

# Exhibit A

*Witt v. U.S. Dept. of the Air Force*, No. C06-5195 RBL  
Defendants' Opposition to Plaintiff's Motion for Costs

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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

MAJOR MARGARET WITT,	)	Docket No. C06-5195RBL
	)	
Plaintiff,	)	Tacoma, Washington
	)	
vs.	)	September 14, 2010
	)	
UNITED STATES DEPARTMENT OF THE	)	
AIR FORCE; DONALD H. RUMSFELD,	)	
Secretary of Defense; MICHAEL W.	)	
WYNNE, Secretary of the	)	
Department of Air Force; and	)	VOLUME 2
COLONEL MARY L. WALKER,	)	
Commander, 446th Aeromedical	)	
Evacuation Squadron, McChord	)	
AFB,	)	
	)	
Defendants.	)	ROUGH DRAFT TRANSCRIPT

TRANSCRIPT OF PROCEEDINGS  
BEFORE THE HONORABLE RONALD B. LEIGHTON  
UNITED STATES DISTRICT COURT JUDGE

APPEARANCES:

For the Plaintiff: JAMES E. LOBSENZ  
Carney Badley Spellman  
701 Fifth Avenue, Ste 3600  
Seattle, Washington 98104-7010

SARAH DUNNE  
SHER KUNG  
American Civil Liberties Unions  
of Washington  
901 Fifth Avenue, Ste 630  
Seattle, Washington 98164

Court Reporter: Teri Hendrix  
Union Station Courthouse, Rm 3130  
1717 Pacific Avenue  
Tacoma, Washington 98402  
(253) 882-3831

1 Heidi Schmidt are all members of the 446th. And finishing  
2 reading this and the video deposition of Anthony Loverde.  
3 That should take up tomorrow.

4 THE COURT: You can put this activity, anywhere.

5 MR. LOBSENZ: Yes.

6 THE COURT: It's not necessary -- what I want to do,  
7 I want to be as considerate of the witnesses as we can be, and  
8 then use this as filler. To be sure, you don't need to do  
9 this at all.

10 MR. LOBSENZ: We made the same arrangements to  
11 General Stenner as a hard set for Tuesday the follow week, I  
12 think that takes care of all the traveling witnesses we've  
13 tried to get all the traveling witnesses in an out.

14 THE COURT: Mr. Phipps?

15 MR. PHIPPS: Nothing from our side.

16 THE COURT: I will see you tomorrow morning, I will  
17 have a sentencing but it should not interfere with the start  
18 time.

19 Court will be in recess.

20 MR. DIEDERICH: With respect to the DVD we would make  
21 the same offer, we don't need to have it played, submit it on  
22 paper, if that's helpful to the arrangement.

23 (Proceedings concluded at 4:31 p.m..)

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1 UNITED STATES DISTRICT COURT  
2 WESTERN DISTRICT OF WASHINGTON  
3 AT TACOMA  
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5  
6 MAJOR MARGARET WITT, ) Docket No. C06-5195RBL  
7 )  
8 Plaintiff, ) Tacoma, Washington  
9 )  
10 vs. ) September 20, 2010  
11 )  
12 UNITED STATES DEPARTMENT OF THE )  
13 AIR FORCE; DONALD H. RUMSFELD, )  
14 Secretary of Defense; MICHAEL W. )  
15 WYNNE, Secretary of the )  
16 Department of Air Force; and )  
17 COLONEL MARY L. WALKER, ) VOLUME 5  
18 Commander, 446th Aeromedical )  
19 Evacuation Squadron, McChord )  
20 AFB, )  
21 ) ROUGH DRAFT  
22 Defendants. )  
23 )  
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25 )  
26 )  
27 )  
28 TRANSCRIPT OF PROCEEDINGS  
29 BEFORE THE HONORABLE RONALD B. LEIGHTON  
30 UNITED STATES DISTRICT COURT JUDGE  
31  
32 APPEARANCES:  
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35 Carney Badley Spellman  
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37 Seattle, Washington 98104-7010  
38  
39 SARAH DUNNE  
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1 REALTIME UNEDITED TRANSCRIPT IN THE MATTER OF  
2 WITT v. U.S. DEPARTMENT OF THE AIR FORCE  
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6 A transcript of proceedings in the above-entitled matter  
7 is being delivered UNEDITED and UNCERTIFIED by the official  
8 court reporter at the request of counsel.  
9  
10 The purchaser agrees not to disclose this realtime  
11 unedited transcript in any form, written or electronic, to  
12 anyone who has no connection to this case. This is an  
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21 This transcript has not been checked, proofread, or  
22 corrected. It is a draft transcript, NOT a certified  
23 transcript. As such it may contain computer-generated  
24 mistranslations of Stenotype code or electronic transmission  
25 errors, resulting in inaccurate or nonsensical word  
26 combinations or untranslated Stenotype or nonsensical word  
27 combinations or untranslated Stenotype symbols which cannot be  
28 deciphered by non-Stenotypists.  
29  
30 Corrections will be made during the preparation of a  
31 certified transcript, resulting in differences in content,  
32 page and line numbers, punctuation, and formatting.  
33  
34 This realtime unedited draft contains no index or  
35 certification.  
36  
37 \*\*\*\*\*  
38 \*\*\*\*\*

1 APPEARANCES- CONTINUED  
2  
3  
4  
5  
6  
7  
8 For the Defendants: PETER J. PHIPPS  
9 BRYAN R. DIEDERICH  
10 STEPHEN J. BUCKINGHAM  
11 U.S. Department of Justice  
12 Civil Division Federal Programs  
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16  
17 Also Present: LT. COLONEL TODI CARNES  
18 United States Air Force  
19 1777 N. Kent St., Suite 11400  
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45 Tacoma, Washington 98402  
46 (253) 882-3831  
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48  
49 Proceedings recorded by mechanical stenography, transcript  
50 produced by Reporter on computer.

1 MONDAY, SEPTEMBER 20, 2010 - 9:30 A.M.  
2 \* \* \* \* \*  
3 THE COURT: Please be seated. Good morning.  
4 All right, anything we need to take up before resuming  
5 with testimony?  
6 MR. LOBSENZ: No, Your Honor.  
7 MR. PHIPPS: New York Your Honor.  
8 THE COURT: Okay. Mr. Lobsenz? Call your next  
9 witness.  
10 We would call major Margaret Witt.  
11 THE COURT: You've heard my admonition ad nauseam  
12 come to the lectern and be sworn.  
13 Major Margaret Witt.  
14 Major Witt, called as a witness, duly sworn.  
15  
16 THE COURT: Please be seated at the witness stand  
17 immediately to my left. Please keep the volume of your voice  
18 up so the people in the courtroom can hear you. Speak slowly  
19 enough so the Court Reporter can keep up with you.  
20 DIRECT EXAMINATION  
21 BY MR. LOBSENZ:  
22 Q. Good morning.  
23 A. Good morning.  
24 Q. Would you state your name for the record?  
25 A. Margaret Helen Witt.

1  
 2 BY THE COURT:  
 3 Q. One, you talked about the increase in social cohesion  
 4 might actually result in lower task cohesion because friends  
 5 might be reluctant to criticize hurt feels and so forth.  
 6 Is that dynamic in a unit, a, could bit a possible reason  
 7 for persons who might otherwise be opposed to open service of  
 8 gays and lesbians, keeping quiet, not registering their  
 9 disapproval because of the highly socialized cohesion of the  
 10 particular unit that they are in?  
 11 A. Could you rephrase it. I am sorry I didn't understand.  
 12 Q. I think you specifically referred to a reluctant to  
 13 criticize and a reluctant to hurt feels as an example of how a  
 14 unit with high social cohesion might actually result in a  
 15 lower task cohesion or performance?  
 16 A. Performance, yes.  
 17 Q. And the question is, is it possible that that dynamic  
 18 could work in the case of the issue before us, open service of  
 19 gays and lesbians, on those folks within the unit who might  
 20 otherwise be opposed did you but do not want to hurt somebody  
 21 else's feelings?  
 22 A. So that they wouldn't say that --  
 23 Q. They wouldn't say -- they wouldn't come for and say they  
 24 were opposed, they wouldn't, they perhaps wouldn't like it,  
 25 they would be opposed to it for whatever reason based on their

1 have opined about, but the concept of the war your culture was  
 2 discussed previously. Have you done research on the wore year  
 3 culture and its continued vitality or whether it is  
 4 dissipating in the military do you have an understanding of  
 5 what the war your culture refers to.  
 6 A. I would assume war your culture refers to the loyalty an  
 7 aggressiveness and commitment to the task. I have never done  
 8 research on it to know, no.  
 9 Q. Thank you very much.  
 10 Any other questions.  
 11 MR. BUCKINGHAM: No, Your Honor.  
 12 MR. LOBSENZ: No, Your Honor.  
 13 THE COURT: You may be excused.  
 14 Thank you very much.  
 15 Do you have.  
 16 MR. LOBSENZ: We don't have a live witness left Your  
 17 Honor.  
 18 THE COURT: Do we really need to read these, do the  
 19 video -- professor you may leave.  
 20 MR. LOBSENZ: The video I confidently say no we  
 21 don't need to do that.  
 22 THE COURT: Because I have read both depositions.  
 23 Mr. Phipps you want to say something.  
 24 MR. PHIPPS: Not preempting Mr. Lobsenz's trial  
 25 plans, but in anticipation that we might have a little gap, we

1 experience or upbringing or whatever but they would keep their  
 2 mouth shut because they are in a highly socialized unit where  
 3 the culture of that unit, where the view would be 0 -- or  
 4 their perception of the view would be contrary to their 18?  
 5 A. Yes, they might be -- they might be unwilling to say I  
 6 don't support open integration if they thought the general  
 7 climate in their unit was supportive of gays. When the  
 8 surveys are done about whether a service members support open  
 9 integration or not, these are not done in a public forum.  
 10 Q. Right, I understand that. I am just talking generally  
 11 about the civil war confederate soldiers, find somebody in a  
 12 highly socialized -- you've got a Buddy system and you can go  
 13 off and create a larger group in the social dynamic and we use  
 14 the term political correctness and whether or not is that its  
 15 own form of whether it be intolerance or, think mob, mob  
 16 orientation, we all think -- we all live here and we all think  
 17 alike on such and such. Those people are bad and indicative  
 18 and biassed but not us?  
 19 A. Yes, and this is interesting you say this because this is  
 20 what a lot of the researchers have found and I didn't talk  
 21 about this the more socially cohesive groups experience group  
 22 think, and they do find the higher the social cohesion the  
 23 more likely the group think, the higher the task cohesion, the  
 24 less likely the group think, yes.  
 25 Q. This may be off, it's certainly off the topic that you

1 do have one witness waiting in the wings.  
 2 THE COURT: I am not looking for a witness, I just  
 3 want to foe how we are doing for time. My sense was we might  
 4 be falling a little bit behind and that was one way to catch  
 5 up a little. It's up to you.  
 6 MR. LOBSENZ: As long as I can refer to Colonel  
 7 Hansen's deposition at closing.  
 8 THE COURT: It's in.  
 9 MR. LOBSENZ: Then that maybe something I wouldn't  
 10 usually do in closing, to sort of get into details of  
 11 testimony that we already heard, but then I guess we don't  
 12 need to do that.  
 13 So we don't have any more --  
 14 THE COURT: I know a well done trial is a certain  
 15 amount of theatre, and you want that out, but I think that  
 16 it's not, the bank is not worth the buck right now, you can  
 17 make those arguments but I have certainly read the deposition.  
 18 Mr. Phipps?  
 19 MR. PHIPPS: I just want to say we have no problem to  
 20 Mr. Lobsenz referring to those deposition.  
 21 THE COURT: It's in.  
 22 Now, who would be the witness that you would call?  
 23 MR. PHIPPS: We've got a witness we don't anticipate  
 24 to take too much time chief master sergeant Jan Kallinen she's  
 25 basically going to testify on pretty small points, procedural