

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,

v.

DONALD J. TRUMP, et al.,

Defendants.

No. 2:17-cv-1297-MJP

**JOINT STIPULATION TO UNSEAL
SELVA MOTION TO QUASH AND
CONSOLIDATE CASES FOR ALL
PURPOSES**

1 Plaintiffs Ryan Karnoski, Staff Sergeant Cathrine Schmid, D.L., Chief Warrant Officer
2 Lindsey Muller, Petty Officer First Class Terece Lewis, Petty Officer Second Class Phillip
3 Stephens, Petty Officer Second Class Megan Winters, Jane Doe, Human Rights Campaign,
4 Gender Justice League, and American Military Partners Association n/k/a Modern Military
5 Association of America (collectively “Plaintiffs”), Plaintiff-Intervenor State of Washington,
6 and Defendants Donald J. Trump, Mark Esper, and the United States Department of Defense
7 (collectively “Defendants,” and together with Plaintiffs and Plaintiff-Intervenor, “Parties”)
8 hereby stipulate as follows:

9 WHEREAS, Plaintiffs served Federal Rule of Civil Procedure (“FRCP”) 45 subpoenas
10 for the depositions of former Secretary of Defense James N. Mattis, former Vice Chairman of
11 the Joint Chiefs of Staff General Paul J. Selva, and current Secretary of Veterans Affairs Robert
12 Wilkie Jr., and former Vice Chief of Naval Operations Admiral William F. Moran;

13 WHEREAS, Defendants moved to quash all four subpoenas in the place of compliance,
14 *see Karnoski, et al. v. Trump, et al.*, No. 2:20-mc-00010-RAJ-RJK (E.D. Va.) (Mattis);
15 *Karnoski, et al. v. Trump, et al.*, No. 1:20-mc-0015-LO-TCP (E.D. Va.) (Selva); *Karnoski, et*
16 *al. v. Trump, et al.*, No. 1:20-mc-00016-LO-IDD (E.D. Va.) (Wilkie); *Karnoski, et al. v.*
17 *Trump, et al.*, No. 1:20-mc-00013-UA-JEP (M.D.N.C.) (Moran);

18 WHEREAS, at Plaintiffs’ Request, and over Defendants’ objections, the courts in the
19 Mattis, Selva and Wilkie matters transferred those subpoena disputes to this district.¹ *See*
20 *Karnoski, et al. v. Trump, et al.*, No. 2:20-mc-00061-MJP (W.D. Wa.) (Mattis); *Karnoski, et al.*
21 *v. Trump, et al.*, No. 2:20-mc-00055-MJP (W.D. Wa.) (Selva); *Karnoski, et al. v. Trump, et al.*,
22 No. 2:20-mc-00056-MJP (W.D. Wa.) (Wilkie);

23 WHEREAS, the Selva matter has been sealed in its entirety despite no order from the
24 transferor court requiring such relief;

25
26
27 ¹ Plaintiffs’ motion to transfer the Moran matter is still pending in the Middle District of
28 North Carolina, as is Defendants’ motion to quash the Moran subpoena. *See Karnoski, et al. v.*
Trump, et al., No. 1:20-mc-00013-UA-JEP (M.D.N.C.)

1 WHEREAS, on July 23, 2020, with Plaintiff and Plaintiff-Intervenor’s consent, counsel
2 for Defendants contacted the Clerk’s Office to request that the Selva matter be unsealed;

3 WHEREAS, on July 24, 2020, the Law Clerk to the Hon. Marsha J. Pechman contacted
4 the Parties via email, and stated that the Clerk’s Office requests that, if the parties agree that the
5 Selva matter was sealed in error, the parties “file a stipulated motion to unseal;”

6 WHEREAS, this Court previously consolidated a third-party subpoena matter that had
7 been transferred to this district with the underlying case, *see* Dkt. 367 (consolidating transferred
8 matter concerning Dr. Paul R. McHugh);

9 WHEREAS, the Parties, in accordance with Local Civil Rule (“LCR”) 42(b), met and
10 agreed that the Mattis, Selva, and Wilkie subpoena disputes should be consolidated with the
11 underlying case, and further agreed that this would not require additional changes to the case
12 schedule, *see* Dkt. 550;

13 NOW THEREFORE, the Parties, through their respective counsel of record, do hereby
14 stipulate and agree as follows:

- 15 • No. 2:20-mc-00055-MJP, concerning the motion to quash the deposition of
16 former Vice Chairman of the Joint Chiefs of Staff General Paul J. Selva, should
17 be unsealed, however, individual documents that previously were placed under
18 seal by the transferor court should remain under seal;
- 19 • No. 2:20-mc-00061-MJP, No. 2:20-mc-00055-MJP, and No. 2:20-mc-00056-
20 MJP, concerning the motions to quash the depositions of former Secretary of
21 Defense James N. Mattis, former Vice Chairman of the Joint Chiefs of Staff
22 General Paul J. Selva, and current Secretary of Veterans Affairs Robert Wilkie
23 Jr., respectively, should be consolidated with the underlying case, No. 2:17-cv-
24 1297-MJP, for all purposes pursuant to FRCP 42 and LCR 42.²

25
26
27 ² Despite agreeing to consolidation, Defendants respectfully maintain their
28 disagreement with the transfers of the Mattis, Selva, and Wilkie matters to this district, and
maintain that each motion to quash requires a distinct apex analysis.

1 SO STIPULATED.

2
3 Respectfully submitted, July 30, 2020.

4 **NEWMAN DU WORS LLP**

UNITED STATES
DEPARTMENT OF JUSTICE

5
6 *s/Rachel Horvitz*

7 _____
Derek A. Newman, WSBA No. 26967
dn@newmanlaw.com
Jason B. Sykes, WSBA No. 44369
jason@newmanlaw.com
Rachel Horvitz, WSBA No. 52987
rachel@newmanlaw.com
2101 Fourth Ave., Ste. 1500
Seattle, WA 98121
(206) 274-2800

8 _____
DAVID M. MORRELL
Deputy Assistant Attorney General

ALEXANDER K. HAAS
Branch Director

ANTHONY J. COPPOLINO
Deputy Director

9
10
11
12
13 **LAMDBA LEGAL DEFENSE AND
EDUCATION FUND, INC.**

14 Tara Borelli, WSBA No. 36759
tborelli@lambdalegal.org
Camilla B. Taylor (admitted pro hac vice)
Peter C. Renn (admitted pro hac vice)
Sasha Buchert (admitted pro hac vice)
Kara Ingelhart (admitted pro hac vice)
Carl Charles (admitted pro hac vice)
Paul D. Castillo (admitted pro hac vice)

15 _____
s/ Matthew Skurnik
MATTHEW SKURNIK, NY Bar # 5553896
Matthew.Skurnik@usdoj.gov

JAMES R. POWERS, TX Bar #24092989
james.r.powers@usdoj.gov

Trial Attorneys
ANDREW E. CARMICHAEL, VA Bar #
76578

andrew.e.carmichael@usdoj.gov
Senior Trial Counsel
United States Department of Justice
Civil Division, Federal Programs Branch
1100 L Street NW, Suite 12108
Washington, DC 20530
(202) 616-8188

16
17
18
19
20 **OUTSERVE-SLDN, INC. N/K/A
MODERN MILITARY ASSOCIATION
OF AMERICA**

21 Peter Perkowski (admitted pro hac vice)

Counsel for Defendants
**OFFICE OF THE WASHINGTON
STATE ATTORNEY GENERAL**

22
23 **KIRKLAND & ELLIS LLP**

24 James F. Hurst, P.C. (admitted pro hac vice)
Steve Patton (admitted pro hac vice)

s/ Chalia I. Stallings-Ala'ilima

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

Jordan M. Heinz (admitted pro hac vice)
Vanessa Barsanti (admitted pro hac vice)
Daniel I. Siegfried (admitted pro hac vice)

Counsel for Plaintiffs

Colleen M. Melody, WSBA No. 42275
colleenm1@atg.wa.gov
Chalia I. Stallings-Ala'ilima, WSBA No. 40694
chalias@atg.wa.gov
Assistant Attorneys General
Civil Rights Unit
Attorney General's Office
800 5th Ave, Suite 2000
Seattle, WA 98104
(206) 464-7744

Counsel for Plaintiff-Intervenor State of Washington

ORDER

This matter comes before the Court on the Parties’ Joint Stipulation To Unseal Selva Motion To Quash And Consolidate Cases For All Purposes. After considering the Parties’ Joint Stipulation, the Court hereby ORDERS the following:

- No. 2:20-mc-00055-MJP, concerning the motion to quash the deposition of former Vice Chairman of the Joint Chiefs of Staff General Paul J. Selva, is hereby unsealed, however, individual documents that previously were placed under seal by the transferor court shall remain under seal;
- No. 2:20-mc-00061-MJP, No. 2:20-mc-00055-MJP, and No. 2:20-mc-00056-MJP, concerning the motions to quash the depositions of former Secretary of Defense James N. Mattis, former Vice Chairman of the Joint Chiefs of Staff General Paul J. Selva, and current Secretary of Veterans Affairs Robert Wilkie Jr., respectively, shall be consolidated with the underlying case, No. 2:17-cv-1297-MJP, for all purposes pursuant to FRCP 42 and LCR 42.

All future filings shall be filed in 17-cv-1297 MJP.

IT IS SO ORDERED.

DATED this 30th day of July, 2020.



Marsha J. Pechman
United States Senior District Judge

Presented By:

NEWMAN DU WORS LLP

UNITED STATES
DEPARTMENT OF JUSTICE

s/ Rachel Horvitz

Derek A. Newman, WSBA No. 26967
dn@newmanlaw.com
Jason B. Sykes, WSBA No. 44369
jason@newmanlaw.com
Rachel Horvitz, WSBA No. 52987
rachel@newmanlaw.com
2101 Fourth Ave., Ste. 1500
Seattle, WA 98121
(206) 274-2800

DAVID M. MORRELL
Deputy Assistant Attorney General

ALEXANDER K. HAAS
Branch Director

ANTHONY J. COPPOLINO
Deputy Director

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

Tara Borelli, WSBA No. 36759
tborelli@lambdalegal.org
Camilla B. Taylor (admitted pro hac vice)
Peter C. Renn (admitted pro hac vice)
Sasha Buchert (admitted pro hac vice)
Kara Ingelhart (admitted pro hac vice)
Carl Charles (admitted pro hac vice)
Paul D. Castillo (admitted pro hac vice)

s/ Matthew Skurnik
MATTHEW SKURNIK, NY Bar # 5553896
Matthew.Skurnik@usdoj.gov
JAMES R. POWERS, TX Bar #24092989
james.r.powers@usdoj.gov
Trial Attorneys

ANDREW E. CARMICHAEL, VA Bar #
76578
andrew.e.carmichael@usdoj.gov
Senior Trial Counsel

United States Department of Justice
Civil Division, Federal Programs Branch
1100 L Street NW, Suite 12108
Washington, DC 20530
(202) 616-8188

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

Peter Perkowski (admitted pro hac vice)

Counsel for Defendants
**OFFICE OF THE WASHINGTON
STATE ATTORNEY GENERAL**

KIRKLAND & ELLIS LLP

James F. Hurst, P.C. (admitted pro hac vice)
Steve Patton (admitted pro hac vice)
Jordan M. Heinz (admitted pro hac vice)
Vanessa Barsanti (admitted pro hac vice)
Daniel I. Siegfried (admitted pro hac vice)

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

chalias@atg.wa.gov
Assistant Attorneys General
Civil Rights Unit
Attorney General's Office
800 5th Ave, Suite 2000
Seattle, WA 98104

Counsel for Plaintiffs

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

(206) 464-7744

Counsel for Plaintiff-Intervenor State of
Washington