

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

**DECLARATION OF JASON B. SYKES IN
SUPPORT OF PLAINTIFFS’
UNOPPOSED MOTION TO EXTEND
DISCOVERY MOTIONS DEADLINE**

NOTE ON MOTION CALENDAR:
May 29, 2020

1 I, Jason B. Sykes, declare as follows:

2 1. I am counsel of record for Plaintiffs in this action, am over the age of 18, and am
3 competent to be a witness. I make this declaration in support of Plaintiffs’ Unopposed Motion to
4 Extend Discovery Motions Deadline based on facts within my personal knowledge

5 2. Discovery is ongoing—and given the contentious nature of discovery in this case to
6 date —Plaintiffs and Plaintiff Intervenors believe additional disputes may arise between the
7 parties that require the Court’s assistance to resolve.

8 3. I reached out to Defense counsel, on May 22, 2020 seeking their position on
9 extending the discovery motions deadline by stipulation. On May 26, 2020 counsel responded
10 that Defendants would not agree to stipulate but that that they would not oppose a motion
11 requesting an extension if Plaintiffs’ filed one. Counsel provided their position and requested it
12 be included in the Motion. A true and correct copy of the email correspondence between myself
13 and Defense counsel is attached as **Exhibit A**.

14

15 I declare under the penalty of perjury that the foregoing is true and correct.

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17 DATED: May 29, 2020

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s/ Jason B. Sykes
Jason B. Sykes

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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 May 29, 2020.

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

Exhibit A

From: [Jason Sykes](#)
To: [Skurnik, Matthew \(CIV\)](#); [Carmichael, Andrew E. \(CIV\)](#); [Barsanti, Vanessa](#); [Stallings-Ala'ilima, Chalia \(ATG\)](#); [Enlow, Courtney D. \(CIV\)](#); [Powers, James R. \(CIV\)](#); [Gerardi, Michael J. \(CIV\)](#); [Zhou, Grace X. \(CIV\)](#); [Edelman, Christopher \(CIV\)](#); [*prenn@lambdalegal.org](#); [*tborelli@lambdalegal.org](#); [Rachel Horvitz](#); [Siegfried, Daniel I.](#); [*colleen.melody@atg.wa.gov](#); [Rosenberg, Michael E.](#); [Heinz, Jordan M.](#); [Means, Miranda](#); [Ikard, Sam](#); [Derek A. Newman](#)
Subject: RE: Karnoski et al. v. Trump et al. -- extending discovery motions cutoff
Date: Tuesday, May 26, 2020 2:55:37 PM
Attachments: [image003.png](#)
[image001.png](#)

Matt,
Understood. Thank you very much.
Best,
Jason



Jason Sykes

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Email may be privileged and confidential—if you are not the intended recipient, please notify sender of receipt and then destroy this email and any attachments thereto.

From: Skurnik, Matthew (CIV) <Matthew.Skurnik@usdoj.gov>

Sent: Tuesday, May 26, 2020 2:48 PM

To: Jason Sykes <Jason@newmanlaw.com>; Carmichael, Andrew E. (CIV) <Andrew.E.Carmichael@usdoj.gov>; Barsanti, Vanessa <vanessa.barsanti@kirkland.com>; Stallings-Ala'ilima, Chalia (ATG) <Chalia.SA@atg.wa.gov>; Enlow, Courtney D. (CIV) <Courtney.D.Enlow@usdoj.gov>; Powers, James R. (CIV) <James.R.Powers@usdoj.gov>; Gerardi, Michael J. (CIV) <Michael.J.Gerardi@usdoj.gov>; Zhou, Grace X. (CIV) <Grace.X.Zhou@usdoj.gov>; Edelman, Christopher (CIV) <Christopher.Edelman@usdoj.gov>; *prenn@lambdalegal.org <prenn@lambdalegal.org>; *tborelli@lambdalegal.org <tborelli@lambdalegal.org>; Rachel Horvitz <Rachel@newmanlaw.com>; Siegfried, Daniel I. <daniel.siegfried@kirkland.com>; *colleen.melody@atg.wa.gov <colleen.melody@atg.wa.gov>; Rosenberg, Michael E. <michael.rosenberg@kirkland.com>; Heinz, Jordan M. <jheinz@kirkland.com>; Means, Miranda <miranda.means@kirkland.com>; Ikard, Sam <sam.ikard@kirkland.com>; Derek A. Newman <dn@newmanlaw.com>

Subject: RE: Karnoski et al. v. Trump et al. -- extending discovery motions cutoff

Jason,

Defendants do not agree to Plaintiffs' proposed stipulation. However, if Plaintiffs file a motion to extend the discovery motions deadline, Defendants would not oppose. Instead, we would ask that you include our position as follows:

“Defendants do not believe that further extensions of the discovery motions deadline are warranted, for the reasons set forth in Defendants’ response to Plaintiffs’ previous motion to extend that same deadline. See ECF 490. However, Defendants recognize that the Court has previously rejected their reasoning on this point. See Order, Dkt. 508. Accordingly, Defendants take no position on Plaintiffs’ instant request to move the discovery motions deadline.”

Best,
Matt

Matthew Skurnik

Trial Attorney
United States Department of Justice
Civil Division - Federal Programs Branch
1100 L Street NW
Washington, DC 20005
(202) 616-8188 | Matthew.Skurnik@usdoj.gov

From: Jason Sykes <Jason@newmanlaw.com>

Sent: Tuesday, May 26, 2020 4:16 PM

To: Skurnik, Matthew (CIV) <maskurni@CIV.USDOJ.GOV>; Carmichael, Andrew E. (CIV) <ancarmic@CIV.USDOJ.GOV>; Barsanti, Vanessa <vanessa.barsanti@kirkland.com>; Stallings-Ala'ilima, Chalia (ATG) <Chalia.SA@atg.wa.gov>; Enlow, Courtney D. (CIV) <cenlow@CIV.USDOJ.GOV>; Powers, James R. (CIV) <jpowers@CIV.USDOJ.GOV>; Gerardi, Michael J. (CIV) <mgerardi@CIV.USDOJ.GOV>; Zhou, Grace X. (CIV) <gzhou@CIV.USDOJ.GOV>; Edelman, Christopher (CIV) <cedelman@CIV.USDOJ.GOV>; *prenn@lambdalegal.org <prenn@lambdalegal.org>; *tborelli@lambdalegal.org <tborelli@lambdalegal.org>; Rachel Horvitz <Rachel@newmanlaw.com>; Siegfried, Daniel I. <daniel.siegfried@kirkland.com>; *colleen.melody@atg.wa.gov <colleen.melody@atg.wa.gov>; Rosenberg, Michael E. <michael.rosenberg@kirkland.com>; Heinz, Jordan M. <jheinz@kirkland.com>; Means, Miranda <miranda.means@kirkland.com>; Ikard, Sam <sam.ikard@kirkland.com>; Derek A. Newman <dn@newmanlaw.com>

Subject: RE: Karnoski et al. v. Trump et al. -- extending discovery motions cutoff

Hi Matt,

The proposed stipulation isn't in regard to any specific motion, it's simply a housekeeping matter. The discovery motions deadline is usually tied to (and moves with) the discovery cutoff. As the Court noted, the discovery cutoff has been lifted, so discovery is ongoing. And, given the history of this case to date, it is easy to foresee many, many areas where disputes may arise that the parties are unable to resolve themselves.

For example, just last Friday the Government served responses to Plaintiffs' Fourth Set of Interrogatories that consist entirely of objections. As you know, my colleague, Ms. Barsanti has already requested a meet and confer on that issue—assuming the parties are unable to resolve their

impasse, motions practice will follow. Separately, a review of the Government's recent privilege logs suggests that many documents were improperly withheld. And, of course, the parties have several upcoming depositions that could introduce their own host of bona fide disputes.

But again, to be clear: the stipulation is not about any of these issues, or any specific motion. We are simply looking to adjust the discovery motions deadline to mirror the change in discovery cutoff ordered by the Court.

To the extent the Government has specific concerns about this limited issue, I'm happy to discuss anytime today at your convenience. (My cell phone number is 206.765.6737.) Otherwise, please provide the Government's position on the stipulation by 10a Pacific on Wednesday. As noted below, if the Government declines to stipulate we will request a telephonic conference with the Court to address this matter.

Thanks,
Jason



Jason Sykes

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From: Skurnik, Matthew (CIV) <Matthew.Skurnik@usdoj.gov>

Sent: Tuesday, May 26, 2020 8:02 AM

To: Jason Sykes <Jason@newmanlaw.com>; Carmichael, Andrew E. (CIV)

<Andrew.E.Carmichael@usdoj.gov>; Barsanti, Vanessa <vanessa.barsanti@kirkland.com>; Stallings-

Ala'ilima, Chalia (ATG) <Chalia.SA@atg.wa.gov>; Enlow, Courtney D. (CIV)

<Courtney.D.Enlow@usdoj.gov>; Powers, James R. (CIV) <James.R.Powers@usdoj.gov>; Gerardi,

Michael J. (CIV) <Michael.J.Gerardi@usdoj.gov>; Zhou, Grace X. (CIV) <Grace.X.Zhou@usdoj.gov>;

Edelman, Christopher (CIV) <Christopher.Edelman@usdoj.gov>; *prenn@lambdalegal.org

<*prenn@lambdalegal.org>; *tborelli@lambdalegal.org <tborelli@lambdalegal.org>; Rachel Horvitz

<Rachel@newmanlaw.com>; Siegfried, Daniel I. <daniel.siegfried@kirkland.com>;

*colleen.melody@atg.wa.gov <colleen.melody@atg.wa.gov>; Rosenberg, Michael E.

<michael.rosenberg@kirkland.com>; Heinz, Jordan M. <jheinz@kirkland.com>; Means, Miranda

<miranda.means@kirkland.com>; Ikard, Sam <sam.ikard@kirkland.com>; Derek A. Newman

<dn@newmanlaw.com>

Subject: RE: Karnoski et al. v. Trum et al. -- extending discovery motions cutoff

Jason,

Thanks for your email. In order to determine our position on the stipulation, could you let us know what discovery motions, if any, Plaintiffs currently intend to file?

Best,
Matt

Matthew Skurnik

Trial Attorney
United States Department of Justice
Civil Division - Federal Programs Branch
1100 L Street NW
Washington, DC 20005
(202) 616-8188 | Matthew.Skurnik@usdoj.gov

From: Jason Sykes <Jason@newmanlaw.com>

Sent: Friday, May 22, 2020 12:08 PM

To: Carmichael, Andrew E. (CIV) <ancarmic@CIV.USDOJ.GOV>; Barsanti, Vanessa <vanessa.barsanti@kirkland.com>; Skurnik, Matthew (CIV) <maskurni@CIV.USDOJ.GOV>; Stallings-Ala'ilima, Chalia (ATG) <Chalia.SA@atg.wa.gov>; Enlow, Courtney D. (CIV) <cenlow@CIV.USDOJ.GOV>; Powers, James R. (CIV) <jpowers@CIV.USDOJ.GOV>; Gerardi, Michael J. (CIV) <mgerardi@CIV.USDOJ.GOV>; Zhou, Grace X. (CIV) <gzhou@CIV.USDOJ.GOV>; Edelman, Christopher (CIV) <cedelman@CIV.USDOJ.GOV>; *prenn@lambdalegal.org <prenn@lambdalegal.org>; *tborelli@lambdalegal.org <tborelli@lambdalegal.org>; Rachel Horvitz <Rachel@newmanlaw.com>; Siegfried, Daniel I. <daniel.siegfried@kirkland.com>; *colleen.melody@atg.wa.gov <colleen.melody@atg.wa.gov>; Jason Sykes <Jason@newmanlaw.com>; Rosenberg, Michael E. <michael.rosenberg@kirkland.com>; Heinz, Jordan M. <jheinz@kirkland.com>; Means, Miranda <miranda.means@kirkland.com>; Ikard, Sam <sam.ikard@kirkland.com>; Derek A. Newman <dn@newmanlaw.com>

Subject: Karnoski et al. v. Trum et al. -- extending discovery motions cutoff

Hi Drew,

Given the Court's recent order extending the deadline to complete discovery, we believe the deadline to file discovery motions should be extended as well. The current deadline is May 29. But as the Court noted in its order, Defendants have outstanding production deadlines that will not be met before then. (See Dkt. 513 at 1:21-22.)

We believe the least burdensome path forward is for the parties to stipulate to lifting the discovery motions deadline and agree to address the issue (along with other case schedule events) in the joint status report to be filed ahead of the June 23 status conference. We believe this approach is consistent with the Court's order and expectations. (See Dkt. 513 at 1:23-24.)

To that end, we've prepared a one-page stipulation and proposed order to that effect (attached). As always, we welcome any edits, clarifications, or improvements to the stipulation.

Please let us know by noon Eastern time on Tuesday 5/26 whether Defendants agree to this approach or, alternatively, the basis for any disagreement.

In the event Defendants decline to stipulate, Plaintiffs plan to write to the Court to request a telephonic conference on Thursday 5/28 at noon Pacific (or any time convenient to the Court) to resolve this issue.

Of course, we would prefer to resolve this matter without burdening the Court and look forward to reaching quick agreement on the attached stipulation.

Best,
Jason

Newman
DuWors

Jason Sykes

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