

1 or, at the very least, specific categories of documents or discovery responses, to which
2 Plaintiffs contest Defendants’ privilege assertions. I explained that if Plaintiffs identified
3 specific documents, Defendants could review the documents to determine whether to perfect
4 the deliberative process privilege over those documents or whether to withdraw the assertion of
5 privilege over the documents with the goal of narrowing the dispute. Plaintiffs’ counsel stated
6 that Plaintiffs intended to bring a motion to compel that would address threshold legal issues,
7 rather than challenging withholdings from individual documents or specific discovery
8 responses.

9
10 Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is
11 true and correct.

12 EXECUTED this 21st day of May, 2018.

13
14 /s/ Ryan B. Parker

15 RYAN B. PARKER
16 Senior Trial Counsel
17 United States Department of Justice
18 Civil Division, Federal Programs Branch
19
20
21
22
23
24
25
26
27
28

Exhibit 1

Plaintiffs' Second Requests for Production, dated April 26, 2018

**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

**PLAINTIFFS' SECOND REQUESTS FOR
PRODUCTION TO DEFENDANTS**

Honorable Marsha J. Pechman

Pursuant to Federal Rules of Civil Procedure 26 and 34, Plaintiffs propound the following requests for production of documents to Defendants to be responded to within 30 days of service. Plaintiffs request that all documents and electronically stored information responsive to the following discovery requests be produced electronically, or alternatively, at the offices of Kirkland & Ellis LLP, 300 North LaSalle Street, Chicago, Illinois 60654.

SECOND REQUESTS FOR PRODUCTION

26. Documents sufficient to show the total annual amount spent and average, actual, or estimated annual per-person cost of hormone therapy provided to service members for each of fiscal years 2015, 2016, and 2017, and for the year to date of fiscal year 2018, including without limitation hormone therapy for the treatment of hypogonadism, hypothyroidism, hyperthyroidism, prostate cancer, breast cancer, growth hormone deficiency, menopause, osteoporosis, and transgender hormone therapy.

27. All Documents or Communications relating or referring to Secretary James Mattis's February 22, 2018, Memorandum for the President with Subject: Military Service by Transgender Individuals (the "February 22, 2018, Memorandum"), including without limitation: (a) all documents reviewed, considered, or relied upon in preparing the February 22, 2018, Memorandum; and (b) all drafts of the February 22, 2018, Memorandum.

28. All Documents or Communications reflecting, referring, or relating to any policies that were considered as alternatives, modifications, or refinements to the policies set forth in the final draft of the February 22, 2018, Memorandum.

29. All Documents or Communications relating or referring to the February 2018 Department of Defense Report and Recommendations on Military Service by Transgender Persons (the "Report and Recommendations"), including without limitation: (a) all documents received, reviewed, or considered by the Department of Defense, Panel of Experts, Transgender Service Policy Working Group, and/or any other group or committee within the Department of Defense that reviewed or considered transgender issues; (b) all Communications to, from, or copying the Department of Defense, Panel of Experts, Transgender Service Policy Working Group, and/or any other group or committee within the Department of Defense that reviewed or considered transgender issues; (c) all Documents reflecting, containing, or setting forth any information or data received, reviewed, or considered by the Department of Defense, Panel of Experts, Transgender Service Policy Working Group, and/or any other group or committee within the Department of Defense that reviewed or considered transgender issues; (d) all Documents relating, reflecting, or referring to matters discussed at any meeting of the Panel of Experts, Transgender Service Policy Working Group, and/or any other group or committee within the Department of Defense that reviewed or considered transgender issues; (e) all drafts of the Report and Recommendations.

30. All Documents or Communications reflecting, referring, or relating to any policies that were considered as alternatives, modifications, or refinements to the policies set forth in the Report and Recommendations.

31. All Documents and Communications relating or referring to any person or group providing analysis, advice, or recommendations to Secretary Mattis, the Department of Defense, and/or the Panel of Experts concerning the Report and Recommendations, military service by

transgender people or any restrictions on such service, including the Transgender Service Policy Working Group and/or any other group or committee within the Department of Defense that reviewed or considered transgender issues.

32. All Documents or Communications relating or referring to President Trump's March 23, 2018, Memorandum for the Secretary of Defense and the Secretary of Homeland Security with Subject: Military Service by Transgender Individuals (the "March 23, 2018, Memorandum"), including without limitation: (a) all documents reviewed, considered, or relied upon in preparing the March 23, 2018, Memorandum; and (b) all drafts of the March 23, 2018, Memorandum.

33. All Documents or Communications reflecting, referring, or relating to any policies that were considered as alternatives, modifications, or refinements to the policies set forth in the March 23, 2018, Memorandum.

34. All Communications, on or after January 20, 2017 to the present, between the President, the Executive Office of the President, the Vice President, and/or the Office of the Vice President, on the one hand, and Secretary Mattis and/or the Department of the Defense, on the other hand, relating or referring to military service by transgender people, public policy regarding transgender people, medical treatment for transgender people, and/or transgender people in general.

35. All Communications, on or after January 20, 2017 to the present, between the President, the Executive Office of the President, the Vice President, the Office of the Vice President, Secretary Mattis, the Department of Defense, and/or the Panel of Experts, on the one hand, and non-government third parties, including but not limited to the Heritage Foundation, Heritage Action for America, the Family Research Council, the Center for Military Readiness, the Liberty Council, lobbyists, think tanks, nonprofit organizations, religious organizations, and individuals, on the other hand, concerning military service by transgender people, public policy

regarding transgender people, medical treatment for transgender people, and/or transgender people in general.

DEFINITIONS AND INSTRUCTIONS

1. “You,” “your,” and “yours,” whether or not capitalized, shall mean the Defendants, individually and/or collectively, including Defendants’ current and former employees, agents, affiliates, contractors, consultants, representatives, and other persons engaged directly or indirectly by or under the control of Defendants.

2. “President Trump” and the “President” shall mean Donald J. Trump, the President of the United States and also refers to Donald J. Trump before his inauguration to that office and any persons engaged directly or indirectly by or under the control of Donald J. Trump.

3. “Vice President Pence” and the “Vice President” shall mean Michael R. Pence, the Vice President of the United States and also refers to Michael R. Pence before his inauguration to that office and any persons engaged directly or indirectly by or under the control of Michael R. Pence.

4. The “Executive Office of the President” shall mean the Executive Office of the President and all officers and employees thereof, including, but not limited to, the President’s Chief of Staff and his office, the Advisors, Senior Advisors, Chief Strategists, and Counselors to the President and their offices, the Assistant to the President for National Security Affairs (also known as the National Security Advisor) and his office, the White House Counsel and his office, and all officers and employees of the National Security Council.

5. The “Office of the Vice President” shall mean the Office of the Vice President, including, without limitation, the Vice President’s Chief of Staff and his office, the Advisors, Assistants, and Deputy Assistants to the Vice President and their offices, and the National Security Advisor to the Vice President and her office.

6. The “Department of Defense” shall mean the Department of Defense and all officers and employees thereof, including, but not limited to, the Secretary of Defense, the Deputy Secretary of Defense, any Undersecretary of Defense, any Assistant Secretary of Defense, any Deputy Assistant Secretary of Defense, the Chairman and Vice Chairman of the Joint Chiefs of Staff, and all employees and officers of the Office of the Secretary of Defense, the Department of the Navy, the Department of the Army, and Department of the Air Force.

7. “Panel of Experts” shall mean the group of senior uniformed and civilian leaders of the Department of Defense and the U.S. Coast Guard established by Secretary Mattis on September 14, 2017, to conduct an independent multi-disciplinary review and study of the relevant data and information pertaining to transgender Service members.

8. “Transgender” shall mean a person whose gender identity differs from the sex they were assigned at birth.

9. “Communication” shall mean any transmission of information by one or more persons to one or more persons by any means including, without limitation, telephone conversations, letters, telegrams, teletypes, telexes, telecopies, e-mail, text messages, computer linkups, written memoranda, and face-to-face conversations; “communication” includes all documents and electronically stored information (“ESI”) containing, summarizing, or memorializing any communication.

10. “Document” or “documents” shall have the full meaning ascribed to it by Federal Rule of Civil Procedure 34(a) including ESI, and includes the original and any identical or nonidentical copy, regardless of origin or location, of any writing or record of any type or description, including but not limited to, all writings; records; contracts; agreements; communications (intra or inter-company); correspondence; memoranda; letters; facsimiles; electronic mail (e-mail); text messages; minutes, recordings, transcripts, and summaries of meetings, or recordings of meetings, speeches, presentations, conversations, or telephone calls

(whether recorded in writing, mechanically, or electronically); handwritten and typewritten notes of any kind; statements; reports; voice recordings; desk calendars; diaries; logs; drafts; studies; analyses; schedules; forecasts; surveys; invoices; receipts; computer data; computer printouts; financial statements; balance sheets; statements of operations; audit reports; financial summaries; statements of lists of assets; work papers; pictures; photographs; drawings; computer cards; tapes; discs; printouts and records of all types; instruction manuals; policy manuals and statements; books; pamphlets; and every other device or medium by which information or intelligence of any type is transmitted, recorded, or preserved, or from which intelligence or information can be perceived.

11. “Identify,” whether or not capitalized, when used with respect to: (a) an individual, shall mean to provide the individual’s full name, job title, and employer during the period referred to, and current or last-known address and telephone number and business address and telephone number; (b) any entity other than an individual, shall mean to provide the entity’s full name and current or last-known address (designating which); and (c) a document, shall mean to provide the date, title, subject matter, author(s), recipient(s), and Bates number(s).

12. “Including” or “includes,” whether or not capitalized, shall mean “including but not limited to” or “including without limitation.”

13. “Relating to” or “related to,” whether or not capitalized, when referring to any given subject matter, shall mean any document that constitutes, comprises, involves, contains, embodies, reflects, identifies, states, mentions, alludes to, refers directly or indirectly to, or is in any way relevant to the particular subject matter identified.

14. Produce all documents in the order in which they appear in your files. Documents that, in their original condition, are stapled, clipped, or otherwise fastened together shall be produced in this same condition.

15. Produce all documents within your possession, custody, or control including all documents in the possession, custody, or control of any United States government employee, agent, representative, consultant, attorney, accountant, advisors, or other persons directly or indirectly connected with you or subject to your control, any government department, agency or any other government subdivision.

16. If any responsive document has been lost, destroyed, removed from, or is no longer in your possession, custody, or control for any reason, please identify the document, its last known location, and the circumstances surrounding its loss, destruction, or removal.

17. If you contend that any responsive document is protected from disclosure pursuant to any privilege or work-product doctrine, please specifically set forth the privilege being asserted and any factual or legal basis for its assertion. Also set forth the date and title of the document, its subject matter generally, its author(s) and recipient(s), and its Bates number(s).

18. Each paragraph is to be construed independently and not by or with reference to any other paragraph for purposes of limiting the scope of any particular request.

19. If no documents responsive to a particular request exist, or if such documents exist but are not in your possession, custody, or control, then your response to that request shall so state.

20. Pursuant to the Federal Rules of Civil Procedure, these requests are continuing and you must revise or supplement your responses and production whenever new or additional responsive information becomes known.

Dated: April 26, 2018

/s/ Jordan M. Heinz

NEWMAN DU WORS LLP Derek A. Newman,
WSBA #26967

dn@newmanlaw.com

Samantha Everett, WSBA #47533

samantha@newmanlaw.com

2101 Fourth Ave., Ste. 1500

Seattle, WA 98121

(206) 274-2800

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

Tara Borelli, WSBA #36759

tborelli@lambdalegal.org

Jon W. Davidson (admitted pro hac vice)

Camilla B. Taylor (admitted pro hac vice)

Peter C. Renn (admitted pro hac vice pending)

Natalie Nardecchia (admitted pro hac vice)

Sasha Buchert (admitted pro hac vice)

Kara Ingelhart (admitted pro hac vice)

Carl Charles (admitted pro hac vice)

730 Peachtree Street NE, Ste. 640

Atlanta, GA 30308

OUTSERVE-SLDN, INC.

Peter Perkowski (admitted pro hac vice)

KIRKLAND & ELLIS LLP

James F. Hurst, P.C. (admitted pro hac vice)

Stephen Patton (admitted pro hac vice)

Jordan M. Heinz (admitted pro hac vice)

Scott Lerner (admitted pro hac vice)

Vanessa Barsanti (admitted pro hac vice)

Daniel I. Siegfried (admitted pro hac vice)

300 North LaSalle

Chicago, IL 60654

Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

The undersigned certifies under penalty of perjury under the laws of the United States of America and the laws of the State of Washington that on April 26, 2018, I caused a true and correct copy of the foregoing document to be served by email on the following counsel of record for Defendants:

Ryan B. Parker
Senior Trial Counsel
United States Department of Justice
Civil Division, Federal Programs Branch
ryan.parker@usdoj.gov

s/ Jordan M. Heinz

Exhibit 2

Plaintiffs' Second Interrogatories, dated April 26, 2018

**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

**PLAINTIFFS' SECOND SET OF
INTERROGATORIES TO DEFENDANTS**

Honorable Marsha J. Pechman

Pursuant to Federal Rules of Civil Procedure 26 and 33, Plaintiffs propound the following interrogatories to Defendants and hereby request that Defendants serve a written response within thirty (30) days of the date of service hereof, at the law offices of Kirkland & Ellis LLP, 300 N. LaSalle, Chicago, IL 60654.

SECOND INTERROGATORIES

16. Identify the principal author(s) and each person who reviewed, revised, or commented on any drafts, including but not limited to the final draft, of Secretary James Mattis's February 22, 2018, Memorandum for the President with Subject: Military Service by Transgender Individuals.

17. Identify the principal author(s) and each person who reviewed, revised, or commented on any drafts, including but not limited to the final draft, of the February 2018 Department of Defense Report and Recommendations on Military Service by Transgender Persons.

18. Identify each person who attended any meeting of the Panel of Experts and/or provided the Panel of Experts or its members any information, statement, advice, opinion, or other input of any nature or kind, including without limitation the Transgender Service Policy Working Group, any other group or committee within the Department of Defense that reviewed or considered transgender issues, members of agencies other than the Department of Defense,

military medical professionals, civilian medical professionals, transgender service members, the commanders of transgender service members, elected officials, third parties, lobbyists, experts, and/or consultants, and describe in detail the information, statement, advice, opinion, or other input such person provided.

19. Identify each member of the Transgender Service Policy Working Group and/or any other group or committee within the Department of Defense that reviewed or considered transgender issues, and each person who attended any meeting of such group and/or provided such group or its members any information, statement, advice, opinion, or other input of any nature or kind, including without limitation military medical professionals, civilian medical professionals, transgender service members, the commanders of transgender service members, members of agencies other than the Department of Defense, elected officials, third parties, lobbyists, experts, and/or consultants, and describe in detail the information, statement, advice, opinion, or other input such person provided.

20. Identify the principal author(s) and each person who reviewed, revised, or commented on any drafts, including but not limited to the final draft, of President Trump's March 23, 2018, Memorandum for the Secretary of Defense and the Secretary of Homeland Security with Subject: Military Service by Transgender Individuals.

21. Identify all Communications, on or after January 20, 2017 to the present, between the President, the Executive Office of the President, the Vice President, and/or the Office of the Vice President, on the one hand, and Secretary Mattis and/or the Department of the Defense, on the other hand, relating or referring to military service by transgender people, public policy regarding transgender people, medical treatment for transgender people, and/or transgender people in general, including but not limited to oral communications.

DEFINITIONS AND INSTRUCTIONS

1. “You,” “your,” and “yours,” whether or not capitalized, shall mean the Defendants, individually and/or collectively, including Defendants’ current and former employees, agents, affiliates, contractors, consultants, representatives, and other persons engaged directly or indirectly by or under the control of Defendants.

2. “President Trump” and the “President” shall mean Donald J. Trump, the President of the United States and also refers to Donald J. Trump before his inauguration to that office and any persons engaged directly or indirectly by or under the control of Donald J. Trump.

3. “Vice President Pence” and the “Vice President” shall mean Michael R. Pence, the Vice President of the United States and also refers to Michael R. Pence before his inauguration to that office and any persons engaged directly or indirectly by or under the control of Michael R. Pence.

4. The “Executive Office of the President” shall mean the Executive Office of the President and all officers and employees thereof, including, but not limited to, the President’s Chief of Staff and his office, the Advisors, Senior Advisors, Chief Strategists, and Counselors to the President and their offices, the Assistant to the President for National Security Affairs (also known as the National Security Advisor) and his office, the White House Counsel and his office, and all officers and employees of the National Security Council.

5. The “Office of the Vice President” shall mean the Office of the Vice President, including, without limitation, the Vice President’s Chief of Staff and his office, the Advisors, Assistants, and Deputy Assistants to the Vice President and their offices, and the National Security Advisor to the Vice President and her office.

6. The “Department of Defense” shall mean the Department of Defense and all officers and employees thereof, including, but not limited to, the Secretary of Defense, the Deputy Secretary of Defense, any Undersecretary of Defense, any Assistant Secretary of Defense, any

Deputy Assistant Secretary of Defense, the Chairman and Vice Chairman of the Joint Chiefs of Staff, and all employees and officers of the Office of the Secretary of Defense, the Department of the Navy, the Department of the Army, and Department of the Air Force.

7. “Panel of Experts” shall mean the group of senior uniformed and civilian leaders of the Department of Defense and the U.S. Coast Guard established by Secretary Mattis on September 14, 2017, to conduct an independent multi-disciplinary review and study of the relevant data and information pertaining to transgender Service members.

8. “Communication” shall mean any transmission of information by one or more persons to one or more persons by any means including, without limitation, telephone conversations, letters, telegrams, teletypes, telexes, telecopies, e-mail, text messages, computer linkups, written memoranda, and face-to-face conversations; “communication” includes all documents and electronically stored information (“ESI”) containing, summarizing, or memorializing any communication.

9. “Document” or “documents” shall have the full meaning ascribed to it by Federal Rule of Civil Procedure 34(a) including ESI, and includes the original and any identical or nonidentical copy, regardless of origin or location, of any writing or record of any type or description, including but not limited to, all writings; records; contracts; agreements; communications (intra or inter-company); correspondence; memoranda; letters; facsimiles; electronic mail (e-mail); text messages; minutes, recordings, transcripts, and summaries of meetings, or recordings of meetings, speeches, presentations, conversations, or telephone calls (whether recorded in writing, mechanically, or electronically); handwritten and typewritten notes of any kind; statements; reports; voice recordings; desk calendars; diaries; logs; drafts; studies; analyses; schedules; forecasts; surveys; invoices; receipts; computer data; computer printouts; financial statements; balance sheets; statements of operations; audit reports; financial summaries; statements of lists of assets; work papers; pictures; photographs; drawings; computer cards; tapes;

discs; printouts and records of all types; instruction manuals; policy manuals and statements; books; pamphlets; and every other device or medium by which information or intelligence of any type is transmitted, recorded, or preserved, or from which intelligence or information can be perceived.

10. “Identify,” whether or not capitalized, when used with respect to: (a) an individual, shall mean to provide the individual’s full name, job title, and employer during the period referred to, and current or last-known address and telephone number and business address and telephone number; (b) any entity other than an individual, shall mean to provide the entity’s full name and current or last-known address (designating which); and (c) a document, shall mean to provide the date, title, subject matter, author(s), recipient(s), and Bates number(s).

11. “Describe” shall mean to provide a complete description and explanation of the facts, circumstances, analysis, and other information relating to the subject matter of a specific interrogatory.

12. “Including” or “includes,” whether or not capitalized, shall mean “including but not limited to” or “including without limitation.”

13. “Relating to” or “related to,” whether or not capitalized, when referring to any given subject matter, shall mean any document that constitutes, comprises, involves, contains, embodies, reflects, identifies, states, mentions, alludes to, refers directly or indirectly to, or is in any way relevant to the particular subject matter identified.

14. Each paragraph is to be construed independently and not by or with reference to any other paragraph for purposes of limiting the scope of any particular request.

15. Pursuant to the Federal Rules of Civil Procedure, these requests are continuing and you must revise or supplement your responses and production whenever new or additional responsive information becomes known.

Dated: April 26, 2018

/s/ Jordan M. Heinz
NEWMAN DU WORS LLP Derek A. Newman,
WSBA #26967
dn@newmanlaw.com
Samantha Everett, WSBA #47533
samantha@newmanlaw.com
2101 Fourth Ave., Ste. 1500
Seattle, WA 98121
(206) 274-2800

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

Tara Borelli, WSBA #36759
tborelli@lambdalegal.org
Jon W. Davidson (admitted pro hac vice)
Camilla B. Taylor (admitted pro hac vice)
Peter C. Renn (admitted pro hac vice pending)
Natalie Nardecchia (admitted pro hac vice)
Sasha Buchert (admitted pro hac vice)
Kara Ingelhart (admitted pro hac vice)
Carl Charles (admitted pro hac vice)
730 Peachtree Street NE, Ste. 640
Atlanta, GA 30308

OUTSERVE-SLDN, INC.

Peter Perkowski (admitted pro hac vice)

KIRKLAND & ELLIS LLP

James F. Hurst, P.C. (admitted pro hac vice)
Jordan M. Heinz (admitted pro hac vice)
Stephen Patton (admitted pro hac vice)
Scott Lerner (admitted pro hac vice)
Vanessa Barsanti (admitted pro hac vice)
Daniel I. Siegfried (admitted pro hac vice)
300 North LaSalle
Chicago, IL 60654

Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

The undersigned certifies under penalty of perjury under the laws of the United States of America and the laws of the State of Washington that on April 26, 2018, I caused a true and correct copy of the foregoing document to be served by email on the following counsel of record for Defendants:

Ryan B. Parker
Senior Trial Counsel
United States Department of Justice
Civil Division, Federal Programs Branch
ryan.parker@usdoj.gov

s/ Jordan M. Heinz