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 7 Attorneys for Plaintiff
 Log Cabin Republicans

8 UNITED STATES DISTRICT COURT
 9
 10 CENTRAL DISTRICT OF CALIFORNIA

11 LOG CABIN REPUBLICANS, a non-
 12 profit corporation,

13
 14 Plaintiff,

15 vs.

16 UNITED STATES OF AMERICA and
 17 ROBERT M. GATES (substituted for
 18 Donald H. Rumsfeld pursuant to FRCP
 19 25(d)), SECRETARY OF DEFENSE,
 20 in his official capacity,

21 Defendants.
 22

Case No. CV04-8425 VAP (Ex)

REQUEST FOR STATUS
 CONFERENCE

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

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1 TO ALL PARTIES AND THEIR ATTORNEYS:

2 PLEASE TAKE NOTICE that plaintiff, the Log Cabin Republicans,
3 respectfully requests that this Court schedule a status conference to determine how
4 to proceed with this case in light of the Ninth Circuit's decision in *Witt v. Air*
5 *Force*, No. 06-35644, and its recent denial of rehearing and rehearing *en banc*
6 therein.

7 Log Cabin Republicans initially filed this case in 2004. The action presents a
8 constitutional challenge to the United States Military's "Don't Ask, Don't Tell,
9 Don't Pursue" policy. The case was initially assigned to Judge Schiavelli, who
10 dismissed Log Cabin Republicans' initial complaint in early 2006 on standing
11 grounds with leave to amend. Log Cabin Republicans filed its first amended
12 complaint in April 2006. Currently pending before the court is the United States'
13 motion to dismiss the first amended complaint, filed in June 2006 and argued in
14 June 2007, and then taken under submission.

15 In May 2008, while this motion was under submission, the Ninth Circuit held
16 that the "Don't Ask, Don't Tell, Don't Pursue" policy must be analyzed under a
17 new intermediate level of scrutiny. *Witt v. Air Force*, 527 F. 3d 806 (9th Cir.
18 2008). As a result of that decision, Judge Schiavelli stayed all further proceedings
19 in this action and vacated the submission of the motion to dismiss. The stay was to
20 remain in effect until the final disposition in *Witt*.

21 While the stay was in effect, Judge Schiavelli retired from the bench and the
22 case was reassigned to this Court.¹

23 Last week, the Ninth Circuit denied rehearing and denied rehearing *en banc*
24 in *Witt*, No. 06-35644, slip op. (9th Cir. Dec. 4, 2008). In light of this decision, Log
25 Cabin Republicans respectfully submits that this case should resume. For this

26 _____
27 ¹ This Request represents the parties' first submission to this Court. If the Court
28 has had any difficulty retrieving the file in this case from Judge Schiavelli's
chambers or if the Court desires courtesy copies of any or all papers filed herein,
Log Cabin Republicans can provide the needed documents.

1 PROOF OF SERVICE

2 I am employed in the County of Los Angeles, State of California. I am over
3 the age of 18 and not a party to the within action. My business address is 633 W.
4 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.

5 On December 11, 2008, I served the foregoing document(s) described as
6 REQUEST FOR STATUS CONFERENCE on the person(s) below, as follows:

7 Anthony J. Steinmeyer, Esq.
8 U.S. Department of Justice
9 Civil Division, Appellate Staff
10 950 Pennsylvania Avenue, N.W.
11 Washington, D.C. 20530-0001

Henry C. Whitaker, Esq.
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10 Telephone: (202) 514-3388
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12 Roger West, AUSA First Assistant Chief
13 U.S. Department of Justice
14 United States Attorney
15 Central Division of California
16 Federal Building, Suite 7516
17 300 North Los Angeles Street
18 Los Angeles, CA 90012

16 Telephone: (213) 894-2461
17 Facsimile: (213) 894-7819/7385

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

24 Executed on December 11, 2008, at Los Angeles, California.

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

27 
28 Diane M. Petrek