

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
OCTOBER 28, 2020 STATUS
CONFERENCE**

1 In advance of the October 28, 2020 status hearing, the parties respectfully submit the
2 following Joint Status Report.

3 **PLAINTIFF’S AND PLAINTIFF-INTERVENOR’S STATEMENT**

4 Pursuant to this Court’s Order dated September 29, 2020 (Dkt. 617), the Government is
5 reviewing documents withheld solely on the basis of the deliberative process privilege (“DPP”)
6 that are dated outside the timeframes of July 13, 2015 through June 30, 2016 and
7 September 14, 2017 through January 11, 2018, and either producing those documents to
8 Plaintiffs or submitting those documents for *in camera* review.

9 The parties have met and conferred regarding the documents that are dated *within* these
10 two timeframes that are withheld solely on the basis of DPP and have reached an impasse on the
11 timing of the review and production of such documents. Given the April 2021 trial date,
12 Plaintiffs believe they need to be in a position to resume taking depositions no later than
13 January 2021. Given the importance of the documents the Government is finally producing after
14 withholding them for three years (the vast majority of which should never have been withheld in
15 the first place), Plaintiffs believe the Government’s proposed schedule must be shortened slightly
16 so that document production is complete by the end of this calendar year. Plaintiffs therefore
17 propose the following production schedule to address the remaining DPP documents:

- 18 • November 20, 2020: Production of documents dated November 18, 2017 to
19 January 11, 2018 to Plaintiffs
- 20 • November 30, 2020: Documents dated November 18, 2017 to January 11, 2018
21 submitted for *in camera* review along with any accompanying declarations
- 22 • December 7, 2020: Production of documents dated September 14, 2017 to
23 November 17, 2017 to Plaintiffs
- 24 • December 11, 2020: Documents dated September 14, 2017 to November 17, 2017
25 submitted for *in camera* review along with any accompanying declarations
- 26 • December 18, 2020: Production of documents dated July 13, 2015 to June 30, 2016 to
27 Plaintiffs
- 28 • December 23, 2020: Documents dated July 13, 2015 to June 30, 2016 submitted for *in*

1 camera review along with any accompanying declarations

2 **DEFENDANTS' STATEMENT**

3 In an attempt to narrow the dispute before the Court regarding documents withheld solely
4 on the basis of the deliberative process privilege ("DPP") within the Court's presumptive
5 deliberative timeframes of July 13, 2015 through June 30, 2016 and September 14, 2017 through
6 January 11, 2018, *see* Dkt. 545, Defendants have agreed that a similar *in camera* review process
7 may be utilized to address the DPP documents that fall within this timeframe as the parties and the
8 Court have recently utilized to address the documents that fall outside of this timeframe. However,
9 Defendants note that the litigation support resources of the Department of Justice, Department of
10 Defense and Military Services are limited during the weeks of November 23, 2020 to November
11 27, 2020 (the Thanksgiving holiday week), December 21, 2020 to December 25, 2020 (the
12 Christmas holiday week), and December 28, 2020 to January 1, 2021 (the New Year's holiday
13 week). Accordingly, Defendants propose the following *in camera* production schedule, which is
14 similar to the schedule recently ordered by the Court, *see* Dkt 617, and accounts for the
15 Government's limited ability to complete productions or compile materials for *in camera*
16 submission during those three holiday weeks.

- 17 • November 23, 2020: Production of documents dated November 18, 2017 to January 11,
18 2018 to Plaintiffs
- 19 • December 4, 2020: Documents dated November 18, 2017 to January 11, 2018 submitted
20 for *in camera* review along with any accompanying declarations
- 21 • December 15, 2020: Production of documents dated September 14, 2017 to November
22 17, 2017 to Plaintiffs
- 23 • December 18, 2020: Documents dated September 14, 2017 to November 17, 2017
24 submitted for *in camera* review along with any accompanying declarations
- 25 • January 8, 2021: Production of documents dated July 13, 2015 to June 30, 2016 to
26 Plaintiffs
- 27 • January 15, 2021: Documents dated July 13, 2015 to June 30, 2016 submitted for *in*
28 *camera* review along with any accompanying declarations

1 Respectfully submitted, October 26, 2020

2 **NEWMAN DU WORS LLP**

**UNITED STATES
DEPARTMENT OF JUSTICE**

3 s/ Rachel Horvitz

s/ Andrew E. Carmichael

4 Derek A. Newman, WSBA No. 26967

JOHN COGHLAN

Deputy Assistant Attorney General

5 *dn@newmanlaw.com*

6 Jason B. Sykes, WSBA No. 44369

ALEXANDER K. HAAS

Branch Director

7 *jason@newmanlaw.com*

8 Rachel Horvitz, WSBA No. 52987

ANTHONY J. COPPOLINO

Deputy Director

9 *rachel@newmanlaw.com*

2101 Fourth Ave., Ste. 1500

Seattle, WA 98121

(206) 274-2800

ANDREW E. CARMICHAEL, VA Bar # 76578

andrew.e.carmichael@usdoj.gov

Senior Trial Counsel

MATTHEW SKURNIK, NY Bar # 5553896

Matthew.Skurnik@usdoj.gov

JAMES R. POWERS, TX Bar #24092989

james.r.powers@usdoj.gov

Trial Attorneys

United States Department of Justice

Civil Division, Federal Programs Branch

1100 L Street NW, Suite 12108

Washington, DC 20530

(202) 514-3346

10 **LAMDBA LEGAL DEFENSE AND
EDUCATION FUND, INC.**

11 Tara Borelli, WSBA No. 36759

12 *tborelli@lambdalegal.org*

Camilla B. Taylor (admitted pro hac vice)

13 Peter C. Renn (admitted pro hac vice)

14 Sasha Buchert (admitted pro hac vice)

15 Kara Ingelhart (admitted pro hac vice)

16 Carl Charles (admitted pro hac vice)

17 Paul D. Castillo (admitted pro hac vice)

Counsel for Defendants

18 **OUTSERVE-SLDN, INC. N/K/A
MODERN MILITARY ASSOCIATION
OF AMERICA**

**OFFICE OF THE WASHINGTON STATE
ATTORNEY GENERAL**

19 Peter Perkowski (admitted pro hac vice)

s/ Chalia I. Stallings-Ala'ilima

20 **KIRKLAND & ELLIS LLP**

Chalia I. Stallings-Ala'ilima, WSBA

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

No. 40694

22 Steve Patton (admitted pro hac vice)

chalias@atg.wa.gov

23 Jordan M. Heinz (admitted pro hac vice)

Colleen M. Melody, WSBA No. 42275

24 Daniel I. Siegfried (admitted pro hac vice)

colleenm1@atg.wa.gov

25 Sam Ikard (admitted pro hac vice)

Assistant Attorney General

Wing Luke Civil Rights Division

Office of the WA Attorney General

800 Fifth Avenue, Suite 2000

Seattle, WA 98104

(206) 464-7744

26 **REDGRAVE LLP**

27 Vanessa Barsanti (admitted pro hac vice)

*Counsel for Intervenor-Plaintiff State of
Washington*

28 *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 October 26, 2020.

s/ Rachel Horvitz
Rachel Horvitz, WSBA No. 52987
rachel@newmanlaw.com
2101 Fourth Ave., Ste. 1500
Seattle, WA 98121
(206) 274-2800