

IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

IN RE DONALD J. TRUMP, in his official
capacity as President of the United States, et al.

DONALD J. TRUMP, in his official capacity as
President of the United States, et al.

Petitioners,

v.

UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF
WASHINGTON, SEATTLE,

Respondent,

RYAN KARNOSKI, et al.,

Real Parties in Interest.

No. 18-72159

**JOINT MOTION TO MODIFY THE
BRIEFING SCHEDULE**

Pursuant to Fed. R. App. P. 26(b), the parties jointly move to extend the remaining briefing deadlines in this case such that the brief of the real parties in interest would be due on August 27, 2018, and the government's reply brief would be due on September 7, 2018. No party has previously sought an extension of the briefing deadlines.

1. This mandamus petition arises from ongoing litigation in the district court concerning military service by transgender individuals. In April 2018, the district

court denied Defendants' motion to dissolve a preliminary injunction entered earlier in the case. The government appealed from that order, and that appeal is currently pending before this Court as *Karnoski v. Trump*, No. 18-35347. Briefing is complete in that proceeding, and oral argument is scheduled for October 10, 2018.

2. Litigation has continued in district court, and on August 1, 2018, the government filed this mandamus petition addressing a discovery order issued by the district court. On August 2, 2018, this Court ordered the real parties in interest (the plaintiffs and intervenor in district court) to file a response to the mandamus petition within 21 days, and permitted the government to file a reply five days later. The order noted that the mandamus petition has been referred to the same panel considering the preliminary injunction appeal. Later the same day, this Court issued an order scheduling argument on the mandamus petition for October 10, aligning it with argument on the preliminary injunction appeal.

3. Before the mandamus petition was filed, the government had moved to further expedite the argument in the preliminary injunction appeal. On August 3, 2018, the government filed a reply in support of that motion. In light of this Court's scheduling orders related to the mandamus petition, the government requested that this Court hold argument on both the preliminary injunction appeal and the mandamus petition during the September 10-14 argument session (or at a special session around that time). *See Karnoski v. Trump*, No. 18-35347, Dkt. No. 99 at 3.

4. On August 6, 2018, this Court denied the government's expedition motion. As a result, argument on the preliminary injunction appeal and the mandamus petition remain scheduled for October 10, 2018.

5. Under the current schedule, the brief of the real parties in interest are due on August 23, 2018, and the government's reply brief is due on August 28, 2018. Given this Court's calendaring of argument in the mandamus petition for October 10, and this Court's denial of the government's motion to further expedite oral argument, the parties respectfully request that the remaining briefing deadlines be extended, such that the brief of the real parties in interest would be due on August 27, 2018, and the government's reply brief would be due on September 7, 2018.

6. Intervenor-plaintiff the State of Washington has stated that it does not oppose the motion and has advised us that it does not intend to file an answer to the petition.

Respectfully submitted,

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Peter C. Renn

AUGUST 2018

Counsel for Real Parties in Interest/Plaintiffs

CERTIFICATE OF COMPLIANCE

This motion complies with the type-volume limit of Federal Rule of Appellate Procedure 27(d)(2)(A) because it contains 495 words.

/s/ Brad Hinshelwood

Brad Hinshelwood

CERTIFICATE OF SERVICE

I hereby certify that on August 17, 2018, I electronically filed the foregoing with the Clerk of the Court by using the appellate CM/ECF system. I further certify that the participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

/s/ Brad Hinshelwood

Brad Hinshelwood