



U.S. Department of Justice
Civil Division, Appellate Staff
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Washington, DC 20530

Tel: 202-353-9018

VIA CM/ECF

October 8, 2018

Ms. Molly C. Dwyer
Clerk, United States Court of Appeals for the Ninth Circuit
95 Seventh Street
San Francisco, CA 94103-1526

RE: *In re Trump*, No. 18-72159 (calendared for argument October 10, 2018 before
Judges Fisher, Clifton, and Callahan)

Dear Ms. Dwyer:

The government recently notified the district court of a minor correction to the declaration of Robert E. Easton, which was submitted in support of the government's petition for a writ of mandamus and emergency stay motion. The notice and corrected declaration are attached. The pertinent pages of Mr. Easton's declaration appear at pages 102 to 103 of the addendum to our petition.

Sincerely,

s/ Tara S. Morrissey
Tara S. Morrissey
Attorney

cc: all counsel (via CM/ECF)

CERTIFICATE OF SERVICE

I hereby certify that on October 8, 2018, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system. Participants in the case are registered CM/ECF users, and service will be accomplished by the appellate CM/ECF system.

s/Tara S. Morrissey

TARA S. MORRISSEY

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.

No. 2:17-cv-1297-MJP

**DEFENDANTS' NOTICE OF FILING
CORRECTED DECLARATION OF
ROBERT E. EASTON IN SUPPORT
OF DEFENDANTS' MOTION TO
STAY COMPLIANCE WITH THE
COURT'S ORDER PENDING
RESOLUTION OF PETITION FOR
WRIT OF MANDAMUS**

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1 Defendants respectfully provide notice of the attached declaration, which corrects a
2 reference in Robert E. Easton’s declaration in support of Defendants’ Motion to Stay
3 Compliance with the Court’s Order Pending Resolution of Petition for Writ of Mandamus. See
4 Dkt. 301.

5
6 Dated: October 6, 2018

Respectfully submitted,

7 JOSEPH H. HUNT
8 Assistant Attorney General
9 Civil Division

10 BRETT A. SHUMATE
11 Deputy Assistant Attorney General

12 JOHN R. GRIFFITHS
13 Branch Director

14 ANTHONY J. COPPOLINO
15 Deputy Director

16 JOSHUA E. GARDNER
17 Assistant Director

18 */s/ Andrew E. Carmichael*
19 ANDREW E. CARMICHAEL
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Counsel for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on October 6, 2018, I electronically filed the foregoing Defendants' Notice Of Filing Corrected Declaration Of Robert E. Easton In Support Of Defendants' Motion To Stay Compliance With The Court's Order Pending Resolution Of Petition For Writ Of Mandamus using the Court's CM/ECF system, causing a notice of filing to be served upon all counsel of record.

Dated: October 6, 2018

/s/ Andrew E. Carmichael
ANDREW E. CARMICHAEL
Trial Attorney
United States Department of Justice
Civil Division, Federal Programs Branch
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Counsel for Defendants

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The Honorable Marsha J. Pechman

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

RYAN KARNOSKI, *et al.*,

Plaintiffs,

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DONALD J. TRUMP, *et al.*,

Defendants.

No. 2:17-cv-1297-MJP

**CORRECTED DECLARATION
OF ROBERT E. EASTON IN
SUPPORT OF DEFENDANTS'
MOTION TO STAY
COMPLIANCE WITH THE
COURT'S ORDER PENDING
RESOLUTION OF PETITION
FOR WRIT OF MANDAMUS**

DECLARATION OF ROBERT E. EASTON

I, Robert E. Easton, do hereby declare as follows:

1. I currently serve as Director, Office of Litigation Counsel, within the Department of Defense (“DoD”) Office of the General Counsel.

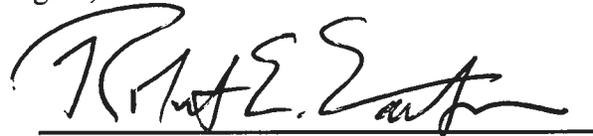
2. On July 31, 2018, I executed a declaration in support of Defendants’ Motion to Stay Compliance with the Court’s Order Pending Resolution of Petition for Writ of Mandamus.

See Dkt. 301. I am executing this declaration to correct a reference in that declaration.

3. In paragraph 11 of that declaration, which discusses the burdens of compliance with the Court's order, I provided examples of documents that required further review because they contain information that is not responsive to Plaintiffs' discovery but is comingled with responsive information. As one example, I stated: "Another document on DoD privilege log 14 includes non-relevant information for a press briefing that also includes information on the DoD transgender policy (DoD00084191/USDOE00202679)." Subsequent to executing my declaration, I learned that this example was incorrect because document DoD00084191 had been produced on May 22, 2018 as a result of document miscoding. However, as stated in my July 31, 2018 declaration, there remain numerous other documents that contain non-responsive information comingled with responsive material, including the other examples cited in paragraph 11.

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

EXECUTED this 5th day of October 2018, Arlington, VA.

A handwritten signature in black ink, appearing to read "Robert E. Easton", written over a horizontal line.

ROBERT E. EASTON
Director, Office of Litigation Counsel