

EXHIBIT 1

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

LEANNE WITHROW,
*on behalf of herself and all persons similarly
situated,*

Plaintiff

v.

UNITED STATES OF AMERICA; et al.

Defendants.

Civil Action No. 1:25-cv-04073

DECLARATION OF JONATHAN GLEKLEN

I, Jonathan Gleklen, state and affirm that the following facts are true and correct:

1. I am Jonathan Gleklen, and I am counsel for LeAnne Withrow (“Ms. Withrow”), the named Plaintiff in this action.

2. I am a partner at Arnold & Porter Kaye Scholer LLP in Washington, D.C. I am admitted to the bar of the District of Columbia and of the United States District Court for the District of Columbia, among other courts.

3. I have actual knowledge of the matters stated herein. If called to testify in this matter, I would testify truthfully and based on my personal experience.

Supporting Evidence for Plaintiff’s Motion for Class Certification

4. The following supporting evidence is cited in Plaintiff’s Motion for Class Certification, and I certify that true and correct copies of each of the following documents are appended as exhibits to this Declaration.

5. Executive Order 14168 (“Executive Order”), titled “Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government,” was issued by President Donald J. Trump on January 20, 2025. Exec. Order 14168, *Defending Women*

From Gender Ideology Extremism and Restoring Biological Truth to the Federal Government, 90 Fed. Reg. 8615 (Jan. 20, 2025). A true and correct copy of the document is appended as Exhibit A.

6. On the same day as the Executive Order was issued, President Trump also issued a Memorandum titled “Return to In-Person Work,” which directed “[h]eads of all departments and agencies in the executive branch of Government [to] . . . take all necessary steps to terminate remote work arrangements and require employees to return to work in-person at their respective duty stations on a full-time basis.” Memorandum, *Return to In-Person Work*, 90 Fed. Reg. 8251 (Jan. 20, 2025). A true and correct copy of the document is appended as Exhibit B.

7. The U.S. Office of Personnel Management issued its 2023 Federal Employee Viewpoint Survey Results reflecting that 2,421 federal employees identified as transgender. Off. of Pers. Mgmt., *Federal Employee Viewpoint Survey Results* 41 (2023), available at <https://web.archive.org/web/20241213172749/https://www.opm.gov/fevs/reports/governmentwide-reports/governmentwide-reports/governmentwide-management-report/2023/2023-governmentwide-managementreport.pdf> [<https://perma.cc/XJ5A-7WS7>]. A true and correct copy of the document is appended as Exhibit C.¹

8. An August 2025 report by the Williams Institute at the University of California, Los Angeles, states that, based on survey data, 2.8 million Americans identify as transgender. Jody Herman et al., *How Many Adults and Youth Identify as Transgender in the United States?*, Williams Institute, UCLA School of Law 1 (2025), <https://williamsinstitute.law.ucla.edu/wp->

¹ The version of the 2023 Federal Employee Viewpoint Survey on the U.S. Office of Personnel Management’s website has been “[r]edacted in response to EO 14151 Ending Radical and Wasteful Government DEI Programs and Preferencing” to remove information regarding the number of transgender federal employees that responded to the survey. See Off. of Pers. Mgmt., *Federal Employee Viewpoint Survey Results Revised Edition* (Apr. 2025), available at <https://perma.cc/J6CG-U4QJ>.

[content/uploads/Trans-Pop-Update-Aug-2025.pdf](#) [https://perma.cc/6PP4-2P7U]. A true and correct copy of the document is appended as Exhibit D.

9. Estimates released by the United Nations reflect that between 0.05% and 1.7% of the population is born with intersex traits—meaning there are potentially as many as 5.6 million intersex people in the United States. United Nations Free & Equal, “Intersex People,” Office of the United Nations High Commissioner for Human Rights 1 (September 2025), <https://www.unfe.org/sites/default/files/download/Intersex%20factsheet%202025%20-%20EN.pdf> [https://perma.cc/DF96-YUZZ]. A true and correct copy of the document is appended as Exhibit E.

10. A General Services Administration (“GSA”) Bulletin 2016-B1, issued on August 8, 2016, directed that that transgender and intersex federal employees have access to bathroom and other facilities consistent with their gender identity. Federal Management Regulation: Nondiscrimination Clarification in the Federal Workplace, 81 Fed. Reg. 55148 (Aug. 18, 2016). A true and correct copy of document is appended as Exhibit F.

11. On January 18, 2017, the Office of Personnel Management (OPM) issued *Guidance Regarding the Employment of Transgender Individuals in the Federal Workplace*, which stated: “[O]nce the employee has begun working in the gender that reflects the employee’s gender identity, agencies should allow access to restrooms and (if provided to other employees) locker room facilities consistent with the employee’s gender identity.” A true and correct copy of document is appended as Exhibit G.

12. On March 31, 2023, OPM updated its *Guidance Regarding the Employment of Transgender Individuals in the Federal Workplace*, which stated: “As the EEOC has explained, under Title VII, agencies should allow access to common and single-user restrooms and other

facilities corresponding to an employee's gender identity." A true and correct copy of document is appended as Exhibit H.

13. On January 29, 2025, Charles Ezell, Acting Director of the U.S. Office of Personnel Management, issued a memorandum ("OPM Memorandum"), which directed each of the heads and acting heads of departments and agencies of the federal government, including the Department of Defense, to—no later than 5:00 p.m. EST on January 31, 2025—"ensure that intimate spaces designated for women, girls, or females (or for men, boys, or males) are designated by sex and not identity." A true and correct copy of the document is appended as Exhibit I.

14. On January 31, 2025, Secretary of Defense Peter Hegseth issued a memorandum (the "Hegseth Memorandum") for senior Pentagon leadership, commanders of the combatant commands, and Defense agency and Department of Defense field activity directors. The Hegseth Memorandum directed all components of the Department of Defense, including the National Guard Bureau in which Ms. Withrow is employed, to "ensure that intimate spaces designated for women, girls, or females (or for men, boys, or males) are designated by sex and not identity." A true and correct copy of the document is appended as Exhibit J.

15. On January 31, 2025, Darin S. Selnick, performing the Duties of the Under Secretary of Defense for Personnel and Readiness, issued a memorandum for all Department of Defense civilian employees referencing the Executive Order and OPM Memorandum and stating that the "Department of Defense will take prompt action to ensure that all programs and activities align with [the] principles" of the Executive Order. A true and correct copy of the document is appended as Exhibit K.

16. On February 2, 2025, Colonel Matthew Garrison, Chief of Joint Staff for the Illinois National Guard, distributed a document to all full-time employees of the Illinois National Guard

noting that the Executive Order required the agency to “ensure intimate spaces are designated by biological sex,” and that the Illinois National Guard would “need to confirm compliance with . . . restrooms.” A true and correct copy of the document is appended as Exhibit L.

17. On February 28, 2025, General Steven S. Nordhaus, Chief of the National Guard Bureau, issued a memorandum referencing the OPM Memorandum and Hegseth Memorandum directing “that intimate spaces designated for women, girls, or females (or for men, boys, or males) are designated by sex and not identity.” A true and correct copy of the document is appended as Exhibit M.

18. On May 9, 2025, the GSA withdrew its 2016 bulletin that had interpreted the nondiscrimination requirements of federal law to require that transgender federal employees be permitted to use bathrooms and other facilities consistent with their gender identity. Federal Management Regulation; Nondiscrimination Clarification in the Federal Workplace; Rescission, 90 Fed. Reg. 19658 (May 9, 2025). A true and correct copy of the document is appended as Exhibit N.

19. On July 10, 2025, Charles Ezell, Acting Director of the U.S. Office of Personnel Management, issued a memorandum (the “Updated OPM Memorandum”) noting that agencies should have already taken steps to comply with the Executive Order and prior memoranda, including having “[e]nsured that intimate spaces (such as bathrooms, locker rooms, and lactation rooms) at Federal worksites designated for women, girls, or females (or for men, boys, or males) are designated by biological sex and not gender identity,” and directing all federal agencies to report to the U.S. Office of Personnel Management on having taken these steps no later than August 11, 2025. A true and correct copy of the document is appended as Exhibit O.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed this 20th day of November, 2025

A handwritten signature in blue ink, appearing to read "J. Gleklen", is written above a horizontal line.

Jonathan Gleklen