

1 IAN HEATH GERSHENGORN
 Deputy Assistant Attorney General
 2 MELINDA L. HAAG
 United States Attorney
 3 VINCENT M. GARVEY
 Deputy Director
 4 PAUL G. FREEBORNE
 Virginia Bar No. 33024
 5 RYAN B. PARKER
 Utah Bar No. 11742
 6 Trial Attorneys
 U.S. Department of Justice
 7 Civil Division
 Federal Programs Branch
 8 P.O. Box 883
 Washington, D.C. 20044
 9 Telephone: (202) 353-0543
 Facsimile: (202) 616-8460
 10 E-mail: paul.freeborne@ usdoj.gov

11 Attorneys for Federal Defendants

12 **UNITED STATES DISTRICT COURT**
 13 **NORTHERN DISTRICT OF CALIFORNIA**

| | | | |
|----|--|---|--|
| 14 | MICHAEL D. ALMY, ANTHONY J. |) | Case No. 3:10-cv-5627 (RS) |
| 15 | LOVERDE, and JASON D. KNIGHT, |) | |
| 16 | |) | NOTICE OF FEDERAL |
| 17 | Plaintiffs, |) | DEFENDANTS' MOTION TO |
| 18 | v. |) | TRANSFER ACTION TO UNITED |
| 19 | UNITED STATES DEPARTMENT OF |) | STATES COURT OF FEDERAL |
| 20 | DEFENSE, ROBERT M. GATES, Secretary of |) | CLAIMS, OR, IN THE ALTERNATIVE, |
| 21 | Defense; DEPARTMENT OF THE AIR FORCE; |) | TO DISMISS ACTION |
| 22 | MICHAEL B. DONLEY, Secretary, Department |) | |
| 23 | of the Air Force; DEPARTMENT OF THE |) | Hearing Date: Thursday, April 28, 2011 |
| 24 | NAVY; and RAY MABUS, Secretary, |) | Hearing Time: 1:30 P.M. |
| 25 | Department of the Navy, |) | Hearing Location: San Francisco |
| 26 | |) | Courthouse, Courtroom 3 - 17th Floor |
| 27 | Defendants. |) | 450 Golden Gate Avenue, San Francisco, |
| 28 | |) | CA 94102 |

28 Notice of Federal Defendants' Motion to Transfer Action to United States Court of Federal Claims, or, In the Alternative, Motion to Dismiss, *Almy v. United States Department of Defense*, Case No. 3:10-cv-5627 (RS)

1 **NOTICE OF MOTION AND DEFENDANTS' MOTION TO TRANSFER ACTION TO**
2 **THE COURT OF FEDERAL CLAIMS OR, IN THE ALTERNATIVE, TO DISMISS**
3 **THE ACTION**

4 Please take notice that Defendants' have filed with the Court a motion to transfer this
5 action to the United States Court of Federal Claims or, in the alternative, to dismiss the action.
6 This motion is scheduled for a hearing in this Court before Judge Richard Seeborg on Thursday,
7 April 28, 2011, at 1:30 P.M. at the San Francisco Courthouse, Courtroom 3, 17th Floor, 450
8 Golden Gate Avenue, San Francisco, CA 94102.

9 Defendants move the Court to transfer this action to the Court of Federal Claims under
10 28 U.S.C. § 1631. In the alternative, Defendants move the Court to dismiss this action under
11 Federal Rule of Civil Procedure 12(b)(1) for lack of jurisdiction.

12 This notice is accompanied by a Memorandum of Points and Authorities in Support of
13 the Motion and a proposed order.

14 DATED: February 11, 2011

15 Respectfully submitted,

16 IAN HEATH GERSHENGORN
17 Deputy Assistant Attorney General,
18 Civil Division

19 MELINDA L. HAAG
20 United States Attorney

21 VINCENT M. GARVEY
22 Deputy Director

23 /s/ Paul G. Freeborne
24 PAUL G. FREEBORNE
25 RYAN B. PARKER
26 Trial Attorneys
27 U.S. Department of Justice
28 Civil Division

Attorneys for the Federal Defendants