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 13 AND ANTHONY J. LOVERDE

14 UNITED STATES DISTRICT COURT

15 NORTHERN DISTRICT OF CALIFORNIA

16 MICHAEL D. ALMY, JASON D. KNIGHT,
 17 and ANTHONY J. LOVERDE,

18 Plaintiffs,

19 v.

20 UNITED STATES DEPARTMENT OF
 DEFENSE; ROBERT M. GATES, Secretary
 of Defense; DEPARTMENT OF THE AIR
 21 FORCE; MICHAEL B. DONLEY, Secretary,
 Department of the Air Force; DEPARTMENT
 22 OF THE NAVY; and RAY MABUS,
 Secretary, Department of the Navy,

23 Defendants.
 24

Case No. 10-cv-05627-RS

**DECLARATION OF JASON D.
 KNIGHT IN SUPPORT OF
 PLAINTIFFS' MOTION FOR
 PARTIAL SUMMARY JUDGMENT**

Date: September 1, 2011

Time: 1:30 p.m.

Courtroom: 3, 17th Floor

Judge: Hon. Richard Seeborg

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I, Jason D. Knight, hereby declare as follows:

1. I joined the military both to serve this country and to be able to afford college under the G.I. Bill. I enlisted in the Navy on or about April 4, 2001. I served from 2001 to 2003 in the Navy Ceremonial Guard in Washington, D.C. During my service in the Ceremonial Guard, I represented the United States at official White House ceremonies and during state and military funerals at Arlington National Cemetery and the Tomb of the Unknown Soldier. I was present at more than 1,500 military funerals as part of the firing party rendering the 21-gun salute.

2. In July 2003, following my service in the Ceremonial Guard, I began training as a Hebrew Linguist—formally, a Cryptological Technician Interpretive (CTI) Linguist—at the Defense Language Institute in Monterey, California. After my graduation in December 2004, I reported for duty at Fort Gordon, Georgia, where I attained the rank of Petty Officer Third Class.

3. In 2004, I filed paperwork annulling my marriage because I realized that I am gay. In keeping with the Navy’s core values of honesty and integrity, I provided the Navy with copies of my marriage annulment. I also provided my commander with a written statement, in which I revealed my sexual orientation. The Navy then began administrative discharge proceedings under DADT.

4. At the conclusion of Navy administrative proceedings, I was discharged under DADT for making a statement that I am gay. I received an Honorable Discharge on or about April 3, 2005. Although discharge under DADT is ordinarily accompanied by a lifetime ban on future military service, indicated by an “RE-4” negative reentry code, my discharge papers made me eligible for active duty recall due to a bureaucratic error. A true and correct copy of my April 3, 2005 discharge order is attached hereto as Exhibit 1.

5. On or about June 12, 2006, I received a letter from the Navy recalling me to active duty service. A true and correct copy of those orders is attached hereto as Exhibit 2.

6. On or about September 11, 2006, I was deployed to Kuwait in support of Operation Iraqi Freedom for a year-long tour of duty with the Navy Customs Battalion Romeo.

1 During this entire tour of duty, I served as an openly gay man, out to my immediate chain of
2 command and to most of the rest of my command.

3 7. I attained the rank of Petty Officer Second Class during this tour of duty. A true
4 and correct copy of the order entitling me to wear the uniform of Petty Officer Second Class is
5 attached hereto as Exhibit 3.

6 8. During my service in the Navy, I received numerous military awards and
7 decorations. These accolades include the Navy and Marine Corps Achievement Medal, the Navy
8 Good Conduct Medal, the National Defense Service Medal, the Global War on Terrorism Service
9 Medal, and the Navy Pistol Marksmanship Medal. My accolades also include the following
10 awards and decorations that I received during my service as an openly gay man: a second Navy
11 and Marine Corps Achievement Medal, the Army Achievement Medal, the Global War on
12 Terrorism Expeditionary Medal, the Sea Service Deployment Ribbon, the Navy and Marine Corp
13 Overseas Service Ribbon, and the Armed Forces Reserve Medal.

14 9. My second Navy and Marine Corps Achievement Medal contained the following
15 recognition:

16 CTI2 Knight consistently performed his duties in an exemplary and
17 professional manner. He excelled in the coordination, logistics and
18 transportation requirements for over 100 personnel for Customs
19 Romeo and FWD Echo [Morale, Welfare and Recreation] trips to
20 Kuwait City. His attention to detail directly contributed to the
21 extraordinary success of the mission. CTI2 Knight's exceptional
22 professionalism, unrelenting perseverance, and loyal devotion to
23 duty reflected credit upon him and were in keeping with the highest
24 traditions of the United States Naval Service.

25 It is attached hereto as Exhibit 4.

26 10. Also during my service in the Navy, my military superiors and evaluators provided
27 consistently positive assessments of me in my annual performance evaluations and promotion
28 recommendations, including those performance evaluations and promotion recommendations
issued during the time when I was serving openly.

11 11. In March 2007, after General Peter Pace, Chairman of the Joint Chiefs of Staff,
12 publicly expressed his personal views of homosexuality as "immoral," I wrote a letter to the
13 editor of the *Stars & Stripes*, a military newspaper, responding to General Pace's comments.

1 12. In May 2007, I was the subject of an article in the *Stars & Stripes* regarding my
2 service in Kuwait while openly gay. The *Stars & Stripes* article, “Discharged Gay Sailor is
3 Called Back to Active Duty” printed on May 6, 2007—the same day I boarded a plane with my
4 unit heading back to the United States after a year-long deployment. Members of my command
5 are quoted in the article attesting to my character and saying “He’s better than the average sailor
6 at his job.” I arrived in San Diego the next day, where I was to serve out two weeks of terminal
7 leave. Shortly thereafter, however, the Navy began administrative discharge proceedings under
8 DADT against me for the second time. A true and correct copy of that article is attached here to
9 as Exhibit 5.

10 13. On or about May 11, 2007, I was called to report to the Naval Station in San
11 Diego, where I was to complete my discharge paperwork despite the fact that this was not my
12 parent command. The Personnel Specialist that I was placed with to complete my DD214
13 paperwork was aware of the reason for my discharge. He was empathetic; he informed me that
14 he was reluctantly carrying out orders from his commander to process me out under DADT
15 because I made a public statement that I am gay.

16 14. I was not given the choice to appear before an Admin Board, to dispute the claim,
17 or to seek outside guidance. The discharge proceedings were not administered through my parent
18 command, nor were they initiated by my parent command.

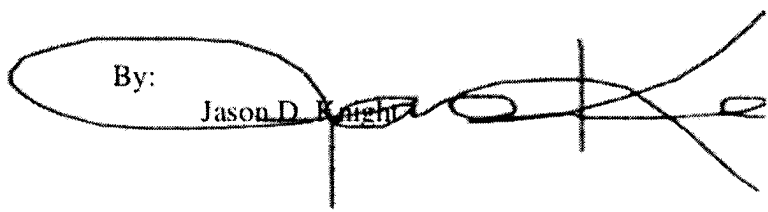
19 15. At the end of this process, I received a DD214 dated 18 May 2007 that stated I was
20 discharged for a “Homosexual Statement” and an RE-4 code barring me from future service
21 signed by direction of the OIC C. A. Michael, GS-7. The next day I received a second DD214
22 dated 19 May 2007 with an RE-1 reenlistment code allowing for future service signed by
23 direction of the OIC C. A. Michael, GS-7. True and correct copies of my May 2007 discharge
24 orders are attached hereto as Exhibit 6 and Exhibit 7, respectively.

25 16. I was discharged from the Navy twice against my will. Had I not been discharged
26 either time under DADT, I would have remained on active duty in the Navy to this day. I simply
27 wish to be reinstated into active duty in the Navy so I can once again serve my country and fulfill
28 the commitment I made to the Navy.

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

Executed on July 27, 2011 at San Francisco, California.

By:  Jason D. Knight