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ENDORSED
FILED
San Francisco County Superior Court

JUN 29 1998

ALAN CARLSON, Clerk
BY: RIC C. ZARAGOSA
Deputy Clerk

Attorneys for Plaintiff
FIRST LIEUTENANT ANDREW HOLMES,
and all others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA
CITY AND COUNTY OF SAN FRANCISCO

FIRST LIEUTENANT ANDREW HOLMES,
individually and on behalf of all others
similarly situated,

Plaintiff,

v.

CALIFORNIA NATIONAL GUARD; STATE
OF CALIFORNIA; MAJOR GENERAL
TANDY K. BOZEMAN, in his official
capacity; GOVERNOR PETE WILSON, in his
official capacity; DOES I - XXV,

Defendants.

No. CV 987009

CLASS ACTION

Case File Date: May 27, 1997

[PROPOSED] JUDGMENT
(C.C.P. 437c)

On June 18, 1998, this Court entered an Order granting Plaintiff's motion for summary adjudication of the First and Second Causes of Action pursuant to Section 437c of the Code of Civil Procedure and, by separate Order, certified a plaintiff class in this action consisting of all past members of the California National Guard discharged on the basis of their sexual orientation or based on their loss of federal recognition premised on their sexual orientation, as well as all present homosexual and bisexual members of the California National Guard, all of whom risk discharge if their sexual

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1 orientation becomes known. On June 25, 1998, the Court entered an Order dismissing
2 without prejudice Plaintiff's Third, Fourth, Fifth, Sixth, and Seventh Causes of Action,
3 the only causes of action remaining in this case. By this Judgment, the Court enters
4 final judgment pursuant to its June 18, 1998 Order.

5 IT IS ORDERED, ADJUDGED AND DECREED that:

6 1. California Army National Guard Regulation 600-1 §6(d) is hereby
7 declared to be facially unconstitutional and invalid to the extent that it prohibits
8 individuals who have been discharged or released from federal service under the "Don't
9 Ask, Don't Tell" policy based on sexual orientation from obtaining State Active Duty
10 employment, because the regulation:

- 11 (a) discriminates against homosexuals in violation of the Equal Protection
12 Clause of the California Constitution;
- 13 (b) impermissibly burdens statements acknowledging a homosexual
14 orientation in violation of the free speech guarantee of the California
15 Constitution; and
- 16 (c) was adopted in excess of Defendants' statutory authority under
17 California Military and Veterans Code Section 101.

18 2. Defendants are hereby enjoined from enforcing California Army
19 National Guard Regulation 600-1 §6(d) in a manner that prohibits individuals who have
20 been discharged or released from federal service under the "Don't Ask, Don't Tell"
21 policy from obtaining State Active Duty employment.

22 3. Defendants are further enjoined and prohibited from regarding,
23 considering, or treating the separation from federal service of, or withdrawal of federal
24 recognition from, individuals who have been separated or released from federal service
25 under the "Don't Ask, Don't Tell" policy as "for cause."

26 4. Defendants are further ordered to regard, consider, and treat the
27 separation from federal service of, or withdrawal of federal recognition from,
28 individuals who have been separated or released from federal service under the "Don't

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Ask, Don't Tell" policy as "administrative," thereby not affecting the individual's right to serve in state active service.

5. The Court shall retain jurisdiction to enforce the terms of this Judgment.

Dated: June 27 1998



JUDGE OF THE SUPERIOR COURT

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