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**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

BERT MARLEY, an individual; and )  
IDAHO STATE DEMOCRATIC PARTY, a )  
political party, )  
 )  
 )  
Plaintiffs, )  
 )  
 )  
vs. )  
 )  
 )  
LAWRENCE DENNEY, in his official )  
capacity as Secretary of State, )  
 )  
 )  
Defendant. )

Case No. CV01-17-12594

STIPULATION FOR DISMISSAL  
WITHOUT PREJUDICE PURSUANT TO  
I.R.C.P. 41(a)(1)(A)(2)

Plaintiffs and Defendant enter into the following stipulation pursuant to I.R.C.P.  
41(a)(1)(A)(2).

STIPULATION FOR DISMISSAL WITHOUT PREJUDICE PURSUANT TO I.R.C.P.  
41(a)(1)(A)(2) - 1

1. Defendant will give ten-days' written notice to Plaintiffs at the Idaho State Democratic Party headquarters in Boise, Idaho and their counsel of record in this matter of his intention to respond to any information request from the Presidential Advisory Commission, or an agent thereof, upon receipt, if any, of the "further instructions" referred to in Exhibit A to the Third Declaration of Kris W. Kobach in *Electronic Privacy Information Center v. Presidential Advisory Commission on Election Integrity et al.*, No. 1:17-cv-1320 (CKK) (D.D.C.) (ECF No. 24-1), annexed hereto as Exhibit A.

2. Plaintiffs dismiss this action without prejudice.

DATED this 13th day of July, 2017.

MARCUS, CHRISTIAN, HARDEE & DAVIES, LLP

/s/ Sam Dotters-Katz

DATED this 13th day of July, 2017.

JONES, GLEDHILL, FUHRMAN, GOURLEY, P.A.

/s/ William A. Fuhrman

DATED this 13th day of July, 2017.

STATE OF IDAHO  
OFFICE OF THE ATTORNEY GENERAL

By: /s/ Clay R. Smith

By: /s/ Carl J. Withroe  
Deputy Attorneys General

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 13th day of July, 2017, I filed the foregoing electronically through the iCourt E-File system, which caused the following parties or counsel to be served by electronic means, as more fully reflected on the Notification of Service:

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Carl J. Withroe  
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William H. Fuhrman  
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/s/ Sam Dotters-Katz  
Sam Dotters-Katz

# EXHIBIT A

*ELECTRONIC PRIVACY INFORMATION CENTER V.  
PRESIDENTIAL ADVISORY COMMISSION ON ELECTION  
INTEGRITY ET AL.*

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

ELECTRONIC PRIVACY INFORMATION  
CENTER,

Plaintiff,

v.

PRESIDENTIAL ADVISORY  
COMMISSION ON ELECTION  
INTEGRITY, *et al.*,

Defendants.

Civil Action No. 1:17-cv-1320 (CKK)

**THIRD DECLARATION OF KRIS W. KOBACH**

I, Kris W. Kobach, declare as follows:

As described in my declaration of July 5, 2017, I am the Vice Chair of the Presidential Advisory Commission on Election Integrity (“Commission”). I submit this third declaration in support of Defendant’s supplemental brief regarding the addition of the Department of Defense (“DOD”) as a defendant in plaintiff’s Amended Complaint. This declaration is based on my personal knowledge and upon information provided to me in my official capacity as Vice Chair of the Commission.

1. In order not to impact the ability of other customers to use the DOD Safe Access File Exchange (“SAFE”) site, the Commission has decided to use alternative means for transmitting the requested data. The Commission no longer intends to use the DOD SAFE system to receive information from the states, and instead intends to use alternative means of receiving the information requested in the June 28, 2017, letter. Specifically, the Director of White House Information Technology is repurposing an existing system that regularly accepts



personally identifiable information through a secure, encrypted computer application within the White House Information Technology enterprise. We anticipate this system will be fully functional by 6:00 p.m. Eastern today.

2. Today, the Commission sent the states a follow-up communication requesting the states not submit any data until this Court rules on this TRO motion. A copy of this communication is attached hereto as Exhibit A. The Commission will not send further instructions about how to use the new system pending this Court's resolution of this TRO motion.

3. The Commission will not download the data that Arkansas already transmitted to SAFE and this data will be deleted from the site.

4. Additionally, I anticipate that the President will today announce the appointment of two new members of the Commission, one Democrat and one Republican.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

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Executed this 10th day of July 2017.



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Kris W. Kobach

**EXHIBIT A**

**From:** FN-OVP-Election Integrity Staff

**Sent:** Monday, July 10, 2017 9:40 AM

**Subject:** Request to Hold on Submitting Any Data Until Judge Rules on TRO

Dear Election Official,

As you may know, the Electronic Privacy Information Center filed a complaint seeking a Temporary Restraining Order ("TRO") in connection with the June 28, 2017 letter sent by Vice Chair Kris Kobach requesting publicly-available voter data. See *Electronic Privacy Information Center v. Presidential Advisory Commission on Election Integrity* filed in the U.S. District Court for the District of Columbia. Until the Judge rules on the TRO, we request that you hold on submitting any data. We will follow up with you with further instructions once the Judge issues her ruling.

Andrew Kossack

Designated Federal Officer

Presidential Advisory Commission on Election Integrity

[ElectionIntegrityStaff@ovp.eop.gov](mailto:ElectionIntegrityStaff@ovp.eop.gov)