

The Honorable Marsha J. Pechman

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**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 AND
PROPOSED CASE SCHEDULE**

Pursuant to the Court's order during the December 28, 2020 Joint Status Conference, the parties respectfully submit the following proposed case schedule for the Court's consideration:

| Deadline | Old Dates (ECF No. 554) | Proposed Dates |
|--|---|--------------------------------------|
| Fact discovery deadline | | May 28, 2021 |
| Dispositive motion deadline | December 28, 2020 [Vacated (ECF No. 657)] | June 17, 2021 |
| Motions <i>in limine</i> | March 22, 2021 | July 22, 2021 |
| Trial briefs; proposed findings of fact and conclusions of law | April 13, 2021 | August 4, 2021 |
| Pretrial Conference | April 15, 2021 at 1:30 PM | Week of August 9, 2021 |
| Bench Trial | April 26, 2021 | August 23, 2021 (10-day bench trial) |

Although the Court did not instruct the parties to propose a new trial date, in light of outstanding discovery disputes, the parties respectfully submit that moving the trial date to August 23, 2021 is warranted. The proposed schedule also would provide sufficient time for the parties to brief, and the Court to rule on, any summary judgment motions in advance of trial. Under the proposed schedule, the parties would take depositions once disputes over document discovery have been resolved, but before the May 28, 2021 fact discovery deadline. The parties anticipate that any trial in this case would be a bench trial and would last 10 days. The parties note that the above case schedule may need to be adjusted based on additional developments following the transition to the new federal administration.

Additionally, the parties have agreed that Defendants will re-review the following categories of documents that have been withheld on the basis of Deliberative Process Privilege and at least one other privilege: documents sent to or received by, or any documents authored or edited by, (a) all requested deponents; (b) all members of the Panel; and (c) all persons identified in response to Plaintiffs' Interrogatory Nos. 16 and 17 who are not attorneys and who are not employees at the Executive Office of the President. Communications involving certain DoD OGC attorneys, Department of Justice attorneys, and White House employees are excluded from

1 the foregoing categories. Defendants will review and produce such documents according to the
2 following schedule:

3 **By January 22, 2021**, Defendants will produce to Plaintiffs any documents that they are
4 no longer asserting any privilege over and will identify any documents that are being withheld in
5 full solely on the basis of a privilege other than DPP.

6 **By February 5, 2021**, Defendants will produce to Plaintiffs any redacted documents
7 where privileged information can be segregated.

8 The parties also respectfully propose that following this re-review, on February 12, 2021,
9 Defendants submit for *in camera* review any documents so reviewed over which they intend to
10 assert deliberative process privilege. The parties propose that the procedure for any such
11 submission should be the same as Defendants' recent *in camera* submissions regarding the
12 deliberative process privilege.

13
14 Dated: January 11, 2021

15 Respectfully submitted,

16 **NEWMAN DU WORS LLP**

**UNITED STATES
DEPARTMENT OF JUSTICE**

17
18 s/ Jason B. Sykes

Derek A. Newman, WSBA No. 26967
dn@newmanlaw.com

19
20 Jason B. Sykes, WSBA No. 44369
jason@newmanlaw.com

21 Rachel Horvitz, WSBA No. 52987
rachel@newmanlaw.com

22 2101 Fourth Ave., Ste. 1500
Seattle, WA 98121
23 (206) 274-2800

JOHN COGHLAN
Deputy Assistant Attorney General

ALEXANDER K. HAAS
Branch Director

ANTHONY J. COPPOLINO
Deputy Director

24 **LAMBDA LEGAL DEFENSE AND
25 EDUCATION FUND, INC.**

26 Tara Borelli, WSBA No. 36759
tborelli@lambdalegal.org

27 Camilla B. Taylor (admitted pro hac vice)

Peter C. Renn (admitted pro hac vice)

28 Sasha Buchert (admitted pro hac vice)

Kara Ingelhart (admitted pro hac vice)

s/ Andrew Carmichael
ANDREW E. CARMICHAEL, VA Bar #
76578
andrew.e.carmichael@usdoj.gov
MATTHEW SKURNIK, NY Bar # 5553896
Matthew.Skurnik@usdoj.gov
JAMES R. POWERS, TX Bar #24092989
james.r.powers@usdoj.gov

Trial Attorney
United States Department of Justice
Civil Division, Federal Programs Branch

1 Carl Charles (admitted pro hac vice)
2 Paul D. Castillo (admitted pro hac vice)

1100 L Street NW, Suite 12108
Washington, DC 20530
(202) 514-3346

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

Counsel for Defendants

6 Peter Perkowski (admitted pro hac vice)

OFFICE OF THE WASHINGTON
STATE ATTORNEY GENERAL

7 **KIRKLAND & ELLIS LLP**

s/ Chalia I. Stallings-Ala'ilima

8 James F. Hurst, P.C. (admitted pro hac vice)
9 Steve Patton (admitted pro hac vice)
10 Jordan M. Heinz (admitted pro hac vice)
11 Vanessa Barsanti (admitted pro hac vice)
12 Daniel I. Siegfried (admitted pro hac vice)
13 Sam Ikard (admitted pro hac vice)

Chalia I. Stallings-Ala'ilima, WSBA
No. 40694
chalias@atg.wa.gov
Colleen M. Melody, WSBA No. 42275
colleenm1@atg.wa.gov
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

14 *Counsel for Plaintiffs*

Counsel for Intervenor-Plaintiff State of
Washington

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 January 11, 2021.

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28