

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION**

NICHOLAS HARRISON and
OUTSERVE-SLDN, INC.

Plaintiffs,

v.

JAMES N. MATTIS, in his official capacity as
Secretary of Defense; MARK ESPER, in his
official capacity as the Secretary of the Army;
and the UNITED STATES DEPARTMENT OF
DEFENSE,

Defendants.

NO. 1:18-CV-00641-LMB-IDD

PLAINTIFFS' MOTION TO COMPEL PRODUCTION OF DOCUMENTS

Pursuant to Fed. R. Civ. P. 37 and the Local Rules of the U.S. District Court for the Eastern District of Virginia, Plaintiffs Nicholas Harrison and OutServe-SLDN, Inc. (collectively, "Plaintiffs") hereby move to compel the production of documents responsive to certain of Plaintiffs' Requests for the Production of Documents and Things ("RFPs") Nos. 1-15.

In short, Defendants have improperly narrowed the scope of discovery to the specific policy underlying the Military's denial of Sgt. Harrison's commission, ignoring Plaintiffs' facial challenge to the Department of Defense and Army policies by refusing to provide discovery on relevant Military policies regarding people living with HIV, including the policies of Military Departments other than the Army. Plaintiffs' claims challenge a number of Military policies that discriminate against people living with HIV, such as the Military's enlistment and deployment

policies, and discovery regarding these policies is both relevant and proportional to the needs of the case, as detailed in the accompanying Memorandum in Support of Plaintiffs' Motion.

Pursuant to Local Rule 37(E), Plaintiffs hereby certify they have made a good faith effort to resolve this dispute with counsel for Defendants, who stated they agree these issues merit resolution by the Court.

Dated: November 20, 2018

Respectfully submitted,

/s/ Andrew R. Sommer

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CERTIFICATE OF SERVICE

I hereby certify that on the 20th day of November 2018, I caused the foregoing to be filed electronically using the Court's CM/ECF system, which automatically sent a notice of electronic filing to all counsel of record.

Dated: November 20, 2018

Respectfully submitted,

/s/ Andrew R. Sommer
Andrew R. Sommer