

The Honorable Marsha J. Pechman

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**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE**

RYAN KARNOSKI, et al.,

Plaintiffs,

STATE OF WASHINGTON,

Plaintiff-Intervenor,

v.

DONALD J. TRUMP, et al.,

Defendants.

CASE No. 2:17-cv-01297-MJP

**DECLARATION OF VANESSA
BARSANTI IN SUPPORT OF
PLAINTIFFS' MOTION TO COMPEL
DEFENDANT'S INITIAL DISCLOSURES**

NOTE ON MOTION CALENDAR:
March 9, 2018

1 I, Vanessa Barsanti, swear under penalty of perjury under the laws of the United States to the
2 following:

3 1. I am counsel of record for Plaintiffs in this action, am over the age of 18, and am
4 competent to be a witness. I make this declaration in support of Plaintiffs' Joint Motion to Compel
5 Defendants' Initial Disclosures based on facts within my own personal knowledge.

6 2. On February 9, 2018, the parties served their Initial Disclosures. Attached as Exhibit
7 1 is a true and correct copy of Plaintiffs' Initial Disclosures.

8 3. Defendants' Initial Disclosures were facially insufficient under Federal Rule of Civil
9 Procedure 26(a)(1), as they did not identify any individuals or documents. Attached as Exhibit 2 is a
10 true and correct copy of Defendants' Initial Disclosures.

11 4. On February 14, 2018, Plaintiffs and Defendants held a telephonic conference about
12 Defendants' Initial Disclosures. When Plaintiffs asked Defendants to correct the deficiencies in their
13 Initial Disclosures, Defendants took the position that they will not know their defenses regarding the
14 Government's Ban on transgender military service until the Government's new policy on transgender
15 service is released on February 21, 2018, and thus have no information to disclose under Rule 26.

16 5. Plaintiffs have alleged claims arising from the formation of the President's policy
17 decision to ban transgender individuals from serving in the military "in any capacity," which was first
18 announced via Twitter on July 26, 2017, and was formalized as a memorandum to the Secretary of
19 Defense and Secretary of Homeland Security on August 25, 2017. *See* Plaintiffs' First Amended
20 Complaint for Declaratory and Injunctive Relief (Dkt. No. 30).

21 6. On February 16, 2018, Defendants served their Amended Initial Disclosures.
22 Attached hereto as Exhibit 3 is a true and correct copy of Defendants' Amended Initial Disclosures.

23 7. On two occasions, February 14 and 17, 2018, Plaintiffs requested that Defendants
24 consent to resolve the ongoing dispute regarding its Initial Disclosures via the Expedited Joint
25 Motion Procedure (L.R. 37(a)(2)). On February 20, 2018, Defendants stated that they would not
26 consent to the Expedited Joint Motion Procedure.

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

DATED: February 22, 2018

/s/ Vanessa Barsanti
Vanessa Barsanti

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CERTIFICATE OF SERVICE

The undersigned certifies under penalty of perjury under the laws of the United States of America and the laws of the State of Washington that all participants in the case are registered CM/ECF users and that service of the foregoing documents will be accomplished by the CM/ECF system on February 22, 2018.



Samantha Everett, WSBA #47533
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Newman Du Wors LLP
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Seattle, WA 98121
(206) 274-2800

Exhibit 1

The Honorable Marsha J. Pechman

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**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

RYAN KARNOSKI, et al.,
Plaintiffs,
STATE OF WASHINGTON,
Plaintiff-Intervenor,
v.
DONALD J. TRUMP, et al.,
Defendants.

Case No. 2:17-cv-01297-MJP

**RULE 26(a) INITIAL DISCLOSURES BY
PLAINTIFFS'**

PLAINTIFFS' RULE 26(A)(1) DISCLOSURES

Pursuant to Federal Rule of Civil Procedure 26(a)(1), Plaintiffs Ryan Karnoski, Cathrine Schmid, D.L., Lindsey Muller, Terece Lewis, Phillip Stephens, Megan Winters, Jane Doe, Conner Callahan, Human Rights Campaign, Gender Justice League, and American Military Partners Association make the following initial disclosures. Plaintiffs make these disclosures based on upon information available to them pursuant to the investigation Plaintiffs have been able to conduct to date. These disclosures reflect Plaintiffs' current understanding, belief, and knowledge. As discovery continues, additional information, persons, and documents may become known to Plaintiffs and their counsel. In accordance with Rule 26(e), Plaintiffs reserve the right to amend these disclosures, or to offer further evidence, documents, or information that may come to Plaintiffs' attention after these disclosures.

1 Plaintiffs do not waive any applicable privilege or protection and reserve the right to
 2 object to the production in discovery or admissibility at trial of any information contained in or
 3 derived from these disclosures.

4 **I. Individuals Likely to Have Discoverable Information that Plaintiffs May Use**
 5 **to Support Their Claims**

Name	Contact Information	Subjects
Ryan Karnoski	Via Plaintiffs' counsel of record	Harm suffered as a result of Defendants' ban on military service by transgender persons and/or denial of transition-related surgical care ("the Ban"); absence of justification for the Ban; and any matters discussed in corresponding declaration(s) filed in case.
Cathrine Schmid	Via Plaintiffs' counsel of record	Harm suffered as a result of the Ban; absence of justification for the Ban; and any matters discussed in corresponding declaration(s) filed in case.
D.L.	Via Plaintiffs' counsel of record	Harm suffered as a result of the Ban; absence of justification for the Ban; and any matters discussed in corresponding declaration(s) filed in case.
Lindsey Muller	Via Plaintiffs' counsel of record	Harm suffered as a result of the Ban; absence of justification for the Ban; and any matters discussed in corresponding declaration(s) filed in case.

1 2 3 4	Terece Lewis	Via Plaintiffs' counsel of record	Harm suffered as a result of the Ban; absence of justification for the Ban; and any matters discussed in corresponding declaration(s) filed in case.
5 6 7 8 9	Phillip Stephens	Via Plaintiffs' counsel of record	Harm suffered as a result of the Ban; absence of justification for the Ban; and any matters discussed in corresponding declaration(s) filed in case.
10 11 12 13	Megan Winters	Via Plaintiffs' counsel of record	Harm suffered as a result of the Ban; absence of justification for the Ban; and any matters discussed in corresponding declaration(s) filed in case.
14 15 16 17 18	Jane Doe	Via Plaintiffs' counsel of record	Harm suffered as a result of the Ban; absence of justification for the Ban; and any matters discussed in corresponding declaration(s) filed in case.
19 20 21 22	Conner Callahan	Via Plaintiffs' counsel of record	Harm suffered as a result of the Ban; absence of justification for the Ban; and any matters discussed in corresponding declaration(s) filed in case.
23 24 25 26	Sarah Warbelow	Via Plaintiffs' counsel of record	Harm suffered as a result of the Ban; and any matters discussed in corresponding declaration(s) filed in case.
27 28	Danni Askini	Via Plaintiffs' counsel of record	Harm suffered as a result of the Ban; and any matters

		discussed in corresponding declaration(s) filed in case.
Ashley Broadway	Via Plaintiffs' counsel of record	Harm suffered as a result of the Ban; and any matters discussed in corresponding declaration(s) filed in case.
Brad R. Carson	Via Plaintiffs' counsel of record	DoD policies regarding transgender service members; absence of justification for the Ban; and any matters discussed in corresponding declaration(s) filed in case.
George R. Brown	Via Plaintiffs' counsel of record	Medical treatment for gender dysphoria; absence of medical justifications for the Ban; and any matters discussed in corresponding declaration(s) filed in case.
Raymond E. Mabus	Via Plaintiffs' counsel of record	DoD policies regarding transgender service members; absence of justification for the Ban; and any matters discussed in corresponding declaration(s) filed in case.
Michael Mullen	Via Plaintiffs' counsel of record	DoD policies regarding transgender service members; absence of justification for the Ban; and any matters discussed in corresponding declaration(s) filed in case.
Mark J. Eitelberg	Via Plaintiffs' counsel of record	Absence of personnel and readiness justification for the Ban; and any matters discussed in corresponding declaration(s) filed in case.

1 2 3 4	Eric Fanning	Via Plaintiffs' counsel of record	DoD policies regarding transgender service members; absence of justification for the Ban; and any matters discussed in corresponding declaration(s) filed in case.
5 6 7 8 9	Deborah Lee James	Via Plaintiffs' counsel of record	DoD policies regarding transgender service members; absence of justification for the Ban; and any matters discussed in corresponding declaration(s) filed in case.
10 11 12	Lernes Hebert	Unknown	DoD policies regarding transgender service members; and justifications for the Ban.
13 14 15	Anthony Kurta	Unknown	DoD policies regarding transgender service members; and justifications for the Ban
16 17 18	Paul Selva	Unknown	DoD policies regarding transgender service members; and justifications for the Ban
19 20 21	Ryan McCarthy	Unknown	DoD policies regarding transgender service members; and justifications for the Ban.
22 23 24	Patrick Shanahan	Unknown	DoD policies regarding transgender service members; and justifications for the Ban.
25 26 27 28	Paul Zukunft	Unknown	DoD policies regarding transgender service members; and justifications for the Ban.

1	Raquel Bono	Unknown	DoD policies regarding transgender service members; and justifications for the Ban.
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4	Nadja West	Unknown	DoD policies regarding transgender service members; and justifications for the Ban.
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7	Joseph Dunford	Unknown	DoD policies regarding transgender service members; and justifications for the Ban.
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10	Diane Randon	Unknown	DoD policies regarding transgender service members; and justifications for the Ban.
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12	John Richardson	Unknown	DoD policies regarding transgender service members; and justifications for the Ban.
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15	Robert Work	Unknown	DoD policies regarding transgender service members; and justifications for the Ban.
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18	Vicky Hartzler	2235 Rayburn HOB Washington, DC 20515 (202) 225-2876	Communications with Defendants regarding the Ban; motivations for the Ban.
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21 **II. Documents, Electronically Stored Information, and Tangible Things in**
 22 **Plaintiffs' Possession, Custody, or Control that They May Use to Support**
 23 **Their Claims**

24	Category	Location
25	All declarations or exhibits submitted in <i>Karnoski v. Trump</i> (2:17-cv-01297-MJP), including but not limited to:	Court filings
26	a. declarations and exhibits provided in support of, or in opposition to, Plaintiffs' motion for preliminary injunction; and	
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1 2 3	b. declarations and exhibits provided in support of, or in opposition to, Plaintiffs' and the State of Washington's motions for summary judgment	
4	Transition plan for Cathrine Schmid	Possession of Plaintiff Schmid and Defendants
5	Transition plan for Lindsey Muller	Possession of Plaintiff Muller and Defendants
6	Transition plan for Terece Lewis	Possession of Plaintiff Lewis and Defendants
7	Transition plan for Phillip Stephens	Possession of Plaintiff Stephens and Defendants
8	Transition plan for Megan Winters	Possession of Plaintiff Winters and Defendants
9 10 11 12		

13 III. Computation of Each Category of Damages Claimed

14 Plaintiffs are not presently seeking damages in this case.

15 IV. Any Insurance Agreement Under Which an Insurance Business May Be 16 Liable to Satisfy All or Part of a Possible Judgment

17 Plaintiffs are unaware of any insurance agreement responsive to this disclosure
18 requirement.

19
20 Respectfully submitted this 9th day of February, 2018.

21 **NEWMAN DU WORS LLP**

22 /s/ Samantha Everett

23 Derek A. Newman, WSBA #26967

24 *dn@newmanlaw.com*

25 Samantha Everett, WSBA #47533

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**LAMBDA LEGAL DEFENSE AND EDUCATION
FUND, INC.**

Camilla B. Taylor (admitted pro hac vice)
Tara L. Borelli, WSBA #36759
Peter C. Renn (admitted pro hac vice)
Natalie Nardecchia (admitted pro hac vice)
Sasha Buchert (admitted pro hac vice)
Kara N. Ingelhart (admitted pro hac vice)
Carl Charles (admitted pro hac vice)

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James F. Hurst, P.C. (admitted pro hac vice)
Jordan Heinz (admitted pro hac vice)
Scott Lerner (admitted pro hac vice)
Vanessa Barsanti (admitted pro hac vice)
Daniel Siegfried (admitted pro hac vice)
Ben Tyson (admitted pro hac vice)

Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

The undersigned certifies under penalty of perjury under the laws of the United States of America and the laws of the State of Washington that on February 9, 2018, I caused true and correct copies of the foregoing documents to be served by the method(s) listed below on the following interested parties:

By Email:

Ryan B. Parker
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Civil Division, Federal Programs Branch
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La Rond Baker
Colleen Melody
Assistant Attorney General
Office of the Attorney General
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larondb@atgwa.gov
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Counsel for Defendants

Counsel for The State of Washington

I hereby certify under the penalty of perjury that the foregoing is true and correct.
Executed on February 9, 2018 at Seattle, Washington.

s/Vanessa Barsanti
Vanessa Barsanti

Exhibit 2

The Honorable Marsha J. Pechman

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE**

RYAN KARNOSKI, et al.,

Plaintiffs,

v.

DONALD J. TRUMP, et al.,

Defendants.

Case No. 2:17-cv-01297-MJP

DEFENDANTS' INITIAL DISCLOSURES

Pursuant to Federal Rule of Civil Procedure 26(a)(1)(A), Defendants make the following initial disclosures based on the information reasonably available as of this date.

The Department of Defense is currently undertaking a study of policies concerning transgender service members and upon completion of that study, and the development of any new policies resulting from that study, Defendants will supplement these disclosures as appropriate consistent with Federal Rule of Civil Procedure 26(e).

Date: February 9, 2018

Respectfully submitted,

CHAD A. READLER
Acting Assistant Attorney General

Civil Division

BRETT A. SHUMATE
Deputy Assistant Attorney General

JOHN R. GRIFFITHS
Branch Director

ANTHONY J. COPPOLINO
Deputy Director

/s/ Ryan Parker _____

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Counsel for Defendants

CERTIFICATE OF SERVICE

I hereby certify that, on February 9, 2018, a copy of the document above was served by

email on the following:

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/s/ Ryan Parker
RYAN B. PARKER
Senior Trial Counsel
U.S. Department of Justice

Exhibit 3

The Honorable Marsha J. Pechman

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE**

RYAN KARNOSKI, et al.,

Plaintiffs,

v.

DONALD J. TRUMP, et al.,

Defendants.

Case No. 2:17-cv-01297-MJP

DEFENDANTS' AMENDED INITIAL DISCLOSURES

Pursuant to Federal Rule of Civil Procedure 26(a)(1)(A), Defendants amend their initial disclosures based on the information reasonably available as of this date.

I. Individuals Who May Possess Relevant Discoverable Information That May Be Relied Upon By Defendants In Support of Their Defenses

Name: Ryan Karnoski
Contact Information: Unknown
Subject Matter: Alleged injuries caused by Defendants' actions

Name: Cathrine Schmid
Contact Information: Unknown
Subject Matter: Alleged injuries caused by Defendants' actions

Name: D.L.
Contact Information: Unknown
Subject Matter: Alleged injuries caused by Defendants' actions

Name: Lindsey Muller
Contact Information: Unknown
Subject Matter: Alleged injuries caused by Defendants' actions

Name: Terece Lewis
Contact Information: Unknown
Subject Matter: Alleged injuries caused by Defendants' actions

Name: Phillip Stephens
Contact Information: Unknown
Subject Matter: Alleged injuries caused by Defendants' actions

Name: Megan Winters
Contact Information: Unknown
Subject Matter: Alleged injuries caused by Defendants' actions

Name: Jane Doe
Contact Information: Unknown
Subject Matter: Alleged injuries caused by Defendants' actions

Name: Conner Callahan
Contact Information: Unknown
Subject Matter: Alleged injuries caused by Defendants' actions

Name: Sarah Warbelow
Contact Information: Unknown
Subject Matter: Alleged injuries caused by Defendants' actions

Name: Danny Askini
Contact Information: Unknown
Subject Matter: Alleged injuries caused by Defendants' actions

Name: Ashley Broadway
Contact Information: Unknown
Subject Matter: Alleged injuries caused by Defendants' actions

Name: David Postman
Contact Information: Unknown
Subject Matter: Alleged injuries caused by Defendants' actions

Name: Regan Hess
Contact Information: Unknown
Subject Matter: Alleged injuries caused by Defendants' actions

II. Other Witnesses, Documents, and Discoverable Material

The Department of Defense is currently undertaking a comprehensive study of policies concerning transgender service members, which will culminate in an implementation plan currently due to be presented to the President on February 21, 2018. Defendants intend to rely upon and defend both the policies within the implementation plan and the support given for those policies. After completion of the comprehensive study and implementation plan, Defendants will assess whether supplementation of these disclosures is required and will provide any necessary supplementation consistent with Federal Rule of Civil Procedure 26(e).

Date: February 16, 2018

Respectfully submitted,

CHAD A. READLER
Acting Assistant Attorney General
Civil Division

BRETT A. SHUMATE
Deputy Assistant Attorney General

JOHN R. GRIFFITHS
Branch Director

ANTHONY J. COPPOLINO
Deputy Director

/s/ Ryan Parker
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Counsel for Defendants

CERTIFICATE OF SERVICE

I hereby certify that, on February 16, 2018, a copy of the document above was served by

email on the following:

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/s/ Ryan Parker
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