

The Honorable Marsha J. Pechman

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

RYAN KARNOSKI, *et al.*,
Plaintiffs, and
STATE OF WASHINGTON,
Plaintiff-Intervenor,
v.
DONALD J. TRUMP, in his official capacity
as President of the United States, *et al.*,
Defendants.

Case No. 2:17-cv-01297-MJP
**DECLARATION OF VANESSA
BARSANTI IN SUPPORT OF
PLAINTIFFS’ MOTION TO SHOW
CAUSE**
NOTE ON MOTION CALENDAR:
May 25, 2017
ORAL ARGUMENT REQUESTED

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

3 1. I am counsel of record for Plaintiffs in this action, am over age 18, and competent to
4 be a witness. I am making this Declaration based on facts within my own personal knowledge. I
5 provide this Declaration in support of Plaintiffs' Motion to Show Cause.

6 2. Plaintiffs have not received amended disclosures from Defendants beyond
7 Defendants' Second Amended Initial Disclosures, which were served on March 19, 2018.
8 Attached as Exhibit A is a true and correct copy of the March 19 disclosures.

9 3. On April 24, 2018, Plaintiffs requested that Defendants provide amended initial
10 disclosures no later than April 30, 2018. Attached as Exhibit B is a true and correct copy of this
11 correspondence. Plaintiffs received no response to this request.

12 4. On May 4, 2018, Plaintiffs requested that Defendants provide amended initial
13 disclosures no later than May 8, 2018. (*See* Exhibit B.)

14 5. On May 8, 2018, the parties met and conferred regarding a number of discovery
15 disputes, including Defendants' initial disclosures. Defendants indicated that the documents they
16 intend to rely on are largely contained in a recent administrative record production made to
17 Plaintiffs on April 25, 2018 consisting of 15 documents. However, Defendants did not confirm
18 that these were the only records on which they intended to rely on.

19 6. When queried with respect to providing the names of individuals likely to have
20 discoverable information, Defendants would not provide a date certain by which they would
21 provide the required information. Rather, Defendants indicated that they were making their best
22 efforts to complete their document production to Plaintiffs by May 18, 2018, and that they would
23 update their initial disclosures some unspecified time after that.

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

25
26 DATED: May 10, 2018

27 s/Vanessa Barsanti
28 _____
Vanessa Barsanti

CERTIFICATE OF SERVICE

The undersigned certifies under penalty of perjury under the laws of the United States of America and the laws of the State of Washington that all participants in the case are registered CM/ECF users and that service of the foregoing documents will be accomplished by the CM/ECF system on May 10, 2018.



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Exhibit A

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' SECOND 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. Documents That May Be Relied Upon By Defendants In Support of Their Defenses

DoD Instruction 6130.03 (Apr. 28, 2010)
DoD Instruction 1332.18, Disability Evaluation System (Aug. 5, 2014)
DoD Instruction 1300.28, In-Service Transition for Transgender Service Members (Jun. 30, 2016).
DoD Instruction 1332.14, Enlisted Administrative Separations (Jan. 27, 2014)
Secretary of Defense Ash Carter's Memorandum for Secretaries of the Military Departments (Jul. 28, 2015)
Statement by Former Secretary of Defense Ash Carter, DoD Release No. NR-272-15 (Jul. 13, 2015)
RAND Cooperation Report – Assessing the Implication of Allowing Transgender Personnel to Serve Openly (2016)
Defense Department Directive-Type Memorandum (“DTM”) 16-005 (Jun. 30, 2016)
Statement by Chief Pentagon Spokesperson Dana W. White on Transgender Accessions, DoD Release No. NR-250-17 (Jun. 30, 2017)
Presidential Memorandum, 82 FR 41319 (August 25, 2018)
Statement by Secretary of Defense Mattis, DoD Release No. NR-312-17 (Aug. 29, 2017)
Department of Defense Interim Guidance on Military Service by Transgender Individuals (Sep. 14, 2017)
Memorandum from the Secretary of Defense, “Terms of Reference – Implementation of Presidential Memorandum on Military Service by Transgender Individuals” (Sep. 14, 2017)
Chief of Naval Operations Instruction 6110.1J (Jul. 11, 2011)
Memorandum Regarding Accessions of Transgender Individuals into the Military Services, issued by Secretary of Defense Mattis (Jun. 30, 2017)
Transgender Service in the Military, An Implementation Handbook (September 30, 2016)
Memorandum from Acting Assistant Secretary of Defense for Health Affairs, Karen S. Guice, M.D., “Guidance for Treatment of Gender Dysphoria for Active and Reserve Component Service Members” (Jul. 29, 2016)
Memorandum from Vice Admiral R.C. Bono, M.D., Director of the Defense Health Agency (“DHA”), entitled “Information Memorandum: Interim Defense Health Agency Procedures for Reviewing Requests for Waivers to Allow Supplemental Health Care Program Coverage of

Sex Reassignment Surgical Procedures” (Nov. 13, 2017)

III. Other Witnesses, Documents, and Discoverable Material

The Department of Defense has undertaken a comprehensive study of policies concerning transgender service members, and the results of that study have been presented to the President. Once a final policy governing the military service of transgender individuals has been adopted, Defendants intend to rely upon and defend both that policy and the support given for it. After a final policy has been adopted, Defendants will also assess whether supplementation of these disclosures is required and will provide any necessary supplementation consistent with Federal Rule of Civil Procedure 26(e).

Date: March 19, 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
United States Department of Justice
Civil Division, Federal Programs Branch
Telephone: (202) 514-4336
Email: ryan.parker@usdoj.gov

Counsel for Defendants

CERTIFICATE OF SERVICE

I hereby certify that, on March 19, 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 B

From: Barsanti, Vanessa <vanessa.barsanti@kirkland.com>
Sent: Friday, May 4, 2018 10:47 AM
To: Heinz, Jordan M.; Parker, Ryan (CIV)
Cc: *prenn@lambdalegal.org; *LaRondB@ATG.WA.GOV; Patton, Stephen R.; Siegfried, Daniel I.; Lerner, Scott
Subject: RE: Karnoski, et al. v. Trump, et al.

Ryan,

Following up on this, if Plaintiffs do not receive Defendants' supplemental initial disclosures by Tuesday, May 8, we intend to seek relief from the Court. Please let me know if you'd like to discuss.

Thank you,

Vanessa Barsanti

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vanessa.barsanti@kirkland.com

From: Heinz, Jordan M.
Sent: Tuesday, April 24, 2018 9:11 AM
To: Parker, Ryan (CIV) <Ryan.Parker@usdoj.gov>
Cc: Barsanti, Vanessa <vanessa.barsanti@kirkland.com>; *prenn@lambdalegal.org <prenn@lambdalegal.org>; *LaRondB@ATG.WA.GOV <LaRondB@ATG.WA.GOV>; Patton, Stephen R. <stephen.patton@kirkland.com>; Siegfried, Daniel I. <daniel.siegfried@kirkland.com>; Lerner, Scott <scott.lerner@kirkland.com>
Subject: Karnoski, et al. v. Trump, et al.

Ryan -

During the parties' briefing concerning Defendants' initial disclosures, Defendants told the Court that "until a final policy is announced, there is simply no basis to supplement" their initial disclosures. As Secretary Mattis and President Trump have announced their implementation plan, please supplement Defendants' initial disclosures no later than Monday, April 30.

Please let me know if you would like to discuss.

Regards,

Jordan

Jordan M. Heinz

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