

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

RYAN KARNOSKI, *et al.*,

Plaintiffs,

v.

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

Defendants.

No. 2:17-CV-1297-MJP

WESTERN DISTRICT OF WASHINGTON

No. 1:18-cv-3164

JOINT STATUS REPORT

Hon. Ellen L. Hollander

JOINT STATUS REPORT PURSUANT TO THE COURT'S JULY 10, 2019 ORDER

Pursuant to the Court's July 10, 2019 Order, which approved the parties' request to further update the Court regarding any necessary additional proceedings in this Court by July 31, the parties hereby submit this joint status report. (ECF No. 20.)

The parties have met and conferred and have successfully narrowed their disputes. The Government has agreed to withdraw its objection to Dr. McHugh producing his documents and communications with the Department of Defense that are responsive to Plaintiffs' subpoena. As a result, Dr. McHugh has provided Plaintiffs all documents and communications with the Department of Defense that he previously withheld and listed on his privilege log. The parties continue to dispute whether Dr. McHugh's communications with the White House are protected by the deliberative process privilege and/or any executive or presidential communications privilege. However, in light of the Ninth Circuit's June 14, 2019 opinion in *Karnoski v. Trump*, No. 18-35347 (9th Cir.) and *In re Trump*, No. 18-72159 (9th Cir.), and in the interests of justice

and judicial economy, Plaintiffs, Dr. McHugh, and the Government all agree that pursuant to Federal Rule of Civil Procedure 45(f) the remaining issues in the current dispute should be transferred to the issuing court — Judge Pechman in the United States District Court for the Western District of Washington (*Karnoski, et al. v. Trump, et al.* (No. C17-1297-MJP)). Attached hereto is a Proposed Order for the Court’s consideration.

Respectfully submitted,

/s/ Vanessa Barsanti

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[JOINT PROPOSED] ORDER

On July 31, 2019, pursuant to the Court's July 10, 2019 Order, the parties filed a joint status report in which all parties requested, in the interests of justice and judicial economy, that this matter be transferred to the issuing court for the subpoena in dispute, which is the United States District Court for the Western District of Washington. All parties have consented to this transfer.

Upon consideration of the arguments presented, and for good cause shown, the court hereby ORDERS:

1. That pursuant to Federal Rule of Civil Procedure 45(f), this matter be transferred to Judge Marsha Pechman of the United States District Court for the Western District of Washington where the underlying matter, *Karnoski v. Trump*, No. 2:17-cv-1297, currently resides.

Dated: _____

Ellen L. Hollander
United States District Judge