

18-56539

IN THE UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

**AIDEN STOCKMAN, et al.,**

Plaintiffs-Appellees,

v.

**STATE OF CALIFORNIA,**

Intervenor-Plaintiff-  
Appellee,

**DONALD J. TRUMP, in his official  
capacity as President of the United States,  
et al.,**

Defendants-Appellants.

**THE STATE OF CALIFORNIA'S OPPOSITION TO  
MOTION TO HOLD THE BRIEFING SCHEDULE  
IN ABEYANCE**

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The government's motion to hold the briefing schedule in abeyance should be denied for the reasons stated in the opposition filed by Plaintiffs-Appellees Aiden Stockman, Nicolas Talbot, Tamasyn Reeves, Jaquice Tate, John Does 1-2, Jane Doe, and Equality California.

California additionally notes that the delay the government seeks in proceedings before this Court is particularly unwarranted in light of the government's concurrent efforts to stay the effect of the nationwide preliminary injunction entered by the district court (Defs.' Mot. to Stay Prelim. Inj., *Stockman v. Trump*, C.D. Cal. No. 5:17-CV-01799-JGB-KK, ECF Dkt. No. 130 (filed November 28, 2018)), and the government's request that the United States Supreme Court depart from ordinary appellate procedures and grant certiorari in this case now, before this Court's resolution of its pending appeal. (*Trump v. Stockman*, No. 18-678 (filed U.S. Nov. 23, 2018)).

An order setting aside the briefing schedule would delay the State's ability to present its own arguments, while potentially dispositive issues important to the State may be decided in other proceedings. The transgender ban at issue here would impede the California National Guard's ability to recruit and retain members; force California to violate its anti-discrimination laws and discriminate against its own residents in staffing the California National Guard; and threaten the

State's ability to safeguard its public institutions of higher education from discrimination in their ROTC programs.

Dated: November 30, 2018

Respectfully Submitted,

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Senior Assistant Attorney General  
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s/ SHARON L. O'GRADY

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SA2018103452

**CERTIFICATE OF SERVICE**

Case Name: **Stockman, Aiden, et al. v.  
Donald J. Trump, et al.**

No. **18-56539**

I hereby certify that on November 30, 2018, I electronically filed the following documents with the Clerk of the Court by using the CM/ECF system:

**THE STATE OF CALIFORNIA’S OPPOSITION TO MOTION TO HOLD THE BRIEFING SCHEDULE IN ABEYANCE**

I certify that **all** participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on November 30, 2018, at San Francisco, California.

\_\_\_\_\_  
Susan Chiang  
Declarant

\_\_\_\_\_  
s/ Susan Chiang  
Signature