

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.

No. 2:17-cv-1297-MJP

**DECLARATION OF
RYAN B. PARKER**

I, Ryan B. Parker, swear under penalty of perjury under the laws of the United States to the following:

1. I am a Senior Trial Counsel at the United States Department of Justice and counsel of record for Defendants in this action. I submit this declaration in support of Defendants' Opposition to Plaintiffs' Motion to Compel Initial Disclosures.

2. Attached to this declaration as Exhibit 1 is a true and correct copy of Defendants' Initial Disclosures, served by Defendants on February 9, 2018.

3. On February 14, 2018, counsel for Defendants held a telephone conference with counsel for Plaintiffs regarding the parties' initial disclosures.

4. During that telephone conference, I explained to Plaintiffs' counsel that, pursuant to the August 25, 2017 Executive Memorandum entitled "Military Service by Transgender Individuals" (the "Presidential Memorandum"), the Secretary of Defense had assembled a panel of experts to provide advice and recommendations regarding future policies concerning military service by transgender individuals.

DECLARATION OF RYAN B. PARKER

Karnoski, et al. v. Trump, et al., No. 2:17-cv-1297 (MJP)

U.S. DEPARTMENT OF JUSTICE
Civil Division, Federal Programs Branch
20 Massachusetts Ave., NW
Washington, DC 20530
Tel: (202) 514-4336

EXHIBIT 1

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 _____

RYAN B. PARKER
ANDREW E. CARMICHAEL
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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 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' 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
RYAN B. PARKER
Senior Trial Counsel
U.S. Department of Justice

EXHIBIT 3

The Honorable Marsha J. Pechman

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

RYAN KARNOSKI, et al,
Plaintiffs,
v.
DONALD TRUMP, et al,
Defendants.

Case No: 2:17-cv-1297-MJP

**WASHINGTON’S INITIAL
DISCLOSURES**

STATE OF WASHINGTON,
Plaintiff-Intervenor,
v.
DONALD TRUMP, et al,
Intervenor-Defendants.

Plaintiff- Intervenor State of Washington (“Washington”) makes the following initial disclosures pursuant to Federal Rule of Civil Procedure 26(a)(1). These disclosures reflect Washington’s current understanding, belief, and knowledge. As discovery continues, additional information, persons, and documents may become known to Washington. In accordance with Rule 26(e), Washington reserves the right to supplement these disclosures, or to offer further

1 evidence, documents, or information that may come to Washington's attention after these
2 disclosures.

3 **A. Persons Likely to Have Discoverable Information that Washington May Use to**
4 **Support Its Claims or Defenses**

5 Defendants and their officers, principles, agents, present or former employees, agents,
6 and representatives may have information regarding Washington's claims, including but not
7 limited to the individuals listed below.

- 8 **1. James N. Mattis**, Secretary of Defense. Secretary Mattis is likely to have discoverable
9 information regarding implementation of the Transgender Military Service Ban ("Ban"),
10 the purported reasons for the Ban, military compliance with the preliminary injunctions
11 barring implementation of the Ban, and any impact barring implementation of the Ban has
12 on military efficacy, readiness, unit cohesion, and budget.
- 13 **2. Elaine C. Duke**, Deputy Secretary of Homeland Security. Deputy Secretary Duke served
14 as Acting Secretary of Homeland Security from July 31, 2017 to December 6, 2017 and
15 was responsible for implementing the Ban and is likely to have discoverable information
16 regarding implementation of the Ban, the purported reasons for the Ban, military
17 compliance with the preliminary injunctions barring implementation of the Ban, and any
18 impact barring implementation of the Ban has on military efficacy, readiness, unit
19 cohesion, and budget.
- 20 **3. John Kelly**, Secretary of Homeland Security. Former Secretary Kelly was the Secretary
21 of Homeland Security from January 20, 2017 to July 2017. As Secretary, he was
22 responsible for implementing the Ban and is likely to have discoverable information
23 regarding implementation of the Ban, the purported reasons for the Ban, military
24 compliance with the preliminary injunctions barring implementation of the Ban, and any
25 impact barring implementation of the Ban has on military efficacy, readiness, unit
26 cohesion, and budget.

- 1 **4. Kristjen Nielsen**, Secretary of Homeland Security. Ms. Nielsen is the Secretary of
2 Homeland Security. Her service began on December 5, 2017. Secretary Nielsen has been
3 responsible for ensuring that the Coast Guard implements the Ban and also for ensuring
4 that the Coast Guard complies with this Court’s injunction regarding the Ban. As such,
5 Secretary Nielsen is likely to discoverable have information regarding implementation of
6 the Ban, the purported reasons for the Ban, military compliance with the preliminary
7 injunctions barring implementation of the Ban, and any impact barring implementation of
8 the Ban has on military efficacy, readiness, unit cohesion, and budget.
- 9 **5. David S. Kemp**, USN Commanding. Kemp signed the Department of Defense
10 Memorandum for Sector Commanders Policy Memorandum 2-5, Transgender Applicant
11 Process. Capt. Kemp is likely to have discoverable information regarding the
12 development, roll out, and implementation of Policy Memorandum 2-5.
- 13 **6. Ashton Carter**, Former Secretary of Defense. Secretary Carter is likely to have
14 discoverable information regarding the Department of Defense’s research regarding the
15 impact of allowing transgender individuals the opportunity to accede and serve openly,
16 and the impact on the military budget of allowing transgender soldiers to access necessary
17 medical care. Secretary Carter is also likely to have information regarding the military’s
18 policy development regarding accession of transgender applicants into the military, open
19 service, and access for medical services of transgender individuals in the military.
- 20 **7. Lernes Herbert**, Acting Deputy Assistant Secretary of Defense, Military Personnel
21 Policy, in the Office of the Under Secretary of Defense for Personnel and Readiness. Mr
22 Lernes is likely to have discoverable information regarding Department of Defense
23 policies that address transgender individuals participating in military service and purported
24 justifications for the Ban.
- 25 **8. David Postman**, Chief of Staff to Washington Governor Jay Inslee. Mr. Postman is likely
26 to have discoverable information regarding Washington’s anti-discrimination laws and

1 policies and the impact that excluding transgender Washingtonians from service has on
2 the Washington National Guard and Washington's interests, including its sovereign
3 interests. Mr. Postman can be contacted through Washington's counsel of record.

4 **9. Regan Hess**, Chief Financial Officer for the Washington State Military Department. Ms.
5 Hess is likely to have discoverable information regarding the intrastate emergency
6 deployments of the Washington National Guard and the costs associated with such
7 deployments. Ms. Hess also has information regarding the force strength of the
8 Washington National Guard. Ms. Hess can be contacted through Washington's counsel of
9 record.

10 **10. Ryan Karnoski** is a Washington resident and has discoverable information regarding the
11 personal impact the Ban has had on him. Mr. Karnoski can be contacted through his
12 counsel of record.

13 **11. Cathrine Schmid** is a Washington resident and has discoverable information regarding
14 the personal impact the Ban has had on her. Ms. Schmid can be contacted through her
15 counsel of record.

16 **12. Terece Lewis** is a Washington resident and has discoverable information regarding the
17 personal impact the Ban has had on her. Ms. Lewis can be contacted through her counsel
18 of record.

19 **13. George R. Brown** is a Professor of Psychiatry and the Associate Chairman for Veterans
20 Affairs in the Department of Psychiatry at the East Tennessee State University, Quillen
21 College of Medicine. The majority of Dr. Brown's research, teaching, and consulting has
22 centered on health in the military and civilian transgender populations. Dr. Brown is likely
23 to have discoverable information regarding the impact of the military's policy regarding
24 the accession, open service, and provision of medical care to transgender individuals. Dr.
25 Brown can be contacted through private plaintiffs' counsel of record.
26

1 **14. Raymond Edwin Mabus** served as the United States Secretary to the Navy from May 19,
2 2009 to January 20, 2017. During this service, he supervised the Navy's participation in
3 the Working Group that then-Secretary Carter convened to identify and address practical
4 issues related to transgender individuals serving openly in the military, and to develop an
5 implementation plan that addressed those issues with the goal of maximizing military
6 readiness. Secretary Mabus is likely to have discoverable information regarding research,
7 planning, and implementation of military-wide policies governing accession, open service,
8 and access to medical care by transgender individuals. Secretary Mabus can be contacted
9 through private plaintiffs' counsel of record.

10 **15. Brad Carson** served as the Acting Under Secretary for Personnel and Readiness from
11 April 2, 2015, to April 8, 2016. He led a group of senior personnel drawn from all of the
12 armed services to develop a military-wide policy regarding service by transgender
13 individuals. He is likely to have discoverable information regarding research, planning,
14 and implementation of military-wide policies governing accession, open service, and
15 access to medical care by transgender individuals. Under Secretary Carson can be
16 contacted through private plaintiffs' counsel of record.

17 **16. Mark J. Eitelberg** is a Professor Emeritus at the Naval Postgraduate School in Monterey,
18 California. He joined the faculty of the Naval Postgraduate School in 1979 and retired
19 from federal service in April 2017. His teaching and research focused on military
20 manpower and personnel policy analysis and military sociology/psychology, including
21 military force management and manpower policy; military manpower selection,
22 classification, and utilizations; and equal opportunity and diversity management. He is
23 likely to have discoverable information regarding the impact of the Ban on manpower and
24 readiness and the impact of accession, open service, and access to medical care by
25 transgender individuals on military readiness and unit cohesion. Professor Eitelberg can
26 be contacted through private plaintiffs' counsel of record.

1 **17. Admiral Michael Mullen** is a retired Admiral of the United States Navy. From 2007 to
 2 2011, Admiral Mullen served as the Chairman of the Joint Chiefs of Staff where he was
 3 the principal military advisor to Presidents George W. Bush and Barack Obama. He is
 4 likely to have discoverable information regarding research, planning, and implementation
 5 of military-wide policies governing accession, open service, and access to medical care by
 6 transgender individuals. Admiral Mullen can be contacted through private plaintiffs'
 7 counsel of record.

8 **B. Documents That Washington May Use to Support Its Claims or Defenses**

9 The following documents may be used to support Plaintiff-Intervenor State of
 10 Washington's claims:

Records Description	Location of Documents
Presidential Memorandum – Military Service by Transgender Individuals (Aug. 25, 2017)	ECF 56-1
Military Service by Transgender Individuals – Interim Guidance (Sept. 14, 2017)	ECF 69-1
Department of Defense Policy Memorandum 2-5, Transgender Applicant Processing (Dec. 8, 2017)	ECF 120-1
Washington State Military Department Policy No. HR-253-02 (Apr. 25, 2016)	ECF 56-8
Press Briefing by Secretary Carter on Transgender Service Policies in the Pentagon Briefing Room,(Jun. 30, 2016)	ECF 34-1
Statement of Secretary of Defense Ashton Carter on Department of Defense Transgender Policy, (July 13, 2015)	ECF 34-2
Statement of Chief Pentagon Spokesperson Dana White on Transgender Accessions (Jun. 30, 2017)	ECF 34-3
President Donald Trump Twitter Announcement (July 26, 2017)	ECF 34-6
Memorandum for Secretaries of the Military Departments – Transgender Service Members,(July 28, 2015)	ECF 48-1
Memorandum for Secretaries of the Military Departments – Military Service of Transgender Service Members, Directive Type Memorandum (DTM) 16-005, (Jun. 30, 2016)	ECF 48-3

1	SECNAV Instruction 1000.11, Memorandum – Service of Transgender Sailors and Marines (Nov. 4, 2016)	ECF 48-4
2		
3	Air Force Policy Memorandum for In-Service Transition for Airmen Identifying as Transgender, Transgender Airmen Policy Guidance, (Oct. 6, 2016)	ECF 146-1
4	United States Department of Defense, Transgender Service in the U.S. Military, Implementation Handbook (Sept. 30, 2016)	ECF 48-6
5		
6	Palm Center Blueprints for Sound Public Policy, Discharging Transgender Troops Would Cost \$960 Million, (August 2017)	ECF 142-1
7	RAND Corporation, Assessing the Implications of Allowing Transgender Personnel to Serve Openly, (2016)	ECF 47-3
8		
9	World Professional Association for Transgender Health Report, Standards of Care for the Health of Transsexual, Transgender, and Gender Nonconforming People, 7 th Version	ECF 47-4
10		
11	Declaration of David Postman	ECF 57
12	Declarations of Ryan Karnoski	ECF 35; ECF 130
13	Declarations of Cathrine Schmid	ECF 36; ECF 131
14		
15	Declarations of Terece Lewis	ECF 39; ECF 134
16	Declarations of George Brown	ECF 47; ECF 115; ECF 143
17	Declarations of Raymond Mabus	ECF 48; ECF 86; ECF 117; ECF 144
18		
19	Declarations of Brad Carson	ECF 46; ECF 142
20	Declarations of Admiral Mullen	ECF 49; ECF 148
21	Declarations of Mark Eitelberg	ECF 85; ECF 147
22		

23 **C. Computation of Damages**

24 Not applicable.

25 **D. Insurance Agreement**

1 Not applicable.

2 DATED this 9th day of February, 2017.

3 ROBERT W. FERGUSON
4 Washington Attorney General

5 */s/ La Rond Baker*

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CERTIFICATE OF SERVICE

I certify that I served a copy of this document on all parties or their counsel of record on the date below as follows:

Electronic Service (by agreement of counsel) to:

Ryan B. Parker
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United States Department of Justice
Ryan.Parker@usdoj.gov

Peter Renn
Senior Attorney
Lambda Legal
prenn@lambdalegal.org

Attorneys for Defendant

I certify under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

DATED this 9th day of February, 2018, at Seattle, Washington.

/s/ La Rond Baker
LA ROND BAKER
Assistant Attorney General