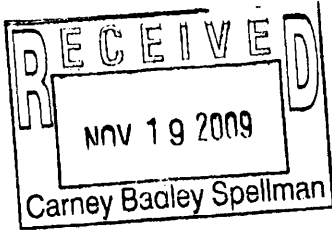


APPENDIX A

11



Judge Ronald B. Leighton

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

MAJOR MARGARET WITT,

Plaintiff,

v.

UNITED STATES DEPARTMENT OF
THE AIR FORCE, et al.,

Defendants.

No. C06-5195 RBL

**DEFENDANTS' OBJECTIONS AND
RESPONSES TO PLAINTIFF'S FIRST
REQUESTS FOR ADMISSION,
INTERROGATORIES, AND
REQUESTS FOR PRODUCTION**

Pursuant to Rules 33, 34, and 36 of the Federal Rules of Civil Procedure, defendants the Department of the Air Force; Robert M. Gates, the Secretary of Defense; Michael B. Donley, the Secretary of the Air Force; and Colonel Janette Moore-Harbert, the commander of the 446th Aeromedical Evacuation Squadron, McChord Air Force Base, hereby submit the following objections and responses to Plaintiff's First Requests for Admission, Interrogatories, and Requests for Production to Defendants.

GENERAL OBJECTIONS

1. Defendants object to the definitions and instructions in Plaintiff's First Requests for Admission, Interrogatories, and Requests for Production to Defendants to the extent that they conflict with or purport to expand upon Defendants' obligations under the Federal Rules of Civil

12

1 Procedure or the Civil Rules for the United States District Court for the Western District of
2 Washington.

3 2. Defendants object to Plaintiff's First Requests for Admission, Interrogatories, and
4 Requests for Production to Defendants to the extent that they seek information and documents
5 protected from disclosure by the attorney-client privilege, the law-enforcement privilege, the
6 deliberative-process privilege, the investigatory files privilege, the work-product doctrine, the
7 Privacy Act, and any other applicable privilege or protection.

8 3. Defendants object to Plaintiff's First Requests for Admission, Interrogatories, and
9 Requests for Production to Defendants to the extent that they are overly broad or attempt to
10 impose obligations on Defendants that are unduly burdensome, expensive, and/or oppressive.

11 4. Defendants reserve the right to amend, supplement, or alter these objections and
12 responses to Plaintiff's First Requests for Admission, Interrogatories, and Requests for
13 Production to Defendants at any time. Defendants further reserve the right to redact any portions
14 of documents for any reason contemplated under the Federal Rules of Civil Procedure or the
15 Civil Rules for the United States District Court for the Western District of Washington without
16 waiving any rights either by doing so or by producing un-redacted portions of documents.

17 5. Defendants object to these requests as unduly burdensome to the extent that they
18 require production of electronic documents, the retrieval of which, to the extent possible, would
19 involve undue expense, time, and allocation of resources for minimal return.

20 6. Defendants object to these requests as unduly burdensome to the extent that they
21 seek information or documents that is publicly available; part of any court, magistrate, or tribunal
22 proceeding; or in plaintiff's possession, custody, or control.

23 7. Defendants object to the requests for production of documents for failing to
24 specify a time, place, and manner for production. Defendants will produce documents at a
25 mutually agreeable time and place, and in a mutually agreeable manner.

26 8. These General Objections shall apply to each of the discovery requests below,
27 notwithstanding any specific objections set forth below.
28

1 **REQUEST FOR ADMISSION NO. 1**

2 Admit or deny the truth of this statement: Defendants are unaware of the existence of any person
3 who either currently serves, or who has previously served, in the 446th Aeromedical Evacuation
4 Squadron, who has ever complained that Major Witt's presence in the 446th had a negative
5 impact on unit cohesion, unit morale or unit discipline.

6 **RESPONSE:** Defendants object to this request for admission as unduly burdensome to the
7 extent that it presupposes or requires information gathering that would be contrary to the chain-
8 of-command functionality of the military and/or that would compromise unit morale and unit
9 cohesion – Congress's stated goals underlying 10 U.S.C. § 654.

10 Defendants also object to this request for admission because plaintiff's use of the term
11 "complained," is vague and capable of multiple meanings. The term "complained" could refer to
12 on-the-job complaints, off-the-job complaints, formal complaints, informal complaints, or other
13 varieties of complaints. Moreover, the term "complained" is vague and unclear due to its
14 subjectivity – a factual statement could be viewed by one person as a complaint and by another as
15 a recitation of facts. For purposes of responding to this request for admission, defendants
16 interpret the term "complained" as including the denial of participation memorandum from
17 Colonel Mary L. Walker and her subsequent recommendation for action.

18 Defendants object to the term "negative impact" as vague, capable of multiple meanings,
19 and potentially misleading because it is unclear whether it refers to a person's overall impact or
20 whether it refers to the specific impact of a particular act or attribute of that person.

21 Defendants object to plaintiff's use of the term "unit" because it is vague and ambiguous,
22 as to whether that term as used by plaintiff refers to only members of the 446th Aeromedical
23 Evacuation Squadron or whether it applies to other groups of military personnel who on a given
24 assignment are required to work together as a unit.

25 Subject to and without waiving these objections and the General Objections, defendants
26 deny the statement.
27
28

1 If your response to this Request for Admission was "DENY" then pursuant to Rule 36(a)(4) state
2 in detail why you cannot truthfully admit it and answer the following interrogatory:

3 **OBJECTION:** Defendants object to this instruction to the extent that it purports to
4 impose an obligation that is not contained in Rule 36(a)(4). Instead, Rule 36(a)(4) requires a
5 detailed statement of "why the answering party cannot truthfully admit or deny it," only as an
6 alternative to admitting or specifically denying the statement. Fed. R. Civ. P. 36(a)(4).

7 **INTERROGATORY NO. 1**

8 Identify each person who either currently serves, or who has previously served, in the 446th
9 Aeromedical Evacuation Squadron, who has complained that Major Witt's presence in the 446th
10 had a negative impact on unit cohesion, unit morale or unit discipline, and state all the facts
11 known to defendants regarding such a complaint. When identifying each such person give their
12 full name, rank, present duty assignment, present address, or if not known the person's last known
13 address, any known telephone number (home and cell phone) and any known present email
14 address (personal or military).

15 **RESPONSE:** Defendants incorporate by reference their objections to Request for
16 Admission No. 1 as objections to this interrogatory.

17 Defendants further object to this interrogatory because it asks two discrete questions: (i) an
18 identification of the persons who complained of Major Witt's presence in the 446th Aeromedical
19 Evacuation Squadron and (ii) an identification of all facts known to defendants regarding such a
20 complaint. Accordingly, this inquiry constitutes two separate interrogatories under Rule 33(a).

21 Defendants also object to this interrogatory as overly broad to the extent that it seeks
22 information for time periods predating Margaret Witt's assignment to 446th Aeromedical
23 Evacuation Squadron.

24 Moreover, Defendants object to this interrogatory to the extent that it seeks the disclosure
25 of personal information protected by the Privacy Act.

26 Subject to and without waiving these objections and the General Objections, defendants
27 identify Colonel Mary Walker in response to this interrogatory based on the denial of participation
28 memorandum and her subsequent recommendation for action.

1 If your response to Request for Admission No. 1 was "DENY" then respond to the following
2 Request for Production:

3 **REQUEST FOR PRODUCTION NO. 1**

4 Produce every document which contains evidence supporting your denial.

5 **RESPONSE:** Defendants incorporate by reference their objections to Request for
6 Admission No. 1 and Interrogatory No. 1 as objections to this request for production.

7 Defendants also object to this request for production to the extent that it seeks documents
8 that are outside of defendants' possession, custody, or control.

9 Subject to and without waiving these objections, the General Objections and any
10 applicable privileges, defendants will produce non-privileged, non-protected responsive
11 documents.

12
13 **REQUEST FOR ADMISSION NO. 2**

14 Admit or deny the truth of this statement: Defendants are unaware of the existence of any person
15 who either currently serves, or who has previously served, in the 446th Aeromedical Evacuation
16 Squadron, who has ever complained that the presence of a known lesbian within the 446th either
17 had, or would have, a negative impact on unit cohesion, unit morale or unit discipline.

18 **RESPONSE:** Defendants object to this request for admission as unduly burdensome to
19 the extent that it presupposes or requires information gathering that would be contrary to the
20 chain-of-command functionality of the military and/or that would compromise unit morale and
21 unit cohesion – Congress's stated goals underlying 10 U.S.C. § 654.

22 Defendants also object to this request for admission because plaintiff's use of the term
23 "complained," is vague and capable of multiple meanings. The term "complained" could refer to
24 on-the-job complaints, off-the-job complaints, formal complaints, informal complaints, or other
25 varieties of complaints. Moreover, the term "complained" is vague and unclear due to its
26 subjectivity – a factual statement could be viewed by one person as a complaint and by another as
27 a recitation of facts. For purposes of responding to this request for admission, defendants
28 interpret the term "complained" as including the denial of participation memorandum from

1 Colonel Mary L. Walker and her subsequent recommendation for action.

2 Plaintiff used the term "known lesbian." Defendants object to that term because it is
3 vague in multiple respects, including (but not limited to) the relationship of the term to 10 U.S.C.
4 § 654, and the basis of any of the complaints described in plaintiff's request for admission. For
5 purposes of responding to this request for admission, defendants interpret the term to include
6 Margaret Witt.

7 Defendants object to the term "negative impact" as vague, capable of multiple meanings,
8 and potentially misleading because it is unclear whether it refers to a person's overall impact or
9 whether it refers to the specific impact of a particular act or attribute of that person.

10 Defendants object to plaintiff's use of the term "unit" because it is vague and ambiguous,
11 as to whether that term as used by plaintiff refers to only members of the 446th Aeromedical
12 Evacuation Squadron or whether it applies to other groups of military personnel who on a given
13 assignment are required to work together as a unit.

14 Subject to and without waiving these objections and the General Objections, defendants
15 deny the statement.

16
17 If your response to this Request for Admission was "DENY" then pursuant to Rule 36(a)(4) state
18 in detail why you cannot truthfully admit it and answer the following interrogatory:

19 **OBJECTION:** Defendants object to this instruction to the extent that it purports to
20 impose an obligation that is not contained in Rule 36(a)(4). Instead, Rule 36(a)(4) requires a
21 detailed statement of "why the answering party cannot truthfully admit or deny it," only as an
22 alternative to admitting or specifically denying the statement. Fed. R. Civ. P. 36(a)(4).

23 **INTERROGATORY NO. 2**

24 Identify each person who either currently serves, or who has previously served, in the 446th
25 Aeromedical Evacuation Squadron, who has complained that the presence of a known lesbian
26 within the 446th had, or would have a negative impact on unit cohesion, unit morale or unit
27 discipline, and state all the facts known to defendants regarding such a complaint. When
28 identifying each such person give their full name, rank, present duty assignment, present address.

1 or if not known the person's last known address, any known telephone number (home and cell
2 phone) and any known present email address (personal or military).

3 **RESPONSE:** Defendants incorporate by reference their objections to Request for
4 Admission No. 2 as objections to this interrogatory.

5 Defendants further object to this interrogatory because it asks two discrete questions: (i) an
6 identification of the persons who complained of a "known lesbian" in the 446th Aeromedical
7 Evacuation Squadron and (ii) an identification of all facts known to defendants regarding such a
8 complaint. Accordingly, this inquiry constitutes two separate interrogatories under Rule 33(a).

9 Defendants also object to this interrogatory as overly broad to the extent that it seeks
10 information for time periods predating Margaret Witt's assignment to 446th Aeromedical
11 Evacuation Squadron.

12 Moreover, defendants object to this interrogatory to the extent that it seeks the disclosure
13 of personal information protected by the Privacy Act.

14 Subject to and without waiving these objections and the General Objections, defendants
15 identify Colonel Mary Walker in response to this interrogatory based on the denial of participation
16 memorandum and her subsequent recommendation for action.

17
18 If your response to Request for Admission No. 2 was "DENY" then respond to the following
19 Request for Production:

20 **REQUEST FOR PRODUCTION NO. 2**

21 Produce every document which contains evidence supporting your denial.

22 **RESPONSE:** Defendants incorporate by reference their objections to Request for
23 Admission No. 2 and Interrogatory No. 2 as objections to this request for production.

24 Defendants further object to this request for production to the extent that it seeks sensitive
25 information regarding the status and/or evaluation of the readiness of military forces.

26 Defendants also object to this request for production to the extent that it seeks documents
27 that are outside of defendants' possession, custody, or control.

28 Subject to and without waiving these objections, the General Objections and any

1 applicable privileges, defendants will produce non-privileged, non-protected responsive
2 documents.

3
4 **REQUEST FOR ADMISSION NO. 3**

5 Admit or deny the truth of this statement: Defendants are unaware of the existence of any person
6 who either currently serves, or has previously served, in the 446th Aeromedical Evacuation
7 Squadron, who is of the opinion that the presence of a known lesbian within the 446th either in the
8 past had, or in the future would have, a negative impact on unit cohesion, unit morale or unit
9 discipline.

10 **RESPONSE:** Defendants object to this request for admission as unduly burdensome to
11 the extent that it presupposes or requires information gathering that would be contrary to the
12 chain-of-command functionality of the military and/or that would compromise unit morale and
13 unit cohesion – Congress’s stated goals underlying 10 U.S.C. § 654.

14 Plaintiff used the term “known lesbian.” Defendants object to that term because it is
15 vague in multiple respects, including (but not limited to) the relationship of the term to 10 U.S.C.
16 § 654, and the basis of any of the complaints described in plaintiff’s request for admission. For
17 purposes of responding to this request for admission, defendants interpret the term to include
18 Margaret Witt.

19 Defendants object to the term “negative impact” as vague, capable of multiple meanings,
20 and potentially misleading because it is unclear whether it refers to a person’s overall impact or
21 whether it refers to the specific impact of a particular act or attribute of that person.

22 Defendants object to plaintiff’s use of the term “unit” because it is vague and ambiguous,
23 as to whether that term as used by plaintiff refers to only members of the 446th Aeromedical
24 Evacuation Squadron or whether it applies to other groups of military personnel who on a given
25 assignment are required to work together as a unit.

26 Subject to and without waiving these objections and the General Objections, defendants
27 deny the statement.

1 If your response to this Request for Admission was "DENY" then pursuant to Rule 36(a)(4) state
2 in detail why you cannot truthfully admit it and answer the following interrogatory:

3 **OBJECTION:** Defendants object to this instruction to the extent that it purports to
4 impose an obligation that is not contained in Rule 36(a)(4). Instead, Rule 36(a)(4) requires a
5 detailed statement of "why the answering party cannot truthfully admit or deny it," only as an
6 alternative to admitting or specifically denying the statement. Fed. R. Civ. P. 36(a)(4).

7 **INTERROGATORY NO. 3**

8 Identify each person who either currently serves, or who has previously served, in the 446th
9 Aeromedical Evacuation Squadron, who is of the opinion that the presence of a known lesbian
10 within the 446th in the past had, or in the future would have, a negative impact on unit cohesion,
11 unit moral or unit discipline, and state all the facts known to defendants regarding such opinion.
12 When identifying each such person give their full name, rank, present duty assignment, present
13 address, or if not known the person's last known address, any known telephone number (home
14 and cell phone) and any known present email address (personal or military).

15 **RESPONSE:** Defendants incorporate by reference their objections to Request for
16 Admission No. 3 as objections to this interrogatory.

17 Defendants further object to this interrogatory because it asks two discrete questions:

18 (i) an identification of the persons who holds an opinion that the presence of a "known lesbian" in
19 the 446th Aeromedical Evacuation Squadron would have a negative impact on unit cohesion, unit
20 moral or unit discipline and (ii) an identification of all facts known to defendants regarding such
21 an opinion. Accordingly, this inquiry constitutes two separate interrogatories under Rule 33(a).

22 Defendants also object to this interrogatory as overly broad to the extent that it seeks
23 information for time periods predating Margaret Witt's assignment to 446th Aeromedical
24 Evacuation Squadron.

25 Defendants further object to this interrogatory as overly broad to the extent that it seeks
26 "all facts known to defendants regarding such opinion."

27 Moreover, defendants object to this interrogatory to the extent that it seeks the disclosure
28 of personal information protected by the Privacy Act.

1 Subject to and without waiving these objections and the General Objections, defendants
2 identify Colonel Janette Moore-Harbert and state that she is of the opinion that the presence of
3 Margaret Witt, a known lesbian, would negatively affect unit cohesion, morale, and discipline.
4

5 If your response to Request for Admission No. 3 was "DENY" then respond to the following
6 Request for Production:

7 **REQUEST FOR PRODUCTION NO. 3**

8 Produce every document which contains evidence supporting your denial.

9 **RESPONSE:** Defendants incorporate by reference their objections to Request for
10 Admission No. 3 and Interrogatory No. 3 as objections to this request for production.

11 Defendants further object to this request for production to the extent that it seeks sensitive
12 information regarding the status and/or evaluation of the readiness of military forces.

13 Defendants also object to this request for production to the extent that it seeks documents
14 that are outside of defendants' possession, custody, or control.

15 Subject to and without waiving these objections, the General Objections and any
16 applicable privileges, defendants are unaware of any documents responsive to this request, *i.e.*,
17 that contain evidence of which persons hold opinions described in Request for Admission No. 3.
18

19 **REQUEST FOR ADMISSION NO. 4**

20 Admit or deny the truth of this statement: Defendants are unaware of the existence of any person
21 who either currently serves, or who has previously served, in the 446th Aeromedical Evacuation
22 Squadron, who has ever made any complaint of any kind regarding Major Witt's conduct or
23 character.

24 **RESPONSE:** Defendants object to this request for admission as unduly burdensome to
25 the extent that it presupposes or requires information gathering that would be contrary to the
26 chain-of-command functionality of the military and/or that would compromise unit morale and
27 unit cohesion – Congress's stated goals underlying 10 U.S.C. § 654.

28 Defendants also object to this request for admission because plaintiff's use of the term

1 "complaint," is vague and capable of multiple meanings. The term "complaint" could refer to on-
2 the-job complaints, off-the-job complaints, formal complaints, informal complaints, or other
3 varieties of complaints. Moreover, the term "complaint" is vague and unclear due to its
4 subjectivity – a factual statement could be viewed by one person as a complaint and by another as
5 a recitation of facts. For purposes of responding to this request for admission, defendants
6 interpret the term "complaint" as including the denial of participation memorandum from Colonel
7 Mary L. Walker and her subsequent recommendation for action.

8 Subject to and without waiving these objections and the General Objections, defendants
9 deny the statement.

10
11 If your response to the Request for Admission was "DENY" then pursuant to Rule 36(a)(4) state
12 in detail why you cannot truthfully admit and answer the following interrogatory:

13 **OBJECTION:** Defendants object to this instruction to the extent that it purports to
14 impose an obligation that is not contained in Rule 36(a)(4). Instead, Rule 36(a)(4) requires a
15 detailed statement of "why the answering party cannot truthfully admit or deny it," only as an
16 alternative to admitting or specifically denying the statement. Fed. R. Civ. P. 36(a)(4).

17 **INTERROGATORY NO. 4**

18 Identify each person who either currently serves, or who has previously served, in the 446th
19 Aeromedical Evacuation Squadron, who has ever made any complaint of any kind regarding
20 Major Witt's conduct or character. When identifying each such person give their full name, rank,
21 present duty assignment, present address, or if not known the person's last known address, any
22 known telephone number (home and cell phone) and any known present email address (personal
23 or military).

24 **RESPONSE:** Defendants incorporate by reference their objections to Request for
25 Admission No. 4 as objections to this interrogatory.

26 Defendants also object to this interrogatory as overly broad to the extent that it seeks
27 information for time periods predating Margaret Witt's assignment to 446th Aeromedical
28 Evacuation Squadron.

1 Moreover, defendants object to this interrogatory to the extent that it seeks the disclosure
2 of personal information protected by the Privacy Act.

3 Subject to and without waiving these objections and the General Objections, defendants
4 identify Colonel Mary Walker in response to this interrogatory based on the denial of participation
5 memorandum and her subsequent recommendation for action.

6
7 If your response to Request for Admission No. 4 was "DENY" then respond to the following
8 Request for Production:

9 **REQUEST FOR PRODUCTION NO. 4**

10 Produce every document which contains evidence supporting your denial.

11 **RESPONSE:** Defendants incorporate by reference their objections to Request for
12 Admission No. 4 and Interrogatory No. 4 as objections to this request for production.

13 Defendants also object to this request for production to the extent that it seeks documents
14 that are outside of defendants' possession, custody, or control.

15 Subject to and without waiving these objections, the General Objections and any
16 applicable privileges, defendants will produce non-privileged, non-protected responsive
17 documents.

18
19 **REQUEST FOR ADMISSION NO. 5**

20 Admit or deny the truth of this statement: Prohibiting members of the Air Force Reserve from
21 having consensual sexual relations with same sex partners while off-duty, off-base, and in the
22 privacy of their own home, does not significantly further the government's interest in maintaining
23 good unit cohesion, unit morale and unit discipline.

24 **RESPONSE:** Defendants object to this request for admission, specifically its use of the
25 term "prohibition," to the extent that this phrasing mischaracterizes 10 U.S.C. § 654.

26 Defendants object to plaintiff's use of the term "unit" because it is vague and ambiguous,
27 as to whether that term as used by plaintiff refers to only members of the 446th Aeromedical
28 Evacuation Squadron or whether it applies to other groups of military personnel who on a given

1 are outside of defendants' possession, custody, or control.

2 Subject to and without waiving these objections and the General Objections, defendants
3 state that no production is required because their response to Request for Admission No. 7 was
4 not an admission.

5
6 If your response to Request for Admission No. 7 was "DENY" then pursuant to Rule 36(a)(4)
7 state in detail why you cannot truthfully admit it and answer the following interrogatory:

8 **OBJECTION:** Defendants object to this instruction to the extent that it purports to
9 impose an obligation that is not contained in Rule 36(a)(4). Instead, Rule 36(a)(4) requires a
10 detailed statement of "why the answering party cannot truthfully admit or deny it," only as an
11 alternative to admitting or specifically denying the statement. Fed. R. Civ. P. 36(a)(4).

12 **INTERROGATORY NO. 7(b)**

13 Identify every person known to defendants who holds the opinion that the suspension of
14 Major Witt from duty which occurred on November 4, 2004 had a positive impact on the morale
15 of the 446th Aeromedical Evacuation Squadron. When identifying each such person give their full
16 name, rank, present duty assignment, present address, or if not known the person's last known
17 address, any known telephone number (home and cell phone) and any known present email
18 address (personal or military).

19 **RESPONSE:** Defendants incorporate by reference their objections to Request for
20 Admission No. 7 as objections to this interrogatory.

21 Defendants object to this interrogatory as unduly burdensome to the extent that it
22 presupposes or requires information gathering that would be contrary to the chain-of-command
23 functionality of the military and/or that would compromise unit morale and unit cohesion –
24 Congress's stated goals underlying 10 U.S.C. § 654.

25 Defendants further object to this interrogatory's request that defendants identify "every
26 person known to defendants" as overly broad and unduly burdensome to the extent that it requires
27 an identification of any person, however unrelated to the facts of this litigation, who holds such an
28 opinion. Defendants likewise object to this interrogatory as inconsistent with Federal Rule of

1 Civil Procedure 26(a) governing the disclosure of expert testimony and the Court's pretrial
2 scheduling order setting an expert disclosure date of March 17, 2010. Defendants also object to
3 this interrogatory to the extent that it seeks to learn information protected by the work-product
4 doctrine.

5 Defendants further object to this interrogatory because it asks two discrete questions:
6 (i) the question asked in interrogatory 7(a) and (ii) the question asked in interrogatory 7(b).
7 Accordingly, this inquiry constitutes two separate interrogatories under Rule 33(a).

8 Defendants object to the term "positive impact" as vague and potentially misleading
9 because it is unclear whether it refers to a person's overall impact or whether it refers to the
10 specific impact of a particular act or attribute of that person.

11 Moreover, defendants object to this interrogatory to the extent that it seeks the disclosure
12 of personal information protected by the Privacy Act.

13 Subject to and without waiving these objections and the General Objections, defendants
14 identify Colonel Janette Moore-Harbert, who believes the suspension of Margaret Witt, as
15 opposed to her continued presence in the 446th Aeromedical Evacuation Squadron, had a positive
16 impact on the morale of the 446th Aeromedical Evacuation Squadron.

17
18 If your response to Request for Admission No. 7 was "DENY" then respond to the following
19 Request for Production:

20 **REQUEST FOR PRODUCTION NO. 7(b)**

21 Produce every document which contains evidence supporting your denial.

22 **RESPONSE:** Defendants incorporate by reference their objections to Request for
23 Admission No. 7 and Interrogatory No. 7(b) as objections to this request for production.

24 Defendants further object to this request for production to the extent that it seeks sensitive
25 information regarding the status and/or evaluation of the readiness of military forces.

26 Defendants also object to this request for production to the extent that it seeks documents
27 that are outside of defendants' possession, custody, or control.

28 Subject to and without waiving these objections, the General Objections and any

1 Subject to and without waiving these objections and the General Objections, defendants
2 state that no substantive answer is required to this interrogatory because their response to Request
3 for Admission No. 8 was not an admission.
4

5 **REQUEST FOR ADMISSION NO. 9**

6 Admit or deny the truth of this statement: The reinstatement of Major Witt to service within the
7 446th Aeromedical Evacuation Squadron would likely have a negative impact upon unit morale,
8 cohesion or discipline.

9 **RESPONSE:** Defendants object to this request for admission as unduly burdensome to
10 the extent that it presupposes or requires information gathering that would be contrary to the
11 chain-of-command functionality of the military and/or that would compromise unit morale and
12 unit cohesion – Congress’s stated goals underlying 10 U.S.C. § 654.

13 Defendants object to the term “negative impact” as vague, capable of multiple meanings,
14 and potentially misleading because it is unclear whether it refers to a person’s overall impact or
15 whether it refers to the specific impact of a particular act or attribute of that person.

16 Defendants object to plaintiff’s use of the term “unit” because it is vague and ambiguous,
17 as to whether that term as used by plaintiff refers to only members of the 446th Aeromedical
18 Evacuation Squadron or whether it applies to other groups of military personnel who on a given
19 assignment are required to work together as a unit.

20 Subject to and without waiving these objections and the General Objections, defendants
21 admit the statement.
22

23 If your response to this Request for Admission was “ADMIT” then answer the following
24 interrogatory:
25

26 **INTERROGATORY NO. 9**

27 Identify every person known to defendants who holds the opinion that the reinstatement of
28 Major Witt to service within the 446th Aeromedical Evacuation Squadron would likely have a

1 negative impact on the unit morale, cohesion or discipline of the 446th Aeromedical Evacuation
2 Squadron. When identifying each such person give their full name, rank, present duty assignment,
3 present address, or if not known the person's last known address, any known telephone number
4 (home and cell phone) and any known present email address (personal or military).

5 **RESPONSE:** Defendants incorporate by reference their objections to Request for
6 Admission No. 9 as objections to this interrogatory.

7 Defendants further object to this interrogatory's request that defendants identify "every
8 person known to defendants" as overly broad and unduly burdensome to the extent that it requires
9 an identification of any person, however unrelated to the facts of this litigation, who holds such an
10 opinion. Defendants likewise object to this interrogatory as inconsistent with Federal Rule of
11 Civil Procedure 26(a) governing the disclosure of expert testimony and the Court's pretrial
12 scheduling order setting an expert disclosure date of March 17, 2010. Defendants also object to
13 this interrogatory to the extent that it seeks to learn information protected by the work-product
14 doctrine.

15 Moreover, defendants object to this interrogatory to the extent that it seeks the disclosure
16 of personal information protected by the Privacy Act.

17 Subject to and without waiving these objections and the General Objections, defendants
18 identify Colonel Janette Moore-Harbert.

19
20 If your response to Request for Admission No. 9 was "ADMIT" then respond to the following
21 Request for Production:

22 **REQUEST FOR PRODUCTION NO. 9**

23 Produce every document which contains evidence supporting your admission.

24 **RESPONSE:** Defendants incorporate by reference their objections to Request for
25 Admission No. 8 and Interrogatory No. 8 as objections to this request for production.

26 Defendants further object to this request for production to the extent that it seeks sensitive
27 information regarding the status and/or evaluation of the readiness of military forces.

28 Defendants also object to this request for production to the extent that it seeks documents

APPENDIX B

28

From:
Subject:
Date: September 28, 2006 7:48:47 PM PDT
To: dawliens@mac.com (Margie Witt)

Hi Margie,

Long time no talk, but you have been in my thoughts often. While deployed I saw your picture and situation in the Air Force Times. It continues to aggravate me and others every time we think of you and what has happened. I hope you are doing the best you can and just continue to hang in there. I have supported the SLDN and hope it helps your case and others. As you know, my partner now works at the squadron and we get paranoid about things from time to time. We try to lay low, but I think most people know anyways.

I hope all is well and please drop me a line if you get the chance.

Take care,

APPENDIX C

30

Lobsenz, Jim

From: thomasmhansen@comcast.net
Sent: Tuesday, March 02, 2010 12:20 PM
To: Lobsenz, Jim
Subject: Re: Moving your deposition from the 18th

Thank you. I shall be there.

----- Original Message -----

From: "Jim Lobsenz" <Lobsenz@carneylaw.com>
To: thomasmhansen@comcast.net
Sent: Tuesday, March 2, 2010 10:30:59 AM GMT -08:00 US/Canada Pacific
Subject: RE: Moving your deposition from the 18th

I spoke to the government attorney this morning and we agreed to reset your deposition to March 25th at 1:30. So I think we are all set to go on that date.

■ Jim Lobsenz

James E. Lobsenz
Carney Badley Spellman, P.S.
701 Fifth Avenue, Suite 3600
Seattle, WA 98104
(206) 622-8020

From: thomasmhansen@comcast.net [mailto:thomasmhansen@comcast.net]
Sent: Monday, March 01, 2010 8:43 PM
To: Lobsenz, Jim
Subject: Re: Moving your deposition from the 18th

Thank you for your prompt reply and consideration of my position. I'm hopeful we can find an agreeable date.

Sincerely,

Tom Hansen (now a LTC)

----- Original Message -----

From: "Jim Lobsenz" <Lobsenz@carneylaw.com>
To: thomasmhansen@comcast.net
Sent: Monday, March 1, 2010 5:45:36 PM GMT -08:00 US/Canada Pacific
Subject: Moving your deposition from the 18th

Dear Major Hansen:

Thanks for letting me know about your vacation. I certainly do not want to interfere with that, so I will consult with the attorney for the Air Force and get a different date to do your deposition. So do not worry about the March 18th date. I will see if the afternoon of March 24 or March 25 will work for everyone.

■ Jim Lobsenz

James E. Lobsenz
Carney Badley Spellman, P.S.
701 Fifth Avenue, Suite 3600
Seattle, WA 98104
(206) 622-8020

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APPENDIX D

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TRUE CERTIFIED COPY* MSGT LYLE A. HARVEY 446 NSS, CHIEF CAREER ENHANCEMENT, 31 MAY 2006

FIELD GRADE OFFICER PERFORMANCE REPORT (MAJ thru COL)			
I. RATEE IDENTIFICATION DATA (Read AFM 38-3400 carefully before filling in any item)			
1. NAME (Last, First, Middle Initial)	2. SSN	3. GRADE	4. DAFSC
WITT, MARGARET H.	[REDACTED]	MAJ (Non-EAD)	X46F3
II. PERIOD OF REPORT			
From: 13 Apr 2004	Thru: 12 Apr 2005	5. NO. DAYS SUPERVISION	7. REASON FOR REPORT
		365	Annual
III. ORGANIZATION, COMMAND, LOCATION			8. PAS CODE
446th AEROMEDICAL EVACUATION SQUADRON (AMC) MCCHORD AIR FORCE BASE, WASHINGTON			T21LFLW0
IV. UNIT MISSION DESCRIPTION			
Augments active duty personnel in support of global patient movement requirements. Provides mission ready crews and ground support teams for contingency and peacetime operations. Upon notification to mobilize, deploys aeromedical evacuation crews, operations teams and supporting personnel with supporting assets to specified worldwide locations to perform both intertheater and intratheater aeromedical evacuation missions.			
V. JOB DESCRIPTION			
1. DUTY TITLE FLIGHT NURSE			
2. KEY DUTIES, TASKS, AND RESPONSIBILITIES: Responsible for care of patients being moved via aeromedical evacuation. Coordinates activities of the medical crew to accomplish patient care in flight, as well as the safety of the patients and medical crew. Coordinates medical crew activities with the medical crew. SIGNIFICANT ADDITIONAL DUTY: Chief, Standards and Evaluation.			
VI. IMPACT ON MISSION ACCOMPLISHMENT			
<ul style="list-style-type: none"> Selected by Commander for Chief, Standards and Evaluation due to her extensive knowledge of mission flying regulations and her ability to manage and motivate squadron members to perform to their highest level Directly responsible for maintaining mission ready status of squadron members—all members tasked were current and qualified for deployment with no shortfalls; deployed locations noted outstanding performances Expertly managed transition of 84 flying personnel from MDS specific qualification to universal qualification Non-threatening, easily approachable, often sought out by squadron members for her depth of knowledge of the air evacuation mission and Air Force—extensive experience and people management skills valued by all Leader in achieving/maintaining clinical skills—certified in Advanced Cardiac Life Support before required of all flight nurses, Basic Life Support instructor, attended continuing education classes on burns and trauma. 			
VII. PERFORMANCE FACTORS		DOES NOT MEET STANDARDS	MEETS STANDARDS
1. Job Knowledge Has knowledge required to perform duties effectively. Strives to improve knowledge. Applies knowledge to handle nonroutine situations.		<input type="checkbox"/>	<input checked="" type="checkbox"/>
2. Leadership Skills Sets and enforces standards. Motivates subordinates. Works well with others. Fosters teamwork. Displays initiative. Self-confident. Has respect and confidence of subordinates. Fair and consistent in evaluation of subordinates.		<input type="checkbox"/>	<input checked="" type="checkbox"/>
3. Professional Qualities Exhibits loyalty, discipline, dedication, integrity, honesty, and officership. Adheres to Air Force standards. Accepts personal responsibility. Is fair and objective.		<input type="checkbox"/>	<input checked="" type="checkbox"/>
4. Organizational Skills Plans, coordinates, schedules, and uses resources effectively. Schedules work for self and others equitably and effectively. Anticipates and solves problems. Meets suspensees.		<input type="checkbox"/>	<input checked="" type="checkbox"/>
5. Judgment and Decisions Makes timely and accurate decisions. Emphasizes logic in decision making. Retains composure in stressful situations. Recognizes opportunities and acts to take advantage of them.		<input type="checkbox"/>	<input checked="" type="checkbox"/>
6. Communication Skills Listens, speaks, and writes effectively.		<input type="checkbox"/>	<input checked="" type="checkbox"/>

JUN 06 2006

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TRUE CERTIFIED COPY" MSgt Lyle A. Harvey 446 HSS, Chief Career Enhancement, 31 May 2006

VI. RATER OVERALL ASSESSMENT		RATEE NAME: WITT, MARGARET H.	
<ul style="list-style-type: none"> - Dynamic nursing leader; recognized by peers for strong character, leadership skills and knowledge base - Committed to continuing squadron cohesion and morale; first in line to promote BBQ luncheons, softball games - Excellent role model of professional military officership, lifetime member of the Reserve Officer Association, sets the standard for professional conduct for junior officers and fellow peers to emulate for career success - Recognized by her peers for her expertise in flight evaluations; creatively develops realistic scenarios that test and tax the member to perform at their maximum level—scenarios drawn from wartime, real life experience - Knows and understands worth and dignity of subordinates and successfully integrates human element into daily management—stimulates creative effort in others by providing a challenging learning environment - Member is unable to participate since November 2004 due to pending an administrative discharge 			
Last performance feedback was accomplished on: <u>20 Oct 2004</u> (Consistent with the direction in AFI 36-2406. If not accomplished, state the reason.)			
NAME, GRADE, BR OF SVC, ORGN, COMB & LOCATION THOMAS M. HANSEN, Major, USAFR, NC 446th Aeromedical Evacuation Squadron (AMC) McChord Air Force Base, WA		DUTY TITLE Chief of Stan/Eval	DATE 26 May 2006
SSN [REDACTED]		SIGNATURE <i>Thomas M Hansen</i>	
VII. ADDITIONAL RATER OVERALL ASSESSMENT		<input checked="" type="checkbox"/> CONCUR <input type="checkbox"/> NONCONCUR	
<ul style="list-style-type: none"> - Exceptional flight nurse with superb clinical skills in the aeromedical evacuation patient movement system - Always ready to volunteer and support the mission whether in-garrison at home station or a deployed location - Exhibited remarkable leadership skills as Chief of Stan Eval, meticulously monitoring crew members currency, qualification and proficiency ensuring 100% of squadron taskings met and outstandingly performed - Member is unable to participate since November 2004 due to pending an administrative discharge 			
NAME, GRADE, BR OF SVC, ORGN, COMB & LOCATION JANETTE L. MOORE-HARBERT, LTC, USAFR, NC 446th Aeromedical Evacuation Squadron (AMC) McChord Air Force Base, WA		DUTY TITLE Commander	DATE 26 May 2006
SSN [REDACTED]		SIGNATURE <i>Janette Moore Harbert</i>	
VIII. REVIEWER		<input checked="" type="checkbox"/> CONCUR <input type="checkbox"/> NONCONCUR	
NAME, GRADE, BR OF SVC, ORGN, COMB & LOCATION ERIC W. CRABTREE, Brig Gen, USAFR 446th Airlift Wing (AMC) McChord Air Force Base, WA		DUTY TITLE Commander	DATE MAY 30 2006
SSN [REDACTED]		SIGNATURE <i>Eric W Crabtree</i>	
<p>Instructions</p> <p>All: Recommendations must be based on performance and the potential based on that performance. Promotion recommendations are prohibited. Do not comment on completion of or enrollment in PME, advanced education, previous or anticipated promotion recommendations on AF Form 709, OER indorsement levels, family activities, marital status, race, sex, ethnic origin, age, or religion. All evaluators enter only last four numbers of SSN.</p> <p>Rater: Focus your evaluation in Section IV on what the officer did, how well he or she did it and how the officer contributed to mission accomplishment. Write in concise "bullet" format. Your comments in Section VI may include recommendations for assignment.</p> <p>Additional Rater: Carefully review the rater's evaluation to ensure it is accurate, unbiased and unfiltered. If you disagree, you may ask the rater to review his or her evaluation. You may not direct a change in the evaluation. If you still disagree with the rater, mark "NON-CONCUR" and explain. You may include recommendations for assignment.</p> <p>Reviewer: Carefully review the rater's and additional rater's ratings and comments. If their evaluations are accurate, unbiased and unfiltered, mark the term "CONCUR" and sign the form. If you disagree with previous evaluators, you may ask them to review their evaluations. You may not direct them to change their appraisal. If you still disagree with the additional rater, mark "NONCONCUR" and explain in Section VIII. Do not use "NONCONCUR" simply to provide comments on the report.</p>			
IX. ACQUISITION OR FUNCTIONAL EXAMINER/AIR FORCE ADVISOR (Indicate review by marking the appropriate box(es) if applicable.)		ACQUISITION EXAMINER	FUNCTIONAL EXAMINER
NAME, GRADE, BR OF SVC, ORGN, COMB & LOCATION		SIGNATURE	DATE

AF IMT 707A, 20000601, V3

(REVERSE)

FOR OFFICIAL USE ONLY (When filled in)

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APPENDIX E

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24 September 2006

MEMORANDUM FOR REVIEWING AUTHORITIES

FROM: TSgt. Leah Domenica Crawford

SUBJECT: Character Reference for Maj. Margaret Witt

My name is TSgt. Leah D. Crawford; I am an air evacuation technician with the 0446th Air Evacuation Squadron at McChord A.F.B. in Washington State. I am the Non-Commissioned Officer in Charge of Training in our Squadron and am also a Flight Instructor as well as a Cardio Pulmonary Resuscitation Instructor. I have been in the U.S.A.F.R. since the 17th of July 1995 and have proudly served just over eleven years thus far. My responsibilities and duties with my squadron are as follows: Train new students during a standardized two week ground training program, teaching medical equipment, nursing standards, aircraft safety and systems, aircraft forms, regulations and publications, instruct students during their first few flights on the C-17, to ensure that they are ready for their evaluation check ride. I was deployed 14 March 2003 to 11 December 2003 for Operation Iraqi Freedom and was assigned to Andrews A.F.B. to set up the first Integrated Conus Movement of Patients Expeditionary Squadron. Once back from active duty I registered for the Licensed Practical Nursing program at North Seattle Community College and graduated in August 2005. I am now registered for the Licensed Practical Nurse to Registered Nurse program at Shoreline Community College starting this fall quarter 2006 and will graduate as a Registered Nurse in the fall of 2007.

It is with great pleasure that I introduce Maj. Witt as an officer that I can trust, enjoy working with and know that when working with her as a team, we will represent the U.S.A.F.R. with professionalism and high standards. I have known Maj. Witt for eight years while we both have served in the 0446th AES at McChord, and in those eight years she has taught me a great deal in regards to military standards, bearing, and professionalism as well as career enhancement, setting personal goals and being a true team player. Maj. Witt has always displayed a high degree of integrity, responsibility, and ambition. She is definitely a leader rather than a follower. In addition to her excellent scholastic accomplishments, she has proven her leadership ability by flying as Medical Crew Director on numerous missions that I have flown with her on annual tours as well as sorties. She is also a most dependable team player; coming from the active duty side of the house, her knowledge and confidence in regulations, publications and standards resulted in the assurance of a secure and proud air evacuation medical crew each and every time that she flew. Her superb judgment and responsible outlook ensure a logical and practical approach to her endeavors. Maj. Witt is an excellent officer, has a great personality, gets along easy with, and is respected by both the enlisted and officers, and is a major asset to the military that just can not be lost.

I am aware that Maj. Witt prepares for a possible involuntary discharge for allegedly engaging in homosexual conduct and making statements that she is a homosexual. I have never seen any inappropriate conduct by Maj. Witt that would indicate she is a

homosexual, nor have I heard any rumors or heard her make any inappropriate comments about being gay. In conclusion, it is my opinion that Maj. Witt should remain in the military and achieve her goal to retire with honor, integrity and justice.

Contact information:
Leah D. Crawford
1911 201st PL. SW.
Lynnwood, WA. 98036
425-775-7130
206-300-5818

Respectfully Submitted,

Leah D. Crawford, TSgt. USAFR