

The Honorable Marsha J. Pechman

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**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' MOTION FOR  
EXTENSION OF TIME TO RESPOND  
TO THE COURT'S ORDER ON LCR  
37 JOINT SUBMISSION  
REGARDING PLAINTIFFS' RFP NO.  
44**

NOTE ON MOTION CALENDAR:  
[May 8, 2020]

## INTRODUCTION

Pursuant to Federal Rule of Civil Procedure 6, Defendants move for an extension of time to comply with the Court's Order on LCR 37 Joint Submission Regarding Plaintiffs' RFP No. 44. ECF No. 485. The Court's Order requires a compilation of a list of service members who have been rendered non-deployable on account of gender dysphoria or transition-related care and the duration and specific reason(s) for such non-deployability since June 30, 2016. *See* Order 1–2, ECF No. 485.

Defendants have assessed how to comply with the Court's Order and have concluded that compiling the information required by the Court will require a review by medical professionals of medical records of the more than 1,000 service members who have been diagnosed with gender dysphoria. Compiling similar data for the Panel of Experts for a one-year period took approximately three weeks in the fall of 2017. Compiling nearly four years of this data will necessarily require a review of more medical records, which will take additional time. The Military Services estimate that this review will take approximately nine more weeks because the review of service members' medical records is a time-consuming process even in ordinary circumstances.

These are not ordinary circumstances. The COVID-19 pandemic has impacted the operations of the Department of Defense (DoD) and the Military Services. Because of the COVID-19 pandemic, the medical providers who will be conducting the review will do so remotely, and the Services anticipate that network delays will cause the review to take longer than it ordinarily would. The impact of the COVID-19 pandemic particularly affects the Navy because the medical providers who will be responsible for compiling the information responsive to the Court's Order are simultaneously responsible for supporting the Navy in its response to the COVID-19 pandemic, such as providing direct medical support to COVID-19 patients. The Navy is thus only able to assign a limited number of medical providers to conduct the review required by the Court's Order in order to balance this effort with patient care in the midst of the global pandemic.



1 44. Carmichael Decl. ¶ 2. During that discussion, defense counsel reiterated the Government's  
 2 objections to burden, relevance, and the disclosure of sensitive medical information for non-  
 3 party service members. *Id.* Plaintiffs' counsel acknowledged these statements regarding  
 4 burden, relevance, and the disclosure of personal identifying information in an email following  
 5 the meet and confer. *See id.* at Exh. 1 (email from Vanessa Barsanti to Andrew Carmichael  
 6 (Mar. 19, 2020)).<sup>1</sup> Following the meet and confer, Plaintiffs moved to compel Defendants to  
 7 provide documents responsive to RFP No. 44 or provide an interrogatory response with the  
 8 information. *See* ECF No. 480.

9 On April 15, 2020, the Court granted Plaintiffs' motion and ordered Defendants to  
 10 produce the following information:

11 (1) The Defendants must provide a full response to Plaintiffs' RFP No. 44. To  
 12 protect service members' privacy, Defendants shall produce to the Court for *in*  
 13 *camera* review a list of the name, rank, and service unit of each transgender  
 14 service member rendered non-deployable on account of gender dysphoria or  
 15 transition-related medical care, and the duration of and specific reason(s) for  
 such non-deployability for each service branch since June 30, 2016; [and]

16 (2) Defendants shall provide Plaintiffs with a version of the list, subject to the  
 17 Parties' protective order, and substituting a unique anonymized identifier in  
 place of each member's name[.]

18 Order, ECF No. 485. The Court ordered production of this information by May 1, 2020, which  
 19 allowed Defendants a total of 16 days to comply. *Id.*

## 20 II. The Impact of the COVID-19 Pandemic on Governmental Operations

21 On March 11, 2020, the World Health Organization publicly characterized COVID-19  
 22 as a pandemic.<sup>2</sup> On March 13, 2020, the President declared a National Emergency in an effort

23 <sup>1</sup> During the meet and confer, defense counsel referred to a chart in the Administrative Record to provide Plaintiffs  
 24 a sense of the intrusive nature of their request. Carmichael Decl. ¶ 2. Because the chart that was compiled for the  
 25 Panel of Experts reflected information from the medical records of at least 100 service members, providing  
 26 "documents sufficient to show" service members' non-deployability, as Plaintiffs requested in their RFP No. 44,  
 would necessarily involve the release of medical information for at least these 100 service members. *Id.* Defense  
 27 counsel did not state that complying with RFP No. 44 would require only a review of records from 100 service  
 28 members or that the Services already had compiled the requested information. *Id.*

<sup>2</sup> Centers for Disease Control and Prevention. "Coronavirus Disease 2019 (COVID-19): Situation Summary,"  
<https://www.cdc.gov/coronavirus/2019-ncov/cases-updates/summary.html> (last accessed Apr. 25, 2020).

1 to address the spread of COVID-19,<sup>3</sup> and on March 16, 2020, the President announced  
2 guidance to slow the spread of the virus, including working or schooling from home whenever  
3 possible.<sup>4</sup> This guidance follows recommendations by the Centers for Disease Control to  
4 engage in social distancing, and, in some circumstances, to close schools.<sup>5</sup> The Office of  
5 Management and Budget has asked agencies to “offer maximum telework flexibilities to all  
6 current telework eligible employees, consist with the operational needs of the departments and  
7 agencies as determined by their heads.”<sup>6</sup>

8 The Department of Defense has been implementing this guidance and has established  
9 three priorities during this global pandemic and national emergency: protecting Service  
10 members, DoD civilians, and their families; safeguarding national security capabilities; and  
11 supporting the whole-of-nation response.<sup>7</sup> Among other things to help protect the Force and  
12 the DoD community, DoD has issued a general stop-movement order, which includes a ban on  
13 official travel, through June 1, 2020.<sup>8</sup> Many uniformed personnel and DoD civilians who can  
14

15 <sup>3</sup> See <https://www.whitehouse.gov/presidential-actions/proclamation-declaring-national-emergency-concerning-novel-coronavirus-disease-covid-19-outbreak/> (last accessed Apr. 25, 2020).

16 <sup>4</sup> See The President’s Coronavirus Guidelines for America, [https://www.whitehouse.gov/wp-content/uploads/2020/03/03.16.20\\_coronavirus-guidance\\_8.5x11\\_315PM.pdf](https://www.whitehouse.gov/wp-content/uploads/2020/03/03.16.20_coronavirus-guidance_8.5x11_315PM.pdf) (last accessed Apr. 25, 2020).

17 <sup>5</sup> See Centers for Disease Control and Prevention. “Implementation of Mitigation Strategies for Communities with Local COVID-19 Transmission,” <https://www.cdc.gov/coronavirus/2019-ncov/downloads/community-mitigation-strategy.pdf> (last accessed {Apr. 25, 2020}). Many schools have been closed for weeks and will be closed through the end of the academic year. See, e.g., Commonwealth of Virginia, Office of the Governor, Executive Order No. 53 (Mar. 23, 2020), available at [https://www.governor.virginia.gov/media/governorvirginiagov/executive-actions/EO-53-Temporary-Restrictions-Due-To-Novel-Coronavirus-\(COVID-19\).pdf](https://www.governor.virginia.gov/media/governorvirginiagov/executive-actions/EO-53-Temporary-Restrictions-Due-To-Novel-Coronavirus-(COVID-19).pdf) (last accessed Apr. 25, 2020) (closing schools in Virginia, where the Pentagon is located, for the remainder of the academic year).

18 <sup>6</sup> See Memorandum from the Acting Director of The Office of Management and Budget to the Heads of Departments and Agencies “Updated Guidance for National Capital Region on Telework Flexibilities in Response to Coronavirus” (Mar. 15, 2020), <https://www.whitehouse.gov/wp-content/uploads/2020/03/M20-15-Telework-Guidance-OMB.pdf> (last accessed Apr. 25, 2020); see also United States Office of Personnel Management, “Memorandum for: Heads of Executive Departments and Agencies. Subject: Coronavirus Disease 2019 (COVID-19); Additional Guidance” (Mar. 7, 2020), available at <https://www.chcoc.gov/content/coronavirus-disease-2019-covid-19-additional-guidance> (last accessed Apr. 25, 2020).

19 <sup>7</sup> See Secretary of Defense Message to the Force, subject: COVID-19 Response (Mar. 27, 2020), available at <https://www.whs.mil/Portals/75/Coronavirus/MESSAGE%20TO%20THE%20FORCE%20-%20COVID-19%20RESPONSE%20OSD003399-20%20FOD%20Final.pdf?ver=2020-03-30-114139-247>.

20 <sup>8</sup> See Secretary of Defense Memorandum, subject: Modification and Reissuance of DoD Response to Coronavirus Disease 2019 Travel Restrictions (Apr. 20, 2020), available at

1 perform their duties remotely, including many medical providers, have been authorized and  
 2 directed to telework. *See* Carmichael Decl. Exh. 2 (Decl. of Colonel Andreas Thum ¶ 12), Exh.  
 3 3 (Decl. of Commander Satyen M. Gada ¶ 1), Exh. 4 (Decl. of Lieutenant Colonel Jennifer  
 4 Stangle ¶ 10). The large volume of individuals in DoD and the Services who are currently  
 5 teleworking has resulted in network delays, which in turn results in tasks taking longer to  
 6 accomplish.<sup>9</sup> *See* Carmichael Decl. Exh. 2 (Col. Thum Decl. ¶ 12), Exh. 3 (Cmdr. Gada Decl.  
 7 ¶ 11), Exh. 4 (Lt. Col. Stangle Decl. ¶ 10).

8 In addition, the Department of Defense and the Military Services have had to divert  
 9 resources away from other tasks to address the ongoing COVID-19 pandemic. For example,  
 10 the “Navy has provided 70% of the entire military’s medical assets deployed across North  
 11 America in support of the COVID-19 response.” Carmichael Decl. Exh. 3 (Cmdr. Gada Decl. ¶  
 12 12). Not only must the Services provide direct patient care to service members and  
 13 beneficiaries who have contracted the coronavirus, but they also must address military  
 14 readiness issues resulting from the pandemic. *See* Carmichael Decl. Exh. 4 (Lt. Col. Stangle  
 15 Decl. ¶ 1). This diversion of resources has resulted in fewer providers available to perform  
 16 their ordinary duties.<sup>10</sup>

### LEGAL STANDARD

18 Pursuant to Federal Rule of Civil Procedure 6(b)(1), “[w]hen an act may or must be  
 19 done within a specified time, the court may, for good cause, extend the time . . . if a request is  
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21 <https://media.defense.gov/2020/Apr/20/2002284632/-1/-1/1/MODIFICATION-AND-REISSUANCE-OF-DOD-RESPONSE-TO-CORONAVIRUS-DISEASE-2019-TRAVEL-RESTRICTIONS.PDF>.

22 <sup>9</sup> At an April 22, 2020 press briefing, DoD officials estimated that 970,000 uniformed and DoD civilian personnel  
 23 were teleworking. *See* Transcript of Deputy Secretary of Defense, Vice Chairman of the Joint Chiefs of Staff  
 24 Provide Update on DOD COVID-19 Efforts, *available at*  
 25 [https://www.defense.gov/Newsroom/Transcripts/Transcript/Article/2161843/deputy-secretary-of-defense-vice-](https://www.defense.gov/Newsroom/Transcripts/Transcript/Article/2161843/deputy-secretary-of-defense-vice-chairman-of-the-joint-chiefs-of-staff-provide/)  
 26 [chairman-of-the-joint-chiefs-of-staff-provide/](https://www.defense.gov/Newsroom/Transcripts/Transcript/Article/2161843/deputy-secretary-of-defense-vice-chairman-of-the-joint-chiefs-of-staff-provide/).

27 <sup>10</sup> At the April 22, 2020 press briefing, the Vice Chairman of the Joint Chiefs of Staff noted that there are “more  
 28 than 4,200 doctors, nurses, and medical personnel currently deployed across the United States, working to protect  
 the American people.” *See* Transcript of Deputy Secretary of Defense, Vice Chairman of the Joint Chiefs of Staff  
 Provide Update on DOD COVID-19 Efforts, *available at*  
[https://www.defense.gov/Newsroom/Transcripts/Transcript/Article/2161843/deputy-secretary-of-defense-vice-](https://www.defense.gov/Newsroom/Transcripts/Transcript/Article/2161843/deputy-secretary-of-defense-vice-chairman-of-the-joint-chiefs-of-staff-provide/)  
[chairman-of-the-joint-chiefs-of-staff-provide/](https://www.defense.gov/Newsroom/Transcripts/Transcript/Article/2161843/deputy-secretary-of-defense-vice-chairman-of-the-joint-chiefs-of-staff-provide/).

1 made, before the original time . . . expires.” “‘Good cause’ is a non-rigorous standard that has  
2 been construed broadly across procedural and statutory contexts.” *Ahanchian v. Xenon*  
3 *Pictures, Inc.*, 624 F.3d 1253, 1259 (9th Cir. 2010) (finding good cause existed to grant an  
4 extension when the party faced “an exceptionally constrained deadline” that followed a holiday  
5 “during which even the federal courts are closed”). “The Ninth Circuit has equated good cause  
6 with the exercise of due diligence.” *Vartanpour v. Neven*, 2017 WL 2957936, at \*3 (D. Nev.  
7 July 11, 2017) (citing *Johnson v. Mammoth Rec., Inc.*, 975 F.2d 604, 509 (9th Cir. 1992)).

### 8 ARGUMENT

9 Good cause exists to grant the requested extension. Defendants have been diligently  
10 working to comply with the Court’s Order. The Services have engaged in multiple internal  
11 discussions, discussions with DoD and the other Services, and discussions with counsel to  
12 discuss how similar information was compiled for the Panel of Experts and determine how to  
13 comply with the Order. Carmichael Decl. Exh. 2 (Col. Thum Decl. ¶ 13), Exh. 3 (Cmdr. Gada  
14 Decl. ¶ 15). The Services either have already identified or have been working to identify  
15 medical providers to conduct the review who have the requisite experience, can be removed  
16 from their current duties without jeopardizing the current COVID-19 mission, and do not have  
17 other practical limitations, such as childcare. Carmichael Decl. Exh. 2 (Col. Thum Decl. ¶ 13),  
18 Exh. 3 (Cmdr. Gada Decl. ¶ 15); Exh. 4 (Lt. Col. Stangle Decl. ¶ 12). The Services also have  
19 identified the number of service members whose medical records will have to be reviewed. *See*  
20 Carmichael Decl. Exh. 2 (Col. Thum Decl. ¶ 3) (identifying “280 Soldiers and former  
21 Soldiers who have requested gender marker changes or medical treatment plans (also  
22 referred to as gender transition plans)”), Exh. 3 (Cmdr. Gada Decl. ¶ 10) (identifying “439  
23 Navy or Marine Corps members have been diagnosed with gender dysphoria and developed a  
24 care plan”), Exh. 4 (Lt. Col. Stangle Decl. ¶ 11) (identifying “373 gender dysphoria-diagnosed  
25 members”). Finally, the Navy already has identified 17 Sailors or Marines who were placed on  
26 limited duty (LIMDU) for transition-related care and is analyzing that data to produce the  
27 required information. Carmichael Decl. Exh. 3 (Cmdr. Gada Decl. ¶ 15).  
28

1           Despite these efforts, the Army, Navy (including the Marine Corps), and Air Force  
2 anticipate that they will not be able to compile all of the information requested by Plaintiffs and  
3 ordered by the Court by May 1, 2020. Neither DoD nor the Services maintain a database that  
4 shows which service members are non-deployable, the duration they are non-deployable, or the  
5 reasons for their non-deployability. Therefore, to determine which members would have had  
6 limited deployability due to transition-related care, and for how long, the Services must review  
7 the medical records of every service member diagnosed with gender dysphoria who developed  
8 a treatment plan over the relevant period. *See* Carmichael Decl. Exh. 2 (Col. Thum Decl. ¶ 5),  
9 Exh. 3 (Cmdr. Gada Decl. ¶ 8), Exh. 4 (Lt. Col. Stangle Decl. ¶¶ 4, 7). And because the  
10 medical records themselves usually do not state whether, why, and for how long the individual  
11 was unable to deploy, a medical professional must carefully review each record to determine  
12 whether the type of care provided to that member would have limited their deployability, and if  
13 so, for how long. Carmichael Decl. Exh. 2 (Col. Thum Decl. ¶ 7), Exh. 3 (Cmdr. Gada Decl. ¶  
14 9), Exh. 4 (Lt. Col. Stangle Decl. ¶¶ 7–10). To minimize any concerns related to the disclosure  
15 of service members’ private medical information, to ensure consistency across the review, and  
16 to avoid compromising the health care needs of beneficiaries during the COVID-19 pandemic,  
17 the Services have identified a limited number of medical providers who can conduct this  
18 review. Carmichael Decl. Exh. 2 (Col. Thum Decl. ¶¶ 8–9), Exh. 3 (Cmdr. Gada Decl. ¶¶ 12–  
19 14), Exh. 4 (Lt. Col. Stangle Decl. ¶ 12).

20           This review of more than a thousand service members’ records by medical professionals  
21 is a labor-intensive, time-consuming process under ordinary circumstances. As a comparison,  
22 in the fall of 2017, it took providers from the Army and the Air Force approximately two to  
23 three weeks to review individual service member records for a one-year period (from  
24 September 1, 2016 to August 31, 2017) and compile similar information for the Panel of  
25 Experts.<sup>11</sup> Carmichael Decl. Exh. 2 (Col. Thum Decl. ¶ 11), Exh. 4 (Lt. Col. Stangle Decl. ¶

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28 <sup>11</sup> The data presented to the Panel was based on members placed on temporary limited duty (LIMDU) for transition-related care. Carmichael Decl. Exh. 3 (Cmdr. Gada Decl. ¶ 6). The Air Force, for example, reported 52 members who were non-deployable, as those members were placed on LIMDU for transition-related care. *See*

1 6).

2 The Court-ordered review will take significantly longer. The Army estimates the  
3 review will take between 116 and 232 hours (up to approximately 6 full weeks); the Navy  
4 estimates the review will take between 182 to 365 hours (up to approximately 9 full weeks);  
5 and the Air Force estimates the review will take approximately 373 hours (approximately 9 full  
6 weeks). Carmichael Decl. Exh. 2 (Col. Thum Decl. ¶ 10), Exh. 3 (Cmdr. Gada Decl. ¶ 10), Exh.  
7 4 (Lt. Col. Stangle Decl. ¶ 11).

8 The Services anticipate that their review will take longer than the original review for the  
9 Panel of Experts for several reasons. First, the Court's Order requires the Services to compile  
10 more data than was presented to the Panel. The data compiled for the Panel covered a one-year  
11 period (September 1, 2016 to August 31, 2017), whereas the Court's Order covers a nearly  
12 four-year period (June 30, 2016 to present). *Compare* Carmichael Exh. 5 at AR3027, *with*  
13 Order at 1–2, ECF No. 485. Because of this longer time period, the Services will have to  
14 review many more medical records than they had to review to compile data for the Panel,  
15 as the population of service members who have been diagnosed with gender dysphoria has  
16 increased and the number of medical records for these individuals increases with time.  
17 Carmichael Decl. Exh. 2 (Col. Thum Decl. ¶ 11), Exh. 4 (Lt. Col. Stangle Decl. ¶ 6). In  
18 addition, the Navy (to include the Marine Corps) did not compile comparable data for the  
19 Panel. Carmichael Decl. Exh. 3 (Cmdr. Gada Decl. ¶ 10). Therefore, the approximately two to  
20 three weeks it took to compile similar data for the Panel did not include any review of service  
21 members' medical records by the Navy. Because the Navy and Marine Corps have more  
22 service members who have been diagnosed with gender dysphoria than the Army or the Air  
23 Force, it will take the Navy longer than it took the Army and the Air Force to compile similar  
24

25 \_\_\_\_\_  
26 Carmichael Decl. Exh. 5 at Administrative\_Record\_003027. "The Navy could not provide comparable data,  
27 because by policy, it did not place members on LIMDU for transition-related care." Carmichael Decl. Exh. 3  
28 (Cmdr. Gada Decl. ¶ 6). "In isolated instances, a provider may have placed a member on LIMDU in connection  
with transition-related care" (and, indeed, the Navy has identified 17 such instances at this point), "but this was not  
the general policy and does not reflect the actual number of members with limited deployability." Carmichael  
Decl. Exh. 3 (Cmdr. Gada Decl. ¶¶ 7, 15).

1 information for the Panel.

2 In addition, the COVID-19 pandemic is impacting the ability of the Services' medical  
3 providers to conduct the review necessary to respond to the Court's Order. To maintain social  
4 distancing and prevent further spread of the coronavirus, medical providers performing this  
5 review will do so while teleworking. Carmichael Decl. Exh. 2 (Col. Thum Decl. ¶ 12), Exh. 3  
6 (Cmdr. Gada Decl. ¶ 11), Exh. 4 (Lt. Col. Stangle Decl. ¶ 10). Accessing the voluminous  
7 medical records will take significant time due to an unanticipated number of individuals  
8 remotely accessing the network, which causes a latency in the Virtual Private Network.  
9 Carmichael Decl. Exh. 2 (Col. Thum Decl. ¶ 12), Exh. 3 (Cmdr. Gada Decl. ¶ 11), Exh. 4 (Lt.  
10 Col. Stangle Decl. ¶ 10). Providers could avoid these delays caused by remote system access  
11 limitations by conducting this review on-site at the Pentagon or another DoD facility, but doing  
12 so would put the medical providers at risk of contracting or transmitting the coronavirus.  
13 Carmichael Decl. Exh. 2 (Col. Thum Decl. ¶ 12), Exh. 3 (Cmdr. Gada Decl. ¶ 11), Exh. 4 (Lt.  
14 Col. Stangle Decl. ¶ 10).

15 Moreover, the Navy, which is the Service with the largest number of medical records to  
16 review, is particularly affected by the COVID-19 pandemic. The Navy's review will have to  
17 be completed by specialized medical professionals with an understanding of Endocrine Society  
18 guidelines for transgender care, formulation and execution of transgender care plans, and  
19 knowledge of deployability status throughout the phases of gender transition. Carmichael Decl.  
20 Exh. 3 (Cmdr. Gada Decl. ¶ 9). "[T]here are a limited number of providers with the requisite  
21 understanding of the Endocrine Society guidelines and impact of specific treatments on  
22 deployability, given there are less than 15 providers on the Navy's [Regional Transgender Care  
23 Teams (TGCTs)]."<sup>12</sup> Carmichael Decl. Exh. 3 (Cmdr. Gada Decl. ¶ 13). These providers,  
24 which consist of "primary care physicians, endocrinologists, urologists, OB/GYN physicians,  
25 surgeons, mental providers, and one physician assistant," have been particular affected by the  
26

27 <sup>12</sup> "Regional (Naval Medical Forces Atlantic and Naval Medical Forces Pacific) TGCTs direct the care and  
28 transition plans for exempt Navy and Marine Corps transgender Service members." Carmichael Decl. Exh. 3  
(Cmdr. Gada Decl. ¶ 1).

1 pandemic, as “at least one of these providers has tested positive for COVID-19 and is ill with  
2 pneumonia,” “another works in the Emergency Room” (the primary intake source for COVID-  
3 19 patients), and “another’s primary duty is deployment assessment and disability related  
4 policy modifications due to COVID-19 restrictions of movement and social distancing  
5 recommendations.” *Id.* These providers are responsible for patient care, both for patients who  
6 have been diagnosed with COVID-19, but also for other patients whose ordinary medical  
7 provider has deployed to combat COVID-19 in expeditionary medical facilities and hospital  
8 ships. *Id.* Finally, “[t]hese providers are part of COVID-19 response teams, which actively  
9 train and run drills aimed at crisis management to ensure hospital readiness in the event of an  
10 influx of COVID-19 patients.” *Id.* Because the medical providers must fulfill their essential  
11 duties to mitigate the impact of the COVID-19 pandemic, they are not able to devote more time  
12 to conduct the review required by the Court’s Order.

13 Nor can the Navy assign additional medical providers to conduct this review. The Navy  
14 has “provided 70% of the entire military’s medical assets deployed across North America in  
15 support of the COVID-19 response, and continues to fulfill ongoing COVID-19 healthcare  
16 support requests,” including directing “deployments aboard the USNS Mercy and USNS  
17 Comfort to provide medical and surgical care to non-COVID-19 civilian patients on both U.S.  
18 coasts.” Carmichael Decl. Exh. 3 (Cmdr. Gada Decl. ¶ 12). “Providers who are not deployed  
19 to direct COVID-19 response are backfilling non-COVID-19 patient care for those who are.”  
20 *Id.* Simply put, “[w]hether deploying or absorbing patient load and administrative  
21 responsibilities, *all* Navy medical personnel are actively involved in COVID-19 response.” *Id.*  
22 (emphasis added). Thus, providing additional “medical providers with the appropriate skill to  
23 review these records will necessarily reduce resources for providing healthcare access for Navy  
24 beneficiaries as the Navy focuses on COVID-19.” Carmichael Decl. Exh. 3 (Cmdr. Gada Decl.  
25 ¶ 14). “Therefore, the Navy can only assign a limited number of providers to do this review,  
26 and the hours those providers can devote to this review are necessarily limited as they balance  
27 this effort with patient care in the midst of the pandemic.” *Id.*  
28



The Honorable Marsha J. Pechman

**UNITED STATES DISTRICT COURT  
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RYAN KARNOSKI, et al.,

Plaintiffs,

v.

DONALD J. TRUMP, et al.,

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No. 2:17-cv-1297-MJP

**[PROPOSED] ORDER GRANTING  
DEFENDANTS' MOTION FOR  
EXTENSION OF TIME TO RESPOND  
TO THE COURT'S ORDER ON LCR  
37 JOINT SUBMISSION  
REGARDING PLAINTIFFS' RFP NO.  
44**

For the reasons set forth in Defendants' Motion for an Extension of Time to Respond to the Court's Order on LCR Joint Submission Regarding Plaintiffs' RFP No. 44, and upon a finding of good cause shown, it is hereby

**ORDERED** that Defendants' Motion is **GRANTED**; and it is further

**ORDERED** that Defendants' time to respond to the Court's Order on Plaintiffs' Motion to Compel, ECF No. 485, is **EXTENDED** by 75 days, with rolling productions at the 30 and 60 day mark.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2020

\_\_\_\_\_  
The Honorable Marsha J. Pechman  
United States District Judge

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