

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

JANE DOE 2, *et al.*,

Plaintiffs

v.

DONALD J. TRUMP, *et al.*,

Defendants

Civil Action No. 17-1597 (CKK)

ORDER

(April 18, 2018)

Presently before the Court is Defendants' [97] Motion for a Protective Order ("Defs.' Mot."). Through this motion Defendants seek a stay of all discovery pending the resolution of Defendants' Motion to Dissolve the Preliminary Injunction (including any interlocutory appeal of the Court's ruling on that motion). Federal Rule of Civil Procedure 26(c) "confers broad discretion on the trial court to decide when a protective order is appropriate and what degree of protection is required." *Seattle Times Co. v. Rhinehart*, 467 U.S. 20, 36 (1984). The Court will exercise this broad discretion to DENY Defendants' Motion for a Protective Order.

None of the reasons Defendants give for halting discovery at this point are persuasive. First, Defendants argue, in effect, that discovery should be stayed because they are likely to succeed on the merits of their Motion to Dissolve the Preliminary Injunction.¹ Defendants argue that "Plaintiffs' challenge to the 2017 Presidential Memorandum is moot," given that "[t]he President has withdrawn that Memorandum," and that the "new policy" set forth in a recent memorandum prepared by Secretary of Defense James N. Mattis "withstands constitutional scrutiny." Defs.' Mot. at 6-7. Plaintiffs do not agree with either of these arguments, *see* Pls.' Opp'n to Defs.' Mot., ECF No. 108, at 5-9, and the Court will not resolve these disputes in the context of a discovery motion. These disputes are being fully briefed in Defendants' pending Motion to Dissolve the Preliminary Injunction, and will presumably also be briefed in relation to Defendants' upcoming Motion to Dismiss. The Court will wait to make a final decision on these important issues in the context of those substantive motions. In the context of this Motion for a Protective Order, the Court merely holds that—on the current record—it is not sufficiently persuaded by Defendants' arguments such that it is inclined to halt all discovery pending the resolution of Defendants' motions.²

Second, Defendants argue that discovery is no longer appropriate *at all* in this case and that "[f]urther litigation should be confined to the administrative record provided by the agency."

¹ In their reply brief, Defendants also argue that a stay of discovery is justified because Defendants are likely to succeed on a Motion to Dismiss that they will soon file. *See* Defs.' Reply in Support of Mot. for a Protective Order, ECF No. 110, at 1.

² *See Karnoski v. Trump*, No. C17-1297-MJP, 2018 WL 1784464, at *6-7 (W.D. Wash. Apr. 13, 2018) (rejecting Defendants' mootness argument).

