

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

JANE DOE 1, JANE DOE 2, JANE DOE 3,
JANE DOE 4, JANE DOE 5, JOHN DOE 1,
REGAN V. KIBBY, and DYLAN KOHERE,

Plaintiffs,

v.

DONALD J. TRUMP, in his official capacity as
President of the United States; JAMES N.
MATTIS, in his official capacity as Secretary of
Defense; JOSEPH F. DUNFORD, JR., in his
official capacity as Chairman of the Joint Chiefs
of Staff; the UNITED STATES DEPARTMENT
OF THE ARMY; MARK T. ESPER,¹ in his
official capacity as Secretary of the Army; the
UNITED STATES DEPARTMENT OF THE
NAVY; RICHARD V. SPENCER, in his official
capacity as Secretary of the Navy; the UNITED
STATES DEPARTMENT OF THE AIR
FORCE; HEATHER A. WILSON, in her
official capacity as Secretary of the Air Force;
the UNITED STATES COAST GUARD;
KIRSTJEN NIELSEN, in her official capacity as
Secretary of Homeland Security;² the DEFENSE
HEALTH AGENCY; RAQUEL C. BONO, in
her official capacity as Director of the Defense
Health Agency; and the UNITED STATES OF
AMERICA,

Defendants.

Civil Action No. 17-cv-1597 (CKK)

JOINT STATUS REPORT

¹ Mark T. Esper has been substituted as the Secretary of the Army pursuant to Federal Rule of Civil Procedure 25(d).

² Kirstjen Nielsen has been substituted as the Secretary of Homeland Security pursuant to Federal Rule of Civil Procedure 25(d).

Pursuant to this Court’s Order of November 28, 2017, Plaintiffs Jane Doe 1, Jane Doe 2, Jane Doe 3, Jane Doe 4, Jane Doe 5, John Doe 1, Regan V. Kibby, and Dylan Kohere (“Plaintiffs”) and Defendants Donald J. Trump, in his official capacity as President of the United States; James N. Mattis, in his official capacity as Secretary of Defense; Joseph F. Dunford, Jr., in his official capacity as Chairman of the Joint Chiefs of Staff; the United States Department of the Navy; Mark T. Esper, in his official capacity as Secretary of the Army; the United States Department of the Navy; Richard V. Spencer, in his official capacity as Secretary of the Navy; the United States Department of the Air Force; Heather A. Wilson, in her official capacity as Secretary of the Air Force; the United States Coast Guard; Kirstjen Nielsen, in her official capacity as Secretary of Homeland Security; the Defense Health Agency; Raquel C. Bono, in her official capacity as Director of the Defense Health Agency; and the United States of America (“Defendants”), respectfully submit the following Joint Discovery Plan.

I. WRITTEN DISCOVERY

A. Initial Disclosures

The parties have agreed to limit the exchange of initial disclosures to the disclosure of witnesses pursuant to Federal Rule of Civil Procedure 26(a)(1)(A)(i). The parties have exchanged those disclosures.

B. Written Discovery Schedule

Plaintiffs

Plaintiffs served their first set of Requests for Production of Documents, Requests for Admissions, and Interrogatories on Defendants on December 15, 2017.

Defendants

Defendants served their First Set of Requests for Production of Documents on Plaintiffs on December 15, 2017.

Both Parties

The parties will serve any subsequent written discovery requests no later than February 2, 2018. Responses to any such requests will be due in 30 days.

The parties disagree as to the meaning of the Court's order (ECF No. 71) that "Each party" is subject to certain discovery limitations. Because the discovery being served on December 15, 2017 does not exceed either side's understanding of those limitations, this dispute is not ripe for the Court's consideration and may never be so. The parties will bring the matter to the Court in the manner prescribed by the Scheduling and Procedures Order in the event that the dispute becomes ripe for the Court's consideration.

II. DEPOSITIONS

Counsel for the parties have worked diligently and in good faith to set deposition dates for every witness and have agreed to make themselves available to take depositions on any dates on which the witnesses are available. Notwithstanding these efforts, and due to the difficulty of obtaining available dates from every one of the parties' witnesses, the parties have not yet been able to set dates for every deposition. The parties will continue to work together to set deposition dates for every remaining witness and will supplement this Report on or before December 22, 2017. The parties do not currently expect to encounter any difficulty scheduling the depositions within the discovery period ordered by the Court.

Plaintiffs

Plaintiffs list the following individuals as witnesses it plans to depose in this case on the below provided dates:

- 1. Martha “Martie” Soper**
Assistant Deputy for Health Policy
Office of the Deputy Assistant Secretary of the Air Force, Reserve Affairs &
Airman Readiness

Date of deposition: January 26, 2018
- 2. Anthony (Tony) M. Kurta**
Deputy Assistant Secretary of Defense for Military Personnel Policy
Office of the Under Secretary for Personnel and Readiness

Date of deposition: February 28, 2018
- 3. General Paul J. Selva**
Vice Chairman, Joint Chiefs of Staff

Date of deposition: Not yet determined
- 4. Mary V. Krueger**
Assistant Deputy for Health Affairs
Office of the Assistant Secretary of the Army, Manpower and Reserve Affairs

Date of deposition: Not yet determined
- 5. Robert Burns**
Deputy Chief of Staff for Personnel, G1
United States Army Cadet Command

Date of deposition: February 7, 2018
- 6. Capt. Robert Chadwick**
Commandant of Midshipmen
United States Naval Academy

Date of deposition: February 9, 2018

7. Admiral Paul Zukunft

Commandant of the Coast Guard

Date of deposition: Not yet determined

8. Lernes Hebert

Acting Deputy Assistant Secretary of Defense

Military Personnel Policy

Office of the Under Secretary of Defense for Personnel and Readiness

Date of deposition: Not yet determined

9. Defense Health Agency, Pursuant to Federal Rule of Civil Procedure 30(b)(6)

Date of deposition: Not yet determined

Defendants specifically reserve the right to object to any of the depositions listed by Plaintiffs.

Defendants

Defendants list the following individuals as witnesses it plans to depose in this case on the below provided dates:

1. Jane Doe 1

Plaintiff

Date of deposition: March 13, 2018

2. Jane Doe 2

Plaintiff

Date of deposition: March 8, 2018

3. Jane Doe 3

Plaintiff

Date of deposition: Due to Jane Doe 3's deployment, she is not available for deposition during the discovery period.

- 4. Jane Doe 4**
Plaintiff

Date of deposition: March 9, 2018

- 5. Jane Doe 5**
Plaintiff

Date of deposition: March 14, 2018

- 6. John Doe 1**
Plaintiff

Date of deposition: March 15, 2018

- 7. Regan V. Kibby**
Plaintiff

Date of deposition: March 23, 2018

- 8. Dylan Kohere**
Plaintiff

Date of deposition: March 29, 2018

- 9. Brad Roger Carson**
Declarant

Date of deposition: March 19, 2018

- 10. Deborah Lee James**
Declarant

Date of deposition: March 21, 2018

- 11. Eric K. Fanning**
Declarant

Date of deposition: Not yet determined

- 12. Raymond Edwin Mabus, Jr.**
Declarant

Date of deposition: March 26, 2018

13. George Richard Brown
Declarant

Date of deposition: March 5, 2018

14. Mark Eitelberg
Declarant

Date of Deposition: March 27, 2018

15. Margaret C. Wilmoth
Individual Identified in Plaintiffs' Initial Disclosures

Date of Deposition: March 16, 2018

III. OTHER MATTERS

A. ESI Protocol

The parties agree that electronically stored information (ESI) is likely to be responsive to discovery requests in this case and are in the process of negotiating an ESI Protocol.

B. Protective Order

The parties agree that an order is needed to govern the production of confidential information. The parties also agree that it would be beneficial for material produced in discovery in any of the four cases³ challenging the constitutionality of the President's decision to be shared with counsel in the other cases. The parties plan to submit a proposed Protective Order to the Court to achieve these objectives.

³ The other three cases are *Stone v. Trump*, No. 17-cv-02459 (D. Md.); *Karnoski v. Trump*, No. 17-cv-01297 (W.D. Wash.); and *Stockman v. Trump*, No. 17-cv-1799 (C. D. Cal.).

C. Service by Email

The parties agree that discovery materials may be served by email, and that such materials will be deemed to have been served by hand on the date and at the time of the email transmission.

December 15, 2017

Respectfully Submitted,

/s/ Claire Laporte

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