

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

The Honorable Ronald B. Leighton

UNITED STATES DISTRICT COURT
WESTERN WASHINGTON
AT

MAJOR MARGARET WITT,

Plaintiff,

v.

UNITED STATES DEPARTMENT OF
THE AIR FORCE; ET AL.,

Defendants.

No. 06-5195 RBL

REVISED JOINT WITNESS AND
EXHIBIT LIST

The parties jointly submit the following witness and exhibit list for Plaintiff and Defendants.

I. WITNESSES

A. Expert Witnesses

The names and addresses of the expert witnesses to be used by each party at the trial and the issues upon which each will testify are:

(a) On behalf of Plaintiff:

(1) Anthony Greenwald (Seattle WA); Professor Greenwald will testify concerning established principles of social and cognitive psychology that demonstrate people mistakenly overestimate the problems that will result when a minority group is integrated into an ongoing work group; and he will identify four factors which lead military authorities to erroneously

1 predict the behavior and attitudes of heterosexual servicemembers if gay and lesbian
2 servicemembers are allowed to serve openly.

3 (2) Nathaniel Frank (Brooklyn NY); Mr. Frank will testify on foreign militaries who
4 permit open service of gays and lesbians and the lack of evidence showing any negative effect on
5 unit cohesion, morale, discipline or good order; on changing social attitudes towards gay and
6 lesbian individuals within the United States and U.S. Armed Forces; and on the history of mili-
7 tary policies concerning gays and lesbians in the U.S. Armed Forces and other paramilitary em-
8 ployers.

9 (3) Elizabeth Kier (Seattle, WA); Professor Kier will testify on social science research
10 demonstrating that allowing gays and lesbians to serve openly in the military would have a posi-
11 tive effect on unit cohesion, morale, discipline or good order.

12 *(b) On behalf of Defendants:*

13 (1) Lt. General Charles E. Stenner, Jr. (Robins AFB, GA); General Stenner will testify on
14 the need for uniform personnel policies in the military; the conclusion that if plaintiff were not
15 discharged for violations of the ‘Don’t Ask Don’t Tell’ policy, then the policy would not be
16 applied uniformly; the conclusion that such a non-uniform application of a personnel policy, if
17 done in one case or regionally, would risk unit cohesion, morale, good order, and discipline.

18 ***B. Other Witnesses***

19 The names and addresses of witnesses, other than experts, to be used by each party at the time of
20 trial and the general nature of the testimony of each are:

21 *(a) On behalf of Plaintiff:*

22 1. Lisa Chisa (Gig Harbor, WA); Ms. Chisa will testify as to the 446th AES unit
23 culture; her experiences of introducing her current same-sex spouse to 446th AES members; her
24 reaction to Major Witt’s suspension and discharge. (will testify)

25 2. Thomas Hansen (preservation deposition); Mr. Hansen will testify as to the 446th
26 AES unit culture; his formal evaluations of Major Witt’s performance and effect on unit
cohesion. (will testify)

1 3. Edmond Hrivnak (Spanaway, WA); Mr. Hrivnak will testify as to the 446th AES
2 unit culture; his experiences serving with Major Witt; his reaction to Major Witt's suspension
3 and discharge and the impact of Major Witt's discharge. (will testify)

4 4. Heather Julian (Spanaway, WA); Ms. Julian will testify as to the 446th AES unit
5 culture; her experiences serving with Major Witt; her reaction to Major Witt's suspension and
6 discharge; Major Witt's attendance at her retirement ceremony. (will testify)

7 5. Stacey Julian (Spanaway, WA); Mr. Julian will testify as to the 446th AES unit
8 culture; his experiences serving with Major Witt; his reaction to Major Witt's suspension and
9 discharge. (will testify)

10 6. Jenny Kopfstein (San Diego, CA); Ms. Kopfstein will testify as to her personal
11 experience serving as an officer in the U.S. Navy; the disclosure of her sexual orientation and its
12 impact on her service; her subsequent service as an open lesbian in the Navy; her discharge from
13 the U.S. Navy under Don't Ask Don't Tell. (will testify)

14 7. Judith Krill (Dupont, WA); Ms. Krill will testify as to the 446th AES unit culture;
15 her experiences serving with Major Witt; her personal observations of 446th AES
16 servicemembers believed to be gay or lesbian in her role as Unit Deployment Manager; her
17 reaction to Major Witt's suspension and discharge. (will testify)

18 8. Anthony Loverde (preservation deposition); Mr. Loverde will testify as to his
19 personal experience serving as a Staff Sergeant in the U.S. Air Force; his personal experiences
20 on deployment; the disclosure of his sexual orientation and its impact on his service; his open
21 service as a gay man in the Air Force; his discharge from the U.S. Air Force under Don't Ask
22 Don't Tell; his subsequent service as an openly gay contractor in Afghanistan and Iraq. (will
23 testify)

24 9. Darren Manzella (Rochester, NY); Mr. Manzella will testify as to his personal
25 experience serving as a Sergeant in the U.S. Army; his personal experiences on deployment; the
26 disclosure of his sexual orientation and its impact on his service; his open service as a gay man in
the Army; his discharge from the U.S. Army under Don't Ask Don't Tell. (will testify)

1 10. Faith Mueller (Tacoma, WA); Ms. Mueller will testify as to the 446th AES unit
2 culture; her experiences serving with Major Witt; her reaction to Major Witt's suspension and
3 discharge. (will testify)

4 11. Vince Oda (W. Syracuse, UT); Mr. Oda will testify as to the 446th AES unit
5 culture; his experiences serving with Major Witt; his reaction to Major Witt's suspension and
6 discharge. (will testify)

7 12. David Poulsen (Lakewood, WA); Mr. Poulsen will testify as to the 446th AES unit
8 culture for the 36 years that he served in the squadron; his experiences serving with Major Witt;
9 his reaction to Major Witt's suspension and discharge. (will testify)

10 13. Jill Robinson (Tacoma, WA); Ms. Robinson will testify as to the 446th AES unit
11 culture from both an enlisted perspective and that of a commissioned officer; her experiences
12 serving with Major Witt; her reaction to Major Witt's suspension and discharge; her personal
13 knowledge of other gay or lesbian members in the unit. (will testify)

14 14. James Schaffer (Spokane, WA); Mr. Schaffer will testify as to the 446th AES unit
15 culture; his experiences serving with Major Witt; his experiences deploying with Major Witt; his
16 knowledge of other gay and lesbian members in the unit; his reaction to Major Witt's suspension
17 and discharge and the impact of Major Witt's discharge; his recognition of Major Witt at his own
18 retirement ceremony. (will testify)

19 15. Heidi Smidt (Tacoma, WA); Ms. Smidt will testify as to the 40th/446th AES unit
20 culture that existed prior to and at the time Major Witt joined the unit; her experiences serving
21 with Major Witt; her observations of other gay and lesbian servicemembers in the unit; her
22 reaction to Major Witt's suspension and discharge. (will testify)

23 16. Kenneth Winslow (Issaquah, WA); Mr. Winslow will testify as to the 446th AES
24 unit culture; his formal evaluations of Major Witt's performance and effect on unit cohesion.
25 (will testify)

26 17. Margaret Witt (Spokane, WA); Ms. Witt will testify as to her service in the 446th
AES and its unit's culture; her suspension and discharge from the Air Force. (will testify)

1 18. Robert Gates (1000 Defense Pentagon, Washington, D.C. 20301); Secretary Gates
2 will testify as to the Department of Defense's current commitment to determine how to
3 implement complete repeal of the Don't Ask Don't Tell policy (will testify unless DOJ
4 withdraws its objections to Exhibits 63, 64, 65, and 80).

5 19. Col. (Ret.) Mary Walker (as designated in Exhibit 143): Colonel Walker will
6 testify as to perceptions of an inappropriate sexual relationship between the former unit
7 commander and her executive officer; as to who can initiate a fact-finding inquiry into
8 homosexual conduct; as to her experience and knowledge of current deployment conditions; and
9 as to whether Major Witt's presence in the 446th AES has a negative impact on unit cohesion,
10 morale, good order and discipline. (testify by deposition)

11 20. General Eric Crabtree (as designated in Exhibit 144): General Crabtree will testify
12 as to how he was ordered to initiate a fact-finding inquiry and the investigation into Plaintiff; as
13 to Plaintiff's presence in the unit and her effect on unit cohesion; as to his experience with
14 investigations and discharges under the Don't Ask Don't Tell policy and the open service of gay
15 and lesbian U.S. servicemembers. (testify by deposition)

16 21. Plaintiff also reserves the right to call as a witness any individual identified on
17 Defendants' Witness list.

18 ***(b) On Behalf of Defendants:***

19 1. Chief Master Sergeant Janice Kallinen (446 MSS/DPMS (Attn: CMSgt
20 Kallinen) 1205 12th St NE Ste 120 Joint Base Lewis McChord WA 98438-1320);
21 Chief Master Sergeant Kallinen will testify as to plaintiff's honorable discharge and
22 her discharge certificate. (will testify)

23 2. Margaret Witt (Spokane, WA); Ms. Witt will testify as to her service
24 in, suspension from, and discharge from the Air Force Reserve; publicity regarding
25 this lawsuit and/or the 'Don't Ask, Don't Tell' policy; her instances of conduct
26 (statements and acts) implicating the 'Don't Ask, Don't Tell' policy; standards of

1 conduct for Air Force officers; her employment after the Air Force Reserve. (may
2 testify)

3 3. Col. Janette Moore-Harbert (446th AES, Barnes Bldg. 1216 Suite A-125,
4 Joint base Lewis McChord, WA 98438); Col. Moore-Harbert will testify as to the
5 effect that plaintiff's potential return to service would have on unit cohesion, morale,
6 good order and discipline on her squadron; standards of conduct for Air Force officers.
(may testify)

7 4. Lt. Col. Adam Torem (10471 20th St. Suite 262, Elmendorf AFB, AK
8 99506); Lt. Col. Torem will testify as to the report and findings of fact regarding
9 plaintiff's conduct; standards of conduct for Air Force officers. (may testify)

10 5. Pat McChesney (Spokane, WA); Mr. McChesney will testify as to facts
11 regarding his notification. (may testify)

12 6. Col. (Ret.) Linda Carneal (Spanaway WA); Col. Carneal will testify as
13 to the absence of any sexual relationship between her and her executive officer;
14 standards of conduct for Air Force officers. (may testify)

15 7. MSgt. Steve Westmoreland (155 Richard Bay Blvd., Robins AFB, GA
16 31098); MSgt. Westmoreland will testify as to the administrative process concerning
17 involuntary discharge from the Air Force Reserve. (may testify)

18 8. Tiffany Jensen (Spokane, WA); Ms. Jensen will testify as to the factual
19 circumstances relating to conduct that led to plaintiff's discharge. (may testify)

20 9. Margaret Witt (as designated in Exhibit A-33), but by way of summary:
21 her service in, suspension from, and discharge from the Air Force Reserve; publicity
22 regarding this lawsuit and/or the 'Don't Ask, Don't Tell' policy; her instances of
23 conduct (statements and acts) implicating the 'Don't Ask, Don't Tell' policy;
24 standards of conduct for Air Force officers; her employment after the Air Force
25 Reserve. (testify by deposition)

1 10. Col. (Ret.) Mary Walker (as designated in Exhibit A-34), but by way of
2 summary: her lack of knowledge of gay or lesbian service members; plaintiff's
3 inquiry into the sexual orientations of other service members; reaction to plaintiff's
4 suspension from the Air Force Reserve; the deployment conditions of the squadron.
5 (testify by deposition)

6 11. Dennis Laich (as designated in Exhibit A-35), but by way of summary:
7 the differences between military service and civilian employment; the effects of extra-
8 marital relationships on military service, especially with respect to military officers.
9 (testify by deposition)

10 12. Nathaniel Frank (as designated in Exhibit A-36), but by way of
11 summary: his favoring of the Don't Ask, Don't Tell policy over its immediate
12 predecessor; the importance of considering the views of senior military leadership in
13 formulating military personnel policies; divisiveness associated with polling unit
14 members regarding the 'Don't Ask, Don't Tell' policy as-applied to plaintiff; the
15 unfairness associated with a regional approach to a military personnel policy; the
16 harmfulness of placing unit members in a position of having to report fellow unit
17 members' conduct; the applicability of several congressional findings (and all of the
18 findings of fact) regarding the 'Don't Ask, Don't Tell' policy to the conditions of
19 plaintiff's military service. (testify by deposition)

20 II. EXHIBITS

21 **A. Admissibility stipulated:**

22 *Plaintiff's Exhibits*

- 23 1. Award
- 24 2. Memorandum from Colonel Walker to Plaintiff, Nov. 5, 2004
- 25 3. Torem Report, Oct. 20, 2004
- 26 4. 1988 Officer Effectiveness Report for Plaintiff
5. 1987 Officer Effectiveness Report for Plaintiff

- 1 6. July 12, 2007 Reserve Order
- 2 7. 2005-06 Officer Performance Report
- 3 8. 2004-05 Officer Performance Report
- 4 9. 2003-04 Officer Performance Report
- 5 10. 2002-03 Officer Performance Report
- 6 11. 2001-02 Officer Performance Report
- 7 12. 2000-01 Officer Performance Report
- 8 13. 1999-2000 Officer Performance Report
- 9 14. 1998-99 Officer Performance Report
- 10 15. 1997-98 Officer Performance Report
- 11 16. 1994-95 Officer Performance Report
- 12 17. 1993-94 Officer Performance Report
- 13 18. 1992-93 Officer Performance Report
- 14 19. 1991-92 Officer Performance Report
- 15 20. 1990-91 Officer Performance Report
- 16 21. 1989-1990 Officer Performance Report
- 17 22. 1988-89 Officer Performance Report
- 18 23. April 1988 to October 1988 Officer Performance Report
- 19 24. 1991-92 Officer Performance Report
- 20 25. 1990-91 Officer Performance Report
- 21 26. Supplemental Evaluation Sheet
- 22 27. Record of Board Proceedings
- 23 28. NDRI Rand Report
- 24 29. July 21, 2000 Memorandum from Under Secretary of Defense
- 25 30. 1993 GAO Report to Congress
- 26 31. 1992 GAO Report to Congress
32. December 22, 2004 Department of Defense Memo

- 1 33. August 30, 2005 Department of Defense – DOAF Memo
- 2 35. September 14, 2004 Torem Memo
- 3 36. July 7, 2004 Memo to Torem from Crabtree
- 4 37. July 7, 2004 Memo from Duignan
- 5 40. Air Force Instruction 36-3209 February 1998
- 6 41. Photograph of 446th Unit Members
- 7 42. Photograph of 446th Unit Members
- 8 43. Photograph of 446th Unit Members
- 9 44. Photograph of 446th Unit Members
- 10 45. Photograph of 446th Unit Members
- 11 46. Photograph of 446th Unit Members
- 12 47. Photograph of 446th Unit Members
- 13 48. Photograph of 446th Unit Members
- 14 49. Photograph of Plaintiff
- 15 50. Photograph of Plaintiff
- 16 51. Photograph of 446th Unit Members
- 17 52. Photograph of 446th Unit Members
- 18 53. Photograph of 446th Unit Members
- 19 56. Elizabeth Kier CV
- 20 57. Nathaniel Frank CV
- 21 58. Anthony Greenwald CV
- 22 59. February 2005 GAO Report
- 23 66. May 2, 2010 email
- 24 67. Retirement Ceremony Invitation
- 25 68. Photograph of C-17 and C-141
- 26 69. June 21, 2010 Memo from Swint to Plaintiff
73. July 26, 2010 Retirement Ceremony Invitation

- 1 75. May 5, 2008 Memo from General Brady
2 76. October 1, 2004 Memo from Crabtree to Torem
3 77. Memo from Duignan
4 78. July 13, 2004 Memo from Crabtree to Torem
5 79. November 6, 2004 Memo
6 87. 1996-97 Officer Performance Report
7 88. 1995-96 Officer Performance Report
8 89. April 1995 to November 1995 Officer Performance Report
9 104. January 10, 2000 Memo from Ryan to Peters
10 106. Photograph of Plaintiff
11 107. Photograph of Plaintiff
12 108. March 17, 2010 Edmond Hrivnak Video produced during deposition
13 109. Organization charts
14 110. July 21, 2000 Memo
15 113. December 8, 2004 Memo from Geringer
16 114. February 1, 2006 email
17 117. Air Force Instruction 36-3209
18 119. April 29, 2008 email
19 120. September 1, 2003 Walker Memo
20 122. July 10, 2007 Action by Secretary of Air Force
21 123. Awards
22 125. Air Force Brochure

23 *Defendants' Exhibits*

- 24 A-1 Witt Certificate of Honorable Discharge
25 A-4 Memorandum from General Duignan to Colonel Crabtree, July 7, 2007
26 A-5 Memorandum from Colonel Crabtree to Major Torem, July 7, 2004
A-6 Torem Report, Oct. 20, 2004

- 1 A-7 Memorandum from Colonel Mary Walker to HQ/AFRC re: Recommendation for Action
2 under AFI 36-3209, Nov. 6, 2004
- 3 A-9 Memorandum from Colonel Mary Walker to Margaret Witt re: Denial of Participation,
4 Nov. 10, 2004
- 5 A-10 Dec. 8, 2004 Legal Review of Commander's Recommendation
- 6 A-11 Memorandum from Colonel Crabtre to HQ AFRC, Dec. 22, 2004
- 7 A-13 Memorandum from AFRC to 446MSS, Aug. 30, 2005
- 8 A-14 Notification of Separation Action, Feb. 23, 2006
- 9 A-15 Request for Board Hearing, March 15, 2006
- 10 A-16 Memorandum from Lt. General John Bradley to AFRC/CC, Mar. 21, 2007
- 11 A-17 Memorandum from HQ AFRC to Margaret Witt, April 13, 2007
- 12 A-18 Memorandum from Margaret Witt to HQ AFRC, May 5, 2007
- 13 A-20 Record of Air Force Personnel Recommendation Board
- 14 A-21 Action of the Secretary of the Air Force, July 10, 2007
- 15 A-22 E-mail from Margaret Witt to Deena Harris, Sept. 21, 2006
- 16 A-23 E-mail from Margaret Witt to Craig Mason, Oct. 3, 2006
- 17 A-24 E-mail from Margaret Witt to Ken ?, Oct. 7, 2006
- 18 A-25 E-mail from Margaret Witt to Grethe Cammermeyer, Dec. 10, 2008
- 19 A-26 E-mail from Margaret Witt to Heidi ?, July 10, 2009
- 20 A-27 Memorandum from Eddie Swint Attaching Amendment to Separation Order,
21 June 21, 2010
- 22 A-28 E-Mail from Margaret Witt to Elizabeth Wurtz, June 26, 2007
- 23 A-29 E-mail from Margaret Witt to Nancy Royse, Sept. 21, 2006
- 24 A-30 Senate Hearing 103-845
- 25 A-31 Discharge Board Record
- 26 A-32 July 12, 2007 Discharge Order
- A-33 Designated portions of the Deposition Transcript for Margaret Witt

1 A-34 Designated portions of the Deposition Transcript for Mary Walker

2 A-37 Text of 10 U.S.C. § 654

3 A-38 Plaintiff's answers to RFAs 1-7

4 A-39 Plaintiff's answer to Int. 10

5 A-40 Plaintiff's answer to RFA 34

6
7 **B. Authenticity stipulated; admissibility disputed:**

8 *Plaintiff's Exhibits*

9 38. August 30, 2008 Stenner speech

10 39. August 31, 2008 Stenner speech

11 54. Efficacy of Don't Ask Don't Tell by Colonel Om Prakash

12 55. Sexual Orientation Disclosure, Concealment, Harassment, and Military Cohesion:
13 Perceptions of LGBT Military Veterans

14 60. Attitude of Iraq and Afghanistan War Veterans toward Gay and Lesbian Service
15 Members by Bonnie Moradi and Laura Miller

16 61. Homosexuals in the U.S. Military by Elizabeth Kier

17 62. Rights and Fights: Sexual Orientation and Military Effectiveness by Tarak Barkawi,
18 Christopher Dandeker, Melissa Wells-Petry, and Elizabeth Kier

19 63. February 2, 2010 Hearing of Senate Armed Services Committee

20 64. February 3, 2010 Hearing of House Armed Services Committee

21 65. March 25, 2010 Briefing

22 70. Certificate of Release or Discharge from Active Duty

23 71. June Memo from Liggett

24 72. 2001-02 Fitness Report and Counseling Record

25 74. Tacoma Police Department Report

26 80. March 25, 2010 Transcript

81. April 4, 2008 email from Loverde to Welch

- 1 82. April 28, 2008 Memo from Nutt
- 2 83. April 28, 2008 Memo from Horn
- 3 84. June 2, 2008 Memo from Yakowenko
- 4 85. Certificate of Release or Discharge from Active Duty
- 5 86. June 2, 2008 Memo from Eslinger
- 6 90. December 2007 Serious Incident Report
- 7 91. January 2008 Serious Incident Report
- 8 92. February 2008 Serious Incident Report
- 9 93. March 2008 Serious Incident Report
- 10 94. April 2008 Serious Incident Report
- 11 95. May 2008 Serious Incident Report
- 12 96. June 2008 Serious Incident Report
- 13 97. Memo
- 14 98. January 24, 2008 Memo from Moore-Harbert to Kearney
- 15 99. February 4, 2008 Memo from Kearney
- 16 100. October 25, 2007 Incident Report Summary
- 17 101. April 2, 2010 Memo from Newton
- 18 102. April 1, 2010 Memo from Schwarz
- 19 103. April 2, 2010 Memo from Newton
- 20 105. March 20, 2002 BOI Record of Proceedings
- 21 111. PERSEREC September 1991
- 22 112. October 1, 1993 Memo from Dorn
- 23 115. Air Force Instruction 36-3206
- 24 116. Air Force Instruction 36-3207
- 25 121. July 15, 1999 FORSCOM Regulation 500-3-3
- 26

- 1 126. Homosexuals in the Military -- Open Integration and Combat Effectiveness
2 by Elizabeth Kier (Fall 1998)
- 3 127. Effect of the 1992 Lifting of Restrictions on Gay and Lesbian Service in the
4 Canadian Forces: Appraising the Evidence, April, 2000, by A. Belkin and J.
5 McNichol.
- 6 128. A. Belkin & M. Levitt, Homosexuality and the Israeli Defense Forces: Did
7 Lifting the Gay Ban Undermine Military Performance? (2001)
- 8 129. A. Belkin & R.L. Evans, The Effects of Including Gay and Lesbian Soldiers
9 in the British Armed Forces: Appraising the Evidence, November, 2000.
- 10 130. Belkin & J. McNichol, The Effects of Including Gay and Lesbian Soldiers in
11 the Australian Defense Forces: Appraising the Evidence, September, 2000.
- 12 131. G. Bateman & S. Dalvi, Multinational Military Units and Homosexual
13 Personnel, February, 2004.
- 14 132. N. Frank, Gays and Lesbians at War: Military Service in Iraq and
15 Afghanistan Under "Don't Ask, Don't Tell," September 15, 2004.
- 16 133. Bowen, A. M., & Bourgeois, M. J. (2001). Attitudes toward lesbian, gay and
17 bisexual college students: The contribution of pluralistic ignorance, dynamic
18 social impact and contact theories
- 19 134. Freedman, J. L. (1969). Role playing: Psychology by consensus.
- 20 135. Gilbert, D. T., Pinel, E. C., Wilson, T. D., Blumberg, S. J., & Wheatley, T. P.
21 (1998). Immune neglect: A source of durability bias in affective forecasting
- 22 136. Kawakami, K., Dunn, E., Karmali, F., & Dovidio, J. F. (2009). Misreading
23 affective and behavioral responses to racism.
- 24 137. LaPiere, R. T. (1934). Attitudes versus actions.
- 25 138. Milgram, S. (1963). Behavioral study of obedience.
- 26

- 1 139. Nosek, B. A., & Hansen, J. J. (2008). The associations in our heads belong to
2 us: Searching for attitudes and knowledge in implicit evaluation
- 3 140. Nosek, B. A., Smyth, F. L., Hansen, J. J., Devos, T., Lindner, N. M.,
4 Ranganath, K. A., Smith, C. T., Olson, K. R., Chugh, D., Greenwald, A. G., &
5 Banaji, M. (2007). Pervasiveness and correlates of implicit attitudes and
6 stereotypes
- 7 141. Prentice, D. A., & Miller, D. T. (1993). Pluralistic ignorance and alcohol use
8 on campus: Some consequences of misperceiving the social norm.
- 9 142. July 17, 2000 Memo from Kopfstein
- 10 143. Designated portions of the Deposition Transcript for Colonel Mary Walker
- 11 144. Designated portions of the Deposition Transcript for General Eric Crabtree
- 12

13 *Defendants' Exhibits*

14 A-2 Email from Pat McChesney to General Jumper, June 14, 2004

15 A-3 Email Chain

16 A-8 Torem Declaration, Nov. 10, 2004

17 A-12 Declaration of Tiffany Jensen, May 2, 2005

18 A-19 Memorandum for the Secretary of the Air Force, July 6, 2007

19 A-35 Designated portions of the Deposition Transcript for Dennis Laich

20 A-36 Designated portions of the Deposition Transcript for Nathaniel Frank

21 //

22 //

1 **C. Authenticity and admissibility disputed:**

2 *Plaintiff's Exhibits*

3 124. September 2003 Memo

4 Respectfully submitted,

5 DATED this 2nd day of September, 2010.

6 DATED this 2nd day of September, 2010.

7 AMERICAN CIVIL LIBERTIES UNION OF
8 WASHINGTON FOUNDATION

9 U.S. DEPARTMENT OF JUSTICE

10 By:

11 By:

12 /s/ Sarah A. Dunne
13 Sarah A. Dunne, WSBA #34869
14 Sher S. Kung, WSBA #42077
15 901 Fifth Avenue #630
16 Seattle, WA 98164
17 Tel: (206) 624-2184
18 dunne@aclu-wa.org
19 skung@aclu-wa.org

20 /s/ Bryan R. Diederich
21 Peter J. Phipps
22 Bryan R. Diederich
23 Stephen J. Buckingham
24 United States Department of Justice
25 Civil Division, Federal Programs Branch
26 20 Massachusetts Ave., N.W.
Washington, D.C. 20001
Tel: (202) 616-8482
Fax: (202) 616-8470
peter.phipps@usdoj.gov
Stephen.Buckingham@usdoj.gov
bryan.diederich@usdoj.gov

CARNEY BADLEY SPELLMAN

Attorneys for Defendants

27 /s/ James Lobsenz
28 James Lobsenz, WSBA #8787
29 701 5th Ave Ste 3600
30 Seattle, WA 98104-7010
31 Tel. (206) 622-8020
32 lobsenz@carneylaw.com
33 *Attorneys for Plaintiff*