

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

_____)	
DR. KUSUMA NIO, <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	Civil Action No. 1:17-00998-ESH
v.)	
)	
UNITED STATES DEPARTMENT OF)	
HOMELAND SECURITY, <i>et al.</i> ,)	
)	
Defendants.)	
)	
_____)	

DEFENDANTS' ANSWER

1. This paragraph is a characterization of Plaintiffs' lawsuit to which no response is required.
To the extent a response is required Defendants deny the allegations in this paragraph.
2. Defendants deny that Plaintiffs Kusuma Nio and Jae Seong Park are non-citizens.
Defendants deny the remaining allegations in this paragraph, and aver that 8 U.S.C. § 1440 allows that certain aliens, who have served honorably as members of the Selected Reserved of the Ready Reserve may be naturalized, and that the executive department under which the person has served determines whether that person has served honorably.
3. Defendants deny the first and second sentences of this paragraph. The third sentence is Plaintiff's characterization of the relief they seek, to which no response is required.
4. Defendants admit the allegations in the first clause of the first sentence. Defendants deny the remainder of the first sentence. Defendants aver that even if the second sentence was true at one time, Defendants deny it is true any longer. Defendants deny the remainder of the allegations in the paragraph.

Defendants deny the remainder of the paragraph, except to state that the enlistment contracts and related papers speak for themselves.

5. Defendants deny the first sentence. Defendants deny the second sentence, but admit the named Plaintiffs enlisted in the Army, obtained from DoD a Form N-426, and applied for naturalization with DHS. Defendants admit the final sentence..
6. Defendants deny the allegations in this paragraph.
7. Defendants deny the allegations in this paragraph.
8. Defendants deny the allegations in this paragraph.
9. Defendants deny the allegations in this paragraph.
10. This paragraph is a characterization of Plaintiffs' lawsuit to which no response is required. To the extent a response is required, Defendants deny the allegations.

JURISDICTION

11. This paragraph is a characterization of Plaintiffs' statement on jurisdiction to which no response is required. However, Defendants admit this Court has jurisdiction under the APA, 5 U.S.C. 701 *et seq.* to review final agency actions.

VENUE

12. This paragraph is a characterization of Plaintiffs' statement on venue to which no response is required. Defendants admit that venue is proper.

PARTIES

13. Defendants admit the allegations in this paragraph.
14. Defendants admit the allegations in this paragraph.
15. Defendants admit the allegations in this paragraph.
16. Defendants admit the allegations in this paragraph.
17. Defendants admit the allegations in this paragraph.

18. Defendants admit the allegations in this paragraph.

19. Defendants admit the allegations in this paragraph.

20. Defendants admit the allegations in this paragraph.

21. Defendants admit the allegations in this paragraph.

22. Defendants admit the allegations in this paragraph.

23. Defendants admit that defendant Elaine Duke was sued in her official capacity as Acting Secretary of Homeland Security. Defendants aver that Kirstjen Nielson is now the Secretary of Homeland Security and has been automatically substituted for Ms. Duke as a defendant in this action by operation of Fed. R. Civ. P. 25(d). The remainder of paragraph 23 constitutes Plaintiffs' characterization of the Secretary's function and responsibility, to which no response is required. To the extent the Court requires a response, Defendants aver that the Secretary of Homeland Security is responsible for the administration and enforcement of the immigration laws of the United States except as to functions conferred by law upon other officials.

24. Defendants admit USCIS is responsible for the administration and implementation of the immigration laws of the United States to the extent such functions are conferred on USCIS by law or delegated to USCIS by the Secretary of Homeland Security.

25. Defendants admit the first sentence. Defendants admit the Director of USCIS is responsible for the administration and implementation of the immigration laws of the United States to the extent such functions are conferred on USCIS by law or delegated to USCIS by the Secretary of Homeland Security.

26. Defendants admit, but aver that Kirstjen Nielson is now the Secretary of Homeland Security and has been automatically substituted for Ms. Duke as a defendant in this action by operation of Fed. R. Civ. P. 25(d).

27. Defendants admit.

28. Defendants admit.

29. Defendants admit.

BACKGROUND AND FACTS

The MAVNI Program and Plaintiffs' Service Commitments

30. The allegations in the first two sentences of this paragraph are legal conclusions to which no response is required. Defendants admit the allegations in the final sentence.

31. Defendants admit.

32. Defendants admit the first long sentence except for the word "touting." Defendants lack information as to whether the second sentence is true.

33. Defendants deny the first sentence. Defendants admit that Plaintiffs enlisted under the MAVNI program but lack information to admit or deny the remainder of the sentence. . Defendants admit the third sentence. Defendants admit the fourth sentence. Defendants admit the fifth sentence. Defendants deny the final sentence, except that Defendants admit that an Army official has executed a Form N-426 for each named Plaintiff, which states that he or she is serving honorably in the military as a member of the Selected Reserve.

34. Defendants admit the allegations in this paragraph.

35. Defendants admit the allegations in this paragraph.

36. Defendants deny the first sentence and admit the remainder of the paragraph.

The Statutory and Regulatory Framework Applicable to Plaintiffs' Naturalization Applications

37. The allegations in this paragraph are legal conclusions to which no response is required. Defendants deny the second sentence.

38. Defendants admit the allegations in this paragraph.

39. This paragraph consists of legal conclusions to which no response is required.

40. The allegations in this paragraph are legal conclusions to which no response is required. The referenced statute speaks for itself.

41. Defendants deny the allegations in this paragraph.

42. This paragraph consists of a legal conclusion to which no response is required. The statute referenced speaks for itself.

43. This paragraph consists of legal conclusions to which no response is required. The statute and regulations referenced speaks for themselves.

44. This paragraph consists of a legal conclusion to which no response is required. The provision of the USCIS Policy Manual referenced speaks for itself.

45. This paragraph consists of legal conclusions to which no response is required. The statute and regulations referenced speaks for themselves.

46. Defendants admit that Form N-426 is a USCIS form, but deny the remainder of the allegations in this paragraph. Defendants aver that the Form N-426 requests that the Department of Defense verify the applicant's military or naval service. A Form DD-214 documents whether a service member was discharged honorably.

47. This paragraph consists of legal conclusions to which no response is required. The enlistment contracts referenced speak for themselves.

Defendants' (non) Violations of Applicable Law.

48. Defendants admit the sixth sentence. Defendants admit the fifth sentence as to the named Plaintiffs insofar as it states that each of them obtained an N-426 certification from DoD, and deny the remainder of the allegations in this paragraph.

49. Defendants deny the allegations in this paragraph.

DoD's (Alleged) Improper Interference in the Naturalization Process

50. Defendants deny the allegations in this paragraph.

51. Defendants deny the allegations in this paragraph, except that Defendants admit that the Army has certified a Form N-426 for each of the named plaintiffs.

52. Defendants admit the first and last sentences of the paragraph. Defendants deny the remainder of the paragraph.

53. Defendants lack sufficient knowledge to admit or deny the allegations in this paragraph and therefore deny them.

54. Defendants lack sufficient knowledge to admit or deny the allegations in this paragraph and therefore deny them.

55. Defendants lack sufficient knowledge to admit or deny the allegations in this paragraph and therefore deny them.

56. Defendants deny the allegations in this paragraph, except that Defendants admit that the named Plaintiffs were issued Forms N-426.

57. Defendants lack sufficient knowledge to admit or deny the allegations in this paragraph and therefore deny them.

DHS (Allegedly) Accepts and Adopts the Unlawful Naturalization “Hold”

58. Defendants deny the allegations in this paragraph, but aver that USCIS provided various guidance related to MAVNI naturalization applications beginning in February 2017.

59. Defendants admit the first sentence of the paragraph. Defendants deny the remaining allegations in this paragraph.

60. Defendants admit the first sentence. Defendants admit the second sentence, except that the National Benefits Center (“NBC”) implemented, rather than imposed, the hold. Defendants deny the third sentence. Defendants deny the fourth sentence, but Defendants aver that USCIS directed that certain cases be placed on hold pending a response from the Office of the Secretary of Defense (“OSD”) regarding five separate questions. Defendants deny the remainder of the paragraph.

61. Defendants admit the allegation in this paragraph, except that the hold was limited to MAVNI recruits and did not prevent processing of naturalization applications by the NBC.

62. Defendants admit the first sentence. Defendants deny the remainder of the paragraph.

63. Defendants admit the allegation in the paragraph.

64. Defendants admit the allegations in this paragraph.

65. Defendants deny the allegations in this paragraph, but aver that the USCIS Policy Manual speaks for itself.

66. Defendants deny the first sentence. Further, Defendants aver that there is not presently a “hold” on MAVNI naturalization applications and that all “holds” in place prior to July 7, 2017, were lifted by the July 7, 2017 guidance. The May and June 2017 National Performance Reports speak for themselves. Defendants deny the remainder of the paragraph, except admit that “defendant officials have stated that Tier 5 background investigations for MAVNI applicants have taken on average 422 days.” The INA speaks for itself.

The MAVNI Naturalization “Hold” Is [Allegedly] Unlawful, etc.

67. Defendants admit the final sentence and deny the remainder of the allegations in the paragraph.

68. Defendants deny the first sentence. The remainder of this paragraph contains legal argument to which no response is required. To the extent a response is required, defendants deny the allegations in the paragraph.

69. Defendants lack sufficient information to know Congress’ intent and aver that section 1440 speaks for itself. Defendants deny the allegations in the remainder of the paragraph.

70. Defendants admit that section 1440 removes a residency requirement. Defendants admit that some DoD official may have made the statement quoted in the final sentence. Defendants deny the remainder of the paragraph.

71. This paragraph contains legal argument to which no response is required. To the extent a response is required, Defendants deny the allegations in this paragraph. The statute referenced speaks for itself. Defendants aver that they have not imposed any residency requirements on individuals who are applying for naturalization under section 1440.

72. This paragraph contains legal argument to which no response is required. To the extent a response is required, Defendants deny the allegations in this paragraph. The statute referenced speaks for itself.

73. Defendants deny the first sentence. Defendants lack sufficient information to admit or deny the second sentence. Defendants admit the third sentence. Defendants deny the remainder of the paragraph.

74. Defendants deny the first sentence. Defendants admit the second sentence but deny that the guidance USCIS issued on that date constituted a “hold directive.” Defendants deny the remainder of the paragraph.

75. Defendants aver that the document referenced speaks for itself. Defendants aver that the document was predecisional and never adopted and finalized. Defendants deny the allegations in the paragraph.

76. Defendants deny the allegations in this paragraph, except that Defendants aver that USCIS was aware, no later than June 28, 2017, that DoD was in the process of drafting a Memo, which was not final.

77. Defendants deny the first sentence. Defendants admit the second sentence, except to the extent that it suggests that there is presently a “hold.” Defendants are without sufficient information to admit or deny the fourth sentence. Defendants deny the remaining allegations in this paragraph.

DoD's [Allegedly] Unlawful N-426 Policies

78. To the extent that the allegations in this paragraph once may have been accurate, they are no longer true. Accordingly, Defendants admit that the statement in the final sentence was made but deny the remainder of the allegations in this paragraph.

79. This paragraph contains a characterization of a prior Court ruling in this case that requires no response.

80. Defendants admit the allegations in this paragraph but deny the allegations that the plaintiffs made in the *Kirwa* action.

81. The October 13, 2017 DoD policy speaks for itself. Defendants deny the remainder of the allegations in this paragraph.

82. This paragraph contains a characterization of the October 13, 2017 DoD policy, which speaks for itself.

83. Defendants deny the allegations in this paragraph.

84. Defendants deny the allegations in this paragraph. The statutes and public laws referenced speak for themselves.

85. This paragraph contains legal argument to which no response is required. The statutes and regulations referenced speak for themselves.

86. The USCIS Policy Manual and the record of proceedings in this case are documents that speak for themselves. Accordingly no response is required.

87. Defendants admit the first sentence, except that USCIS naturalizes members of the Selected Reserve whether or not they are medical professionals, provided that their background checks are complete and that they are eligible for military naturalization. Defendants deny the remaining allegations this paragraph.

88. Defendants deny the allegations in this paragraph.

Plaintiffs' Honorable Service and Applications for Naturalization

89. Defendants admit the allegations in this paragraph except that Defendants lack sufficient information to admit or deny the allegations in the sixth sentence. Defendants aver that Dr. Nio submitted a certified Form N-426 to USCIS, signed by "Nelsi Torres Williams, Commander" and dated September 10, 2016.

90. In the first sentence Defendants admit only that Dr. Nio had a naturalization interview on April 10, 2017. Defendants admit the second and third sentences. Defendants lack sufficient knowledge to admit or deny the remainder of the paragraph

91. Defendants admit the first sentence. Defendants aver that Dr. Nio was subjected to a CI screening in August 2017. Defendants admit the remainder of the paragraph.

92. In the fourth sentence, Defendants admit only that USCIS received Ms. Li's application on August 19, 2016. Defendants lack sufficient information to admit or deny the allegations in the fifth sentence. Defendants aver that Ms. Li submitted a certified Form N-426 to USCIS, signed by "ASST Chief Nurse" Jennifer Jeagers on August 13, 2016.

93. Defendants admit Ms. Li had a naturalization interview on March 13, 2017. Defendants admit the second sentence. Defendants admit the third sentence. Defendants lack sufficient information to admit or deny the fourth sentence but deny that there is presently any "hold."

94. Defendants admit the allegations in the first sentence. Defendants deny the allegations in the second sentence and aver that Ms. Li's application has been pending since August 19, 2016. Defendants admit the remaining allegations in this paragraph.

95. Defendants admit the allegations in this paragraph except that Defendants lack sufficient information to admit or deny the allegations in the fifth sentence. Defendants aver that Mr. Park

submitted a certified Form N-426 to USCIS, signed by “Kenneth B Montgomery USAREC Liaison” on May 4, 2016.

96. Defendants deny the allegations in the first sentence except that Defendants admit that Mr. Park’s naturalization interview took place at the Fort Jackson office in May 2016. Defendants deny the allegations in the second sentence. Defendants lack sufficient information to admit or deny the allegations in the third and fourth sentences. Defendants admit the allegations in the fifth sentence.

97. Defendants admit the allegations in this paragraph except that Defendants lack sufficient information to admit or deny the allegations in the fifth sentence. Defendants aver that Mr. Almeida submitted a certified Form N-426 to USCIS, signed by “CPT Cynthia Freudenthal” on January 18, 2017.

98. Defendants admit the allegations in the first sentence. Defendants lack sufficient information to admit or deny the allegations in the second sentence but deny that there is presently any “hold.”

99. Defendants admit the allegations in the first sentence except that Defendants object to the phrase “USCIS background checks.” Defendants aver that all background checks required by USCIS for MAVNI naturalization applicants processed by the National Benefits Center (“NBC”), such as Federal Bureau of Investigation (“FBI”) name check, were completed for Mr. Almeida by June 2017, but submit that the DoD enhanced background investigation is also a required USCIS background check and has not yet been completed for Mr. Almeida. Defendants admit the remaining allegations in this paragraph.

100. Defendants admit the allegations in this paragraph except that Defendants lack sufficient information to admit or deny the allegations in the fifth sentence. Defendants aver that Mr. Batchu submitted a certified Form N-426 to USCIS, signed by “Jonathan L Kewish/Commander” on March 2, 2017.

101. Defendants deny the first sentence. Defendants lack information sufficient to admit or deny the second sentence but deny that there is presently any “hold.”

102. Defendants admit the allegations in this paragraph except for the final sentence. Mr. Batchu’s CI interview occurred on January 23, 2018.

103. Defendants admit the allegations in the first, second, third, and fourth sentences of this paragraph. Defendants deny the allegations in the fifth sentence because the referenced Form N-426 was not signed, but rather indicated that it had been digitally signed by one “Diaz, Christopher SSG/OPS NCO” on March 3, 2017. Defendants admit the first clause of the fifth sentence except that the referenced request was made by USCIS on April 10, 2017, and not April 14, 2017. Defendants lack sufficient information to admit or deny the remainder of the allegations in the fifth sentence except that Defendants aver that Mr. Calixto submitted a second certified Form N-426 to USCIS, signed by “St. Marc, Mathew SSG/Platoon Sergeant” on April 14, 2017. Defendants lack sufficient information to admit or deny the allegations in the sixth sentence.

104. Defendants admit the first sentence. Defendants lack information sufficient to admit or deny the second sentence but deny that there is presently any “hold” and deny that USCIS was ever instructed by, or complied with an instruction, from DoD not to process applications for MAVNI service members who have not attended BCT.

105. Defendants admit the allegations in this paragraph.

106. Defendants admit the allegations in the first, second, and third sentences of this paragraph. In the fourth sentence, Defendants admit only that USCIS received Ms. Cheng’s application on March 2, 2017. Defendants lack sufficient information to admit or deny the allegations in the fifth sentence. Defendants aver that Ms. Cheng submitted a certified Form N-426 to USCIS, signed by “White, Christopher D, CPT / Company Commander” on January 8, 2017.

107. Defendants lack information sufficient to admit or deny the allegations in this paragraph.

108. Defendants admit the allegations in the first sentence except that Defendants object to the phrase “USCIS background checks.” Defendants aver that all background checks required by USCIS for MAVNI naturalization applicants processed by the National Benefits Center (“NBC”), such as Federal Bureau of Investigation (“FBI”) namecheck, were completed for Ms. Cheng by June 2017, but submit that the DoD enhanced background investigation is also a required USCIS background check and has not yet been completed for Ms. Cheng. Defendants deny the allegations in the second sentence. Defendants aver that Ms. Cheng’s naturalization application has been pending since March 2, 2017. Defendants admit the remaining allegations in this paragraph except that Defendants lack sufficient information to admit or deny the ninth sentence. Defendants aver that Mr. Hong submitted a certified Form N-426 to USCIS, signed by “CPT Courtney Dockins Company Commander” on February 13, 2017.

109. Defendants admit the first sentence. Defendants lack information sufficient to admit or deny the second sentence but deny that there is presently any “hold.”

110. Defendants admit the first sentence. Defendants admit the second sentence. Defendants admit the third sentence. Defendants deny the fourth sentence.

111. Defendants admit the allegations in this paragraph except that Defendants lack sufficient information to admit or deny the allegations in the fifth sentence. Defendants aver that Mr. Liu submitted a certified Form N-426 to USCIS, signed by “Douglas H Jones GS Seven RPAC” on September 18, 2016.

112. Defendants admit the first sentence. Defendants lack information sufficient to admit or deny the second sentence, but deny there is presently any “hold” or any requirement by USCIS for military naturalization applicants to attend Basic Combat Training (“BCT”) prior to naturalization.

113. Defendants admit the allegations in this paragraph.

114. Defendants admit the allegations in this paragraph except that Defendants lack sufficient information to admit or deny the allegations in the fifth sentence. Defendants aver that Mr. Udeigwe submitted a certified Form N-426 to USCIS, signed by “CP1 Imani Beckwith CMD” on January 8, 2017.

115. Defendants admit the first sentence. Defendants lack information sufficient to admit or deny the second sentence, but deny there is presently any “hold.”

116. Defendants admit the allegations in this paragraph, except that Defendants object to the phrase “USCIS background checks.” Defendants aver that all background checks required by USCIS for MAVNI naturalization applicants processed by the NBC, such as the FBI namecheck, were completed for Mr. Udeigwe by June 2017, but submit that the DoD enhanced background investigation is also a required USCIS background check and has not yet been completed for Mr. Udeigwe.

117. Defendants admit that each named plaintiff has a completed NIAC.

118. Defendants admit this as to named plaintiffs only.

119. Defendants aver that the cited representation to the court speaks for itself and does not require a response. Defendants deny the remaining allegations in this paragraph, as USCIS has not received notice that any of the DoD background checks are complete for the named plaintiffs who have not yet naturalized.

120. Defendants admit the allegations in this paragraph.

Defendants’ [Allegedly] Unlawful Conduct Has [Allegedly] Caused Harm, etc.

121. Defendants deny the allegations in this paragraph except for the second sentence, which defendants admit.

122. Defendants deny the allegations in this paragraph.

123. Defendants deny the allegations in this paragraph.

124. Defendants deny the allegations in this paragraph, but aver that the ICE declaration submitted in this litigation and DHS guidance relating to F and M nonimmigrant visas speak for itself.

125. Defendants deny the allegations in this paragraph.

126. Defendants lack information sufficient to admit or deny the allegations in this paragraph and therefore deny them.

127. Defendants lack information sufficient to admit or deny the allegations in this paragraph and therefore deny them.

CLASS ACTION ALLEGATIONS

128. Defendants admit that plaintiffs filed a class action complaint.

129. This paragraph contains Plaintiff's proposed class description, and requires no response.

This Court certified a class.

130. Defendants deny the allegations in this paragraph, and opposed class certification.

131. Defendants admit the allegations in this paragraph.

132. Defendants deny the allegations in this paragraph, and opposed class certification.

133. Defendants deny the allegations in this paragraph, and opposed class certification.

134. Defendants deny the allegations in this paragraph.

135. Defendants deny the allegations in this paragraph.

136. Defendants deny the allegations in this paragraph.

CLAIMS FOR RELIEF

Count I: Declaratory Judgment

137. No response is required.

138. This paragraph contains a legal conclusion to which no response is required. The statute speaks for itself.

139. This paragraph contains a legal conclusion to which no response is required. The statute speaks for itself. To the extent a response is required, Defendants deny the allegations in this paragraph.

140. Defendants deny the allegations in this paragraph.

141. This paragraph contains a legal conclusion to which no response is required. The statute and the new DoD N-426 Policy, issued on October 13, 2017, speak for themselves. To the extent a response is required, Defendants deny the allegations in this paragraph.

142. This paragraph contains Plaintiffs' requests for a declaratory judgment, to which no response is required. Defendants deny Plaintiffs are entitled to any relief whatsoever.

Count II: Temporary, Preliminary and Permanent Injunctive Relief

143. No response is required.

144. Defendants deny the allegations in this paragraph.

145. Defendants deny the allegations in this paragraph, except that DHS Defendants have implemented a policy to require the completion of certain DoD background checks in order to adjudicate MAVNI naturalization applications.

146. Defendants deny the allegations in this paragraph.

147. This paragraph contains Plaintiffs' request for preliminary injunctive relief against DHS, to which no response is required. Defendants deny Plaintiffs are entitled to any injunctive relief whatsoever.

148. This paragraph contains Plaintiffs' request for permanent injunctive relief against DHS, to which no response is required. Defendants deny Plaintiffs are entitled to any injunctive relief whatsoever.

149. This paragraph contains Plaintiffs' request for preliminary injunctive relief against DoD, to which no response is required. Defendants deny Plaintiffs are entitled to any injunctive relief whatsoever.

150. This paragraph contains Plaintiffs' request for permanent injunctive relief against DoD, to which no response is required. Defendants deny Plaintiffs are entitled to any injunctive relief whatsoever.

151. This paragraph contains Plaintiffs' request for further injunctive relief against DHS and DoD, to which no response is required. Defendants deny Plaintiffs are entitled to any injunctive relief whatsoever.

Count III: Relief Pursuant to the Administrative Procedure Act

152. No response is required.

153. This paragraph contains a legal conclusion to which no response is required. The statute speaks for itself. To the extent a response is required, Defendants deny the allegations in this paragraph.

154. Defendants deny the allegations in this paragraph.

155. Defendants deny the allegations in this paragraph.

156. Defendants deny the allegations in this paragraph, except that Defendants aver that the named Plaintiffs' applications have been pending in excess of USCIS's average cycle time for military naturalization applications, as calculated in May and June 2017, before the July 7 guidance was issued.

157. This paragraph contains a description of the relief Plaintiffs seek, to which no response is required. To the extent a response is required, Defendants deny the allegations in this paragraph.

Relief Pursuant to 5 U.S.C § 706(2)

158. This paragraph contains a legal conclusion to which no response is required. The statute speaks for itself.

159. Defendants deny the allegations in this paragraph.

160. Defendants deny the allegations in this paragraph. The statute speaks for itself.

161. Defendants deny the allegations in this paragraph.

162. Defendants deny the first sentence. Defendants admit the second sentence, but deny there is presently any “hold” and deny that the July 7, 2017 guidance constituted a “‘hold’ directive.”

Defendants deny the allegations in the remainder of the paragraph.

163. Defendants deny the allegations in this paragraph, except that Defendants admit sentence three, and lack sufficient information to admit or deny the allegations in the second sentence.

164. Defendants deny the allegations in this paragraph.

165. Defendants deny the allegations in this paragraph.

166. Defendants deny the allegations in this paragraph.

167. Defendants deny the allegations in this paragraph.

168. The first sentence of this paragraph contains a quotation from a statute which speaks for itself. Defendants deny the remainder of the paragraph.

169. Defendants deny the allegations in this paragraph.

170. This paragraph is a description of the relief Plaintiffs seek. Defendants deny that Plaintiffs are entitled to any relief whatsoever.

171. Defendants deny the first sentence. The remainder of the paragraph contains legal argument to which no response is required. To the extent a response is required, Defendants deny the allegations.

172. Defendants admit only that DoD promulgated a new policy on October 13, 2017. The policy document speaks for itself. Defendants deny the remainder of the allegations in the paragraph.

173. This paragraph contains a description of the relief Plaintiffs seek, to which no response is required. To the extent a response is required, Defendants deny that Plaintiffs are entitled to any relief whatsoever.

Count IV: Mandamus

174. No response is required.

175. Defendants deny the allegations in this paragraph.

176. This paragraph contains a quotation from a statute, which speaks for itself.

177. Defendants deny the allegations in this paragraph

178. This paragraph contains a description of the relief Plaintiffs seek, to which no response is required. To the extent a response is required Defendants deny that Plaintiffs are entitled to any relief whatsoever.

COUNT V: Constitutional Violations

179. No response is required.

180. This sentence consists of a conclusion of law, to which no response is required.

181. This sentence consists of a conclusion of law, to which no response is required.

182. This paragraph contains legal argument, to which no response is required. The statute referenced speaks for itself. To the extent a response is required, Defendants deny the allegations in the paragraph.

183. Defendants deny the allegations in this paragraph.

184. This paragraph contains a description of the relief Plaintiffs seek, to which no response is required. To the extent a response is required, Defendants deny that Plaintiffs are entitled to any relief whatsoever.

PRAYER FOR RELIEF

The remainder of Plaintiffs' Second Amended Complaint is a prayer for various forms of relief. Defendants deny that Plaintiffs are entitled to any relief whatsoever.

GENERAL DENIAL

Anything not specifically admitted, to the extent a response is required, is denied. Defendants reserve the right to amend this Answer if further facts are developed or if errors in drafting this Answer are discovered.

AFFIRMATIVE DEFENSES

Although Defendants do not have specific facts in support of affirmative defenses, they reserve the right to raise any of the affirmative defenses set forth in Federal Rule of Civil Procedure 8, should subsequent discovery disclose facts that support those defenses. Defendants further reserve the right to prepare and plead any and all defenses which may become applicable during the course of this litigation.

DATED: February 2, 2018

Respectfully submitted,

CHAD A. READLER
Acting Assistant Attorney General
Civil Division

WILLIAM C. PEACHEY
Director, Office of Immigration Litigation

By: /s/ Colin A. Kisor
COLIN A. KISOR
Deputy Director
U.S. Department of Justice, Civil Division
Office of Immigration Litigation –
District Court Section
P.O. Box 868, Washington, DC 20044
Telephone: 202-532-4331
Facsimile: 202-305-7000
e-Mail: colin.kisor@usdoj.gov

By: /s/ *Elianis N. Perez*

ELIANIS N. PEREZ

Assistant Director

U.S. Department of Justice, Civil Division

Office of Immigration Litigation –

District Court Section

P.O. Box 868, Washington, DC 20044

Telephone: 202-616-9124

Facsimile: 202-305-7000

e-Mail: elianis.perez@usdoj.gov

/s/ *Sarah L. Vuong*

SARAH L. VUONG

Senior Litigation Counsel

U.S. Department of Justice, Civil Division

Office of Immigration Litigation –

District Court Section

P.O. Box 868, Washington, DC 20044

Telephone: 202-532-4281

Facsimile: 202-305-7000

e-Mail: sarah.l.vuong@usdoj.gov

ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE
Civil Action No. 1:17-00998-ESH

I HEREBY CERTIFY that on this 2nd day of February, 2018, a true copy of the foregoing was filed with the Clerk of the Court using the CM/ECF system which sent notification of such filing via e-mail to the following:

Joseph J. LoBue
FRIED, FRANK, HARRIS, SHRIVER & JACOBSON LLP
801 17th Street, NW
Washington, DC 20006
(202) 639-7493
(202) 639-7003 (fax)
joseph.lobue@friedfrank.com

ATTORNEY FOR PLAINTIFFS

/s/ Elianis N. Perez
ELIANIS N. PEREZ
Assistant Director
United States Department of Justice

ATTORNEY FOR DEFENDANTS