UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF WASHINGTON

RYAN KARNOSKI, et al.,	)	
	)	
Plaintiffs,	)	No. 2:17-cv-01297-MJP
	)	
vs.	)	Seattle, WA
	)	
DONALD J. TRUMP, et al.,	)	
	)	Motion to Dismiss/Preliminary
Defendants,	)	Injunction Hearing
	)	
	)	November 21, 2017

VERBATIM REPORT OF PROCEEDINGS
BEFORE THE HONORABLE JUDGE MARSHA J. PECHMAN
UNITED STATES DISTRICT COURT

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THE CLERK: This is in the matter of Ryan Karnoski vs. Donald J. Trump, Cause Number C17-1297-MJP.

Counsel, please rise and make your appearance for the record.

MR. RENN: Good morning, Your Honor. Peter Renn, for plaintiffs. Also appearing on behalf of plaintiffs are Natalie Nardecchia, Peter Perkowski, Derek Newman, Samantha Everett, Jordan Heinz, Vanessa Barsanti, and Daniel Siegfried.

MS. BAKER: Good afternoon, Your Honor. La Rond Baker, for the State of Washington, plaintiff intervenor, and also with Ms. Colleen Melody.

THE COURT: Good afternoon.

MR. LUCAS: Good afternoon, Your Honor. Brinton Lucas, for defendants. With me is Ryan Parker.

THE COURT: All right. We're here this afternoon for two different motions. The first is the government's motion to dismiss. The second is the plaintiff's motion for a preliminary injunction. I have read all of the materials that you have given me, as well as the attendant affidavit, so I do believe that I'm ready to hear you argue this afternoon.

Have you made a decision amongst yourselves as to how you're going to divide your time, or what issues you're going to take up first?

MR. RENN: Your Honor, plaintiffs have conferred with the State of Washington. We are happy to share five minutes

out of our time so Ms. Baker can present argument on behalf of the State.

MR. LUCAS: Your Honor, we have no objection to that, and we're happy to take up both motions in a single argument.

THE COURT: All right. Then I believe that the government -- well, what I would say is, the government gets to go first, because if there is no standing, there is no preliminary injunction. That's the rationale. So I'm not prejudging whether there will be a preliminary injunction. I'm simply procedurally saying, that's where we are. That's the first thing that we need to attend to.

So I'm going to let the government go first. If the plaintiffs wish to respond to the standing argument, they can do so. If they want to respond inside their preliminary injunction argument, that's fine too. But I take it you haven't divided yourselves up that way.

MR. RENN: No, Your Honor. But we're happy to address both at the same time, when it's our turn to present argument.

THE COURT: Okay. Then this is what I'm going to suggest that you're going to do, because each of you have been the plaintiffs on one, which means that the government gets to argue first and last on standing; the plaintiffs get to argue first and last on preliminary injunction. So you're each going to argue twice. How's that? Okay?

All right. Let's go.

MR. LUCAS: Good afternoon, Your Honor. May it please the Court, Brinton Lucas for the United States. I'd like to reserve five minutes for rebuttal.

I'd like to start by addressing an incorrect assumption underlying plaintiff's challenge, namely that the presidential memorandum mandates discharge of currently serving transgender individuals on March 23, 2018. That premise is contrary to both the memorandum itself, as well as Secretary Mattis' response.

To start, the memorandum itself does not require the discharge of current service members on March 21, 2018. Instead, it gives Secretary Mattis the authority to study and resolve that issue. Specifically, I'd like to point your attention to Section 3 of the memorandum, which expressly delegates authority to Secretary Mattis to, quote, "determine how to address transgender individuals currently serving in the United States military." And it goes on to specify that until the Secretary has made that determination, no action may be taken against such individuals.

THE COURT: Well, Counsel, isn't that simply saying, in the presidential memorandum, "I want you to make a plan for how to get them out"?

MR. LUCAS: No, Your Honor. Respectfully, we don't take the memorandum to suggest that. Instead, we think it

leaves it open to the Secretary's discretion. And I'd like to work through the reasons why.

I think specifically the fact that it starts and addresses saying that Secretary Mattis has the discretion to determine how to deal with transgender individuals serving in the military does not just suggest that this is a study into how and when to discharge individuals. And I'd like to point exactly how Secretary Mattis' response to this memorandum confirms that a more fulsome study is being conducted.

THE COURT: Well, Counsel, you're going to need to back up, then, and address the President's words when he says, "After consultation with my generals and military experts, please be advised that the United States government will not accept or allow transgender individuals to serve in any capacity in the U.S. military."

There's nothing ambiguous about that statement.

MR. LUCAS: We recognize that, Your Honor. But the President did follow up those statements on Twitter with a very specific and thorough presidential memorandum that the military has taken as operative, and is treating it. So we suggest to this Court, you don't need to necessarily ignore the statements on Twitter, but we would suggest that the Court look carefully at the presidential memorandum, which goes through these very specifically.

THE COURT: But doesn't the tweet inform you as to

what the President is thinking, when he basically says to them that they have to have a study done, that he's talking about how to get transgender people out, or keep them out of the military? I mean, what am I supposed to do with the President's tweet, if that's not something that you can rely upon?

MR. LUCAS: Your Honor, we think the better course is to look at the President's subsequent statements in the memorandum. And we don't think that, reading the memorandum as a whole, that it is ambiguous. But even if there is ambiguity in the memorandum, Your Honor, we would urge the Court to take a look and see what the military has done and what defendants are currently viewing the memorandum as.

THE COURT: So you're telling me, as the Department of Justice, that I should ignore the President's statements to the public?

MR. LUCAS: No, Your Honor. We're not saying you have to ignore them, but we do suggest that you look at what the President followed up his statements with, which are a specific presidential memorandum that contains directives. And we think that the best reading of this memorandum is informed by a careful analysis of each of the provisions in it, alongside with the Department of Defense's response.

THE COURT: All right. Well, let's go through the memorandum. And please point out to me where you believe that

the President is saying that he wants a memorandum to see how they're going to stay in the military, as opposed to how it is he's going to get them out.

MR. LUCAS: Certainly, Your Honor.

So I started with Section 3. But I would also point you to the first provision of the memorandum, which is Section 1(a), which talks about how the President wants further study of this issue. And so we think Section 3 needs to be read in light of Section A, which instructs Secretary Mattis to conduct a further study of this issue. And indeed, that is what Secretary Mattis is doing right now.

And I'd like to point you to several things that he's issued in response: First, his interim guidance, which confirms that no action shall be taken to involuntarily separate or discharge an otherwise qualified service member solely on the basis of gender dysphoria diagnosis or transgender status, quote, "until I promulgate DOD's final policy in this matter." And we read that to suggest that Secretary Mattis has the final decision-making authority as to what happens to currently serving transgender individuals.

But even beyond that, Your Honor, Secretary Mattis has begun a study and implementation plan in accordance with Section A of the memorandum. And that study and implementation plan will address both accessions of transgender individuals and transgender individuals that are currently serving. And as

part of this study, Secretary Mattis has established a panel of experts. And those experts will be led by the Deputy Secretary of Defense and the Vice-Chairman of the Joint Chiefs of Staff. And these members will bring mature experience, notably in deployability and combat, and will assemble and thoroughly analyze all data, both quantifiable and nonquantifiable.

And what this tells us, Your Honor, is that there wouldn't be a need to conduct such a thorough study using such high-ranking DOD officials if the sole question was just simply how to get the transgender service members out of the military.

THE COURT: And where do I get that understanding from?

MR. LUCAS: Well, Your Honor, the Defense Department just simply would not devote this many resources to the study of this issue, and considering all these factors, if it were simply a matter of discharge is preordained, and we're not going to consider this issue. We think the Defense Department is taking this very seriously, and going through and studying these issues, and devoting a significant amount of resources to them.

THE COURT: And apparently the Defense Department did that previously.

MR. LUCAS: That is true, Your Honor, yes, but --

THE COURT: So why would the Defense Department do it twice?

MR. LUCAS: Your Honor, the Defense Department is doing it twice because the President was concerned about the study previously, and he wanted further inquiry to be made into this issue. And that is what's going to happen. I can't predict the outcome of this particular study, or what the Defense Department will ultimately conclude. But I will say that it is not a foreordained conclusion as to what will ultimately occur, or what the Defense Department will ultimately decide.

THE COURT: Is there any way to know why the President changed his position?

MR. LUCAS: Your Honor, I can't speak to that. I don't know. And I don't know if I -- I mean, if I did, I'm not aware that I could comment about it. But --

THE COURT: So how can you comment on what the committee is going to do if you don't know what prompted the committee to be formed?

MR. LUCAS: Well, we do know what prompted the committee to be formed here, Your Honor, is that the President did direct them to study this issue, in Section 1(a) of this memorandum, and Secretary Mattis then formed a committee and ordered them to do this.

THE COURT: Let's talk about Section 2(b).

MR. LUCAS: Yes, Your Honor.

THE COURT: 2(b) indicates -- this is the one section

that was not ruled upon by the judge in Washington, D.C.

MR. LUCAS: Yes, Your Honor. And I would like to inform you that, earlier today, the District Court in Maryland issued an injunction enjoining both the accession directive and the retention directive, as well as this directive, as well.

THE COURT: All right. So this particular directive was enjoined.

MR. LUCAS: Yes.

THE COURT: All right. Let's go back to my question.

2(b) talks about, "halt all use of DOD or DHS resources to fund sex reassignment surgical procedures for the military personnel, except to the extent necessary to protect the health of an individual who has already begun a course of treatment to reassign his or her sex."

It's my understanding that Plaintiffs Stephens and Muller have a plan for reassignment of their gender. And at least in Muller's case, it was halted.

Doesn't that present harm that is actionable, since the surgery was canceled?

MR. LUCAS: No, Your Honor. With respect to Chief Warrant Officer Muller, under the interim guidance, she can reschedule surgery, and she's shown an interest in doing so. We've informed her. And currently, there's nothing applying to these plaintiffs right now. I think there may have been some initial confusion when -- at the start of when the interim

guidance was being promulgated. But right now, these plaintiffs may still seek to get this particular surgical treatment done.

THE COURT: But don't we look at this at the moment that the case was filed and her surgery was canceled? So hasn't she sustained a harm in being unable to proceed with her surgery, and the emotional problems that that may cause, and worry, and upset? Doesn't that give one standing, to be told you could have something and then take it away?

MR. LUCAS: Your Honor, right now, though, I believe Chief Warrant Officer Muller is currently exploring the possibility of receiving the surgery, and is in consultation with her commanding officer.

THE COURT: But that's not my question.

My question is, what point in time do we view this? Do you view the standing issue at the time that the lawsuit is filed?

MR. LUCAS: Your Honor, I'm not sure if -- and I'd have to go back and take a look. I'm not sure if this was a specific allegation at the particular complaint, or -- but we do consider the facts, Your Honor, and declarations, even on a motion to dismiss, when assessing standing. And I don't think Plaintiff Muller, right now, is suffering any injury.

THE COURT: And do you have an affidavit that says that?

MR. LUCAS: Well, we do have an affidavit -- a declaration from her commanding officer, Easley, who says that under the interim guidance, she can reschedule surgery, but has not -- and has shown an interest in doing so.

THE COURT: But my point is, apparently at the time of the filing of the suit and the filing of her initial declaration, she had surgery scheduled that was canceled.

MR. LUCAS: Yes, Your Honor. We believe that's the assertion she made. But we do believe right now, and as we ask Your Honor to consider our affidavits in considering our motion to dismiss, that she can get surgery at this point, and has, indeed, shown an interest in doing so.

THE COURT: Well, if you're talking about standing, is standing a moveable point in time? In other words, are you telling me that standing can change as you -- as you compromise or settle with each plaintiff, or give them the surgery that they desire?

MR. LUCAS: Yes, Your Honor. There could be intervening events that moot the case. And we think that there have been intervening factual developments. The plaintiffs first filed their complaint even before the interim guidance was released, and there's been a lot that's happened since then. And when they amended it, they didn't really address the interim guidance or what current measures are being taken by the Defense Department to address their concerns.

THE COURT: All right. Go ahead.

MR. LUCAS: But, Your Honor, if I may return to the retention issue for a moment.

In addition to Secretary Mattis' response to all of this, I'd also like to point to specifically what the sex reassignment surgery directive suggests about retention. And we think that if the memorandum did, indeed, mandate that discharge had to occur on March 23, this directive, and its exception, wouldn't serve any purpose, because this directive only takes effect on March 23. So if all of the transgender individuals currently serving in the military were going to be simply discharged on that date, there would have been no need for this sex reassignment surgery directive, or its exception, going forward. So we think this is yet another clue suggesting that, even within the presidential memorandum itself, the outcome of the study is not preordained.

Now, Your Honor, I realize the plaintiffs have relied heavily on Section 1(b) of the memorandum, which instructs Secretary Mattis to return to the military's longstanding policy and practice on service by transgender individuals. But we'd like to point your attention to the fact that 1(b), in that statement and directive, comes with a caveat, quote, "until such time as a sufficient basis exists upon which to conclude that terminating that policy and practice would not have the negative effects discussed in Section 1(a)." And this

is consistent with Section 1(a), which does call for further study of this issue. And Secretary Mattis is, indeed, studying this issue and may provide and conclude that the transgender individuals currently serving do not impose these negative effects raised in Section 1(a).

THE COURT: One moment, please.

Could I have everyone please have a seat? Thank you.

Go ahead.

MR. LUCAS: Thank you, Your Honor.

So in light of this, we think that plaintiffs simply lack standing to challenge the memorandum with respect to currently serving transgender individuals. It's undisputed that no current service members are going to be discharged on the basis of their transgender status. And we think that it's speculative, at this point, what will occur on March 23, 2018, what Secretary Mattis will ultimately conclude and decide. And we think that the issue should be revisited then.

THE COURT: Isn't there damage simply by having your Commander in Chief declare that you're unfit and that he wants you out?

MR. LUCAS: Your Honor, two points to respond to that, if I may.

First, in the presidential memorandum, the President has specified that he simply wants more study into this issue, and that process is currently going on. And that's what the

plaintiffs are challenging, and we think that is not the same as just simply saying, "We want you all out immediately."

But secondly, Your Honor, we also read *Allen vs. Wright*, the Supreme Court decision, to say that any sort of stigmatic injury that plaintiffs might be alleging, they have to actually show a concrete effect to themselves. And under the interim guidance, they are fully protected from having any adverse action taken against them while they're serving in the military. So we don't think that that is ultimately a cognizable injury, for those two reasons.

THE COURT: Well, there's at least one plaintiff in this suit that is claiming that they have not been promoted, or that their promotional papers have been ignored.

Isn't that damage?

MR. LUCAS: Yes, Your Honor. I would like to address that particular plaintiff. I believe that's Staff Sergeant Schmid. And that's with respect to the accessions directive, and if I may move there, right now.

And so the accessions directive -- and that's in Section 2(a) -- directs the Defense Department to maintain its longstanding accessions policy, which generally barred transgender individuals from joining the military, but also included a waiver process, past January 1, 2018, until Secretary Mattis studies the issue and provides the President with a convincing recommendation to abandon this policy.

Now, because the accession policy allows for individualized waivers, and none of the plaintiffs have sought one, we believe it's speculative that the accessions policy will actually have any effect on them.

THE COURT: Has anybody ever sought one and been granted it?

MR. LUCAS: Not to my knowledge, Your Honor, but we don't think that's dispositive in this case. I mean, right now, the policy is currently in flux. Things are being studied. And I would point you to the interim guidance where Secretary Mattis expressly states that this is subject to the waiver process.

THE COURT: So if nobody has done it, and nobody has ever been granted a waiver, why would you want to make someone go through a needless process?

MR. LUCAS: Your Honor, we don't think it's a needless process. We think that the waiver is available, and Secretary Mattis has provided for that in his interim guidance. And so if plaintiffs want to apply for waiver, we urge them to do so and see if the process happens. We're taking the guidance that Secretary Mattis has given, that a waiver process is available, and they can apply for it right now.

THE COURT: Well, why would somebody apply for a waiver? Isn't this just like "blacks need not apply"?

MR. LUCAS: No, Your Honor. We take the point of --

that plaintiffs have raised of all of these cases involving competitive injury, but we don't think that those cases are squarely on point. And the reason why is, in all of those cases, there was no dispute that the plaintiffs were otherwise eligible to obtain the desired benefit. Those cases simply concerned the matter of, they didn't want to apply, because they didn't want to compete for the same benefit under the particular policy.

But here, it's unclear whether the plaintiffs could meet all of the other requirements that would render them otherwise eligible to be assessed into the military.

THE COURT: Well, Counsel, you've got thousands of transgender people who are already performing in the military.

Why is it that they would not -- are you telling me that it's your position that these people would not be eligible to compete because of some issue?

MR. LUCAS: No, Your Honor. All we're saying is, we don't -- for especially the accessions plaintiffs, we don't know whether there will be some other disqualifying factor. There are many different requirements to be met before one can assess into the military, and we simply just don't have that information right now.

THE COURT: So you're saying you don't know whether they have bone spurs.

MR. LUCAS: We don't know enough information, Your

Honor, to make -- to be sure whether they could accede or not, totally apart from the challenged accessions policy.

I would like to point you to Staff Sergeant Schmid, where this issue is somewhat more concrete. This is the member who's applied to be a warrant officer. And she's applied for accessions, but she's not applied for a waiver. So that's one issue. But even in addition to that, there's another issue that would bar her from obtaining a position as a warrant officer, and that is specifically her -- that she's exceeded the maximum years of federal service allowed, under Army regulation. Now, a waiver is available for that, as well, but these are the kinds of examples where someone may not even be eligible to accede into the military, and thus the accessions policy may have no ultimate effect on them.

And we realize, Your Honor, that plaintiffs do claim that seeking a medical waiver would be futile. They make this a point of their argument. But we think that rests on two problematic assumptions. First, as I discussed before, the interim guidance does expressly provide that a waiver process is available. And second, plaintiffs argue that the reason the waiver process would be futile is because you cannot grant a waiver for a retention-disqualifying condition. But that assumes that Secretary Mattis will, indeed, conclude that transgender status is a retention-disqualifying condition, which we dispute and think is part of an ongoing study.

So finally, Your Honor, I return to the sex reassignment surgery directive and just address why plaintiffs don't have standing to challenge that either.

Now, we know that the interim guidance provides that current service members may receive funding for these procedures. Indeed, as news reports indicate, such a surgery occurred just last week. But even after March 23, the Defense Department will pay for these procedures if they are necessary to protect the health of those who have already done a course of treatment to reassign their sex.

Now, the *Doe* court, in D.C., dismissed the claims challenging this directive, because none of the plaintiffs had shown they were likely to be affected by it. And we believe the same is true here. First, the currently serving plaintiffs may all seek these surgeries now. And due to the exception, it's speculative whether they will ever be denied funding after March 23. All of the named service member plaintiffs have begun a course of treatment to reassign their sex, and thus they may qualify for this exception.

Now, I realize that plaintiffs do argue that this exception will not apply, because they read the exception to cover only measures that would address complications arising in surgery. But they offer nothing to support that particular reading of the provision, and we are unaware of anything that would support it.

THE COURT: So as I understand it, this process begins with a plan.

Are you telling me that the government is going to cover all of the costs for anyone who has a plan?

MR. LUCAS: Your Honor, I can't commit to ultimately what the exception will cover in the future. That is being currently determined by the Defense Department. But I will say that, right now, under the interim guidance, they may seek funding for this particular surgery. And in the future, if they've begun a plan, they may very well qualify for the exception.

THE COURT: Well, what does it mean to say "protect the health of an individual who has already begun"?

MR. LUCAS: Your Honor, DOD is currently resolving what the scope of this exception will be. I'm sorry. I can't give you a definitive answer. But I will say that plaintiffs take a very narrow reading of that. But we just have no basis to assume that that's the only reading, or that it is the reading that DOD will ultimately adopt.

And finally, I would address Plaintiff Jane Doe, who claims that surgery is necessary for her, but she's not sought it, out of fear of discharge, and thus would not qualify for the exception.

THE COURT: Just a minute.

Everyone needs to have a seat, please.

Go ahead.

MR. LUCAS: Thank you, Your Honor.

But we read this theory to be foreclosed by the Supreme Court's decision in *Clapper vs. Amnesty International*, which held that a plaintiff can't manufacture standing by imposing burdens on himself or herself based on fears, even reasonable ones, of a speculative future harm. And because it is our position and our belief that it's simply speculative that transgender individuals will be discharged from the military following this study, we think that Plaintiff Jane Doe cannot make -- somehow create standing to challenge the surgery directive on the basis of her fears.

THE COURT: Well, Jane Doe also talks about a fear of talking to others in the military about her authentic feelings.

Isn't that a harm as well?

MR. LUCAS: Your Honor, we don't think so. Right now, she's currently protected under the interim guidance. No action can be taken against her for talking, or expressing, or doing any things along that nature. And we think it's speculative that any harm would occur in the future. We simply just don't know.

THE COURT: Well, isn't it realistic to assume that if the President's tweet goes into effect, if she or he identifies themselves, that they run the risk of being severed from the military?

MR. LUCAS: Your Honor, we don't take that to be the position of the memorandum. We think it is an open question. And we think that, if there's a risk, it's simply not significant enough, or likely enough, or settled enough, to create standing. Using the Supreme Court's language, it calls for a certainly impending harm, or at least a substantial risk of harm, and we just don't think that is met here.

THE COURT: So you're not accepting that there could be any emotional damage from having to live this particular silence?

MR. LUCAS: Your Honor, we understand the emotional damage that plaintiffs have alleged, and we acknowledge that, but we don't think it confers standing in this case. Because right now, it's an uncertain policy. It's going to be resolved, soon, in a few months. In the meantime, we just don't think that concern or worry over the outcome of the final policy is a sufficient basis to create Article III standing.

THE COURT: So if there is standing, is that a harm?

MR. LUCAS: Well, for -- with respect to irreparable injury, Your Honor, or --

THE COURT: The emotional distress from having to be silent about one's life choices, or one's gender, is that a harm that is compensable, if there's standing?

MR. LUCAS: Your Honor, we're -- I think the whole discussion of harm, and our consideration of it, has been done

largely in the context of standing. And so we don't know of any sort of authority that would support saying that concern over a future policy is a sufficient basis to create a harm, I guess, either for standing or otherwise.

THE COURT: So you're telling me that that's not a harm that would -- that would confer damages. It certainly would be the kind of harm, if one were in any regular tort suit, that emotional distress would be one of the things that would be compensated.

Is this different?

MR. LUCAS: Your Honor, I guess we don't -- because of the speculative nature of this, we just don't see it as an actual harm. And so I'm not sure how plaintiffs can create this, if we simply don't know what the final policy is, especially under the particular terms of the presidential memorandum.

THE COURT: Now, am I correct in understanding that the report needs to be back by February 21, I believe?

MR. LUCAS: Yes. Let me -- yes. So February 21, Secretary Mattis will provide the President with an implementation plan.

THE COURT: So we're probably 60 days away.

Are you still thinking that that is a speculative time frame when these things will go into effect?

MR. LUCAS: Yes, Your Honor. The military is

currently studying this and devoting a considerable amount of resources to it. The Secretary will provide the President with a plan on the 21st, after he comes to his conclusions and receives his expert recommendations. And then at that point, the plan will take effect on March 23, 2018.

THE COURT: All right. Thank you.

MR. LUCAS: Thank you, Your Honor.

MR. RENN: Good afternoon, Your Honor.

I'll turn first to standing. And I'd like to address the relevant facts that I think support plaintiffs' injury and facts, and then turn separately to the reasons why plaintiffs have standing to challenge each of the three components of the ban with respect to retention, accession, and denial of medical care.

The government's defense here is built on the fictional premise that the President has not yet made a decision about whether or not transgender people should be allowed to serve in the military. But the facts show quite plainly that the President has already made that decision, and all that's left is for a subordinate to carry that plan out.

First of all, the tweets, as Your Honor pointed out, make exceptionally clear what the President meant here. He said that transgender people shall not be allowed to serve, quote, "in any capacity in the military." The government can't stand up here and argue that the President didn't mean what he said.

And as Your Honor noted, there's really no ambiguity in the phrase "in any capacity." The President, here, is the source of the policy change. And so his words, unfiltered, provide perhaps the clearest and most candid insight into his own intentions.

But even if we were to set aside the tweets and look just at the memorandum, the memorandum mandates a return to the pre-2016 policy. It provides, in relevant part, that it is directing the military, quote, "to return to the longstanding policy and practice on military service by transgender individuals that was in place prior to June 2016," end quote. Notably, the memorandum does not ask the military for advice on whether or not to return to that policy. Instead, it mandates, "This is our governing policy now," in the most unequivocal terms.

Now, the government also stood up here and argued that laws can always change, and that the President is willing to accept a different interpretation if someone convinces him otherwise. But it's always the case that laws could be changed. We have to evaluate standing based on the facts that exist today. Nothing about the interim guidance changes any of this. That document merely defines the rules of engagement before February 21, 2018. But whatever protection it supposedly provides evaporates in an instant, once it reaches its expiration date.

Now, it's true, of course, that the military has been ordered to draw up implementation plans. But the responsibility of the military is to implement the President's policy, not to create a new policy out of whole cloth. And the President has essentially said, "Tell me how we are going to execute my vision, but understand that whatever you come back to me with, a fixed constant, and not a variable, is that we are authorizing the discharge of service members merely because they are transgender." And that same constraint applies to both Secretary Mattis and to the panels that he is convening.

Now, the government also argued that there would be no point to drawing up implementation plans if the military wasn't also authorized to decide the question of whether or not transgender people should be discharged. But that's simply not true, for the simple fact that discharges don't happen overnight. That, understandably, requires some amount of implementation and study, and --

THE COURT: Presumably, all those jobs that would be vacant would have to be filled.

MR. RENN: Absolutely, Your Honor. And the plaintiffs who occupy mission-critical positions right now, those would have to be filled, taking a very time-intensive and consuming process to actually implement. And I think all of that goes to the reason why the government does need to devote substantial resources to understanding how it's going to roll

out this policy. And I also want to emphasize that the memorandum itself actually acknowledges that discharges don't happen overnight. And that is the reason why it freezes surgical care after March 2018, because it recognizes they may not be able to discharge everyone immediately.

Plaintiffs have standing, in light of all of this context, to challenge each of the three aspects of the policy.

THE COURT: Well, talk to me about when does standing happen. Counsel appeared to argue to me that standing can go away, it can come back. And that's not quite my understanding of where standing is.

MR. RENN: Well, I think plaintiffs do need to establish standing at the time that they filed this action. And I think there's no question that, in light of the impending harms from the policy, that they satisfied standing at that point in time.

And it's also true, of course, that plaintiffs have to maintain standing throughout the action for purposes of obtaining injunctive relief. So, for example, if someone were to get surgical care outside of the military, and no longer had a need for surgical care, we wouldn't argue that they would be injured by any sort of surgical ban. But here, of course, that's not what happened.

THE COURT: Well, they're arguing that Plaintiff Muller can get -- can go forward with the surgery that was

canceled.

Does that destroy the standing for that individual?

MR. RENN: I don't think it does, Your Honor, but I do think that plaintiffs only have to show one plaintiff who has standing for each aspect of the relief that they're seeking. And I would direct this Court more towards Plaintiffs Doe and Stephens as the plaintiffs who have very clear, undeniable standing to challenge the surgical ban. I think the issue with Plaintiff Muller is informative and relevant, because it shows that the threat of not being able to get the medical care that you need is credible. It's already been canceled once before, and that was before even the policy technically went into effect. So it's certainly credible for plaintiffs to fear that they will not be able to get the care that they need.

And we know for certain that Plaintiff Doe, for example, will be injured by the policy. And that's because she hasn't yet even begun to transition. So the government argued that perhaps some plaintiffs might be able to qualify for an exception to the surgical ban if they've already undertaken transition. But no matter how broad they try to stretch this exception, for purposes of standing, it will never be broad enough to cover Plaintiff Doe. She faces harm, no matter what.

THE COURT: Let's talk about Plaintiff Doe, since you brought it up, and I brought it up previously with counsel.

Is there a harm that she is sustaining by not being able to be authentic with those in the military around her?

MR. RENN: Absolutely, Your Honor. And it's more than just a harm. It's an irreparable harm. Every day that Jane Doe is deterred from living openly and honestly as the woman that she is is a day that she cannot get back. And those are irretrievable losses to her First Amendment, due process, and equal protection rights. And I think it really trivializes those rights to claim that an award of damages would in any way be an adequate substitute. Because there is no going back, once she comes out.

I mean, the government argued that essentially she's protected, right now, under the interim guidance. But let's play that out. If she were, in fact, to come out to her command, even though the interim guidance supposedly provides her protection from discharge until March 23, 2018, what happens after that point in time? She can't very well un-ring the bell. And the President has made clear that openly transgender people are subject to discharge after March 23, 2018. So there's certainly standing currently happening to the plaintiffs.

And it's not at all limited to Jane Doe. I think that the other plaintiffs likewise face an incredible harm in the form of stigma. They have been branded by their Commander in Chief as being presumptively unfit to serve. They have been told, to

all the world, that they are burdens and disruptions. And they have to carry around that badge of inferiority with them as they try to go about their everyday life and do their job. And that understandably weakens the bonds and the trust that exists between service members right now. And in the Ninth Circuit's words in *SmithKline*, this stigma harm is one of great constitutional significance. So even if we were only talking about the current harms right now, plaintiffs absolutely have standing, based on those alone.

THE COURT: Let's talk about waiver.

Opposing counsel seems to say, "Well, look, you can waive. You can apply. Why isn't that good enough?"

MR. RENN: Certainly, Your Honor.

Well, the government has argued that, as a theoretical matter, perhaps waivers could be obtained. But first, this record shows that the government is not actually in the business of giving out waivers, undisputedly. And counsel conceded that he wasn't aware of any instance in which a waiver had ever been granted.

But second of all, even if a waiver were to be granted, it wouldn't actually cure the equal protection violation. So part of the harm that we allege here is not merely denial of entry into the military. It is also the uneven playing field that transgender people will have to play on under the President's policy. That unequal treatment is, itself, cognizable injury,

regardless of whether or not someone would actually be able to get into the military. Perhaps one of the accession plaintiffs has bone spurs, for example. We don't know, but we don't have to show that as part of our case. All we have to show is that they are ready, willing, and able to apply to the military, and that the military has basically put up a barrier to their entry on discriminatory grounds. That's it. We don't have to show but-for causation.

And there are a long line of cases in the education context that basically make clear, if you want to challenge a school's race-conscious admissions policy, for example, you don't need to prove that but for that policy, that you would have gotten admission into a particular school. You still have standing to be able to challenge it. So I think that is the answer to the waiver piece.

And the answer is similarly true for the argument that they raised with respect to Staff Sergeant Schmid, who was able to join us here in the courtroom today. She is eligible for a waiver based on the number of years that she's already served in the Army. And regardless of whether or not that waiver is ultimately granted, she still has standing to challenge the aspect of the discrimination here that she faces, which is independent of that waiver process.

So plaintiffs have standing to challenge both the medical ban, the accession ban, and also, of course, the retention ban,

which we haven't yet discussed. But the core point here is that the legal standard is whether or not plaintiffs face a credible threat of discharge. That's all they need to establish to show injury in fact. And indeed, I have to point out that Plaintiff Megan Winters was already threatened with separation proceedings, right after the President's tweets. And now, in light of the President's policy, he has authorized the discharge of all transgender service members merely because they're transgender. So it is certainly a credible threat that the harm of discharge will actually materialize.

I'm happy to turn to the preliminary injunction, unless the Court would like further argument on the standing ripeness issues.

THE COURT: No. Let's talk about the preliminary injunction. And you were here last week -- or I should say, Ms. Baker was here last week, arguing.

Is there a reason for this Court to issue a third opinion?

MR. RENN: There is, Your Honor. And, of course, the *Stone vs. Trump* decision was just issued hours ago, and so we haven't had an opportunity to fully review it yet, but I imagine we will submit a notice of supplemental authority.

But the government has made no secret of its views about the first D.C. injunction that was issued. It has said that it believes that decision was plainly erroneous. And I suspect that they will not take a different view about the second

injunction that has been issued. And I think all of that shows that the injunction that's been granted in another case is in no way a substitute for the injunction that plaintiffs are entitled to here, because the injunction in another case is invariably of a different duration, scope, and certainty than the one that this Court would issue. Part of the reason that the Court granted the motion to intervene, by the State of Washington, was because the State of Washington presented distinct interests as a sovereign entity, that private plaintiffs cannot possibly bring into the fold. And plaintiffs are entitled to an injunction supported by the array of factual circumstances that give rise to their injuries.

So I think the medical ban is actually another illustration of the reason why this Court can and should still issue an injunction. There's a dispute going on, right now, about the scope of the exception to the medical ban, that applies if someone has already begun a course of treatment to reassign his or her sex. And our point is that, no matter what shape that exception ultimately takes, it will never be broad enough to cover Plaintiff Jane Doe. And I'm sure that the government will continue to press, in any ensuing appeal of the Maryland decision, for example, that those plaintiffs do not have standing to obtain a preliminary injunction on the medical ban. But I don't think that argument has any legs here, in this context, in light of Plaintiff Jane Doe, and also the

other plaintiffs, as well.

And I also have to emphasize that it is par for the course that courts issue overlapping injunctions, particularly on issues that affect huge swaths of people and that implicate important national interests. Courts have done that, of course, in the context of the travel ban, in the context of the Affordable Care Act litigation. And there's nothing that prevents them from doing that. It is, in fact, helpful to the development of federal law on important issues that multiple courts, particularly in different circuits, decide the same or similar issues. And, of course, there are differences between the cases. We, for example, have a First Amendment claim, that we've been discussing in the context of Plaintiff Jane Doe, that is not at play in either of the two cases in which preliminary injunctions have been granted.

Plaintiffs satisfy all of the requirements for a preliminary injunction. And if I could, I'd like to spend most of my time today talking about the equal protection claim, and begin by discussing the proper level of scrutiny that applies to that claim. Strict scrutiny is the appropriate standard, for reasons that I'll explain. But because this policy also discriminates based on sex, it's subject to intermediate scrutiny, at a minimum. And in any event, plaintiffs prevail under any standard of review.

First of all, the policy is subject to strict scrutiny

because discrimination against transgender people exhibits all of the indicia of a suspect classification. Transgender people have suffered a long and painful history of discrimination on the basis of an immutable characteristic, that has no bearing on their ability to contribute to society. And as I think this case so powerfully illustrates, they also often find themselves in the crosshairs of discrimination because they remain a politically vulnerable minority. But second, discrimination against transgender people is also inherently sex discrimination. Gender identity is, itself, a sex-related characteristic. So when someone discriminates based on gender identity, they are necessarily discriminating based on sex.

So regardless of which form of heightened scrutiny this Court applies, the import is that the government bears the burden of justifying the discrimination. And furthermore, they are limited, in terms of the support that they draw upon, to what was actually available and what actually influenced the decision that was made at the time it was made. They can't rely on after-the-fact, post hoc factual support that they conceive in litigation. The government's only response to this, for the most part, is to say that because the discrimination here occurred in the military context, that heightened scrutiny should be suspended.

But I think that deference is -- the case law is quite clear, that deference is not automatic. Cases like *Rostker*,

for example, teach that, in order to get the benefit of deference, the government has to do its due diligence. It has to do things like engage in a meaningful factual inquiry. It must consult with the range of officials with relevant information. And it has to engage in careful deliberation. And it has to do all of this before it makes the decision, not afterwards. Because otherwise, those steps, logically, cannot possibly influence the decision at issue.

And the government has not exercised its due diligence here. On this record before the Court, the decision-making process about whether to return to the pre-2016 policy largely begins and ends with the President's three tweets. And that is a stark contrast to the facts of *Rostker*, where Congress held hearings, took testimony, and engaged in debate about whether or not to exclude women from the draft, based on their exclusion from combat positions at the time. Here, the President didn't do any of that. But the military did. They did engage in a deliberative process, a year-long one. And it resulted in the very policy of allowing transgender people to serve openly, that the President has now discarded. So the President is essentially overriding the very considered judgment of the military that courts have found to appropriately warrant deference in other cases.

The government has essentially argued three justifications for its discrimination here. It has argued military readiness,

cost, and unit cohesion; but none can justify the sweeping scope of the President's ban. And I'll address each one in turn.

First of all, with respect to military readiness, the government claims that its policy promotes readiness, but they have no evidence of that. Even four months now after the President's tweets, we don't have a single declaration from a military official in support of the government's readiness justifications. And in fact, this assertion contradicts the evidence the government already has in its hands. The RAND study, for example, systematically analyzed this issue, and it concluded there were no readiness implications that prevented transgender people from serving openly. Similarly, the declarations on file of former military leaders all show that discrimination actually undermines readiness, because it focuses on a characteristic that has no bearing on a person's ability to serve. And I also want to emphasize that, as Your Honor noted, discharges, in particular, are very disruptive, and they damage readiness because they consume resources to fill those positions that are now vacant.

Now, the government does note that transition-related care can lead to periods of limited deployability, but so too do a variety of other medical conditions, none of which are disqualifying. And I think pregnancy, itself, is one clear example of another condition that leads to a period of limited

deployability. But courts there have struck down rules that require the discharge of pregnant troops as unconstitutional discrimination, as in the *Crawford* case.

Second, the government also asserts cost. But the mere fact that it saves the government money to deprive one group of medical care, which will always be true, no matter what group of people we're talking about, is not a legally adequate justification. And it's also not a factually supported justification on this record, because we know from Secretary Mattis that the government actually crunched the numbers. And as he describes it, the cost of providing transition-related care amounts to mere budget dust in the military's nearly $50 billion annual healthcare budget.

THE COURT: Well, Counsel, are there any other things that have been crunched to make a comparison? How much does it cost the military to treat athlete's foot? How much does it cost the military to provide Viagra? How much does it cost the military to deal with poison oak?

I'm trying to get a handle on what "budget dust" is. And if the dollars are going to be something that the government uses to justify it, is there anything in the record that shows a comparison?

MR. RENN: I think that the best estimate would probably come from the RAND study itself, which I don't know if it gets into that level of granular detail about the costs of

other conditions. But there were reports, of course, after the President's tweets, that the cost of providing transition-related care would be a small, small fraction of the amount that the government also spends on providing treatment for sexual health issues, as Your Honor noted. And so at the end of the day, you know, it's a small, small drop in the bucket of what the military spends on healthcare.

And again, there's no limiting principle to this. Because if it's -- if the government could say that it saves money to get rid of care for this group of people, then it could say that about any group of people. Left-handed people, for example, what if the government deprived healthcare to those individuals? Surely, that would save the government money, but it wouldn't be a rational thing for the government to do.

THE COURT: Unit cohesion is the third one. And I would like to have you talk to me about that, because I honestly don't know what that term encompasses, and whether it means the ability to get along, or does it mean the ability to carry through on a task? Does it mean you have to like one another? What is it?

MR. RENN: Sure. I don't think the government actually pinpoints what aspect of unit cohesion forms the basis of the interest that they're asserting. But the declaration of Professor Eitelberg, I think, goes into this a little bit and talks about the difference between social cohesion and task

cohesion. And he explains that task cohesion is actually the part that matters for getting a job done. You have to get along with people well enough that you can focus on the mission, but it doesn't necessarily mean that you have to actually like the person that you're working with.

But I have to emphasize that, regardless of what form of unit cohesion we're talking about, there is no evidence on this record that allowing transgender people to serve openly, which they've been doing for the last year and a half, has had any compromise whatsoever on unit cohesion, which is exactly what the RAND study, and also the experience of foreign militaries, confirmed would be the case. And in fact, on this record, we have evidence that shows that open service actually promotes cohesion, because people don't have to lie about who they are. And when they drop those barriers, that creates and fosters better bonds and trust between service members.

And, of course, I think it's also important to emphasize that unit cohesion has historically been used to justify all sorts of discrimination in the military context, whether on the basis of race, or sex, or sexual orientation. But the lesson that we've taken away from each one of those experiences is that the military grew stronger when it dismantled barriers to service that had no bearing on an individual's ability to serve.

If there are no further questions, I'll reserve the

balance of my time for rebuttal.

THE COURT: Ms. Baker?

MS. BAKER: Good afternoon, Your Honor. I'm La Rond Baker, Assistant Attorney General for the State of Washington.

And as you know, the State of Washington was recently granted intervention, and the defendants did not actually file their motion to dismiss against the State. They did incorporate their motion to dismiss in their response to the State's motion for intervention. And so as such, I think it might be best for me to talk about standing in the context of the preliminary injunction. Is that okay?

THE COURT: That's fine.

MS. BAKER: Okay. Great.

So first, I want to address the fact that we now have two injunctions that are in place, the *Doe* injunction and the *Stone* injunction. And you asked Mr. Renn, earlier, why we still need another injunction, or a third injunction. And from the State's perspective, our state interests are simply broader than any other private plaintiff's interests that have been protected by the *Stone* and the *Doe* injunctions. And as the defendants have consistently attacked the standing of private plaintiffs, we don't feel that an injunction that is tethered to private plaintiffs' standings is sufficient to protect the State's interests, which are much broader than an individual's or an organizational standing.

THE COURT: Now, it's my understanding that the California case that was set to be argued has been postponed because California has intervened.

MS. BAKER: That's correct. I believe the hearing is set for December 11, but intervention was granted on behalf of the State of California. However, nothing has been -- there are -- no P.I. motion has been adjudicated in that.

THE COURT: Thank you.

MS. BAKER: There also is a potential for the other injunctions to be narrowed, overturned, or vacated for specific reasons. And the State wants to ensure that its quasi-sovereign and sovereign interests are protected, which goes to our standing and our interests for a preliminary injunction.

For a preliminary injunction, you have to prove that a party is likely to succeed on the merits, likely to suffer irreparable harm in the absence of preliminary relief, and that the balance of equities tips in their favor, and an injunction is in the public interest. We are going to address Prong 2, the irreparable harm to the State of Washington, which is also tethered to our standing arguments.

First, Washington suffers harm to its parens patriae interests in protecting the health, both physical and economic, of Washingtonians from invidious discrimination based on transgender status, gender identity, and sex. Without a

preliminary injunction, the approximately 38,000 transgender Washingtonians would be subjected to defendants' discriminatory ban. Further, transgender Washingtonians currently serving in the military, either openly or silently, would be denied access to necessary medical treatment, equal opportunity, and would suffer stigma. This harms Washington's parens patriae interest in protecting Washingtonians who are transgender, and their families, and it's the type of harm that no legal remedy or award of damages can fully vindicate, and as such should be deemed irreparable harm sufficient to sustain the issuance of a preliminary injunction.

Second, Washington has proprietary interests that are at risk here and that would be in -- entered if defendants' ban is not enjoined. Courts have repeatedly found that non-trivial economic impact on the proprietary interests of government entities is sufficient to warrant injunctive relief, here Washington's proprietary interest in avoiding economic harm that occurs to Washington's tax base and economy when Washingtonians are denied employment and advancement opportunities. The military is the second-largest public employer in the State of Washington, and indeed there are approximately 60,000 active, reserve, and guard members in Washington. When such a large employer enacts discriminatory policies that restrict employment opportunity and advancement opportunities on such a grand scale, that impacts Washington's

economy and tax revenue.

Washington also has an interest in not spending its scarce economic resources to support discriminatory policies. The State spends millions of dollars to support the Washington National Guard, which is impaneled pursuant to the military's accession policy. There are 8,000 members. And when deployed by the Governor, the State pays the Guard members' wages, and thereby manages and pays a guard body that has been staffed pursuant to a discriminatory policy. This is the type of harm that no legal remedy or award of damages can fully vindicate, and should be sufficient to show irreparable harm.

Third, Washington has sovereign interests that are irreparably harmed by defendants' ban. Washington has sovereign interests in ensuring that the National Guard can protect its natural resources of the State and provide aid in times of emergency. Turning away a single Washingtonian that seeks to serve reduces the strength and efficacy of the Guard, and forces us to lose skilled and qualified personnel, and potential personnel, which is something Washington can't afford.

Further, such discriminatory practices fly in the face of longstanding policies against discriminatory employment practices. Washington also has sovereign interests in protecting its antidiscrimination laws and ensuring that itself is not utilizing its resources and service opportunities in a

discriminatory manner. Without a preliminary injunction, these interests would be damaged, and no legal remedy or award of damages could fully vindicate these harms; and as such, as said before, they should be deemed irreparable harm sufficient to sustain a preliminary injunction.

As such, Washington requests that this Court issue a preliminary injunction barring defendants from implementing any and all aspects of the transgender military service ban. And Washington also asks this Court to include in its consideration the harms that Washington will suffer, that have been briefed and argued today, in its consideration of the balance of equities and public interest components of the *Winter* standard.

And if there are no further questions, or questions for me, the State joins private plaintiffs' motion for a preliminary injunction and all of the legal arguments put forward. As the State was granted intervention after the briefing had been done, we did not want to put forward any new legal arguments, but wanted to make sure that our interests were before this Court.

Thank you.

THE COURT: Thank you.

MR. LUCAS: Thank you, Your Honor.

I'd like to just make two points. First, there is no need for a third injunction in this case. The *Stone* court gave the plaintiffs all the relief they seek. It also gave all of

Washington the relief it seeks. All Washingtonians are protected under the terms of the *Stone* court's injunction, as are all of its interests. So we don't see --

THE COURT: So was there another state that was involved in the *Stone* court?

MR. LUCAS: No, Your Honor. But the injunction itself, that was issued by the *Stone*, were enjoining all aspects of the memorandum, would conceivably give Washington all of its relief. We're not sure what else could be enjoined. Because all of Washington's concerns flow from the presidential memorandum.

THE COURT: I see. So not necessarily all the reasons stated, but you're saying that the order covers all of the concerns.

MR. LUCAS: Yes, Your Honor.

THE COURT: Okay.

MR. LUCAS: And I'd also just like to reiterate that Judge Robart did stay and decline to enter an overlapping injunction in the travel executive order litigation, under very similar circumstances here, and we think that that would be the right course, as well.

And if Your Honor has any concerns over us appealing any of these injunctions, or what will happen in the future, we would just like to emphasize that the issue has been fully briefed, the parties have been ably represented, and there's

been argument. So Your Honor can always come back to it and decide to issue an injunction, if there's any concern that this Court has in the future. But we just don't see a need for a third one, right now.

THE COURT: Well, Judge Robart was asked to have a second ruling within the same circuit. The other opinions are not in the Ninth Circuit; correct?

MR. LUCAS: That is true, Your Honor. Our primary submission is that the plaintiffs, and Washington, as well, have all the relief they seek.

But moving on to my second and final point, Your Honor, we just want to be clear that we're not asking this Court to say that it can never review the presidential memorandum or any policy that is ultimately adopted by the military. Instead, our position simply is that review would not be appropriate with respect to these plaintiffs at this time. We therefore simply ask you to conserve your resources, and just wait a few months until the military finishes studying this issue and issues a final policy. At that point, this Court will be in a much better position to assess the product of that deliberative process and make a full and informed constitutional ruling.

And in the meantime, the plaintiffs are triply protected under the -- what we view as the express terms of the presidential memorandum, under the terms of the interim guidance, and now under two separate injunctions, issued by two

separate courts, in two separate circuits. So for these reasons, we ask you to dismiss their complaint right now.

Thank you, Your Honor.

THE COURT: Thank you.

MR. RENN: Your Honor, I just wanted to respond to the last point about whether or not a third injunction is necessary, and to emphasize, again, that it is par for the course for courts, particularly in different circuits, to rule on issues that are common. And that is, for example, how circuit splits are able to evolve, which I think the Supreme Court finds quite helpful in knowing what issues merit their attention. And as Your Honor noted, the situation with the travel ban and Judge Robart is quite distinguishable, because there, it was another case that was already up before the Ninth Circuit. And that also involved another sovereign, the State of Hawaii, whereas there is no other case, right now, in which an injunction has been granted covering another state entity.

With respect to the second point counsel made about this Court staying its hand until the results of this supposed study come out, my response to that is that the study cannot change the decision that was already made. The government's constitutional -- the government's action here has to be judged on the information that it had at the time that it made the decision. And so whatever study that's going on right now can't go back and change the facts as they existed at the

relevant time. They're designed, I think, to do so, to implement and justify what the President already did, but they can't change the facts as they existed on July 26, 2017, and on the date that the President issued his memorandum, which is the only relevant inquiry as to whether or not the government's actions are constitutional or not.

THE COURT: Counsel, opposing counsel argued to me that the military would not go through this laborious process if it were simply to have people exit.

Is there anything in the record that says anywhere what they're doing, or what they are -- what their progress is?

MR. RENN: The only thing we have in the record are the statements of Secretary Mattis. And it doesn't at all provide any clarity as to whether or not the study will go into what the government claims that it will. But we do know that the memorandum sets the parameters of what discretion has been delegated to the Secretary. The memorandum says, "We are returning to our pre-2016 policy." So whatever study or implementation that's happening, it has to happen within the contours of that basic framework. And that basic framework is the only piece of this that we challenge. And it doesn't matter how the government actually chooses to roll out its policy. The point is, it's doing it in the first place, which is enough for plaintiffs to have standing.

THE COURT: Thank you.

MR. RENN: Thank you, Your Honor.

THE COURT: Ms. Baker, do you wish any further argument?

MS. BAKER: No, Your Honor. Thank you.

THE COURT: All right. Counsel, I thank you for your arguments. And I'm going to take some time to study the issues that you've presented to me, and you will have an opinion by me by December 8, if not before.

So thank you. Have a good holiday.

(Adjourned)

(End of requested transcript)

* * *

I certify that the foregoing is a correct transcript from the record of proceedings in the above matter.

Date: 11/21/17 Andrea Ramirez

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Signature of Court Reporter