

# EXHIBIT 1

Declaration of  
Lt. Col. Todi S. Carnes

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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.

No. C06-5195 RBL  
  
**DECLARATION OF TODI S. CARNES**

1. I, Lieutenant Colonel Todi S. Carnes, am currently assigned to the Air Force Administrative Law Directorate. In February 2010, I was assigned as agency counsel to the above-captioned case.

2. While serving in the latter capacity, I would estimate that one former member and four or five current members of the 446th AES contacted me, advising that they had been contacted by a member of Maj Witt's legal team. Additionally, I spoke with approximately five other members of the 446th AES following their notice for deposition. My conversations with a majority of the preceding 446<sup>th</sup> AES members indicated that they had already conversed with Maj Witt's legal team.

1 3. Pursuant to Air Force regulations, I advised them that should they (again) be contacted by a  
2 member of Maj Witt's legal team, they should contact me or give Maj Witt's legal team my  
3 contact information so that proper procedures could be followed in making arrangements for  
4 them to speak with Maj Witt's legal team. I emphasized that I was not saying they could not talk  
5 to Maj Witt's legal team, only that there were formal procedures to be followed in arranging for  
6 such discussions. I have never advised anyone that they could not speak with a member of Maj  
7 Witt's legal team -- only that there are proper procedures for doing so.

8 4. I received word of the Court's 17 May 2010 order for curative instruction while at Robins Air  
9 Force Base, Georgia for a deposition in the present case. That night, I traveled back to my home  
10 in the Washington, D.C. area. The following day, 18 May 2010, the Court's order was a subject  
11 of ongoing review within the legal bureaucracies of both the Department of Justice and the Air  
12 Force. On 19 May, I traveled to Seattle for the depositions of two experts in the present case on  
13 20 and 21 May respectively. Following conclusion of the Friday, 21 May deposition, I traveled  
14 to the 446th AES at McChord Air Force Base.

15 5. At the 446<sup>th</sup> AES, I oversaw formatting of the curative instruction as a military memo  
16 designed to enhance its recognition and respect by unit members. This formatting included a  
17 signature block for the 446<sup>th</sup> AES Commander, Colonel Moore-Harbert, so that members would  
18 be sure to accord the instruction the same status they would a military order. I immediately  
19 signed the memo as did the 446<sup>th</sup> Air Wing Staff Judge Advocate, Lt Col Brad Holmgren. As  
20 Col Moore-Harbert was not then in the office, I left the memo for dating and signature by her the  
21 following week.

22 6. The following Monday, 24 May 2010, I was in Spokane for plaintiff's deposition after which  
23 I verified Col Moore-Harbert's signature of the memo. The memo was then disseminated as  
24 follows:  
25

26 a. By "hardcopy" memo (i) hand-circulated on 25 May 2010 to those unit members  
27 physically present at the 446<sup>th</sup> AES office building and (ii) placed in the mail stream on 25 May  
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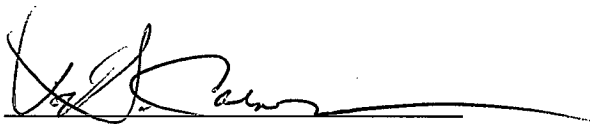
1 2010 to all unit members not then physically present at the 446<sup>th</sup> AES office building, as well as  
2 to those former unit members identified as having separated from the unit since 1 October 2009,  
3 to include one former member who separated prior to that date.

4 b. By e-mail transmitted on 26 May 2010 to all those persons above except two former  
5 members for whom the unit did not have e-mail addresses.

6 c. By bulletin board posting on 26 May 2010 within the 446<sup>th</sup> AES office building.

7  
8 7. A true and correct copy of the memo is attached to this declaration.

9  
10 8. I declare under penalty of perjury that the foregoing is true and correct.

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13 TODI S. CARNES, Lt Col, USAF

14 Executed on 1 June 2010.

DEPARTMENT OF THE AIR FORCE  
446<sup>TH</sup> Aeromedical Evacuation Squadron (AFRC)  
Joint Base Lewis-McChord, Washington 98438-1326

25 May 2010

MEMORANDUM FOR ALL 446 AES UNIT MEMBERS

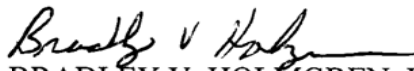
FROM: 446 AES/CC  
1205 12<sup>TH</sup> Street NE Suite 125  
Joint Base Lewis-McChord, WA 98438-1320

SUBJECT: Instruction re: *Witt v. Air Force*

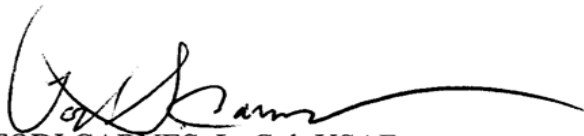
1. Prior briefings regarding required procedures if contacted by Major Witt's attorneys in the above lawsuit are no longer applicable. Thus, unit members do not need to report to Public Affairs or to Command if contacted by Plaintiff's counsel. Unit members do not need permission from DoD personnel to speak with Plaintiff's counsel in the above case. If you are contacted by Plaintiff's counsel you may, but are not required to, talk to that person. Public Affairs and or Command would prefer to have a person present when you are interviewed but cannot require prior consent or impose participation or attendance by a government representative.
2. The above written briefing overrides any previous contrary briefing regarding this matter.



JANETTE L. MOORE-HARBERT, Col, USAFR, NC  
Commander



BRADLEY V. HOLMGREN, Lt Col, USAFR  
Staff Judge Advocate



TODI CARNES, Lt Col, USAF  
Air Staff Counsel, Personnel Actions