

**UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND**

THE DISTRICT OF COLUMBIA AND
THE STATE OF MARYLAND,

Plaintiffs,

vs.

DONALD J. TRUMP, in his official
capacity as President of the United States of
America,

Defendants.

Case No. 8:17-cv-01596-PJM

**REPLY IN SUPPORT OF PLAINTIFFS' MOTION FOR
LEAVE TO SERVE DOCUMENT PRESERVATION SUBPOENAS**

On October 25, 2017, Plaintiffs moved for leave to serve document preservation subpoenas on several non-party entities. Dkt. 43. There is good cause for the relief requested, and President Trump does not oppose it. Dkt. 44 at 1 (“[W]e leave it to those third parties to lodge any appropriate objections to such subpoenas if and when they are served.”). The motion should accordingly be granted.

The President’s sole objection concerning the motion is limited to “the extent the proposed ‘preservation subpoenas’ are intended to be used to litigate the possible scope of discovery.” Dkt. 44 at 2. But on that point the President and Plaintiffs are in complete accord. It is precisely because no discovery is anticipated prior to this Court’s resolution of the motion to dismiss that Plaintiffs seek leave to preserve documents that may be relevant once discovery begins. Moreover, nothing about the issuance of document preservation subpoenas requires the parties to litigate—or the Court to adjudicate—the scope of discovery now. Document preservation subpoenas require only that documents be preserved, not that they be produced. If there is a dispute regarding document

production during discovery, it can be resolved at that time.¹

For the foregoing reasons, as well as those set forth in the opening motion, Plaintiffs respectfully request the motion be granted.

November 2, 2017

Respectfully submitted,

THE DISTRICT OF COLUMBIA

THE STATE OF MARYLAND

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¹ The entities that Plaintiffs wish to serve with document preservation subpoenas were provided notice of Plaintiffs' Motion for Leave to Serve Document Preservation Subpoenas the day after it was filed. As the President noted, those entities will have an opportunity to object to the subpoenas if and when they are served.

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CERTIFICATE OF SERVICE

I hereby certify that on November 2, 2017, I electronically filed this *Reply in Support of Plaintiffs' Motion for Leave to Serve Document Preservation Subpoenas* with the Clerk of the Court using the CM/ECF filing system.

/s/ Stephanie Litos
Stephanie Litos