

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

JANE DOE 2, <i>et al.</i> ,)	
)	
Plaintiffs,)	Civil Action No. 17-cv-1597 (CKK)
v.)	
)	
MARK T. ESPER, in his official capacity as Secretary of Defense, <i>et al.</i> ,)	
)	
Defendants.)	
)	

**PARTIES’ JOINT STATUS REPORT IN RESPONSE
TO MAY 7, 2020 MINUTE ORDER**

The parties submitted a Joint Status Report to the Court on May 7, 2020, noting that they had tentatively scheduled some fact depositions, but due to travel restrictions because of COVID-19, they were not sure whether the scheduled depositions would take place. Accordingly the parties asked to update the Court again by June 24. Dkt. 242. In the resulting May 7, 2020 Minute Order, this Court directed the parties to “file another Joint Status Report on June 24, 2020, updating the Court on the status of discovery and setting a schedule for the completion of fact depositions and fact discovery.” *See* May 7, 2020 at 5:15 PM Min. Order.

Defendants served supplemental document productions on May 8, 2020 (591 documents), May 15, 2020 (44 documents), May 20, 2020 (133 documents), May 22, 2020 (20 documents), May 29, 2020 (1,494 documents), June 1, 2020 (1,427 documents), June 5, 2020 (402 documents), and June 19, 2020 (2,453 documents).¹ The parties are coordinating with counsel for the plaintiffs in the three related litigations—*Karnoski v. Trump*, No. 17-cv-01297-MJP (W.D. Wash.),

¹ Defendants note that the vast majority of documents in these supplemental productions were produced in response to discovery orders or requests in the related litigation *Karnoski v. Trump*, 17-cv-01297-MJP (W. D. Wash.).

Stockman v. Esper, No. 17-cv-01799-JGB-KK (C.D. Cal.), and *Stone v. Trump*, No. 17-cv-02459-GLR (D. Md.)—to discuss fact and expert witness depositions, with the goal that each witness need only be deposed once. On June 10 and 11, Defendants’ fact and expert witness Lt. Col. Kevin Cron was deposed. On June 17, Defendants’ fact and expert witness Col. Christopher Meyering was deposed.² And on June 23, Plaintiffs’ expert Dr. George Brown was deposed. Each of these expert depositions was conducted remotely via videoconference.

Plaintiffs have indicated that they plan to depose fact witnesses in person, and will provide videoconferencing to minimize the number of attendees present at any given deposition because of ongoing COVID-19 concerns. Defendants believe that depositions should proceed remotely given the uncertainty as to when it will be prudent to take depositions in person.

The parties had previously agreed to tentative dates in June for the fact depositions of Dr. Terry Adirim, Stephanie Miller, Thomas Dee, and Martha Soper. The parties also expected to set dates for the depositions of William Bushman, and Lernes Hebert in either June or July. Counsel for Defendants are subject to travel and teleworking restrictions that prohibited in-person depositions from taking place as scheduled in June. On June 19, Defendants offered new dates in July for all of these witnesses and the parties will continue coordinating to schedule those fact depositions.

Further, Plaintiffs have notified Defendants that they plan to depose Secretary of Veterans Affairs Robert Wilkie, former Secretary of Defense James Mattis, former Vice Chief of Naval Operations William Moran, and former Vice Chairman of the Joint Chiefs of Staff General Paul Selva. After meeting and conferring with Defendants, Plaintiffs in *Karnoski* served Rule 45

² Defendants have not disclosed Lt. Col. Cron or Col. Meyering as experts in this litigation, but have disclosed them in the related *Karnoski* litigation.

subpoenas as to each witness. Defendants moved to quash these subpoenas issued in the Eastern District of Virginia and the Middle District of North Carolina, and Plaintiffs in *Karnoski* have moved to transfer those motions to the Western District of Washington. These motions are not yet fully briefed.

Because counsel are still working remotely and subject to travel and teleworking restrictions due to COVID-19, the parties are not in a position to set a deadline for the completion of fact depositions at this time. Because most of the DoD employees that Plaintiffs wish to depose are located in the Washington, D.C. area, the parties are optimistic that many of these fact depositions will occur in July, and respectfully request an order to file a Joint Status Report on July 30, 2020, updating the Court on the status of discovery and setting a schedule for the completion of fact depositions and fact discovery.

June 24, 2020

Respectfully Submitted,

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