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18 **UNITED STATES DISTRICT COURT**  
19 **CENTRAL DISTRICT OF CALIFORNIA**

20 AIDEN STOCKMAN; NICOLAS  
21 TALBOTT; TAMASYN REEVES;  
22 JAQUICE TATE; JOHN DOES 1-2;  
23 JANE DOE; and EQUALITY  
24 CALIFORNIA,

25 Plaintiffs,

26 v.

27 DONALD J. TRUMP, et al.

28 Defendants.

CASE NO. 5:17-CV-01799-JGB-KK

**DEFENDANTS' ANSWER TO  
INTERVENOR'S AMENDED  
COMPLAINT**

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STATE OF CALIFORNIA,  
Plaintiff-Intervenor,

v.

DONALD J. TRUMP, et al.  
Defendants.

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**INTRODUCTION**

1. Denied, except to admit that California has filed a First Amended Complaint-in-Intervention and to aver that Defendants lack knowledge or information sufficient to form a belief about California’s reasons for doings so.
2. Denied, except that Defendants lack knowledge or information sufficient to form a belief about California’s reasons for bringing this action.

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

**PARTIES**

5. Admitted.
6. Defendants admit the first two sentences of this paragraph. The remainder of this paragraph consists of legal conclusions, to which no response is required.
7. This paragraph consists of legal conclusions, to which no response is required. To the extent a response may be deemed required, denied.
8. This paragraph consists of legal conclusions, to which no response is required. To the extent a response may be deemed required, denied.
9. This paragraph consists of legal conclusions, to which no response is required. To the extent a response may be deemed required, denied.
10. This paragraph consists of legal conclusions, to which no response is required. To the extent a response may be deemed required, denied.
11. This paragraph consists of legal conclusions, to which no response is required. To the extent a response may be deemed required, denied.
12. This paragraph consists of legal conclusions, to which no response is required. To the extent a response may be deemed required, denied.

1 13. The first and second sentences of Paragraph 13 are admitted. As for the third  
2 sentence of this paragraph, Defendants admit that there are at least 31 military  
3 installations in California, but lack knowledge or information sufficient to form  
4 a belief about the number of “major” installations; the term “major” as used  
5 here is vague and undefined.

6 14. Admitted.

7 15. Denied, except to admit that service members and recruits in the California  
8 National Guard are subject to the Department of Defense’s personnel and  
9 accession policies for military service.

10 16. Admitted. Defendants further aver that Patrick M. Shanahan served as Acting  
11 Secretary of Defense in the interim between Secretary Mattis and Esper’s  
12 tenures.

13 17. The first two sentences of Paragraph 17 are admitted. The last sentence of this  
14 paragraph is denied.

15 18. The first sentence of Paragraph 18 is admitted. The last sentence of this  
16 paragraph is denied, except to admit that Secretary Spencer is the civilian head  
17 of the Department of the Navy, which consists of the United States Navy and  
18 the United States Marine Corps.

19 19. The first sentence of Paragraph 19 is admitted. The last sentence of this  
20 paragraph is denied, except to admit that Secretary McCarthy is the civilian  
21 head of the Department of the Army.

22 20. The first sentence of Paragraph 20 is denied; Defendants aver that Barbara M.  
23 Barrett is the United States Secretary of the Air Force. The second sentence is  
24 admitted. The last sentence of this paragraph is denied.

25 21. The first two sentences of Paragraph 21 are admitted. The last sentence of this  
26 paragraph is denied, except to admit that the United States Coast Guard  
27 currently operates under the Department of Homeland Security.  
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## ALLEGATIONS

22. Paragraph 22 is vague and ambiguous because it states that the military has a “history” of a certain practice without defining what timeframe this is referring to. Accordingly, Defendants lack sufficient knowledge or information to respond to this sentence, except to admit that there was a time during which the military excluded openly transgender people from military service.

23. This paragraph appears to refer to and characterize a 2014 report issued by a private organization, the Palm Center, titled “Report of the Transgender Military Service Commission.” Defendants deny that this or any other Palm Center report was issued by “the military.” Defendants respectfully refer the Court to the report itself for a complete and accurate statement of its contents. To the extent Plaintiff’s characterizations constitute legal conclusions or are inconsistent with the report, Defendants deny the allegations.

24. Admitted.

25. The first sentence of Paragraph 25, until the words “the Department of Defense lifted,” appears to characterize Agnes, Gereben, Shaefer et al., *Assessing the Implications of Allowing Transgender Personnel to Serve Openly*, RAND Corporation (2016) (hereinafter the “RAND Report”). Defendants respectfully refer the Court to the report itself for a complete and accurate statement of its contents. To the extent Plaintiff’s characterizations constitute legal conclusions or are inconsistent with the RAND Report, Defendants deny the allegations. The remainder of Paragraph 25 appears to characterize 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 content. To the extent Plaintiff’s characterizations constitute legal conclusions or are inconsistent with DTM 16-005, Defendants deny the allegations.

1 26. Paragraph 26 appears to characterize DTM 16-005. Defendants respectfully  
2 refer the Court to DTM 16-005 for a complete and accurate statement of its  
3 content. To the extent Plaintiff's characterizations constitute legal conclusions  
4 or are inconsistent with DTM 16-005, Defendants deny the allegations.

5 27. Defendants lack knowledge or information sufficient to form a belief as to the  
6 truth of the allegations in this paragraph; this paragraph alleges the state of  
7 mind of "scores" of unnamed individuals.

8 28. Admitted that on June 30, 2017, Secretary Mattis delayed implementation of  
9 the accessions policy stated in DTM 16-005 until January 1, 2018.

10 29. This paragraph purports to characterize tweets posted by President Trump on  
11 July 26, 2017. Defendants respectfully refer the Court to the July 26 tweets for  
12 a complete statement of their contents. To the extent Plaintiff's allegations are  
13 inconsistent with the July 26 tweets, or call for legal conclusions, this paragraph  
14 is denied. Additionally, the second sentence of this paragraph is specifically  
15 denied.

16 30. This paragraph appears to characterize the Executive Memorandum entitled  
17 "Military Service by Transgender Individuals," which was issued on August 25,  
18 2017 (the "2017 Presidential Memorandum"). Defendants respectfully refer  
19 the Court to the 2017 Presidential Memorandum itself for a complete and  
20 accurate statement of its contents. To the extent Plaintiff's characterizations  
21 constitute legal conclusions or are inconsistent with the 2017 Presidential  
22 Memorandum, Defendants deny the allegations. Additionally, the last sentence  
23 of this paragraph is specifically denied.

24 31. Denied.

25 32. This paragraph appears to characterize the 2017 Presidential Memorandum.  
26 Defendants respectfully refer the Court to the 2017 Presidential Memorandum  
27 itself for a complete and accurate statement of its contents. To the extent  
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1 Plaintiff's characterizations constitute legal conclusions or are inconsistent with  
2 the 2017 Presidential Memorandum, Defendants deny the allegations.

3 33. This paragraph appears to characterize the Memorandum for the President by  
4 Secretary James N. Mattis entitled "Military Service by Transgender  
5 Individuals," which was issued on February 22, 2018 (the "Mattis  
6 Memorandum"), and the document entitled Department of Defense Report  
7 and Recommendations on Military Service by Transgender Persons, issued  
8 February 2018 (the "DoD Report"). Defendants respectfully refer the Court to  
9 these documents themselves for a complete and accurate statement of their  
10 contents. To the extent Plaintiff's characterizations constitute legal conclusions  
11 or are inconsistent with these documents, Defendants deny the allegations.  
12 Defendants further deny that current policy relating to transgender military  
13 service constitutes a "ban" on such service or is an "implementation plan,"  
14 insofar as this means that it is not the product of independent military  
15 judgment.

16 34. This paragraph appears to characterize the Executive Memorandum entitled  
17 "Presidential Memorandum for the Secretary of Defense and Secretary of  
18 Homeland Security Regarding Military Service by Transgender Individuals,"  
19 which was issued on March 23, 2018 (the "2018 Presidential Memorandum").  
20 Defendants respectfully refer the Court to the 2018 Presidential Memorandum  
21 itself for a complete and accurate statement of its contents. To the extent  
22 Plaintiff's characterizations constitute legal conclusions or are inconsistent with  
23 the 2018 Presidential Memorandum, Defendants deny the allegations.  
24 Defendants further deny that current policy is an "implementation plan,"  
25 insofar as this means that it is not the product of independent military  
26 judgment.

27 35. Denied, except to admit that the policy stated in the Mattis Memorandum  
28 became effective on April 12, 2019.

1 36. Denied.

2 37. Denied.

3 38. Denied.

4 **FIRST CLAIM FOR RELIEF**  
5 **Fifth Amendment – Equal Protection**  
6 **(Against All Defendants)**

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

8 40. Admitted.

9 41. Denied.

10 42. Denied.

11 43. Denied.

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

14 **SECOND CLAIM FOR RELIEF**  
15 **Fifth Amendment – Due Process**  
16 **(Against All Defendants)**

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

18 46. This paragraph consists of legal conclusions, to which no response is  
19 required. To the extent a response may be deemed required, denied, except  
20 to admit that the Due Process Clause of the Fifth Amendment states that no  
21 person shall “be deprived of life, liberty, or property, without due process of  
22 law.”

23 47. Denied.

24 48. Denied.

25 49. Denied.

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



1 Defendants hereby specifically deny each and every allegation in the Intervenor's  
2 Amended Complaint not expressly admitted or denied in this Answer, or to which it  
3 has responded that it has insufficient information to admit or deny.  
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5 Dated: November 12, 2019

Respectfully submitted,

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14 /s/ Robert M. Norway

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