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12
13 **UNITED STATES DISTRICT COURT**
14 **CENTRAL DISTRICT OF CALIFORNIA**

15 AIDEN STOCKMAN; NICOLAS
16 TALBOTT; TAMASYN REEVES;
17 JAQUICE TATE; JOHN DOES 1-2;
JANE DOE; and EQUALITY
CALIFORNIA,

18 Plaintiffs,

19 v.

20 DONALD J. TRUMP, et al.

21 Defendants.

22 STATE OF CALIFORNIA,
23 Plaintiff-Intervenor,

24 v.

25 DONALD J. TRUMP, et al.

26 Defendants.
27

CASE NO. 5:17-CV-01799-JGB-KK

**JOINT STIPULATION FOR
PROTECTIVE ORDER**

DISCOVERY MATTER

28 Defendants Donald J. Trump, James N. Mattis, Joseph F. Dunford, Jr.,

1 Richard V. Spencer, Ryan D. McCarthy, Heather A. Wilson, and Elaine C. Duke
2 (collectively, “Defendants”); Plaintiffs Aiden Stockman, Nicolas Talbott, Tamasyn
3 Reeves, Jaquice Tate, John Does 1-2, Jane Doe, and Equality California
4 (collectively, “Plaintiffs”); and Intervenor-Plaintiff California (along with
5 Defendants and Plaintiffs, the “Parties”) by and through their respective counsel,
6 hereby stipulate and agree as follows:

7 WHEREAS, pursuant to discovery or otherwise during the course of the
8 above-captioned case (“C.D. Cal. Case”), and the related cases *Doe v. Trump*, No.
9 1:17-cv-1597 (D.D.C.); *Stone v. Trump*, No. 1:17-cv-02459 (D. Md.); and
10 *Karnoski v. Trump*, No. 2:17-cv-1297 (W.D. Wash.) (collectively, the “Related
11 Cases”), the parties may be required to disclose confidential and sensitive
12 information within the meaning of Rule 26(c) of the Federal Rules of Civil
13 Procedure and information subject to the Privacy Act;

14 WHEREAS, a protective order pursuant to Rule 26(c) and 5 U.S.C. §
15 552a(b)(11) is necessary in the C.D. Cal. Case to prevent unnecessary disclosure or
16 dissemination of such confidential and sensitive information held by the parties;

17 WHEREAS, there exists substantial overlap between the subject matter of
18 the Related Cases and the C.D. Cal. Case, making it efficient and appropriate to
19 permit discovery produced by parties and non-parties in any of the Related Cases
20 to be used in this action;

21 WHEREAS, the Courts in the three Related Cases have entered substantially
22 similar orders to facilitate the efficient coordination of discovery in each of the
23 cases;

24 THEREFORE, THE PARTIES STIPULATE, AGREE, AND JOINTLY
25 REQUEST THAT this Court enter the Parties’ accompanying Proposed Protective
26 Order and Cross-Use Agreement.
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Dated: April 17, 2018

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ATTESTATION STATEMENT

Pursuant to Local Rule 5-4.3.4(a)(2)(i), I attest that all other signatories listed, and on whose behalf the filing is submitted, concur in the filing's content and have authorized the filing.

Dated: April 17, 2018

UNITED STATES
DEPARTMENT OF JUSTICE

By /s/ Ryan B. Parker
Ryan B. Parker
Attorneys for Defendants

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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

AIDEN STOCKMAN; NICOLAS
TALBOTT; TAMASYN REEVES;
JAQUICE TATE; JOHN DOES 1-2;
JANE DOE; and EQUALITY
CALIFORNIA,

Plaintiffs,

v.

DONALD J. TRUMP, et al.

Defendants.

CASE NO. 5:17-CV-01799-JGB-KK

**[PROPOSED] PROTECTIVE
ORDER AND CROSS-USE
AGREEMENT**

DISCOVERY MATTER

STATE OF CALIFORNIA,
Plaintiff-Intervenor,

v.

DONALD J. TRUMP, et al.

Defendants.

Pursuant to Federal Rule of Civil Procedure 26(c) and 5 U.S.C. §
552a(b)(11), and for good cause shown, the Court hereby enters the following
Protective Order:

1. Good Cause Statement. Good cause exists for the entry of this Order.
This action is one of four related cases challenging the Government’s policy
regarding military service by transgender individuals. *See Doe v. Trump*, No.
1:17-cv-1597 (D.D.C.); *Stone v. Trump*, No. 1:17-cv-02459 (D. Md.); and
Karnoski v. Trump, No. 2:17-cv-01297 (W.D. Wash.). In an attempt to litigate the
four related cases efficiently, the parties to each of the four cases have agreed that

1 discovery material that is produced by any party or non-party in any of the named
2 actions will be deemed produced in all four of the cases. In order to facilitate the
3 sharing of discovery materials, the parties to the other three cases have agreed to,
4 and the courts in the other three cases have entered, protective orders and cross-use
5 agreements that are similar to this Order. Defendants have already produced
6 substantial discovery materials to the plaintiffs in the other three cases. Those
7 discovery materials include information otherwise generally unavailable to the
8 public or otherwise protected from disclosure under state or federal statutes, court
9 rules, case decisions, or common law, including internal documents of the
10 Department of Defense, the United States Army, the United States Air Force, and
11 the United States Navy. Pursuant to Defendants' agreement with Plaintiffs and
12 Intervenor in this case, Defendants are prepared to provide the discovery materials
13 that they have produced in the other three cases to Plaintiffs and Intervenors, once
14 this Order and the accompanying Rule 502(d) Order have been entered by the
15 Court. It is the intent of the parties that information will not be designated as
16 confidential for tactical reasons and that nothing be so designated without a good
17 faith belief that it has been maintained in a confidential, non-public manner, and
18 there is good cause why it should not be part of the public record of this case.
19 Accordingly, to expedite the flow of information, to facilitate the prompt resolution
20 of disputes over confidentiality of discovery materials, to adequately protect
21 information the parties are entitled to keep confidential, to ensure that the parties
22 are permitted reasonable necessary uses of such material in preparation for and in
23 the conduct of trial, to address their handling at the end of the litigation, and to
24 serve the ends of justice, a protective order covering such information is justified
25 in this matter.

26 2. Scope of Order. This Order shall govern the production, use, and
27 disclosure of all information and materials produced by any party or non-party in
28 response to any discovery request in *Stockman v. Trump* (including, but not limited

1 to, documents, interrogatory answers, responses to requests to admit, and
2 deposition transcripts and exhibits), all information contained in those materials,
3 and all copies, excerpts, or summaries of those materials (collectively, “Discovery
4 Material”).

5 3. Designation of Protected Material. A party or non-party may, in good
6 faith, designate as CONFIDENTIAL and therefore subject to the protections and
7 requirements of this Order, any Discovery Material that the designating party
8 reasonably believes contains confidential information, including personal,
9 proprietary, or sensitive information not generally disclosed to the public. Subject
10 to the exceptions set forth in Paragraph 6, Discovery Material designated
11 CONFIDENTIAL (“Protected Material”) shall be used by the receiving parties
12 solely for the prosecution or defense of this action or one of the three related cases
13 *Doe v. Trump*, No. 1:17-cv-1597 (D.D.C.); *Stone v. Trump*, No. 1:17-cv-02459 (D.
14 Md.); and *Karnoski v. Trump*, No. 2:17-cv-01297 (W.D. Wash.) (collectively, the
15 “Named Actions”), and shall not be disclosed to any person or entity unless
16 specifically authorized by the terms of this Order or by further order of the Court.
17 Consistent with the requirements of this paragraph, a party may, within fifteen (15)
18 business days of receipt of the Discovery Materials, by written notice to the other
19 parties, designate as CONFIDENTIAL any Discovery Materials produced or given
20 by the other parties or by a non-party but not designated CONFIDENTIAL by that
21 other party or non-party.

22 4. Limitations on Use. Subject to the exceptions set forth in Paragraph
23 6, Protected Material and its contents, as well as copies, summaries, notes,
24 memoranda, and computer databases relating thereto, shall be used solely for the
25 purpose of the Named Actions, shall be and remain confidential, and shall not be
26 disclosed in any fashion, nor be used for any purpose other than litigating the
27 Named Actions.

28 5. Limited Disclosure of Protected Material. Except as stated in

1 paragraphs 5 and 6 below, Protected Material may be disclosed, subject to the
2 specific procedures and provisions contained in this Order, to the following
3 persons and/or entities only:

4 a) This Court and the officers, employees, and any stenographic
5 reporters of such courts;

6 b) Counsel representing the parties in the Named Actions and their
7 support personnel whose functions require access to Protected Material
8 (collectively “Attorney Professionals”);

9 c) Outside vendors who perform scanning, photocopying,
10 computer classification, translation, or similar clerical functions, retained by the
11 parties or their counsel in the Named Actions, but only for the purposes of
12 performing such services and only so long as necessary to perform those services;

13 d) Independent experts consulted or retained by counsel for
14 assistance in the preparation or prosecution of claims or defenses in the Named
15 Actions, to the extent reasonably necessary for such experts to prepare a written
16 opinion or to prepare to testify or to assist counsel in the Named Actions;

17 e) A witness who has been noticed or subpoenaed for deposition
18 or a court appearance in the Named Actions to the extent reasonably necessary for
19 the preparation or giving of his or her testimony about Protected Material; or

20 f) Any other person who is so designated by order of this Court or
21 by written agreement of the producing party.

22 No Protected Material may be disclosed to persons identified in
23 subparagraphs (d), (e) or (f) until they have reviewed this Order and have executed
24 a written agreement in the form attached hereto as Exhibit A, which executed
25 agreements shall be maintained by counsel of record for the party making the
26 disclosure to such persons (provided that Counsel who makes such disclosure shall
27 retain the written agreement but shall not be required to produce it to opposing
28 counsel until the deposition of the person or without order of the Court).

1 6. Order Affecting Pseudonym Plaintiff. Use and disclosure of the
2 Pseudonym Plaintiff's identity in this action is governed by the Court's Order
3 Granting Doe Plaintiffs' Motion for Leave to Proceed Under Pseudonyms, ECF
4 No. 13, dated September 29, 2017. Use and disclosure of the Pseudonym
5 Plaintiff's identity in *Stone v. Trump* remain governed by the protective order
6 entered by the Court on September 29, 2017 ("*Stone* Pseudonym Order"). Use and
7 disclosure of the Pseudonym Plaintiffs' identities in *Doe v. Trump* remain
8 governed by the September 13, 2017 protective order entered in *Doe v. Trump*
9 ("*Doe* Pseudonym Order"). Use and disclosure of the Pseudonym Plaintiff's
10 identity in *Karnoski v. Trump* remain governed by the Order Granting Motion to
11 Proceed Under Pseudonym entered by the *Karnoski* Court on October 10, 2017
12 ("*Karnoski* Pseudonym Order"). Insofar as there is any conflict between this Order
13 and the Pseudonym Order in this case or the *Stone*, *Karnoski* and *Doe* Pseudonym
14 Orders, the Pseudonym Orders shall prevail.

15 7. Cross-Use of Discovery Material. Any Discovery Material produced
16 or provided by any party or non-party in any of the Named Actions shall be
17 deemed produced in the other Named Actions and shall be treated consistently
18 with the terms of this Order, with the exception of any Discovery Materials that
19 include personally identifying information in the Named Actions, including
20 information that would lead to the discovery of the identities of plaintiffs
21 proceeding pseudonymously or other information protected by the Pseudonym
22 Orders.

23 8. Effect of Designation. The designation of Protected Material pursuant
24 to the Order shall not be construed as a waiver of any objection or a concession by
25 any party that such Protected Material is relevant or material to any issue. Nor
26 shall a failure to object to the designation of any such Protected Material be
27 construed as a concession by the receiving parties that such Protected Material is,
28 in fact, confidential or otherwise entitled to protection under the terms of this

1 Order. All parties maintain their respective rights to object to production of any
2 requested documents on the grounds that they are otherwise not discoverable,
3 including, but not limited to, objections based on any applicable privilege, undue
4 burden, overbreadth, relevance, and proportionality to the needs of the case. Any
5 party may seek an order from the Court determining that specified Protected
6 Material is not entitled to be treated as CONFIDENTIAL. Prior to seeking such an
7 order, the party seeking the order may write a letter to the designating party
8 identifying the Protected Material it challenges. The designating party seeking
9 confidential treatment shall then have four (4) business days from receipt of that
10 letter to respond with its reasons. Failure to provide a timely response to a letter
11 challenging a confidentiality designation shall be deemed a waiver of the right to
12 demand confidential treatment of the challenged material. For the purposes of any
13 motion or other request brought by a party seeking an order from the Court
14 determining that specified Protected Material is not entitled to be treated as
15 CONFIDENTIAL, the burden shall be on the designating party to demonstrate that
16 the Protected Material at issue is entitled to such treatment. Protected Material
17 shall remain subject to the protection of this Order unless and until the Court
18 determines that such Material is not entitled to such designation.

19 9. Mechanics of Designation. No designation of CONFIDENTIAL shall
20 be effective as to a particular page of Protected Material unless there is placed on
21 or affixed to each page of such Protected Material a marking of
22 “CONFIDENTIAL.” In the case of electronic documents produced in native
23 format, such designation may be made on the physical media (e.g., disk, flash
24 drive) containing such electronic documents and on a slipsheet accompanying the
25 native file if the file is served electronically. Testimony may be designated
26 CONFIDENTIAL within ten (10) business days after receipt of a transcript of said
27 testimony by furnishing to counsel for the other parties a detailed statement of the
28 specific portions of any such information, by page and line number or exhibit

1 number, by designating lines and pages as confidential by highlighting or digital
2 marking, or by a statement on the record at the time the testimony is given.

3 Pending the expiration of said ten (10) business days, all parties shall
4 presumptively treat the entire deposition transcript as CONFIDENTIAL. In
5 addition to the requirements of this Order, the court reporter before whom a
6 deposition or other testimony relating to Protected Material is taken shall, at the
7 request of any party, designate a portion of the deposition or any exhibits
8 containing Protected Material as CONFIDENTIAL.

9 10. No Waiver; Late Designation. The failure of a party to designate
10 information or documents as CONFIDENTIAL in accordance with this Order, and
11 the failure to object to such a designation, is not a waiver of the right to do so and
12 shall not preclude a party at a later time from subsequently designating or objecting
13 to the designation of such information or documents as CONFIDENTIAL. The
14 parties understand and acknowledge that a party's failure to designate information
15 or documents as CONFIDENTIAL relieves the other parties of any obligation of
16 confidentiality until such a designation is made. Promptly after written notice to
17 the receiving parties of any such subsequent designation by the producing party,
18 which notice shall specifically identify the documents or information to be
19 designated, the parties shall confer and agree upon a method to mark as
20 CONFIDENTIAL any such subsequently designated documents. All documents
21 containing any such subsequently designated information will be thereafter treated
22 in accordance with this Order.

23 11. Objections to Designations. A party may, at any time, make a good
24 faith challenge to the propriety of a CONFIDENTIAL designation. In the event a
25 party objects in writing to the designation of any material under this Order, the
26 objecting party shall consult with the designating party to attempt to resolve their
27 differences. If the parties are unable to reach an accord as to the proper
28 designation of the material, after giving notice to the designating party, either party

1 may apply to the Court for a ruling regarding the designation. If such a motion is
2 made, the designating party has the burden of establishing that the designation is
3 proper. If a timely motion is made, any documents or other materials that have
4 been designated CONFIDENTIAL that are the subject of the motion shall be
5 treated as Confidential until such time as the Court rules that such materials should
6 not be treated as Confidential.

7 12. Control of Protected Material. All Protected Material shall be
8 maintained under the direct control of counsel of record of the, who shall be
9 responsible for preventing any disclosure thereof, except as permitted by the terms
10 of this Order. Attorney Professionals may review and make working copies,
11 abstracts, and digests of Protected Material for use in connection with the Named
12 Actions, and such working copies, abstracts, and digests shall be deemed Protected
13 Material under the terms of this Order provided that access to Protected Material,
14 in whatever form stored or reproduced, shall be limited to those persons entitled to
15 receive such information pursuant to the terms of this Order and shall be
16 appropriately marked in accordance with the terms of this Order.

17 13. Return. Unless otherwise instructed by the Court, at the conclusion of
18 this action, including any appeals, all Protected Material, in whatever form stored
19 or reproduced, shall be returned to counsel of record for the party who produced
20 said Protected Material, or the receiving parties shall certify that all such
21 information has been destroyed, except that the attorneys for the parties shall be
22 entitled to retain all litigation documents, including exhibits and their own
23 memoranda, containing Protected Material. Such litigation documents and
24 memoranda shall be used only for the purpose of preserving files on this action,
25 and shall not, without the written permission of the designating party or an order of
26 this Court, be disclosed to anyone other than those to whom such information was
27 actually disclosed, in accordance with this Order, during the course of the Named
28 Actions.

1 14. Filing under Seal. Any party seeking to file documents containing
2 Protected Material shall file a motion to file under seal pursuant to all applicable
3 Federal Rules of Civil Procedure and the Local Rules of this Court.

4 15. Subpoena of Protected Material. If a person in possession of
5 Protected Material who is not the producing party with respect to that Protected
6 Material receives a subpoena or other request seeking production or other
7 disclosure of Protected Material, that person shall immediately give written notice
8 to counsel for the producing party, identifying the Protected Material sought and
9 the date and time that production or other disclosure is required. In no event
10 should production or disclosure be made without written approval by counsel for
11 the producing party or by further order of the Court or another court of competent
12 jurisdiction.

13 16. Inadvertent Disclosure. Should any Protected Material be disclosed,
14 through inadvertence or otherwise, to any person and/or entity not entitled to
15 access or review same, then such person and/or entity:

16 (a) Shall be informed promptly of all provisions of this Order by the
17 responsible party;

18 (b) Shall immediately be identified to all counsel of record in all
19 Named Actions by the responsible party; and

20 (c) Shall be requested, in writing by the responsible party, to return
21 the material to the responsible party.

22 Inadvertent disclosure by the disclosing party of any Protected Material,
23 regardless of whether said Protected Material was so designated at the time of
24 disclosure, shall not be deemed a waiver in whole or in part of the protectability of
25 the Protected Material in accordance with the terms of this Order, either as to the
26 specific Protected Material disclosed, or as to any other information relating
27 thereto or relating to the same or related subject matter.

28 17. Modification. This Order is without prejudice to the right of any party

1 to apply at any time for additional protection, or to amend, modify, or rescind the
2 restrictions of this Order. The party must provide written notice to counsel of
3 record for all parties in the Named Actions specifying the portion(s) of this Order it
4 seeks to amend, modify, or rescind and any additional provisions it may seek to
5 add to the Order. The written notice must be served five (5) business days in
6 advance of filing any such motion. The parties expressly reserve the right to seek
7 modification, amendment, or rescission of this Order by mutual agreement in
8 writing.

9 18. Enforcement. All persons to whom Protected Material is disclosed
10 shall be subject to the jurisdiction of this Court, for the purpose of enforcing this
11 Order. This Order shall continue in full force and effect, and shall be binding upon
12 the parties and all persons to whom Protected Material has been disclosed, both
13 during and after the pendency of this case.

14 **SO ORDERED.**

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16 Dated: _____

KENLY KIYA KATO

United States Magistrate Judge

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