

1 Nadine Lewis, Esq., SBN 179979
NADINE LEWIS, ATTORNEY AT LAW
2 1305 Pico Boulevard
3 Santa Monica, California 90405
4 Email: nadine@nadine.esq
Office Telephone: 424.228.5109
5

6 Attorney for Plaintiffs, NATIONAL COALITION FOR MEN,
7 TYLER MCNAMARA, CONOR MCKIERNAN, NICHOLAS MILILLO, NICOLAS
MENDIOLA, and JORDAN FALCON
8

9
10 **UNITED STATES DISTRICT COURT**
11 **CENTRAL DISTRICT OF CALIFORNIA**
12

13 NATIONAL COALITION FOR) Case No. 2:24-cv-04016
14 MEN, a 501(c)(3) non-profit)
15 organization, TYLER MCNAMARA,)
16 an individual, CONOR) **COMPLAINT FOR**
17 MCKIERNAN, an individual,) **INJUNCTIVE AND**
18 NICHOLAS MILILLO, an) **DECLARATORY RELIEF**
19 individual, NICOLAS MENDIOLA,)
an individual, and JORDAN) VIOLATION OF EQUAL
20 FALCON, an individual,) PROTECTION UNDER THE
21) FIFTH AMENDMENT TO THE
Plaintiffs,) U.S. CONSTITUTION
22 vs.) **DEMAND FOR JURY TRIAL**
23)
24 SELECTIVE SERVICE SYSTEM;)
25 JOEL C. SPANGENBERG, as acting)
26 Director of SELECTIVE SERVICE)
27 SYSTEM; and DOES 1-50, inclusive,)
28)
Defendants.)
)

1 Plaintiffs NATIONAL COALITION FOR MEN (hereinafter referred to as
2 “NCFM”), TYLER MCNAMARA, (hereinafter referred to as MCNAMARA),
3 CONOR MCKIERNAN, (hereinafter referred to as MCKIERNAN), NICHOLAS
4 MILILLO, (hereinafter referred to as MILILLO), NICOLAS MENDIOLA,
5 (hereinafter referred to as “MENDIOLA”), and JORDAN FALCON (hereinafter
6 referred to as “FALCON”), (collectively referred to as “Plaintiffs”), bring this action
7 against Defendants SELECTIVE SERVICE SYSTEM (hereinafter referred to as
8 “SELECTIVE SERVICE”) and its acting Director JOEL C. SPANGENBERG
9 (hereinafter referred to as “SPANGENBERG”) (collectively referred to as
10 “Defendants”). Plaintiffs respectfully request injunctive and declaratory relief from
11 Defendants to end sex-based discrimination in its military draft registration program
12 and to treat all sexes equally.
13
14
15
16
17

18 INTRODUCTION

19 1. May 18, 2024, marks the 107th anniversary of the Selective Service
20 System. The Military Selective Service Act (“Act”) requires male citizens and
21 immigrants between the ages of 18 and 26 to register with the Selective Service
22 System to facilitate their conscription if the President initiates the military draft. By
23 registering, a young man remains eligible for federal jobs, state-based student aid in
24 thirty-one states, federally funded job training, and U.S. citizenship for males who are
25 immigrants.
26
27
28

1 2. *The Act does not require women to register.*

2 3. If a young man fails to register, he will face harsh penalties, some of
3
4 which may last a lifetime. Failure to register is a felony punishable by a fine of up to
5 \$250,000 and/or five (5) years imprisonment. These penalties are not limited to the
6 individual who fails to register and may extend to a person who knowingly counsels,
7 aids, or abets another to fail to comply with the registration requirement. Young men
8 must register with the Selective Service System to be eligible for most federal
9 employment, some state employment, security clearance for contractors, and job
10 training under the Workforce Innovation and Opportunity Act. A majority of states
11 link receiving a driver's license to registration so young men must be registered to
12 receive a license, permit, or identification card.
13
14
15

16 4. Currently, in the state of California the Senate Transportation Committee
17 is considering SB 1081, a bill that would tie applying for or renewing a California
18 drivers' license or California identification card to registering with the Selective
19 Service System for those young men of draft age. Under this proposed legislation,
20 young men, 16 years old, up to age 26, will be deemed to have agreed to automatic
21 registration for the draft by placing their signature on a driver's license application.
22
23

24 5. SELECTIVE SERVICE statistics suggest that more than one million men
25 have been denied some government benefit because they failed to register. If the denial
26
27
28

1 of the benefit occurs after the man turns twenty-six, there is no possibility to cure his
2 non-compliance and he will be denied significant government benefits for life.

3
4 6. The U.S. Citizenship and Immigration Services makes registration with
5 the Selective Service System a condition for U.S. citizenship if the man first arrived in
6 the United States before his 26th birthday. Failure to register may cause up to a 5-year
7 delay of U.S. citizenship proceedings for immigrants.
8

9 7. Registration under the Act for the Selective Service System is
10 discrimination on the basis of sex and is forbidden by the Equal Protection Clause of
11 the United States Constitution. This discriminatory law burdens an entire class of
12 citizens, draft-age men, to inferior legal status without regard to the fact that they may
13 potentially lose liberty, life, or limb if called to war; all the while diminishing the
14 capabilities of an entire class of citizens, draft-age women, who currently serve in all
15 military positions, including combat roles.
16
17
18

19 8. Forty-four years ago, President Carter recommended to Congress that the
20 Act be extended to cover women. Forty-three years ago, Justice Thurgood Marshall,
21 called male-only registration *“one of the most potent remaining expressions of ancient*
22 *canards about the proper role of women.”* Women currently serve in every capacity in
23 the U.S. military from the fields of combat to four-star general.
24
25

26 9. The exclusion of women from registration under the Act and the
27 requirement that only men register violates the Due Process Clause of the Fifth
28

1 Amendment of the United States Constitution. This case seeks to end Defendants from
2 discriminating on the basis of sex.

3 4 **BACKGROUND**

5 10. In *Rostker v. Goldberg*, 453 U.S. 57 (1981), male plaintiffs asserted that
6 sex discrimination in the Selective Service System violated their rights, along with
7 other draft-age men, to Equal Protection under the Fifth Amendment to the United
8 States Constitution. In a sharply divided decision, with a vigorous dissent written by
9 Justice Thurgood Marshall, the majority of the Justices ruled against the male plaintiffs
10 on the basis that women were excluded from combat, and therefore, men and women
11 were not similarly situated.
12
13
14

15 11. In 2013, under the Obama administration, Secretary of Defense Leon E.
16 Panetta and Chairman of the Joint Chiefs of Staff, Martin E. Dempsey, issued a
17 Memorandum that officially rescinded the 1994 ban on women in combat. Secretary
18 Panetta firmly stated, “*Success in our military base solely on ability, qualifications,
19 and performance, is consistent with our values and enhances military readiness.*”
20
21 (Gen. Michael Hayden et al. Amicus Curiae, p. 7, NCFM, et al. v Selective Service
22 System, et al. (2021)) (Leon E. Panetta, Sec’y of Def., and Martin E. Dempsey,
23 Chairman of the Joint Chiefs of Staff, Memorandum for Secretaries of the Military
24 departments Acting Under Secretary of Defends for Personnel and Readiness 1 (Jan.
25 24, 2018), <https://dod.defense.gov/Portals/1/Documents/WISRJointMemo.pdf>).
26
27
28

1 12. The 2013 Memorandum gave the military until May 15, 2013, to submit
2 “detailed plans for the implementation of this directive” and directed that integration of
3 women into combat positions be completed “as expeditiously as possible” and no later
4 than January 1, 2016.
5

6 13. As the 2013 Memorandum notes, many changes occurred between the
7 1981 *Rostker* decision and 2013. In 2012, the military opened over 14,000 positions
8 previously closed to women; by 2013, women served alongside men in Iraq and
9 Afghanistan and were exposed to hostile enemy action.
10

11 14. In 2016, Congress authorized the National Commission on Military,
12 National, and Public Service (“NCMNPS”) to study whether registration should be
13 conducted “regardless of sex.” National Defense Authorization Act (“NDAA”) for
14 Fiscal Year 2017, §§551(a), 555(c)(2)(A), 130 Stat. 2130, 2135. In 2020, NCMNPS
15 published a report in which it recommended “eliminat[ing] male-only registration.”
16 (NCMNPS Report, 2020, P. 111)
17
18

19 15. Accordingly, the rationale in *Rostker* no longer exists; as women serve
20 alongside men in every capacity, in the air, at sea, and in the fields of combat.
21
22 Therefore, male, and female servicemembers are similarly situated. With the legal
23 basis requiring only males to register with the Selective Service System inapplicable,
24 Defendants must treat all sexes equally and draw to a close discrimination on the basis
25 of sex.
26
27
28

1 the issuance of declaratory judgments in cases with the courts' jurisdiction, restricted to
2 cases and controversies in the constitutional sense and 28 U.S.C. § 1343(3) & (4).

3
4 19. Venue is proper in this district pursuant to 28 U.S.C § 1391(e)(1)(B)(C)
5 because of the events giving rise to this Complaint occurred in this District, or a
6 substantial part of property that is the subject of the action is situated in this District
7 and more than 50% of the Plaintiffs reside in Los Angeles County with Plaintiffs
8 MCNAMARA, MCKIERNAN, and MILILLO living in Los Angeles County.
9

10
11 **PARTIES**

12 20. Plaintiff NCFM is a not-for-profit, 501(c)(3) education and civil rights
13 corporation organized under the laws of the State of California and of the United
14 States.
15

16 21. NCFM is registered with the Combined Federal Campaign for non-profit
17 organizations.
18

19 22. NCFM is committed to ending harmful discrimination and stereotypes
20 against boys, men, and their families. NCFM is a gender inclusive, nonpartisan,
21 ethnically diverse organization that effects civil rights reform through advocacy,
22 education, outreach services, and litigation.
23

24 23. NCFM philosophically believes that the root causes of "gendered
25 oppression" are gender roles, which developed for various reasons but were then
26
27
28

1 enforced by law in an unfair way on both sexes. These laws discriminate against all
2 genders, in differing ways.

3
4 24. NCFM assisted the California legislature in enacting legislation to protect
5 men from paternity fraud and helped overturn unconstitutional laws that discriminated
6 against male victims of domestic violence in *Woods v Horton* (2008) 167 Cal.App.4th
7 685. NCFM members were the prevailing appellants in the landmark California
8 Supreme Court case *Angelucci v Century Supper Club* (2007) 41 Cal.4th 160, which
9 held that women, people of color, gays and lesbians, and other groups that California
10 businesses discriminated against based on protected personal characteristics did not
11 have to first assert their right to equal treatment to an offending business in order to
12 have standing to sue for unlawful discrimination under California's Unruh Civil Rights
13 Act.
14

15
16 25. NCFM has associational standing because some NCFM members,
17 including MCNAMARA, MCKIERNAN, MILILLO, MENDIOLA, and FALCON,
18 would otherwise have standing to sue in their own right, the interests NCFM seeks to
19 protect are germane to NCFM's purpose and neither the claim asserted, nor the relief
20 requested, requires the participation of individual NCFM members in this lawsuit.
21
22

23
24 26. Some of NCFM's members are males ages 18-26 or who will be age 18-
25 26 at some time relative to this lawsuit. The relief this action seeks is germane to the
26 age-appropriate members of NCFM who are harmed by or subject to discrimination on
27
28

1 the basis of sex from the male-only registration requirements. They are United States
2 citizens, who are not members of the military, students at military academies, or
3 otherwise exempt from the draft. Most importantly, these members of NCFM support
4 equal treatment of all sexes. Finally, some NCFM's members have or are likely to
5 have male children or other loved ones who presently meet or will meet the criteria for
6 registration upon reaching their 18th birthday.
7

9 27. Plaintiff TYLER MCNAMARA is a male age 18-26, and a U.S. citizen
10 residing in Los Angeles County. He is in the age group required by Defendants to
11 register for the military draft and has recently registered for the military draft as is
12 required of him as a male. He is harmed by or subject to discrimination on the basis of
13 sex by the registration requirements. He is not a member of the military, a student at
14 military academies, or otherwise exempt from the draft. Most importantly, he supports
15 the equal treatment of all sexes.
16
17
18

19 28. Plaintiff CONOR MCKIERNAN is a male age 18-26, and a U.S. citizen
20 residing in Los Angeles County. He is in the age group required by Defendants to
21 register for the military draft and has recently registered for the military draft as is
22 required of him as a male. He is harmed by or subject to discrimination on the basis of
23 sex by the registration requirements. He is not a member of the military, a student at
24 military academies, or otherwise exempt from the draft. Most importantly, he supports
25 the equal treatment of all sexes.
26
27
28

1 29. Plaintiff NICHOLAS MILILLO is a male age 18-26, and a U.S. citizen
2 residing in Los Angeles County. He is in the age group required by Defendants to
3 register for the military draft and has recently registered for the military draft as is
4 required of him as a male. He is harmed by or subject to discrimination on the basis of
5 sex by the registration requirements. He is not a member of the military, a student at
6 military academies, or otherwise exempt from the draft. Most importantly, he supports
7 the equal treatment of all sexes.
8

9
10 30. Plaintiff NICOLAS MENDIOLA is a male age 18-26, and a U.S. citizen
11 residing in Riverside County. He is in the age group required by Defendants to register
12 for the military draft and has recently registered for the military draft as is required of
13 him as a male. He is harmed by or subject to discrimination on the basis of sex by the
14 registration requirements. He is not a member of the military, a student at military
15 academies, or otherwise exempt from the draft. Most importantly, he supports the
16 equal treatment of all sexes.
17
18

19 31. Plaintiff JORDAN FALCON is a male age 18-26, and a U.S. citizen
20 residing in San Bernadino County. He is in the age group required by Defendants to
21 register for the military draft and has recently registered for the military draft as is
22 required of him as a male. He is harmed by or subject to discrimination on the basis of
23 sex by the registration requirements. He is not a member of the military, a student at
24
25
26
27
28

1 military academies, or otherwise exempt from the draft. Most importantly, he supports
2 the equal treatment of all sexes.

3
4 32. Defendant SELECTIVE SERVICE is an independent agency within the
5 Executive Branch of the Federal Government of United States of America. The
6 SELECTIVE SERVICE collects and maintains information on young males potentially
7 subject to military conscription. Male U.S. citizens and male immigrants between the
8 ages of 18 and 26 are all required by law to register with the Selective Service System
9 within thirty days of their 18th birthdays and must notify the SELECTIVE SERVICE
10 within ten days of any changes to any of the information they provided on their
11 registration cards, such as a change of address. A 2010 report by the General
12 Accounting Office estimated the Selective Service System's registration rate at 92%,
13 with the names and addresses of over 16.2 million people on file. The SELECTIVE
14 SERVICE provides the names of all registrants to the Joint Advertising Marketing
15 Research & Studies ("JAMRS") program for inclusion in the JAMRS Consolidation
16 Recruitment Database. The names are distributed to various government agencies for
17 recruiting purposes on a quarterly basis.

18
19 33. Defendant SPANGENBERG is the acting Director of the Selective
20 Service System. The Director of the SELECTIVE SERVICE is appointed by the
21 President of the United States of America and confirmed by the Senate.
22
23
24
25
26
27
28

1 39. On January 8, 2021, NCFM filed a Petition for a Writ of Certiorari with
2 the United States Supreme Court.

3
4 40. The National Organization for Women, and the Modern Military
5 Association of America filed Amicus Briefs in support of NCFM’s Petition. General
6 Michael Hayden along with nine other military officers also filed an Amicus Briefs in
7 support of NCFM’s Petition. General Hayden’s brief stated:
8

9 “According to the logic underlying the current draft regime,
10 men are more capable of serving in combat than women. Yet the
11 vast majority of men in fact are not, and – most importantly –
12 have no advantage in readiness over women, who the current
13 statutory scheme forbids from registering. Such a regime makes
14 no sense, either as a matter of Fifth Amendment law or of military
15 planning. Doubling the pool of potential draftees would do more
16 than give the military an opportunity to draw on a larger pool of
17 qualified candidates to meet its needs in the face of a large-scale
18 conflict. It would also permit the military to select the most
19 qualified civilian candidates available for any given role in the
20 military – meaning, a more qualified women could be chosen in
21 the place of a less qualified man. Put differently, doubling the
22 pool of potential draftees would raise the overall quality of the
23 candidate pool and, in doing so, increase military readiness and
24 aid the Nation’s security.” (Gen. Michael Hayden et al. Amicus
25 Curiae, p. 15-16, NCFM, et al. v Selective Service System, et al.
26 (2021))
27

28 41. On June 7, 2021, the Supreme Court denied the Petition. Justice
Sotomayor cited the fact that Congress would be considering the issue in its next
defense bill. Justice Sotomayor stated, “But at least for now, the Court’s longstanding
deference to Congress on matters of national defense and military affairs cautions

1 against granting review while Congress actively weighs the issue.” (Statement of
2 Justice Sotomayer, Pg. 3, 2021).

3
4 42. Congress did, in fact, weigh in on the matter when it passed the next
5 defense bill. In July 2021, the Senate Armed Services Committee voted 21-5 to add
6 women to the draft registration system. The House Armed Services Committee
7 approved the change in September in a 35-24 vote. The committee approval came after
8 a congressionally mandated commission in 2020 recommended draft registration be
9 expanded to include women, calling it a "*necessary and fair step*."
10
11

12 43. A small group of six Congressmembers were adamantly opposed to
13 making women register and threatened to vote against the NDAA as a whole if the
14 final bill included the provision to, in its words, "*draft our daughters*."
15

16 44. In our government composed of a system of checks and balances, the
17 Supreme Court has historically been a check on arbitrary actions of Congress. The
18 comment above which references '*our daughters*' is the quintessential definition of
19 '*arbitrary*' in that it appears to be based upon random choice or personal whim, rather
20 than any rational or measured thought; nor is the comment based upon the various
21 studies and memorandum which Congress itself authorized; all of which concluded
22 that the draft should include all draft-aged citizens and immigrants without regard to
23 their sex. Every study and military recommendation has unequivocally concluded that
24 a gender-neutral draft promotes fairness in the military and is in the best interest of our
25
26
27
28

1 national security. The ‘*daughters*’ comment alone makes the case that Congress failed
2 to end discrimination arising from the Act on the basis of sex for arbitrary reasons.

3
4 45. One of the six holdouts, Sen. Josh Hawley, R-Mo., led the charge against
5 the provision in the Senate, he responded to reports that it would be removed from the
6 NDAA by saying he "certainly hope[s] that is the case. *If it is not, then I will keep*
7 *fighting for a vote on the Senate floor to strip this wrong and misguided provision out*
8 *of the final bill.*" General Hayden and the other military officers who submitted an
9 Amicus Brief in support of women being included in the draft are certainly not
10 misguided and their vast military experience, along with the study Congress authorized
11 is not wrong. These six members of Congress dismiss the fact that registration for the
12 draft does not mandate that all who register are, indeed, drafted; the process has always
13 been *selective*. Each registrant would be drafted based upon their ability to serve,
14 regardless of sex.
15
16
17
18

19 46. Those six Congressmembers who opposed including female citizens and
20 immigrants in the Selective Service System went against the Department of Defense,
21 and their arbitrary views do not reflect the present roles of enlisted female
22 servicemembers who serve in all branches of the U.S. military, including in combat
23 roles. These six members of Congress who used political influence by threatening to
24 hold up approval of the defense bill dismissed the fact that gender-neutral registration
25 celebrates the achievements and capabilities of women who currently serve and readies
26
27
28

1 our country to launch the best possible national defense by allowing the military access
2 to the most qualified people to serve, regardless of their sex.

3
4 47. On June 7, 2021, the Supreme Court denied NCFM’s Petition for Writ of
5 Certiorari and Justice Sotomayor forewarned that the Court would defer to Congress
6 “at least for now.” Three years and four months later and Congress has yet to enact
7 gender-neutral registration. Every year since 2021 when the Supreme Court denied
8 NCFM’s Petition for Writ of Certiorari, Congress had the opportunity to act when they
9 passed the annual defense bill which authorizes approximately \$900 billion in
10 programs and covers the entire Department of Defense as well as the nuclear program
11 in the Department of Energy.
12
13
14

15 48. To prevent tyranny, the U.S. Constitution established three separate but
16 equal branches of government with each branch granted specific powers, limited only
17 by checks and balances in place to avert absolutism by any branch. Congress is tasked
18 with making laws and has been granted great deference by the judiciary related to
19 military affairs. The Court in *Rostker* stated that, “*None of this is to say that Congress*
20 *is free to disregard the Constitution when it acts in areas of military*
21 *affairs...Deference does not mean abdication.*” *Rostker* (1981) 453 U.S. 67, 70.
22
23
24

25 49. Congress may enact laws, but the judiciary has the power to declare them
26 unconstitutional. In our system of checks and balances, courts also guard against the
27 concept of arbitrary Congressional action. With Congressional gridlock at an all time
28

1 high, the courts must also guard against arbitrary Congressional inaction. Congress is
2 enacting fewer laws, engaging more gamesmanship which more often serves their own
3 political interests but not their constituents. One member may have the political
4 influence to block votes or through tactical delays keep legislation in committee to
5 prevent a vote on the floor. As related to registration for the Selective Service System,
6 this form of Congressional action or inaction is a threat to equal protection under the
7 Fifth Amendment.
8
9

10
11 50. The Framers drafted the Constitution with separation of powers, in part, to
12 diminish the threat of arbitrary government action. Justice Stevens stated, “I see no
13 reason why the character of their procedures may not be considered relevant to the
14 decision whether the legislative product has caused a deprivation of liberty or property
15 without due process of law.” *Fullilove v. Klutznick* (1980) 448 U.S. 448, 248.
16

17
18 51. When the Court denied NCFM’s Petition for Certiorari in 2021, Justice
19 Sotomayor stated that “it remains to be seen, of course, whether Congress will end
20 gender-based registration under the Military Selective Service Act. But at least for
21 now, the Court’s long-standing deference to Congress on matters of national defense
22 and military affairs cautions against granting review while Congress actively weighs
23 the issue.” (Statement of Justice Sotomayer, Pg. 3, 2021)
24
25

26 52. General Hayden’s Amicus Brief states that “[r]equiring women as well as
27 men to register for the selective service would send a clear message that the military
28

1 values the service of its women equally alongside the service of its men” (Gen.
2 Michael Hayden et al. Amicus Curiae, p. 21, NCFM, et al. v Selective Service System,
3
4 et al. (2021))

5 53. The rationale behind *Rostker* is therefore obsolete as women serve in
6 every capacity from the fields of combat, in aircraft, at sea and four-star generals. The
7 Act should reflect the present role of women who proudly serve in our military.
8

9 54. At first glance, the prohibition of women from registering with the
10 Selective Service System seems to confer a benefit to women. Limiting registration to
11 men is based upon antiquated stereotypes of the capacity of women to serve and fully
12 participate in military and civic life; and equally archaic and compartmentalized views
13 that men lack the ability to remain at home as caretakers. The ban assumes women are
14 unsuitable for military service notwithstanding their own individual abilities and
15 predispositions. The limitation on registration to male citizens sanctifies these biases
16 and encapsulates them in federal law.
17
18
19

20 55. The Department of Defense advised Congress that allowing women to
21 register would promote military preparedness *and fairness*. There is simply no
22 justification for the inaction of Congress to prevent and combat discrimination on the
23 basis of sex when they are tasked with passing laws to protect equal rights and uphold
24 the Constitution.
25
26
27
28

1 56. It has been 44 years since President Carter suggested Congress enact
2 legislation to include women in the registration.

3
4 57. It has been eight years since Congress authorized the NCMNPS to study
5 women in the draft and their final report was published 2020 where they recommended
6 “*eliminat[ing] male-only registration.*” (NCMNPS Report, Pg. 111), and it has been
7 three years and four months since the Court denied NCFM’s Petition for Writ of
8 Certiorari, deferring matters of the military to Congress.
9

10
11 58. Congress failed to enact legislation in line with military studies and
12 recommendations of the highest-ranking military officers. “*The United States military*
13 *of the twenty-first century values equal opportunity for all qualified individuals to*
14 *serve – regardless of race, sex, gender identity, or sexual orientation. The modern*
15 *history of the military bears this out.*” (Gen. Michael Hayden et al. Amicus Curiae, p.
16 4, NCFM, et al. v Selective Service System, et al. (2021))
17
18

19 59. Plaintiffs seek to end discrimination on the basis of sex as related to
20 registration with the Selective Service System, an action that is long overdue. While
21 there has not been a conscription in almost 50 years, in light of the current state of
22 world affairs, the possibility looms closer than ever before. Equalizing registration
23 with the Selective Service System would ensure that all sexes have the same rights and
24 responsibilities to serve their country if called upon to do so. Eliminating registration
25 on the basis of sex simply acknowledges the reality that currently exists in our military.
26
27
28

1 A pool of draft-age people, regardless of their sex, will enhance military readiness, and
2 contribute to our national security.

3
4 **FIRST CAUSE OF ACTION**

5 (Fifth Amendment – Violation of the Equal Protection Clause)

6 60. Plaintiffs restate and incorporate by reference, as though fully set forth
7 herein, the allegations and statements contained in each of the above-referenced
8 paragraphs.
9

10 61. The Equal Protection Clause of the Fifth Amendment guarantees that no
11 person or group will be denied the protection under the law that is enjoyed by similar
12 persons or groups. Under the Fifth Amendment, no person shall be denied the equal
13 protection of the law nor be subjected to segregation or discrimination in the exercise
14 or enjoyment of his or her civil or political rights because of religion, race, color,
15 ancestry, national origin, sex or physical or mental disability.
16
17

18 62. The Military Selective Service Act denies male citizens and immigrants
19 equal protection; the Act treats males and females of draft-age differently. Plaintiffs
20 MCNAMARA, MCKIERNAN, MILILLO, MENDIOLA, and FALCON are between
21 the ages of 18 and 26 and were required to register with the Selective Service System;
22 no female citizens or female immigrants of draft-age were required to register under
23 the Act.
24
25
26
27
28

1 63. Presently, women to serve in every capacity in all the armed forces;
2 including combat roles. Since 2013, there have been a slew of historic firsts, from the
3 first female graduates of the Army Ranger School in 2015, to the first female Marine
4 to lead an infantry platoon in 2018. By 2019, more than 600 female Sailors and
5 Marines were serving in combat arms units previously restricted to men; while more
6 than 650 women held Army combat roles and over 1,000 had accessed Army combat
7 specialties. Therefore, male, and female citizens and immigrants are similarly situated
8 in their roles in all branches of the U.S. Military; and discrimination against Plaintiffs
9 by the Defendants on the basis of sex violates equal protection under the Fifth
10 Amendment of the U.S. Constitution.

11
12 64. The above-referenced conduct by Defendants violates the rights of
13 Plaintiffs to equal treatment on the basis of sex under the Fifth Amendment of the
14 United States Constitution and Plaintiffs have been harmed as a result of this
15 discriminatory law.

16
17
18
19
20 **PRAYER FOR RELIEF**

21 Therefore, Plaintiffs pray as follows for:

- 22
- 23 1. Injunctive relief enjoining Defendants from pursuing its policy to require male
24 citizens and immigrants to register with the Selective Service System; and to end
25 discrimination on the basis of sex in its military draft registration program and to
26 treat all sexes equally within the Selective Service System;
27
- 28

- 1 2. Declaratory relief regarding the respective rights of Plaintiffs and all Defendants
2 as set forth in this Complaint to issue a declaratory judgment that the practices
3 complained of in this Complaint are unlawful and violate the Fifth Amendment
4 to the U.S. Constitution;
5
6 3. Reasonable Attorney fees and costs related to this action pursuant to 42 U.S.
7 Code § 1988 - Proceedings in vindication of civil right and any other provision
8 of law which may be applicable; and,
9
10 4. Any other relief that the Court deems in the furtherance of justice.
11

12 **DEMAND FOR JURY TRIAL**

13 Plaintiffs hereby demands a trial by jury of all issues and each and every cause
14 of action so triable pursuant to Rule 38 of the Federal Rules of Civil Procedure and the
15 Civil Rights Act of 1991 Plaintiffs demand a trial by jury on all causes of action so
16 triable.¹
17
18

19 Respectfully Submitted.

20 Dated: May 14, 2024

21 NADINE LEWIS, ATTORNEY AT LAW

22 By: *Nadine Lewis, Esq.*

23 Nadine Lewis, Esq.,
24 Attorney for Plaintiffs, NATIONAL
25 COALITION FOR MEN, TYLER
26 MCNAMARA, CONOR MCKIERNAN,
27 NICHOLAS MILILLO, NICOLAS
MENDIOLA, and JORDAN FALCON

28 ¹ Ms. Lewis would like to thank her longtime law clerk Spenser Greenberg for her thoughtful edits and meticulous research on this Complaint.