

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

Circuit Mediation Office  
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**MEDIATION QUESTIONNAIRE**

The purpose of this questionnaire is to help the court's mediators provide the best possible mediation service in this case; it serves no other function. Responses to this questionnaire are *not* confidential. Appellants/Petitioners must electronically file this document within 7 days of the docketing of the case. 9th Cir. R. 3-4 and 15-2. Appellees/Respondents may file the questionnaire, but are not required to do so.

9th Circuit Case Number(s):	17-36009		
District Court/Agency Case Number(s):	2:17-cv-01297		
District Court/Agency Location:	Western District of Washington		
Case Name:	Karnoski, et al.	v.	Trump, et al.
If District Court, docket entry number(s) of order(s) appealed from:	Doc. 103		
Name of party/parties submitting this form:	Donald J. Trump; United States of America; James Mattis; U.S. Dept't of Justice		

Please briefly describe the dispute that gave rise to this lawsuit.

On August, 25, 2017, the President issued a memorandum addressing the accession and retention of transgender service members as well as government funding for their sex reassignment surgeries. Plaintiffs brought suit challenging the memorandum's directives and sought a preliminary injunction, which the court granted.

Briefly describe the result below and the main issues on appeal.

The district court ruled that plaintiffs had standing to challenge the accession, retention, and sex-reassignment directives of the President's memorandum. The court further held that plaintiffs are likely to succeed on the merits of their equal protection claim, their substantive due process claim, and their First Amendment claim. The district court also held that plaintiffs had shown irreparable harm and dismissed the harm to the government. Accordingly, the district court entered a preliminary injunction as to the President's directives.

Describe any proceedings remaining below or any related proceedings in other tribunals.

On December 15, 2017, the government filed a motion for clarification of the injunction and, in the alternative, for a stay of the injunction regarding the accession directive. The motion for clarification requests the court to clarify that its injunction does not prohibit the Secretary of Defense from exercising his independent authority to defer the January 1 deadline for implementing the accession policy required by the injunction. That motion remains pending.

Provide any other thoughts you would like to bring to the attention of the mediator.

Any party may provide additional information *in confidence* directly to the Circuit Mediation Office at [ca09\\_mediation@ca9.uscourts.gov](mailto:ca09_mediation@ca9.uscourts.gov). Please provide the case name and Ninth Circuit case number in your message. Additional information might include interest in including this case in the mediation program, the case's settlement history, issues beyond the litigation that the parties might address in a settlement context, or future events that might affect the parties' willingness or ability to mediate the case.

### CERTIFICATION OF COUNSEL

I certify that:

- a current service list with telephone and fax numbers and email addresses is attached (see 9th Circuit Rule 3-2).
- I understand that failure to provide the Court with a completed form and service list may result in sanctions, including dismissal of the appeal.

Signature

("s/" plus attorney name may be used in lieu of a manual signature on electronically-filed documents.)

Counsel for

**Note:** Use of the Appellate ECF system is mandatory for all attorneys filing in this Court, unless they are granted an exemption from using the system. **File this document electronically** in Appellate ECF by choosing Forms/Notices/Disclosure > File a Mediation Questionnaire.

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