

**IN THE UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF MARYLAND**

BROCK STONE, *et al.*,

*Plaintiffs,*

v.

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

*Defendants.*

Case No. 1:17-cv-02459-GLR

Hon. George L. Russell, III

**DEFENDANTS' ANSWER TO PLAINTIFFS' THIRD AMENDED COMPLAINT**

Defendants Donald J. Trump, in his official capacity as President of the United States, Mark Esper, in his official capacity as Secretary of Defense, Ryan McCarthy, in his official capacity as Secretary of the U.S. Department of the Army, Thomas Modly, in his official capacity as Acting Secretary of the U.S. Department of the Navy, Barbara Barrett, in her official capacity as Secretary of the U.S. Department of the Air Force, Chad Wolf, in his official capacity as acting Secretary of the Department of Homeland Security, and Karl Schultz, in his official capacity as Commandant of the U.S. Coast Guard (collectively, "Defendants"), through their undersigned counsel, hereby answer Plaintiffs' Third Amended Complaint for Declaratory and Injunctive Relief, ECF No. 284 (the "Third Amended Complaint"), and set forth affirmative defenses as follows.

The footnote at the bottom of page 1 of the Third Amended Complaint purports to summarize rulings issued by this Court with respect to the ability of certain Plaintiffs to proceed anonymously in this action. *See* ECF Nos. 50, 144. Defendants refer the Court to those rulings for a complete statement of their contents.

**NATURE OF THE ACTION**

1. The averments in this paragraph contain Plaintiffs' characterization and opinion

about the nature of transgender service members' military service, to which no response is required, and also contains characterizations as to numbers of individuals serving in certain positions and having obtained awards without identifying any sources for this information or individuals involved, which Defendants thus lack sufficient information to admit or deny. To the extent a response may be deemed required, Defendants admit that some openly transgender persons are serving in the military, but clarify that the characterization of "honorably" is not conferred until at the end of a term of service.

2. The averments in this paragraph contain Plaintiffs' characterization and opinion about the interests of transgender individuals in joining the military, to which no response is required, and also contains characterizations as to numbers of individuals with certain backgrounds or with certain points of view, without identifying any sources for this information or individuals involved, which Defendants thus lack sufficient information to admit or deny. To the extent a further response may be deemed required, Defendants admit that some openly transgender individuals are interested in joining the military.

3. With respect to the first sentence, Defendants admit that some of the Plaintiffs in this case are transgender service members. Defendants further admit sentences two, three, four, five, seven, and eight of this paragraph. With respect to the sixth sentence, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations.

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

5. The first, second, and third sentences of this paragraph purports to characterize the content of Agnes Gereben Shaefer et al., *Assessing the Implications of Allowing Transgender Personnel to Serve Openly*, RAND Corporation (2016) (the "RAND Report") and Directive-Type Memorandum 16-005, "Military Service of Transgender Service Members" (June 20, 2016) ("DTM 16-005"). Defendants respectfully refer the Court to the RAND Report and DTM 16-005

themselves for a complete and accurate statement of their contents. To the extent Plaintiffs' allegations constitute legal conclusions or are inconsistent with the RAND Report and DTM 16-005, those allegations are denied. Defendants admit the last sentence.

6. Defendants admit that the Twitter posts attached to this paragraph appear to be true and correct copies of statements posted by President Trump on July 26, 2017. The remainder of this paragraph purports to characterize the President's July 26 tweets. Defendants respectfully refer the Court to the July 26 tweets themselves for a complete and accurate statement of their contents. To the extent Plaintiffs' allegations constitute legal conclusions or are inconsistent with the tweets, this paragraph is denied.

7. The first sentence of this paragraph is denied. The remainder of this paragraph purports to characterize unspecified "news reports." Defendants lack knowledge or information sufficient to form a belief as to what news reports Plaintiffs are referring. Moreover, any news reports would speak for themselves and would be the best evidence of their content.

8. With respect to the first sentence of this paragraph, Defendants admit that President Trump issued a Memorandum entitled "Military Service by Transgender Individuals" on August 25, 2017 (the "2017 Presidential Memorandum"). The remainder of this paragraph purports to characterize the 2017 Presidential Memorandum. Defendants respectfully refer the Court to the 2017 Presidential Memorandum itself for a complete and accurate statement of its contents. To the extent Plaintiffs' allegations constitute legal conclusions or are inconsistent with the 2017 Presidential Memorandum, this paragraph is denied. Defendants further deny that the 2017 Presidential Memorandum constituted a ban on transgender military service.

9. With respect to the first sentence of this paragraph, Defendants admit that the directives in the 2017 Presidential Memorandum did not take effect immediately, and further clarify that the Secretary of Defense issued Interim Guidance on September 14, 2017. Defendants respectfully refer the Court to the 2017 Presidential Memorandum and Interim Guidance themselves

for a complete and accurate statement of their contents. To the extent Plaintiffs' allegations are inconsistent with the 2017 Presidential Memorandum and Interim Guidance, this paragraph is denied. With respect to the second sentence, Defendants lack sufficient knowledge or information sufficient to form a belief as to the scheduling for medication treatment and procedures for unidentified persons. Moreover, Defendants deny that the Interim Guidance or current policy prevents medical treatment and procedures for all transgender service members. Defendants clarify that under the Interim Guidance, transgender service members were eligible to receive medical treatment related to their transgender status or diagnosis of gender dysphoria when approved by the appropriate military medical personnel, and under the current policy, current service members who have been diagnosed with gender dysphoria by a military medical provider since the previous administration's policy took effect and prior to the effective date of the current policy will be permitted to continue to serve in their preferred gender and receive medically necessary treatment for gender dysphoria. Defendants thus lack sufficient information to admit or deny the third sentence. The last sentence of this paragraph is denied.

10. With respect to the first sentence, Defendants admit that this Court and three other district courts previously entered preliminary injunctions concerning the military's implementation of DTM 16-005 but deny that military policy relating to service of transgender individuals constitutes a "ban" on transgender military service. With respect to the second sentence, Defendants admit that the accessions policy set forth in DTM 16-005 went into effect on January 1, 2018. With respect to the third sentence, although Defendants are aware that some Plaintiffs sought enlistment in 2018, Defendants lack sufficient information to admit or deny this allegation.

11. This paragraph appears to characterize the Memorandum for the President by Secretary James N. Mattis entitled "Military Service by Transgender Individuals," which was issued on February 22, 2018 (the "Mattis Memorandum"). Defendants respectfully refer the Court to this document itself for a complete and accurate statement of its contents. To the extent Plaintiffs'

characterizations constitute legal conclusions or are inconsistent with this document, Defendants deny the allegations. Defendants further deny that the Mattis Memorandum is properly categorized as an “approach for banning transgender individuals from the military.”

12. This paragraph appears to characterize the Executive Memorandum entitled “Presidential Memorandum for the Secretary of Defense and Secretary of Homeland Security Regarding Military Service by Transgender Individuals,” which was issued on March 23, 2018 (the “2018 Presidential Memorandum”). Defendants respectfully refer the Court to the 2018 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 2018 Presidential Memorandum, Defendants deny the allegations.

13. Defendants admit that the Mattis Memorandum went into effect on April 12, 2019.

14. The averments in this paragraph are denied.

15. The averments in this paragraph are denied.

16. With respect to the first sentence, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations except to admit that then-Secretary Carter directed that, effective July 13, 2015, no service member could be involuntarily separated or denied reenlistment or continuation of active or reserve service on the basis of their gender identity without the approval of the Under Secretary of Defense for Personnel and Readiness, and that the accessions policy set forth in DTM 16-005 went into effect on January 1, 2018. The second sentence is vague and ambiguous because it contains allegations of the historical service of transgender individuals in the military, but does not identify any sources for the allegations. Defendants thus lack sufficient information to admit or deny the allegations. The second sentence also contains Plaintiffs’ characterization and opinion about the nature of transgender service members’ military service, to which no response is required. The third sentence is denied.

17. This paragraph contains Plaintiffs’ characterization of this action, to which no

response is required. To the extent a response is deemed required, denied.

### **THE PARTIES**

#### **Plaintiff Stone**

18. Admit.

19. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph, except to admit that Plaintiff Stone currently is assigned to a unit at Fort Meade and currently resides off-base in Maryland.

20. Admit.

21. Admit.

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

23. Defendants admit that Plaintiff Stone received a medical treatment plan that included continuing hormone therapy and surgery as a part of his gender transition.

24. The averments in this paragraph are denied.

#### **Plaintiff Cole**

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

26. Admit.

27. Admit.

28. Defendants admit the first sentence of this paragraph. As to the second and third sentences, Defendants admit that Sergeant Cole's enlistment period expires in 2021, but lack knowledge or information sufficient to form a belief as to the truth of the allegations regarding Sergeant Cole's intentions or goals.

29. Admit.

30. Defendants admit that Staff Sergeant Cole disclosed her transgender status to her

chain of command following DoD's June 2016 Open Service Directive, but lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in this paragraph.

31. Defendants admit that Plaintiff Cole received a medical treatment plan that included hormone therapy and surgery as a part of that treatment plan. Defendants lack information sufficient to admit or deny whether Plaintiff Cole continues to receive hormone therapy.

32. Admit.

33. The averments in this paragraph are denied.

**Plaintiff John Doe 1**

34. Admit.

35. Admit.

36. Admit.

37. Admit.

38. Admit.

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

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

41. As to the first sentence, Defendants admit that Plaintiff Doe received a medical treatment plan that included hormone therapy and surgery. As to the second sentence, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation.

42. The averments in this paragraph are denied.

**Plaintiff George**

43. Admit.

44. Admit.

45. Admit.

46. Admit.

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

48. Defendants admit Plaintiff George received a medical treatment plan that included hormone therapy and surgery.

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

50. As to the first sentence, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations. As to the second sentence, Defendants admit that Plaintiff George has an open Army recruiting file, but otherwise lack knowledge or information sufficient to form a belief as to the truth of the allegations.

51. This paragraph contains Plaintiffs' speculation regarding hypothetical events that may or may not take place in the future, and Plaintiffs' speculation about how the Air National Guard's future accession policies may or may not apply to those hypothetical events. Accordingly, the averments in this paragraph are denied.

52. Admit.

53. The averments in this paragraph are denied.

**Plaintiff Gilbert**

54. Admit.

55. Admit.

56. Admit.

57. Admit.

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

59. Defendants admit that Plaintiff Gilbert received a medical treatment plan that

included continuing hormone therapy as part of her gender transition. Defendants further aver that they lack knowledge or information sufficient to form a belief as to the truth of the claim that Plaintiff Gilbert plans to seek approval for surgery.

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

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

62. The averments in this paragraph are denied.

**Plaintiff Parker**

63. Admit.

64. Defendants admit the first, second, and fourth sentences of this paragraph. With respect to the third sentence, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations.

65. Admit.

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

67. Defendants admit that Plaintiff Parker received a medical treatment plan that included continuing hormone therapy as part of her gender transition.

68. The averments in this paragraph are denied.

**Plaintiff D'Atri**

69. Admit.

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

71. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph, except to admit that Plaintiff D'Atri sought to enlist with the Air

Force until February 2018.

72. Admit.

73. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph, except to admit that he has previously received hormone therapy.

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

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

**Plaintiff Wood**

76. Admit.

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

78. Admit Plaintiff Wood initiated the enlistment process in 2018. Deny that he is actively working with his recruiter to enlist in the Marine Corps.

79. Admit that Plaintiff Wood was scheduled to go through MEPS. Deny that Plaintiff failed to go through MEPS or was prevented from enlisting because of the Mattis Policy.

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

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

82. The first sentence of this paragraph contains Plaintiffs' speculation regarding hypothetical events that may or may not take place in the future, and Plaintiffs' speculation about how the Marine Corps' future accession policies may or may not apply to those hypothetical events. Accordingly, the first sentence of this paragraph is denied. Defendants lack knowledge or

information sufficient to form a belief as to the truth of the allegations in the second sentence of this paragraph.

**Plaintiff Branco**

83. Admit.

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

85. As to the first and second sentences, Defendants admit Plaintiff Branco met with an Army recruiter on June 29, 2017, and worked with an Army recruiter at the beginning of 2018, but otherwise lack knowledge or information sufficient to form a belief as to the truth of these allegations. As to the third sentence, Defendants admit Plaintiff Branco submitted medical paperwork numerous times in order to pursue enlistment.

86. Admit.

87. Defendants admit that Plaintiff Branco has disclosed he has received hormone therapy, but otherwise lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

88. As to the first sentence, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph. The second sentence contains Plaintiffs' speculation regarding hypothetical events that may or may not take place in the future, and Plaintiffs' speculation about how the Army National Guard's future accession policies may or may not apply to those hypothetical events. Accordingly, the allegations in the second sentence are denied.

89. Defendants admit that Plaintiff Branco's birth certificate states he is male.

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

**Plaintiff John Doe 2**

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

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

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

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

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

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

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

**Plaintiff Jane Roe 1**

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

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

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

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

102. Defendants lack knowledge or information sufficient to form a belief as to the truth

of the allegations in this paragraph.

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

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

**Plaintiff John Doe 3**

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

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

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

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

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

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

**Plaintiff ACLU of Maryland**

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

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

113. Defendants lack knowledge or information sufficient to form a belief as to the nature of the ACLU of Maryland's work. The remainder of this paragraph contains legal

conclusions regarding the ACLU of Maryland's standing to bring this case, to which no response is required. To the extent a response is deemed required, denied.

114. Defendants lack knowledge or information sufficient to form a belief as to the nature and purpose of the ACLU of Maryland's work. The remainder of this paragraph contains legal conclusions regarding the ACLU of Maryland's standing to bring this case, to which no response is required. To the extent a response is deemed required, denied.

### **Defendants**

115. Defendants admits the first two sentences of this paragraph. With respect to the third sentence, Defendants admit that President Trump issued the 2017 Presidential Memorandum on August 25, 2017 and the 2018 Presidential Memorandum on March 23, 2018, but deny that either memorandum is properly characterized as a "transgender service member ban."

116. Admit.

117. Admit.

118. Admit, but Defendants clarify that Thomas Modly is the current Acting Secretary of the Navy.

119. Admit.

120. Admit, but Defendants clarify that Chad Wolf is the current Acting Secretary of Homeland Security.

121. Admit.

### **JURISDICTION AND VENUE**

122. The allegations in this paragraph consist of Plaintiffs' legal conclusions regarding jurisdiction, to which no response is required.

123. The allegations in this paragraph consist of Plaintiffs' legal conclusions regarding venue, to which no response is required.

### **FACTUAL ALLEGATIONS**

124. With respect to the first sentence of this paragraph, Defendants admit that transgender persons have served in the military, but lack sufficient knowledge or information to form a belief as to the truth of the remainder of this sentence. The second sentence purports to categorize an article by Gary J. Gates and Jody L. Herman, *Transgender Military Service in the United States* (May 2014), <https://williamsinstitute.law.ucla.edu/wp-content/uploads/Transgender-Military-Service-May-2014.pdf>. Defendants refer the Court to the article itself for a complete and accurate statement of its contents. To the extent Plaintiffs' allegations are inconsistent with this article, the sentence is denied. With respect to the third sentence, Plaintiffs lack knowledge or information sufficient to form a belief as to the truth of the allegations.

125. This paragraph purports to characterize a statement by General Milley. Defendants respectfully refer the Court to the statement itself for a complete and accurate statement of its contents. To the extent Plaintiffs' allegations are inconsistent with the statement, this paragraph is denied.

126. This paragraph purports to characterize statements by Admiral John M. Richardson and General Robert Neller. Defendants respectfully refer the Court to the statements themselves for a complete and accurate statement of their contents. To the extent Plaintiffs' allegations are inconsistent with the statements, this paragraph is denied.

127. This paragraph purports to characterize a statement by Adm. Zukunft (Ret.). Defendants respectfully refer the Court to the statement itself for a complete and accurate statement of its contents. To the extent Plaintiffs' allegations are inconsistent with the statement, this paragraph is denied.

128. Defendants lack knowledge or information sufficient to form a belief as to the truth of the averments in this paragraph.

129. This paragraph purports to characterize a portion of DoDI 1300.28. Defendants

respectfully refer the Court to the DoDI 1300.28 itself for a complete and accurate statement of its contents. To the extent Plaintiffs' allegation are inconsistent with DoDI 1300.28, this paragraph is denied.

130. To the extent this paragraph characterizes the views of the American Psychiatric Association ("APA"), Defendants lack knowledge or information sufficient to form a belief as to those views, and further aver that any statement of the APA would speak for itself and is the best evidence of its content. Defendants also lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in this paragraph concerning "every other major mental health organization."

131. Defendants admit that some men and women who are transgender experience gender dysphoria. Defendants further admit that symptoms of gender dysphoria include the incongruence between a person's gender identity and the gender that they were assigned at birth, as well as clinically-significant distress. However, to the extent this paragraph fails to address the full scope of diagnostic criteria and symptoms of gender dysphoria, this paragraph is denied.

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

133. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph, which covers subjects that require medical and/or clinical expertise. Defendants also lack knowledge or information sufficient to form a belief concerning "every major medical organization" or a "consensus among medical experts."

134. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph, which covers subjects that require expertise in medical insurance coverage. Defendants also lack knowledge or information sufficient to form a belief concerning "medical consensus" or "contemporary standards of care."

135. The first sentence of this paragraph is denied. With respect to the second and third sentences, Defendants admit that the military provides psychological care and hormone treatments to service members, when approved by the appropriate medical personnel. With respect to the fourth sentence of this paragraph, Defendants admit that the military provides medically-indicated surgery, including chest and breast reconstruction, hysterectomy, and genital reconstruction to service members, but lack sufficient knowledge or information to respond to Plaintiffs' reference to "other procedures that might be prescribed to treat gender dysphoria."

136. This paragraph purports to characterize DoD's policy and the service branch regulations for medical fitness. Defendants respectfully refer the Court to DoD's policy and the service branch regulations for medical fitness themselves for a complete and accurate statement of their contents. To the extent Plaintiffs' allegations are inconsistent with DoD's policy and regulations, this paragraph is denied.

137. This paragraph purports to characterize DoD's policy and the service branch regulations for medical fitness. Defendants respectfully refer the Court to DoD's policy and the service branch regulations for medical fitness themselves for a complete and accurate statement of their contents. To the extent Plaintiffs' allegations are inconsistent with DoD's policy and regulations, this paragraph is denied.

138. Denied.

139. This paragraph purports to characterize a written statement by Former Secretary of Defense Ashton Carter. Defendants respectfully refer the Court to the statement itself for a complete and accurate statement of its contents. To the extent Plaintiffs' allegations are inconsistent with the statement, this paragraph is denied.

140. This paragraph purports to characterize a written directive issued by Former Secretary of Defense Ashton Carter. Defendants respectfully refer the Court to the directive itself for a complete and accurate statement of its contents. To the extent Plaintiffs' allegations are

inconsistent with the directive, this paragraph is denied.

141. This paragraph purports to characterize a written directive issued by Former Secretary of Defense Ashton Carter. Defendants respectfully refer the Court to the directive itself for a complete and accurate statement of its contents. To the extent Plaintiffs' allegations are inconsistent with the directive, this paragraph is denied.

142. The first sentence of this paragraph is admitted. With respect to the second sentence, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations concerning "these individuals" who are unidentified.

143. With respect to the first sentence of this paragraph, Defendants admit that the working group examined medical, legal, and policy considerations associated with permitting transgender service members to serve in the military. The remainder of the first sentence contains Plaintiffs' subjective characterization and argument about the scope of the examination, to which no answer is required. Defendants admit the second sentence of this paragraph. With respect to the third sentence, Plaintiffs appear to characterize a statement from former Secretary of Defense Ashton Carter made on June 30, 2016. Defendants respectfully refer the Court to the statement itself for a complete and accurate statement of its contents. To the extent Plaintiffs' allegations are inconsistent with those statements, the averments in the third sentence are denied.

144. This paragraph purports to characterize the RAND Report. Defendants respectfully refer the Court to the RAND Report itself for a complete and accurate statement of its contents. To the extent Plaintiffs' allegations are inconsistent with the RAND Report, this paragraph is denied. Defendants admit that Exhibit A appears to be a copy of the RAND Report.

145. This paragraph purports to characterize the RAND Report, as well as a subsequent press release issued by the RAND Corporation. Defendants respectfully refer the Court to these documents for a complete and accurate statement of their contents. To the extent Plaintiffs' allegations are inconsistent with the RAND Report, this paragraph is denied.

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

147. This paragraph purports to characterize DTM 16-005. Defendants respectfully refer the Court to DTM 16-005 itself for a complete and accurate statement of its contents. To the extent Plaintiffs' allegations are inconsistent with DTM 16-005, this paragraph is denied. With respect to the last sentence, Defendants admit that Exhibit B appears to be a copy of DTM 16-005.

148. This paragraph purports to characterize a written statement by former Secretary of Defense Ashton Carter. Defendants respectfully refer the Court to the statement itself for a complete and accurate statement of its contents. To the extent Plaintiff's allegations are inconsistent with the statement, this paragraph is denied.

149. This paragraph purports to characterize DTM 16-005. Defendants respectfully refer the Court to DTM 16-005 itself for a complete and accurate statement of its contents. To the extent Plaintiffs' allegations are inconsistent with DTM 16-005, this paragraph is denied.

150. This paragraph purports to characterize DTM 16-005. Defendants respectfully refer the Court to DTM 16-005 itself for a complete and accurate statement of its contents. To the extent Plaintiffs' allegations are inconsistent with DTM 16-005, this paragraph is denied.

151. This paragraph purports to characterize Transgender Service in the U.S. Military: an Implementation Handbook, DoD (Sept. 30, 2016) (the "Handbook"). Defendants respectfully refer the Court to the Handbook itself for a complete and accurate statement of its contents. To the extent Plaintiffs' allegations are inconsistent with the Handbook, this paragraph is denied.

152. This paragraph purports to characterize the Handbook. Defendants respectfully refer the Court to the Handbook itself for a complete and accurate statement of its contents. To the extent Plaintiffs' allegations are inconsistent with the Handbook, this paragraph is denied.

153. With respect to the first sentence of this paragraph, Defendants admit that there was

training on the policy after it was announced, and that this training involved commanders, medical personnel, the operating forces, and recruiters. With respect to the second sentence, Defendants admit each military Service implemented a program to train its members.

154. Defendants admit that the service branches were instructed to conduct a review of the regulations. However, the remainder of this paragraph contains Plaintiffs' subjective characterization and argument about the scope of that review, to which no answer is required.

155. Defendants admit that the Twitter posts attached to this paragraph appear to be true and correct copies of statements posted by President Trump on July 26, 2017. Defendants respectfully refer the Court to the July 26 tweets themselves for a complete and accurate statement of their contents. To the extent Plaintiffs' allegations are inconsistent with the July 26 tweets, this paragraph is denied.

156. This paragraph is denied.

157. This paragraph purports to characterize specified press reports. Defendants respectfully refer the Court to the press reports themselves for a complete and accurate statement of their contents. To the extent Plaintiffs' allegations are inconsistent with those press reports, this paragraph is denied.

158. This paragraph purports to characterize specified press reports. Defendants respectfully refer the Court to the press reports themselves for a complete and accurate statement of their contents. To the extent Plaintiffs' allegations are inconsistent with those press reports, this paragraph is denied.

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

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

161. This paragraph purports to characterize an article that was posted on

www.palmcenter.org. Defendants respectfully refer the Court to the article itself for a complete and accurate statement of its contents. To the extent Plaintiffs' allegations are inconsistent with that article, this paragraph is denied.

162. This paragraph purports to characterize a written statement by Rep. Scott Taylor. Defendants respectfully refer the Court to the statement itself for a complete and accurate statement of its contents. To the extent Plaintiffs' allegations are inconsistent with that statement, this paragraph is denied.

163. This paragraph purports to characterize a written statement by Sen. John McCain. Defendants respectfully refer the Court to the statement itself for a complete and accurate statement of its contents. To the extent Plaintiffs' allegations are inconsistent with that statement, this paragraph is denied.

164. This paragraph is denied.

165. Defendants admit that the Secretary of Defense was away from the Pentagon on July 26, 2017.

166. Defendants admit that President Trump issued the 2017 Presidential Memorandum on August 25, 2017 for the Secretary of Defense and Secretary of Homeland Security, and that Exhibit C to Plaintiffs' Original Complaint appears to be a copy of the 2017 Presidential Memorandum. Defendants deny that the 2017 Presidential Memorandum is properly characterized as a "transgender service member ban."

167. This paragraph purports to characterize the 2017 Presidential Memorandum. Defendants respectfully refer the Court to the 2017 Presidential Memorandum itself for a complete and accurate statement of its contents. To the extent Plaintiffs' allegations are inconsistent with the 2017 Presidential Memorandum and/or are legal conclusions, this paragraph is denied. Defendants deny that the 2017 Presidential Memorandum is properly characterized as a "transgender service member ban."

168. This paragraph purports to characterize the 2017 Presidential Memorandum.

Defendants respectfully refer the Court to the 2017 Presidential Memorandum itself for a complete and accurate statement of its contents. To the extent Plaintiffs' allegations are inconsistent with the 2017 Presidential Memorandum and/or are legal conclusions, this paragraph is denied. Defendants deny that the 2017 Presidential Memorandum is properly characterized as a "transgender service member ban."

169. This paragraph purports to characterize the 2017 Presidential Memorandum.

Defendants respectfully refer the Court to the 2017 Presidential Memorandum itself for a complete and accurate statement of its contents. To the extent Plaintiffs' allegations are inconsistent with the 2017 Presidential Memorandum and/or are legal conclusions, this paragraph is denied. Defendants deny that the 2017 Presidential Memorandum is properly characterized as a "transgender service member ban."

170. This paragraph purports to characterize the 2017 Presidential Memorandum.

Defendants respectfully refer the Court to the 2017 Presidential Memorandum itself for a complete and accurate statement of its contents. To the extent Plaintiffs' allegations are inconsistent with the 2017 Presidential Memorandum and/or are legal conclusions, this paragraph is denied. Defendants deny that the 2017 Presidential Memorandum is properly characterized as a "transgender service member ban."

171. This paragraph purports to characterize the 2017 Presidential Memorandum.

Defendants respectfully refer the Court to the 2017 Presidential Memorandum itself for a complete and accurate statement of its contents. To the extent Plaintiffs' allegations are inconsistent with the 2017 Presidential Memorandum and/or are legal conclusions, this paragraph is denied. Defendants deny that the 2017 Presidential Memorandum is properly characterized as a "transgender service member ban."

172. This paragraph purports to characterize the 2017 Presidential Memorandum.

Defendants respectfully refer the Court to the 2017 Presidential Memorandum itself for a complete and accurate statement of its contents. To the extent Plaintiffs' allegations are inconsistent with the 2017 Presidential Memorandum and/or are legal conclusions, this paragraph is denied. Defendants deny that the 2017 Presidential Memorandum is properly characterized as a "transgender service member ban."

173. This paragraph is denied. Defendants deny that the 2017 Presidential Memorandum is properly characterized as a "transgender service member ban."

174. The first sentence of this paragraph purports to characterize the 2017 Presidential Memorandum. Defendants respectfully refer the Court to the 2017 Presidential Memorandum itself for a complete and accurate statement of its contents. The second and third sentences of this paragraph purport to characterize the RAND Report. Defendants respectfully refer the Court to the RAND Report itself for a complete and accurate statement of its contents. The last sentence of this paragraph quotes a resolution by the American Medical Association ("AMA"). Defendants respectfully refer the Court to the AMA resolution itself for a complete and accurate statement of its contents. To the extent Plaintiffs' allegations are inconsistent with the 2017 Presidential Memorandum, the RAND Report and/or the AMA resolution, this paragraph is denied. Defendants deny that the 2017 Presidential Memorandum is properly characterized as a "transgender service member ban."

175. This paragraph purports to characterize an article that was posted on [www.palmcenter.org](http://www.palmcenter.org). Defendants respectfully refer the Court to the article itself for a complete and accurate statement of its contents. To the extent Plaintiffs' allegations are inconsistent with that article, this paragraph is denied. Defendants deny that the 2017 Presidential Memorandum is properly characterized as a "transgender service member ban."

176. The first sentence of this paragraph purports to characterize the 2017 Presidential Memorandum. Defendants respectfully refer the Court to the 2017 Presidential Memorandum itself

for a complete and accurate statement of its contents. To the extent Plaintiffs' allegations are inconsistent with the Presidential Memorandum, this paragraph is denied. The second sentence of this paragraph purports to characterize the RAND Report. Defendants respectfully refer the Court to the RAND Report itself for a complete and accurate statement of its contents. To the extent Plaintiffs' allegations are inconsistent with the RAND Report, this paragraph is denied.

177. The first sentence of this paragraph purports to characterize the 2017 Presidential Memorandum. Defendants respectfully refer the Court to the 2017 Presidential Memorandum itself for a complete and accurate statement of its contents. To the extent Plaintiffs' allegations are inconsistent with the Presidential Memorandum, this paragraph is denied. The second sentence of this paragraph purports to characterize the RAND Report. Defendants respectfully refer the Court to the RAND Report itself for a complete and accurate statement of its contents. To the extent Plaintiffs' allegations are inconsistent with the RAND Report, this paragraph is denied.

178. This paragraph purports to characterize the written statement of Sen. Tammy Duckworth. Defendants respectfully refer the Court to the statement itself for a complete and accurate statement of its contents. To the extent Plaintiffs' allegations are inconsistent with that statement, this paragraph is denied.

179. The first sentence of this paragraph purports to characterize the 2017 Presidential Memorandum. Defendants respectfully refer the Court to the 2017 Presidential Memorandum itself for a complete and accurate statement of its contents. To the extent Plaintiffs' allegations are inconsistent with the Presidential Memorandum, this paragraph is denied. The second sentence of this paragraph purports to characterize the RAND Report. Defendants respectfully refer the Court to the RAND Report itself for a complete and accurate statement of its contents. To the extent Plaintiffs' allegations are inconsistent with the RAND report, this paragraph is denied.

180. This paragraph purports to characterize an August 2017 report by the Palm Center. Defendants respectfully refer the Court to the report itself for a complete and accurate statement of

its contents. To the extent Plaintiffs' allegations are inconsistent with that report, this paragraph is denied.

181. This paragraph is admitted.

182. Defendants admit that three other district courts previously entered preliminary injunctions concerning the military's implementation of DTM 16-005.

183. Defendants admit that the accessions policy set forth in DTM 16-005 went into effect on January 1, 2018 but deny that DTM 16-005 remains in effect.

184. This paragraph appears to characterize the Mattis Memorandum. Defendants respectfully refer the Court to this document itself for a complete and accurate statement of its contents. To the extent Plaintiffs' characterizations constitute legal conclusions or are inconsistent with this document, Defendants deny the allegations. Defendants further deny the characterization of the Mattis Memorandum documents as an "implementation plan," including the "implementation memo" and "implementation report," insofar as this means that the Mattis Memorandum was not the product of independent military judgment.

185. The last two sentences of this paragraph are denied. The remainder of this paragraph appears to characterize the Mattis Memorandum. Defendants respectfully refer the Court to this document itself for a complete and accurate statement of its contents. To the extent Plaintiffs' characterizations constitute legal conclusions or are inconsistent with this document, Defendants deny the allegations. Defendants further deny that this document is properly characterized as a "ban on transgender individuals serving in the military."

186. The first, second, and fourth sentences appear to characterize the Mattis Memorandum. Defendants respectfully refer the Court to this document itself for a complete and accurate statement of its contents. To the extent Plaintiffs' characterizations constitute legal conclusions or are inconsistent with this document, Defendants deny the allegations. Defendants further deny the characterization of the Mattis Memorandum documents as "implementation"

documents, insofar as this means that the Mattis Memorandum was not the product of independent military judgment. Defendants further deny that this document is properly characterized as a “ban” on transgender individuals serving in the military. With respect to the third and fifth sentences, Defendants lack sufficient information to admit or deny.

187. This paragraph appears to characterize the Executive Memorandum entitled “Presidential Memorandum for the Secretary of Defense and Secretary of Homeland Security Regarding Military Service by Transgender Individuals,” which was issued on March 23, 2018 (the “2018 Presidential Memorandum”). Defendants respectfully refer the Court to the 2018 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 2018 Presidential Memorandum, Defendants deny the allegations. Defendants further deny that the Mattis Memorandum and DoD Report were “plans for implementation,” insofar as this means that they were not the product of independent military judgment.

188. The first sentence appears to characterize the 2018 Presidential Memorandum. Defendants respectfully refer the Court to the 2018 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 2018 Presidential Memorandum, Defendants deny the allegations. The second sentence is denied. Defendants further deny that military policy relating to service of transgender individuals is properly characterized as a “transgender service member ban.”

189. The first sentence of this paragraph appear to characterize the Supreme Court’s stay orders in the *Stockman* and *Karnoski* cases. The second sentence of this paragraph appears to characterize this Court’s order of March 7, 2019. The third sentence of this paragraph appears to characterize unspecified court orders in various cases. Defendants respectfully refer the Court to the relevant orders for a complete and accurate statement of their contents.

190. This paragraph appears to characterize Defendants’ notice filed with this Court on

March 8, 2019. ECF No. 250. Defendants respectfully refer the Court to the relevant orders for a complete and accurate statement of their contents.

191. This paragraph appears to characterize Directive-Type Memorandum 19-004. Defendants respectfully refer the Court to that document for a complete and accurate statement of its contents.

192. With respect to the first sentence, Defendants lack sufficient information to admit or deny. The remainder of the paragraph appears to characterize a statement by the American Psychological Association. Defendants respectfully refer the Court to the statement itself for a complete and accurate statement of its contents. To the extent Plaintiffs' characterizations constitute legal conclusions or are inconsistent with the statement, Defendants deny the allegations.

193. This paragraph appears to characterize a statement by the Palm Center. Defendants respectfully refer the Court to the statement itself for a complete and accurate statement of its contents. To the extent Plaintiffs' characterizations constitute legal conclusions or are inconsistent with the statement, Defendants deny the allegations.

194. This paragraph appears to characterize a statement by the American Medical Association. Defendants respectfully refer the Court to the statement itself for a complete and accurate statement of its contents. To the extent Plaintiffs' characterizations constitute legal conclusions or are inconsistent with the statement, Defendants deny the allegations.

195. This paragraph consists of legal conclusions related to standing and equitable relief to which no answer is required. To the extent an answer is deemed necessary, denied. Defendants further deny that military policy relating to service of transgender individuals is properly characterized as a "transgender service member ban."

196. This paragraph consists of argument and speculative allegations about future events that have not and may never occur, and therefore Defendants lack knowledge or information sufficient to form a belief as to truth of the allegations.

197. This paragraph appear to characterize the Mattis Memorandum. Defendants respectfully refer the Court to this document itself for a complete and accurate statement of its contents. To the extent Plaintiffs' characterizations constitute legal conclusions or are inconsistent with this document, Defendants deny the allegations. Defendants further deny the characterization of the Mattis Memorandum documents as "implementation" documents, including the "implementation report," insofar as this means that the Mattis Memorandum was not the product of independent military judgment. Defendants further deny that military policy relating to service of transgender individuals is properly characterized as a "transgender service member ban."

198. The first and second sentences of this paragraph are admitted. The third sentence of this paragraph consists of argument and speculative allegations about future events that have not and may never occur, and therefore Defendants lack knowledge or information sufficient to form a belief as to truth of the allegations. Defendants further deny that military policy relating to service of transgender individuals is properly characterized as a "transgender service member ban."

199. The first sentence of this paragraph is admitted. The second sentence of this paragraph consists of argument and speculative allegations about future events that have not and may never occur, and therefore Defendants lack knowledge or information sufficient to form a belief as to truth of the allegations. Defendants further deny that military policy relating to service of transgender individuals is properly characterized as a "transgender service member ban."

200. The first sentence of this paragraph is admitted. The second sentence of this paragraph consists of argument and speculative allegations about future events that have not and may never occur, and therefore Defendants lack knowledge or information sufficient to form a belief as to truth of the allegations. Defendants further deny that military policy relating to service of transgender individuals is properly characterized as a "transgender service member ban."

201. The first sentence of this paragraph is admitted insofar as Plaintiff George has served in the Air National Guard for four years, but Defendants lack knowledge or information sufficient

to admit or deny whether Plaintiff George intends to pursue a commission in the U.S. Army or U.S. Navy. The second sentence of this paragraph consists of speculative allegations about future events that have not and may never occur, and as to which Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations. Defendants further deny that military policy relating to service of transgender individuals is properly characterized as a “transgender service member ban.”

202. The first sentence of this paragraph is admitted. The second sentence of this paragraph consists of speculative allegations about future events that have not and may never occur, and as to which Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations. Defendants further deny that military policy relating to service of transgender individuals is properly characterized as a “transgender service member ban.”

203. The first sentence of this paragraph is admitted. The second sentence of this paragraph consists of speculative allegations about future events that have not and may never occur, and as to which Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations. Defendants further deny that military policy relating to service of transgender individuals is properly characterized as a “transgender service member ban.”

204. This paragraph consists of speculative allegations about future events that have not and may never occur, and as to which Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations.

205. This paragraph appear to characterize the Mattis Memorandum. Defendants respectfully refer the Court to this document itself for a complete and accurate statement of its contents. To the extent Plaintiffs’ characterizations constitute legal conclusions or are inconsistent with this document, Defendants deny the allegations. Defendants further deny the characterization of the Mattis Memorandum documents as “implementation” documents, including the “Implementation Report,” insofar as this means that the Mattis Memorandum was not the product

of independent military judgment.

206. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph, which concern potential harms that transgender service members allegedly will suffer in the future.

207. This paragraph consists of legal conclusions to which no answer is required. To the extent a response is deemed necessary, denied. Moreover, to the extent this paragraph addresses Plaintiffs' personal education opportunities, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph. Defendants further deny that military policy relating to service of transgender individuals is properly characterized as a "transgender service member ban."

208. This paragraph consists of speculative allegations about future events that have not and may never occur, and as to which Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations.

209. This paragraph consists of speculative allegations about future events that have not and may never occur, and as to which Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations. Defendants further deny that military policy relating to service of transgender individuals is properly characterized as a "transgender service member ban."

210. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in the first and fourth sentences of this paragraph. The second, third, and fifth sentences of this paragraph purport to characterize the Mattis Memorandum. Defendants respectfully refer the Court to this document itself for a complete and accurate statement of its contents. The third and fifth sentences of this paragraph also contains speculative allegations about future events that have not and may never occur, and as to which Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations. To the extent Plaintiffs' characterizations constitute legal conclusions or are inconsistent with this document, Defendants

deny the allegations. Defendants further deny the characterization of the Mattis Memorandum documents as “implementation” documents, insofar as this means that the Mattis Memorandum was not the product of independent military judgment.

211. The allegations of this paragraph purport to characterize the Mattis Memorandum. Defendants respectfully refer the Court to this document itself for a complete and accurate statement of its contents. The paragraph also appear to state legal conclusions about “stigma” to which no response is required. To the extent Plaintiffs’ characterizations constitute legal conclusions or are inconsistent the Mattis Memorandum, Defendants deny these allegations.

212. The allegations of this paragraph purport to characterize the Mattis Memorandum. Defendants respectfully refer the Court to this document itself for a complete and accurate statement of its contents. To the extent Plaintiffs’ characterizations of the Mattis Memorandum constitute legal conclusions or are inconsistent with this document, Defendants deny the allegations.

213. The allegations of this paragraph purport to characterize the Mattis Memorandum. Defendants respectfully refer the Court to this document itself for a complete and accurate statement of its contents. The first and third sentences of this paragraph appears to state a legal conclusion regarding Plaintiffs standing, to which no response is required. To the extent Plaintiffs’ characterizations constitute legal conclusions or are inconsistent with this document, Defendants deny the allegations.

214. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph. The second sentence of this paragraph purports to characterize the Mattis Memorandum. Defendants respectfully refer the Court to this document itself for a complete and accurate statement of its contents. To the extent Plaintiffs’ characterizations constitute legal conclusions or are inconsistent with this document, Defendants deny the allegations.

215. This paragraph consists of legal conclusions to which no answer is required. To the extent an answer is deemed necessary, denied. Defendants further deny that military policy relating

to service of transgender individuals “implements” a ban on service by transgender individuals, insofar as this means that it is not the product of independent military judgment, and deny that the policy is properly characterized as a “transgender service member ban.”

216. This paragraph contains speculative allegations about future events that have not and may never occur, and as to which Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations. To the extent Plaintiffs’ characterizations constitute legal conclusions or are inconsistent with this document, Defendants deny the allegations.

217. The first sentence is denied. Defendants deny the second sentence, except to admit that Plaintiffs D’Atri, Wood, Branco, and Doe 2 have had discussions with recruiters. With respect to the third and fourth sentences, Defendants lack knowledge of information sufficient to form a belief as to the truth of the allegations. Furthermore, the second, third and fourth sentences contain Plaintiffs’ speculation regarding hypothetical events that may or may not take place in the future, as well as Plaintiffs’ speculation about how future accession policies may or may not apply to those hypothetical events. Accordingly, the averments in this paragraph are denied.

218. With respect to the first sentence, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations. The second sentence of this paragraph purports to characterize the Mattis Memorandum. Defendants respectfully refer the Court to this document itself for a complete and accurate statement of its contents. To the extent Plaintiffs’ characterizations constitute legal conclusions or are inconsistent with this document, Defendants deny the allegations. The second sentence of this paragraph also consists of speculative allegations about future events that have not and may never occur, and as to which Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations.

## **LEGAL CLAIMS**

### **COUNT I (Against All Defendants)**

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

220. This paragraph consists of legal conclusions to which no answer is required.

221. This paragraph purports to characterize the 2017 Presidential Memorandum.

Defendants respectfully refer the Court to the 2017 Presidential Memorandum itself for a complete and accurate statement of its contents. To the extent Plaintiffs' characterizations are inconsistent with the 2017 Presidential Memorandum, Defendants deny the allegations. Defendants further deny that the 2017 Presidential Memorandum is properly characterized as a "transgender service member ban."

222. This paragraph purports to characterize the Mattis Memorandum. Defendants respectfully refer the Court to the Mattis Memorandum itself for a complete and accurate statement of its contents. To the extent Plaintiffs' characterizations are inconsistent with the Mattis Memorandum, Defendants deny the allegations. Defendants further deny that military policy relating to service of transgender individuals is properly characterized as a "transgender service member ban."

223. This paragraph consists of a legal conclusion to which no answer is required. To the extent an answer is deemed necessary, this paragraph is denied. Defendants further deny that military policy relating to service of transgender individuals is properly characterized as a "transgender service member ban."

224. This paragraph purports to characterize the 2017 Presidential Memorandum. Defendants respectfully refer the Court to the 2017 Presidential Memorandum itself for a complete and accurate statement of its contents. To the extent Plaintiffs' characterizations are inconsistent with the 2017 Presidential Memorandum, Defendants deny the allegations. Defendants further deny that the 2017 Presidential Memorandum is properly characterized as a "transgender service member ban."

225. This paragraph purports to characterize the 2017 Presidential Memorandum. Defendants respectfully refer the Court to the 2017 Presidential Memorandum itself for a complete

and accurate statement of its contents. To the extent Plaintiffs' characterizations are inconsistent with the 2017 Presidential Memorandum, Defendants deny the allegations. Defendants further deny that the 2017 Presidential Memorandum is properly characterized as a "ban on service" by transgender individuals.

226. This paragraph purports to characterize the 2017 Presidential Memorandum. Defendants respectfully refer the Court to the 2017 Presidential Memorandum itself for a complete and accurate statement of its contents. To the extent Plaintiffs' characterizations are inconsistent with the 2017 Presidential Memorandum, Defendants deny the allegations. Defendants further deny that the 2017 Presidential Memorandum is properly characterized as a "transgender service member ban."

227. The first sentence of this paragraph contains Plaintiffs' argument and opinion about how "all service members" should feel about the 2017 Presidential Memorandum, to which no response is required. To the extent a response is deemed required, the first sentence is denied. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in the second sentence of this paragraph.

228. This paragraph contains argument to which no answer is required, and otherwise purports to characterize the 2017 Presidential Memorandum and the Mattis Memorandum. Defendants respectfully refer the Court to these documents themselves for a complete and accurate statement of their contents. To the extent Plaintiffs' characterizations are inconsistent with these documents, Defendants deny the allegations. Defendants further deny that the 2017 Presidential Memorandum is properly characterized as a "transgender service member ban" or that military policy relating to service by transgender individuals is an "implementation plan," insofar as this means that it is not the product of independent military judgment. The second and third sentences of this paragraph consists of speculative allegations about future events that have not and may never occur, and as to which Defendants lack knowledge or information sufficient to form a belief as to

the truth of the allegations.

229. This paragraph contains argument to which no answer is required, and otherwise purports to characterize the Mattis Memorandum. Defendants respectfully refer the Court to the Mattis Memorandum itself for a complete and accurate statement of its contents. To the extent Plaintiffs' characterizations are inconsistent with the Mattis Memorandum, Defendants deny the allegations. Defendants further deny the characterization of the Mattis Memorandum documents as "implementation" documents, insofar as this means that the Mattis Memorandum was not the product of independent military judgment. The last sentence of this paragraph consists of speculative allegations about future events that have not and may never occur, and as to which Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations.

230. This paragraph contains argument to which no answer is required, and otherwise purports to characterize the Mattis Memorandum. Defendants respectfully refer the Court to the Mattis Memorandum itself for a complete and accurate statement of its contents. To the extent Plaintiffs' characterizations are inconsistent with the Mattis Memorandum, Defendants deny the allegations. Defendants further deny the characterization of the Mattis Memorandum documents as "implementation" documents, insofar as this means that the Mattis Memorandum was not the product of independent military judgment. The second sentence of this paragraph consists of speculative allegations about future events that have not and may never occur, and as to which Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations.

231. This paragraph contains argument to which no answer is required, and otherwise purports to characterize the Mattis Memorandum. Defendants respectfully refer the Court to the Mattis Memorandum itself for a complete and accurate statement of its contents. To the extent Plaintiffs' characterizations are inconsistent with the Mattis Memorandum, Defendants deny the

allegations.

232. This paragraph contains argument to which no answer is required, and otherwise purports to characterize the Mattis Memorandum. Defendants respectfully refer the Court to the Mattis Memorandum itself for a complete and accurate statement of its contents. To the extent Plaintiffs' characterizations are inconsistent with the Mattis Memorandum, Defendants deny the allegations.

233. This paragraph purports to characterize the 2017 Presidential Memorandum. Defendants respectfully refer the Court to the 2017 Presidential Memorandum itself for a complete and accurate statement of its contents. To the extent Plaintiffs' characterizations are inconsistent with the 2017 Presidential Memorandum, Defendants deny the allegations. Defendants further deny that the 2017 Presidential Memorandum is properly characterized as a "transgender service member ban."

234. The first sentence of this paragraph purports to characterize the 2017 Presidential Memorandum. Defendants respectfully refer the Court to the 2017 Presidential Memorandum itself for a complete and accurate statement of its contents. To the extent Plaintiffs' characterizations are inconsistent with the 2017 Presidential Memorandum, Defendants deny the allegations. The second sentence of this paragraph purports to characterize DTM 16-005. Defendants respectfully refer the Court to DTM 16-005 itself for a complete and accurate statement of its contents. To the extent Plaintiffs' characterizations are inconsistent with DTM 16-005, Defendants deny the allegations. The third sentence of this paragraph purports to characterize Secretary Mattis's statement. Defendants respectfully refer the Court to that statement for a complete and accurate statement of its contents. To the extent this paragraph is inconsistent with that statement, Defendants deny the allegations.

235. Defendants admit the first sentence of this paragraph. The second sentence of this paragraph consists of speculative claims about whether hypothetical and unspecified candidates would or would not be eligible to access into the military, to which no response is required. But, to

the extent a response is deemed required, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations. The second sentence of this paragraph also purports to characterize the 2017 Presidential Memorandum. Defendants respectfully refer the Court to the 2017 Presidential Memorandum itself for a complete and accurate statement of its contents. To the extent Plaintiffs' characterizations are inconsistent with the 2017 Presidential Memorandum, Defendants deny the allegations.

236. This paragraph contains argument to which no answer is required, and otherwise purports to characterize the Mattis Memorandum. Defendants respectfully refer the Court to the Mattis Memorandum itself for a complete and accurate statement of its contents. To the extent Plaintiffs' characterizations are inconsistent with the Mattis Memorandum, Defendants deny the allegations. Defendants further deny that military policy relating to service of transgender individuals is an "implementation" of a "ban" on transgendered service, insofar as this means that it were not the product of independent military judgment, and deny that it is properly characterized as a "ban" on transgender individuals serving in the military.

237. This paragraph purports to characterize the 2017 Presidential Memorandum. Defendants respectfully refer the Court to the 2017 Presidential Memorandum itself for a complete and accurate statement of its contents. To the extent Plaintiffs' characterizations are inconsistent with the 2017 Presidential Memorandum, Defendants deny the allegations. Defendants further deny that the 2017 Presidential Memorandum is properly characterized as a "transgender service member ban."

238. This paragraph purports to equate unidentified and unspecified types of "medically necessary care." These allegations are vague, speculative, and constitute argument, and thus Defendants lack knowledge or information sufficient to respond to this paragraph.

239. The first sentence of this paragraph purports to equate unidentified and unspecified types of "surgical procedures." These allegations are vague, speculative, and constitute argument,

and thus Defendants lack knowledge or information sufficient to respond to this paragraph. The second sentence of this paragraph purports to characterize the 2017 Presidential Memorandum. Defendants respectfully refer the Court to the 2017 Presidential Memorandum itself for a complete and accurate statement of its contents. To the extent Plaintiffs' characterizations are inconsistent with the 2017 Presidential Memorandum, Defendants deny the allegations. Defendants further deny that the 2017 Presidential Memorandum is properly characterized as a "transgender service member ban."

240. This paragraph contains argument to which no answer is required, and otherwise purports to characterize the Mattis Memorandum. Defendants respectfully refer the Court to the Mattis Memorandum itself for a complete and accurate statement of its contents. To the extent Plaintiffs' characterizations are inconsistent with the Mattis Memorandum, Defendants deny the allegations.

241. This paragraph contains argument to which no answer is required, and otherwise purports to characterize the Mattis Memorandum. Defendants respectfully refer the Court to the Mattis Memorandum itself for a complete and accurate statement of its contents. To the extent Plaintiffs' characterizations are inconsistent with the Mattis Memorandum, Defendants deny the allegations.

242. This paragraph contains argument to which no answer is required, and otherwise purports to characterize the Mattis Memorandum and the 2017 Presidential Memorandum. Defendants respectfully refer the Court to these documents for a complete and accurate statement of their contents. To the extent Plaintiffs' characterizations are inconsistent with either document, Defendants deny the allegations. Defendants further deny that military policy relating to service of transgender individuals is a "ban" on transgender service members, and deny that either the 2017 Presidential Memorandum or the Mattis Memorandum represents the "implementation" or "enforcement" of such a "ban," insofar as this means that it were not the product of independent

military judgment.

243. This paragraph consists of Plaintiffs' legal arguments and conclusions to which no answer is required. To the extent a response is deemed required, denied. Defendants further deny that military policy relating to service of transgender individuals is a "ban" on transgender service members, and deny that either the 2017 Presidential Memorandum or the Mattis Memorandum represents the "implementation" or "enforcement" of such a "ban," insofar as this means that it were not the product of independent military judgment.

244. This paragraph consists of Plaintiffs' legal arguments and conclusions to which no answer is required. To the extent a response is deemed required, denied. Defendants further deny that military policy relating to service of transgender individuals is a "ban" on transgender service members, and deny that either the 2017 Presidential Memorandum or the Mattis Memorandum represents the "implementation" or "enforcement" of such a "ban," insofar as this means that it were not the product of independent military judgment.

245. This paragraph consists of Plaintiffs' legal arguments and conclusions to which no answer is required. To the extent a response is deemed required, denied.

246. This paragraph consists of Plaintiffs' prayer for relief and legal arguments and conclusions to which no answer is required. To the extent a response is deemed required, denied.

\* \* \*

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 Third Amended Complaint not expressly admitted or denied in this Answer, or to which it has responded that it has insufficient information to admit or deny.

December 4, 2019

Respectfully submitted,

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Civil Division

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*/s/ Michael J. Gerardi*

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**CERTIFICATE OF SERVICE**

I hereby certify that on December 4, 2019, I electronically transmitted the foregoing to the parties and the clerk of court for the United States District Court for the District of Maryland using the CM/ECF filing system.

/s/ Michael J. Gerardi  
Michael J. Gerardi