

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

**JOINT STATUS REPORT FOR JUNE 23,
2020 STATUS CONFERENCE**

1 In advance of the June 23, 2020 status hearing, the parties respectfully submit the
2 following Joint Status Report:

3 **First**, the parties continue to work together to resolve various document-related discovery
4 issues, including document production issues and the collection of certain documents. The
5 parties will timely raise any disputes they are unable to resolve themselves, but at this time have
6 no disputes requiring Court intervention.

7 **Second**, Defendants have filed the following motions to quash, and in each of these cases
8 Plaintiffs have filed a motion to transfer the action to this Court:

- 9 1. *Karnoski, et al. v. Trump, et al.*, No. 2:20-mc-00010-RAJ-RJK, Dkt. No. 14 (E.D. Va.
10 June 4, 2020) (Re: Subpoena of former Secretary of Defense James N. Mattis)
 - 11 • Motion to quash briefing complete as of June 18
 - 12 • Motion to transfer briefing will be complete by July 2
 - 13 2. *Karnoski, et al. v. Trump, et al.*, No. 1:20-mc-0015-LO-TCP, Dkt. No. 12 (E.D. Va.
14 June 6, 2020) (Re: Subpoena of former Vice Chairman of the Joint Chiefs of Staff
15 General Paul J. Selva)
 - 16 • Motion to quash briefing complete as of June 18
 - 17 • Motion to transfer briefing will be complete by July 2
 - 18 3. *Karnoski, et al. v. Trump, et al.*, No. 1:20-mc-00013-UA-JEP, Dkt. No. 8 (M.D.N.C.
19 June 4, 2020) (Re: Subpoena of former Vice Chief of Naval Operations Admiral
20 William F. Moran)
 - 21 • Motion to quash briefing complete as of June 18
 - 22 • Motion to transfer briefing will be complete by July 2
 - 23 4. *Karnoski, et al. v. Trump, et al.*, No. 1:20-mc-00016-LO-IDD, Dkt. No. 15 (E.D. Va.
24 June 10, 2020) (Re: Subpoena of sitting Secretary of Veterans Affairs Robert Wilkie
25 Jr.)
 - 26 • Motion to quash briefing will be complete by June 24
 - 27 • Motion to transfer briefing will be complete by July 8
- 28

1 **Third**, Plaintiffs have recently taken the following depositions:

- 2 • **June 10: Kevin Cron**, Defendants' hybrid fact/expert witness, former Preventive
3 Medicine Officer for United States Central Command
- 4 • **June 17: Christopher Meyering**, Defendants' hybrid fact/expert witness,
5 Command Surgeon and the Waiver Surgeon, U.S. Army Recruiting Command

6 The parties are scheduled to take the following depositions:

- 7 • **June 23: Dr. George Brown**, Plaintiffs' expert witness
- 8 • **June 24: Stephen Pflanz**, Defendants' hybrid fact/expert witness, former
9 Director of Psychological Health, Air Force Medical Support Agency

10 Plaintiffs have also requested the depositions of Anthony Kurta (Formerly Performing the
11 Duties of Deputy Under Secretary of Defense (Personnel & Readiness)), Colonel Mary Krueger,
12 William Bushman, Lernes Hebert (Acting Deputy Assistant Secretary of Defense for Military
13 Personnel Policy and Principal Director), Dr. Jillian Shipherd, Dr. Terry Adirim, Stephanie
14 Miller, and Martha Soper, however, Plaintiffs have decided to defer the depositions of Mr. Kurta,
15 Mr. Bushman, and Mr. Hebert until later in the summer. (*See* Joint Status Report, Dkt. No. 500 at
16 6.) Colonel Mary Krueger, who is Hospital Commander of the Tripler Army Medical Center and
17 is tasked with leading the military medicine response to COVID-19 in the state of Hawaii, is not
18 currently available for deposition due to the COVID-19 pandemic. (*Id.* at 10.) Defendants have
19 requested the deposition of Plaintiff-Intervenor's expert witness Dr. Jody Herman. Plaintiff-
20 Intervenor made arrangements for Dr. Herman to be available for a deposition on June 25, 2020,
21 but Defendants notified counsel on June 16, 2020, of a scheduling conflict and have requested
22 Dr. Herman's availability in July. The parties are postponing the depositions of former
23 Secretaries Mabus and James pursuant to the Court's prior orders.

24 **Fourth**, the parties seek clarification as to what procedures the Court intends for
25 Defendants to follow when asserting the deliberative process privilege in a deposition when the
26 topic does not fall under Plaintiffs' Requests for Production 15 or 29.

27 **Finally**, given the above outstanding discovery and motion practice, the parties are not yet
28 ready to propose a case schedule for the Court's consideration.

1 Respectfully submitted, June 19, 2020

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**UNITED STATES
DEPARTMENT OF JUSTICE**

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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 June 19, 2020.

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