

The Honorable Marsha J. Pechman

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**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE**

RYAN KARNOSKI, et al.,

*Plaintiffs, and*

STATE OF WASHINGTON,

*Plaintiff-Intervenor,*

v.

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

*Defendants.*

Case No. 2:17-cv-01297-MJP

**NOTICE TO WITHDRAW PENDING  
MOTION FILED UNDER DOCKET NO.  
358 WITHOUT PREJUDICE**

1 Under LCR 7(l), Plaintiffs Ryan Karnoski, Staff Sergeant Cathrine Schmid, D.L., Chief  
2 Warrant Officer Lindsey Muller, Petty Officer First Class Terece Lewis, Petty Officer Second  
3 Class Phillip Stephens, Petty Officer Second Class Megan Winters, Jane Doe, Human Rights  
4 Campaign, Gender Justice League, and American Military Partners Association n/k/a Modern  
5 Military Association of America (collectively “Plaintiffs”) withdraw their Motion to Compel  
6 Defendants to Adequately Respond to Plaintiffs’ First, Second, and Third Sets of Requests for  
7 Production of Documents and Interrogatories (“Motion”; Dkt. No. 358) without prejudice.

8 As detailed in Plaintiffs’ Motion, before seeking intervention from the Court the parties  
9 met and conferred repeatedly regarding Defendants’ (i) boilerplate objections and (ii) their  
10 refusal to identify whether documents were being withheld pursuant to their objections. (Dkt.  
11 No. 358 at 4:16-5:5.) Though the parties engaged in nearly a month of meeting and conferring  
12 before Plaintiffs filed their Motion, Defendants declined to revise their objections or provide  
13 anything more than high-level, general information regarding their search for responsive  
14 documents. (Dkt. No. 359-14 at Ex. 14.) While the Federal Rules of Civil Procedure permit a  
15 party to “state the limits that have controlled the search for responsive and relevant materials,” in  
16 lieu of identifying where objections have narrowed the parameters of a parties’ search on a  
17 request-by-request basis, the limited information provided by Defendants during the meet-and-  
18 confer process did not satisfy this standard. (Fed. R. Civ. P. 34(b)(2)(C) advisory committee’s  
19 note to 2015 amendment.) As a result, Plaintiffs filed the Motion.

20 Defendants’ response to Plaintiffs’ Motion included a declaration from Robert E. Easton,  
21 which, for the first time, provided specific detail into the DoD’s document collection, search, and  
22 review process. (Dkt. No. 371-1.) Among other things, the declaration disclosed for the first time  
23 that the “DoD did not apply non-privilege objections to exclude reviewed documents from  
24 production,” *id.* ¶ 14, thereby mooting, at least for now, Plaintiffs’ request for more specific  
25 objections that would allow them to determine what documents, if any, were withheld on the  
26 basis of Defendants’ boilerplate objections.

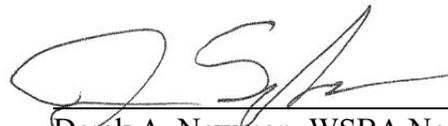
27 Moreover, since the parties completed their briefing, Plaintiffs have had the opportunity to  
28 assess the new information regarding the DoD’s search methodology. While Plaintiffs still have

1 a number of questions concerning that methodology and do not believe that it will capture all  
2 documents responsive to Plaintiffs' document requests, Plaintiffs believe that disputes  
3 concerning the adequacy of Defendants' prior productions may be narrowed and sharpened by  
4 further meeting and conferring regarding the newly provided information with respect to  
5 Defendants' search methodology as applied to Plaintiffs' specific discovery requests.

6 Accordingly, Plaintiffs file this notice withdrawing their Motion while reserving their right  
7 to seek relief in the future, should it be required.

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9 Respectfully submitted September 23, 2019.

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11 **NEWMAN DU WORS LLP**

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13  
14 Derek A. Newman, WSBA No. 26967

*dn@newmanlaw.com*

15 Jason B. Sykes, WSBA No. 44369

*jason@newmanlaw.com*

16 Rachel Horvitz, WSBA No. 52987

*rachel@newmanlaw.com*

17 2101 Fourth Ave., Ste. 1500

18 Seattle, WA 98121

(206) 274-2800

19  
20 **LAMDBA LEGAL DEFENSE AND  
EDUCATION FUND, INC.**

Tara Borelli, WSBA No. 36759

*tborelli@lambdalegal.org*

21 Camilla B. Taylor (admitted pro hac vice)

22 Peter C. Renn (admitted pro hac vice)

23 Sasha J. Buchert (admitted pro hac vice)

24 Kara N. Ingelhart (admitted pro hac vice)

25 Carl Charles (admitted pro hac vice)

Paul D. Castillo (admitted pro hac vice)

26 **OUTSERVE-SLDN, INC.**

Peter E. Perkowski (admitted pro hac vice)

27 **KIRKLAND & ELLIS LLP**

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

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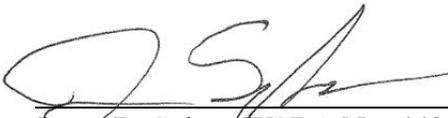
Stephen R. Patton (admitted pro hac vice)  
Jordan M. Heinz (admitted pro hac vice)  
Vanessa Barsanti (admitted pro hac vice)  
Daniel I. Siegfried (admitted pro hac vice)  
Joseph B. Tyson (admitted pro hac vice)

*Counsel for Plaintiffs*

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**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 all participants in the case are registered CM/ECF users and that service of the foregoing documents will be accomplished by the CM/ECF system on September 23, 2019.



Jason B. Sykes, WSBA No. 44369  
*jason@newmanlaw.com*  
2101 Fourth Ave., Ste. 1500  
Seattle, WA 98121  
(206) 274-2800