSE OF ACTION**  
10 **DUE PROCESS VIOLATION**  
11 **(By All Plaintiffs Against All Defendants)**

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

13 226. This paragraph contains Plaintiffs' characterization of their cause of action, to which no  
14 answer is required. To the extent an answer may be deemed required, Defendants deny  
15 that Plaintiffs have properly stated their cause of action, and deny that the current policy  
16 with regard to transgender military service members constitutes a "ban" on their service.

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

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

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

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

25 **THIRD CAUSE OF ACTION**  
26 **FREE SPEECH VIOLATION**  
27 **(By All Plaintiffs Against All Defendants)**

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

1 232. This paragraph contains Plaintiffs' characterization of their cause of action, to which no  
2 answer is required. To the extent an answer may be deemed required, Defendants deny  
3 that Plaintiffs have properly stated their cause of action, and deny that the current policy  
4 with regard to transgender military service members constitutes a "ban" on their service.

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

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

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

11 236. This paragraph consists of legal conclusions, to which no response is required. To the  
12 extent a response may be deemed required, denied. Moreover, this paragraph  
13 characterizes the Presidential Memorandum. Defendants respectfully refer the Court to  
14 the Presidential Memorandum itself for a complete and accurate statement of its  
15 contents. To the extent Plaintiffs' characterizations are inconsistent with the Presidential  
16 Memorandum, Defendants deny the allegations.

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

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

**PRAYER FOR RELIEF**

21 1–4. Defendants deny that Plaintiffs are entitled to the relief requested in their Prayer for  
22 Relief or to any relief whatsoever.

23 Defendants hereby specifically deny each and every allegation in the First Amended  
24 Complaint not expressly admitted or denied in this Answer, or to which it has responded that it  
25 has insufficient information to admit or deny.  
26  
27  
28

1 Dated: February 26, 2018

Respectfully submitted,

2 CHAD A. READLER  
Acting Assistant Attorney General  
3 Civil Division

4 BRETT A. SHUMATE  
5 Deputy Assistant Attorney General

6 JOHN R. GRIFFITHS  
7 Branch Director

8 ANTHONY J. COPPOLINO  
9 Deputy Director

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

15 *Counsel for Defendants*

**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](mailto:ryan.parker@usdoj.gov)

*Counsel for Defendants*

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