

Attachment # 1

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11 Log Cabin Republicans

12 UNITED STATES DISTRICT COURT
13 CENTRAL DISTRICT OF CALIFORNIA

14 LOG CABIN REPUBLICANS, a non-
15 profit corporation,

16 Plaintiff,

17 vs.

18 UNITED STATES OF AMERICA and
19 ROBERT M. GATES, SECRETARY
20 OF DEFENSE, in his official capacity,

21 Defendants.

Case No. CV04-8425 VAP (Ex)

**PLAINTIFF LOG CABIN
REPUBLICANS' INITIAL
DISCLOSURES PURSUANT TO
FEDERAL RULE OF CIVIL
PROCEDURE 26(a)(1)**

Complaint Filed: October 12, 2004
Trial Date: None scheduled

22 Plaintiff Log Cabin Republicans ("LCR") makes the following disclosures
23 subject to and without waiving its rights to protect from disclosure (a) any and all
24 communications subject to the attorney-client privilege, and (b) any and all work
25 product conclusions, opinions, or legal theories of its attorneys or other
26 representatives concerning this litigation. LCR makes these disclosures based on
27 the information currently available at the time of disclosure. LCR's investigation
28 continues and it reserves the right to amend or supplement these disclosures.

1 **I. DISCLOSURES**

2 **A. Rule 26(a)(1)(A): Witnesses**

3 The following individuals or categories of individuals may have discoverable
4 information that LCR may use to support its claims or defenses in this action. The
5 entities or organizations listed are the entities or organizations with which, to the
6 best of LCR's knowledge, the individuals are or were affiliated.

7 1. Alex Nicholson

8 c/o Dan Woods

9 White & Case LLP

10 633 W. Fifth Street, Suite 1900

11 Los Angeles, CA 90071

12 2. Former and current U.S. military officers.

13 3. Former and current U.S. enlisted service members.

14 4. Individuals who have published studies, reports, polls, or books on the
15 Don't Ask Don't Tell policy ("DADT") including, but not limited to, Nathaniel
16 Frank, Bonnie Morad, Laura Miller, and Aaron Belkin.

17 5. Individuals who have published studies, reports, polls or books on the
18 experiences of other countries that allow the service of openly gay or lesbian
19 service members.

20 6. Former service members who have been discharged from the military
21 under DADT.

22 7. Current and former Congressmen and Senators and members of the
23 Executive Branch involved in the consideration of either DADT legislation, the
24 creation or implementation of regulations regarding DADT or its potential repeal or
25 revision.

26 8. Foreign military leaders and personnel from countries that permit gay
27 and lesbian individuals to serve openly.
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B. Rule 26(a)(1)(B): Documents

Subject to the limitations set forth in the "Preliminary Statement" above and without waiving any available objections to the relevance or evidentiary use of such documents, LCR identifies the following categories of documents that it may use to support its claims or defenses in this action.

1. Statutes and regulations, including but not limited to, relevant state and federal statutes, federal regulations, Department of Defense directives and instructions, and Army, Navy, Coast Guard, Marine Corps, and Air Force regulations and instructions.

2. Executive materials, including but not limited to, statements, memoranda, news conferences, reports, policies, and briefing of the White House, Department of Justice, Department of Defense and General Accounting Office.

3. Congressional materials, including but not limited to, Congressional Record excerpts from Senate and House hearings and debates between 1993 and the present related to DADT, transcripts of news conferences, statements released by the Senate Armed Services Committee or House Committee on Armed Services, and statements by, or made before, Congress.

4. Military materials, including internal and external memoranda, instructions, guidelines, admission standards and records, statements, reports, inquiries, studies, and policies by the Army, Navy, Marine Corps, Coast Guard and Air Force, including, but not limited to:

- U.S. Department of Defense, Office of the Secretary of Defense, Summary Report of the Military Working Group, July 1, 1993 (Military Working Group Study)
- The Crittenden Report (1957)
- Defense Force Management: DOD's Policy on Homosexuality," US Government Accountability Office (GAO), June 12, 1992

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- "Financial Costs and Loss of Critical Skills Due to DOD's Homosexual Conduct Policy Cannot be Completely Estimated," GAO, February, 2005
- Office of the Under Secretary of Defense (Personnel and Readiness), "Report to the Secretary of Defense: Review of the Effectiveness of the Application and Enforcement of the Department's Policy on Homosexual Conduct in the Military, April 1998
- Department of Defense Working Group, Anti-Harassment Action Plan (July 21, 2000)
- Les Aspin, "Policy on Homosexual Conduct in the Armed Forces, Memorandum for the Secretary of the Army, Secretary of the Navy, Secretary of the Air Force, Chairman, Joint Chiefs of Staff," Office of the Secretary of Defense, Weekly Compilation of Presidential Documents, vol. 29, July 19, 1993.
- Navy Manpower Analysis Center, "Homosexual Administrative Discharge Board/Show Cause Hearings," memorandum of Department of the Navy, June 1994
- DOD Directive 1332.14 and Enclosures, November 21, 2003
- Judith Miller, General Counsel of the Department of Defense, "Memorandum for the General Counsels of the Military Departments, the Judge Advocate General of the Army, the Judge Advocate General of the Navy, the Judge Advocate General of the Air Force, the Staff Advocate to the Commandant of the Marine Corps: Policy on Homosexual Conduct in the Armed Forces," August 18, 1995
- Regulation 500-3-3. vol. 3, "Reserve Component Unit Commanders Handbook," U.S. Army, 1999, Table 2.1: "Personnel Actions During the Mobilization Process"

1 5. Records, data and studies regarding the number of service men and
2 women discharged under DADT, including documents relating to: the number of
3 discharged service members by year, by rank, by gender and by specialty within the
4 military; contested discharges; the positions held by discharged service members;
5 records of administrative discharge boards; records of boards of inquiry; and
6 policies, directives, and guidelines for handling contested matters.

7 6. Studies and reports regarding the effect, scope, and military and public
8 perception of DADT, including but not limited to:

- 9 • National Defense Research Institute, Sexual Orientation and U.S.
10 Military Personnel Policy: Options and Assessments (Santa Monica,
11 CA: Rand Corporation, 1993)
- 12 • James Kahan, Noreen Webb, Richard Shavelson, and Ross
13 Stolzenberg, Individual Characteristics and Unit Performance: A
14 Review of Research and Methods (Santa Monica, CA: RAND, R-
15 3194-Mil, 1985)
- 16 • Department of Military Psychiatry, Evaluating the Unit Manning
17 System: Lessons Learned to Date (Washington, DC; Walter Reed
18 Army Institute of Research, 1987)
- 19 • Faris Kirkland and Linette Sparzino, eds., Unit Manning System
20 Field Evaluation: Technical Report No. 5 (Washington, D.C.: Walter
21 Reed Army Institute of Research, 1987)
- 22 • Department of Military Psychiatry, "Unit Reconstitution in a Wartime
23 Scenario," in David Marlow, ed., Unit Manning System Field
24 Evaluation: Technical Report 4 (Washington, D.C.: Walter Reed Army
25 Institute of Research, 1986).
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- Theodore Sarbin and Kenneth Karols, Nonconforming Sexual Orientations and Military Suitability, Defense Personnel Security Research and Education Center, December 1988
- Michael McDaniel, Preservice Adjustment of Homosexual and Heterosexual Military Accessions: Implications for Security Clearance Suitability, Defense Personnel Security Research and Education Center, January 1989
- SLDN Studies, Conduct Unbecoming, 1st Annual Report – 10th Annual Report
- Gary Gates, “Lesbians and Gay Men in the U.S. Military: Estimates from Census 2000, “ white paper, the Williams Institute , University of California, Los Angeles, October 2005
- Gary Gates, “Effects of ‘Don’t Ask, Don’t Tell’ on Retention Among Lesbian, Gay, and Bisexual Military Personnel,” research brief, Williams Institute, University of California, Los Angeles, October 2005

7. Studies, reports and data related to foreign militaries that allow service by gay and lesbian individuals.

8. Historical data, studies, and reports regarding integration of African Americans into the military.

9. Historical data, studies, and reports regarding admission of gay and lesbian individuals into police and fire departments.

10. Public opinion polls regarding DADT, including but not limited to, Lydia Sadd, “Tolerance for Gay Rights at High-Water Mark,” Gallup Poll News Service, May 29, 2007.

11. Military opinion polls regarding DADT, including but not limited to:
- National Annenberg Election Survey, *NEAS 04*, 2004

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- Zogby International, "Opinions of Military Personnel," December 2006
- Laura Miller, "Fighting for a Just Cause: Soldiers' Views on Gays in the Military," in Scott and Stanley, *Gays and Lesbians in the Military*, 70
- "The Military Index," *Foreign Policy*, March/April 2008
- Bonnie Morad and Laura Miller, "Attitudes of Iraq and Afghanistan War Veterans Toward Gay and Lesbian Service Members," *Armed Forces & Society*, 2009

12. Statements regarding DADT by current and former politicians and military leaders.

13. Studies, data and reports regarding the service of openly gay Americans in federal agencies outside the Department of Defense involved in the U.S. efforts in Afghanistan, Iraq, or The War on Terror, generally.

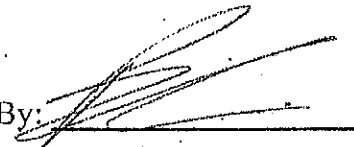
C. Rule 26(a)(1)(C): Damages

Not Applicable.

Respectfully submitted,

Dated: December 7, 2009

WHITE & CASE LLP

By: 

Patrick Hunnius
Attorneys for Plaintiff Log Cabin
Republicans

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PROOF OF SERVICE

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 633 W. Fifth Street, Suite 1900, Los Angeles, CA 90071-2007. I am employed by a member of the Bar of this Court at whose direction the service was made.

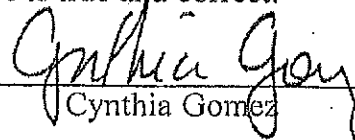
On December 9, 2009, I served the foregoing document(s) described as **PLAINTIFF LOG CABIN REPUBLICANS' INITIAL DISCLOSURES PURSUANT TO FEDERAL RULE OF CIVIL PROCEDURE 26(a)(1)** on the person(s) below, as follows:

Roger West, AUSA First Assistant Chief U.S. Department of Justice United States Attorney Central Division of California Federal Building, Suite 7516 300 North Los Angeles Street Los Angeles, CA 90012	Tony West Vincent M. Garvey Paul G. Freeborne U.S. Department of Justice, Civil Div. Federal Programs Branch P.O. Box 883 Washington, DC 20044
Telephone: (213) 894-2461 Facsimile: (213) 894-7819/7385	Telephone: (202) 353-0543 Fax: (202) 616-8460 / (or) (202) 616-8202

(BY MAIL) I enclosed the document(s) in a sealed envelope or package addressed to the person(s) at the address(es) listed above and placed the envelope for collection and mailing at White & Case, LLP, Los Angeles, California, following our ordinary business practices. I am readily familiar White & Case's practice for collection and processing of correspondence for mailing with the United States Postal Service. Under that practice, the correspondence would be deposited in the United States Postal Service on that same day in the ordinary course of business.

Executed on December 9, 2009 at Los Angeles, California.

I declare under penalty of perjury under the laws of the State of California and the United States of America that the above is true and correct.


Cynthia Gomez