

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

CIVIL MINUTES-GENERAL

Case No. CV 04-8425-VAP (Ex)

Date: March 16, 2010

Title: LOG CABIN REPUBLICANS v. UNITED STATES OF AMERICA, et al.

DOCKET ENTRY

PRESENT:

HON. CHARLES F. EICK, JUDGE

STACEY PIERSON
DEPUTY CLERK

N/A
COURT REPORTER

ATTORNEYS PRESENT FOR PLAINTIFFS:

ATTORNEYS PRESENT FOR DEFENDANTS:

None

None

PROCEEDINGS: (IN CHAMBERS)

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The Court has read and considered all papers filed in support of and in opposition to: (a) “Log Cabin Republicans’ Motion to Compel Production of Documents” (“the Documents Motion”), filed February 22, 2010; (b) “Log Cabin Republicans’ Ex Parte Application for Order Compelling Defendants to Comply with Log Cabin Republicans’ Notice of Deposition, etc.” (“the Deposition Application”), filed March 5, 2010; and (c) Plaintiff’s “Ex Parte Application for an Order that Certain Requests for Admissions Be Deemed Admitted or for Further Responses” (“the RFA Application”), filed March 8, 2010. The Court heard oral argument on the Documents Motion, the Deposition Application, and the RFA Application on March 15, 2010.

With respect to the Documents Motion: Within fourteen (14) days of the date of this Order, Defendants shall produce all documents within the possession, custody or control of the Department of Defense (not including documents reposing exclusively with the Department of Justice or any other federal agency) that are responsive to one or more of the following Document Requests: Nos. 2, 4, 32, 33, 34(limited to documents relating to the regulations), 43(limited to interim reports, drafts or summaries of reports of the specifically referenced reports), 44, 45(limited to communications between RAND National Defense Research Institute and the Department of Defense regarding the reports listed in the Request), 46, 47, 54, 55, 56, and 38. The Court finds that Defendants waived the deliberative

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process privilege by failing timely to invoke the privilege properly. Except as expressly stated, the Documents Motion is denied. The Court denies the Documents Motion as to the following Document Requests: (a) Request No. 58 (because the request is vague, overbroad and unduly burdensome, see Fed. R. Civ. P. 26(b)(2)(C)); (b) Request No. 39 (because the request is vague, overbroad and unduly burdensome, see Fed. R. Civ. P. 26(b)(2)(C), and manifestly seeks documents protected by the attorney-client privilege and the work product doctrine); and (c) Request No. 40 (because the request is vague, overbroad and unduly burdensome, see Fed. R. Civ. P. 26(b)(2)(C), and manifestly seeks documents protected by the attorney-client privilege and the work product doctrine). The Court has ordered production with respect to Request No. 38 because Defendants waived the deliberative process privilege and failed adequately to support their general claim of any non-waived protections under the attorney-client privilege or the work product doctrine.

With respect to the Deposition Application: On or before April 15, 2010, the Department of Defense shall produce for a Rule 30(b)(6) deposition a person or persons prepared to testify concerning those areas specified in the Notice of Deposition as Areas Nos. 1, 2, 3, 4, 6, 7, 10, 14, 15, and 17. Except as expressly stated, the Deposition Application is denied. Plaintiff withdrew the Deposition Application as to Area No. 5. Area No. 8 is objectionable as seeking a legal conclusion. Area No. 9

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is vague and overbroad (see Fed. R. Civ. P. 26(b)(2)(C)). After balancing the considerations set forth in Fed. R. Civ. P. 26(b)(2)(C), the Court finds that the Rule 30(b)(6) deposition should not encompass Area No. 12. The Court also finds that Area No. 16 is of insufficient relevance to the constitutional claims and the defenses in this action to warrant a Rule 30(b)(6) deposition encompassing this Area (see Fed. R. Civ. P. 26(b)(2)(C)).

With respect to the RFA Application: Within ten (10) days of the date of this Order, Defendant United States of America shall unqualifiedly admit or deny Requests for Admissions Nos. 3, 4, 5, and 81-105, the Court having overruled all objections thereto. To the extent the RFA Application seeks an order deeming admitted Requests for Admissions Nos. 3, 4, 5, and 81-105, the RFA Application is denied without prejudice. Except as expressly stated, the RFA Application is denied. Requests for Admissions Nos. 10, 13, 14, 15, and 106-119 employ objectionably vague and ambiguous terms (“essential,” “cannot afford to,” “documented adverse impact,” or “documented adverse effects”).

Any party seeking review of this Order shall cause the preparation and filing of a transcript of the March 15, 2010 hearing.

cc: Judge Phillips
All Counsel of Record