

THE HONORABLE RONALD B. LEIGHTON

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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.

Case No. C06-5195-RBL

**[PROPOSED] ORDER GRANTING
PLAINTIFF’S MOTION FOR
PROTECTIVE ORDER PROHIBITING
INTERFERENCE WITH NON-PARTY
WITNESSES BY DEFENDANTS**

Pending before the Court is Plaintiff’s Motion for Protective Order Prohibiting Interference With Non-Party Witnesses by Defendants. Having considered all argument submitted by the parties and finding good cause, the Court hereby **GRANTS** Plaintiff’s motion for a protective order and **HOLDS** that the Department of Defense (“DoD”) *Touhy* regulations, specifically 32 C.F.R. §§97.1-.6, DoD Directive 5405.2, and Air Force Instruction (AFI) 51-301, Chapter 9, do not apply to this litigation because the federal government is a party. The Court further **FINDS** that the Defendants’ instruction to non-party former and current Air Force employees requiring Air Force consent before non-party former and current Air Force employees may voluntarily speak with counsel for Plaintiff concerning this litigation violates Washington Rules of Professional Conduct 3.4(a) and 8.4(d).

[PROPOSED] ORDER GRANTING PLAINTIFF’S MOTION
FOR PROTECTIVE ORDER PROHIBITING INTERFERENCE
WITH NON-PARTY WITNESSES BY DEFENDANTS -- Page 1
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**AMERICAN CIVIL LIBERTIES UNION
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1 To remedy these violations, the Court further **ORDERS** the counsel for Defendants to
2 issue a curative instruction in writing to all current unit members of the 446 AES stating as
3 follows:

4 “Instruction re: Witt v. Air Force

5 Prior briefings regarding required procedures if contacted by Major Witt’s attorneys in
6 the above lawsuit are no longer applicable. Thus, unit members do not need to report to
7 Public Affairs or to Command if contacted by Plaintiff’s counsel. Further, unit members
8 do not need permission from DoD personnel to speak with Plaintiff’s counsel in the
9 above case. Unit members will not face any adverse employment consequences if they
10 voluntarily speak with Plaintiff’s counsel.

11 The above written briefing overrides all previous briefing regarding this matter.”

12 **IT IS SO ORDERED.**

13 DATED this _____ day of April, 2010.

14 _____
15 Ronald B. Leighton
16 United States District Court Judge

17 Presented By:

18 DATED this 16 day of April, 2010.

19 ACLU OF WASHINGTON FOUNDATION

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