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Attorneys for Plaintiff Lieutenant Colonel Victor J. Fehrenbach

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

LIEUTENANT COLONEL VICTOR J. FEHRENBACH,

Plaintiff,

vs.

DEPARTMENT OF THE AIR FORCE; ROBERT M.
GATES, Secretary of Defense; MICHAEL B. DONLEY,
Secretary, Department of the Air Force; LT. GENERAL
GLENN SPEARS, Twelfth Air Force Commander; COL.
RONALD BUCKLEY, 366 Fighter Wing Commander,

Defendants.

Case No.: CIV 10-402-S-EJL

**STIPULATION TO
PRESERVE THE STATUS
QUO, TO DISMISS
PLAINTIFF'S MOTION FOR
TEMPORARY
RESTRAINING ORDER AND
TO SET BRIEFING
SCHEDULE ON MOTION
FOR PRELIMINARY
INJUNCTION**

**STIPULATION TO PRESERVE THE STATUS QUO, TO DISMISS PLAINTIFF'S
MOTION FOR TEMPORARY RESTRAINING ORDER AND TO SET BRIEFING
SCHEDULE ON MOTION FOR PRELIMINARY INJUNCTION - 1**

Plaintiff, Lieutenant Colonel Victor J. Fehrenbach (“Plaintiff”), and Defendants, Department of the Air Force, et. al (“Defendants”), hereby stipulate as follows.

1. Plaintiff currently is a lieutenant colonel, serving on active duty in the United States Air Force with the 366th Operations Support Squadron, 366th Fighter Wing stationed at Mountain Home Air Force Base. Defendants represent that neither the Secretary of the Air Force nor his designee (the “MRB”) has made a decision whether to discharge or separate Plaintiff from active duty in the Air Force and that neither the Secretary nor his designee will make that decision before August 27, 2010.

2. Defendants will notify Plaintiff’s lead counsel (by electronic mail and telephone) and the Court the same day that the Secretary of the Air Force or his designee has made a decision whether to discharge Plaintiff. In order to maintain the *status quo* and allow the parties to fully brief Plaintiff’s motion for a preliminary injunction, Defendants will not take any steps to execute or process Plaintiff’s discharge or separation, to give any effect to a decision to discharge or separate Plaintiff, or to establish any date for the discharge or separation of Plaintiff, for 21 days following such notification.

3. In the event that Defendants decide to retain Plaintiff on active duty in the Air Force, Defendants will notify Plaintiff’s lead counsel (by electronic mail and telephone) and the Court, and Plaintiff will dismiss his Verified Complaint for Injunctive Relief without prejudice.

4. In light of the foregoing, Plaintiff withdraws his Application for a temporary restraining order.

Accordingly, based upon the preceding joint stipulation, the parties respectfully request the following briefing schedule regarding Plaintiff’s motion for a preliminary injunction:

Defendants shall serve (by electronic mail) and file their opposition to Plaintiff’s motion for preliminary injunction five days after the notification provided for in paragraph 2; and

Plaintiff shall serve (by electronic mail) and file his reply brief five days after receipt of Defendants' opposition.

The parties respectfully request that the Court schedule a hearing on Plaintiff's motion for a preliminary injunction the week following Plaintiff's filing of his reply brief.

Respectfully submitted,

Dated: 8/16/2010

By: /s/ M. Andrew Woodmansee
M. ANDREW WOODMANSEE

Attorney for Plaintiff
LIEUTENANT COLONEL
VICTOR J. FEHRENBACH

Dated: 8/16/2010

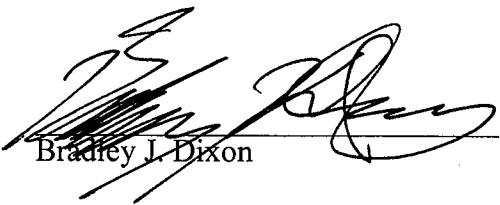
By: /s/ Joshua E. Gardner
JOSHUA E. GARDNER

Attorney for Defendants
DEPARTMENT OF THE AIR FORCE, *et al.*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 16th day of August, 2010, a true and correct copy of the foregoing **STIPULATION TO PRESERVE THE STATUS QUO, TO DISMISS PLAINTIFF'S MOTION FOR TEMPORARY RESTRAINING ORDER AND TO SET BRIEFING SCHEDULE ON MOTION FOR PRELIMINARY INJUNCTION** was served as follows:

<p>IAN GERSHENGORN VINCENT M. GARVEY JOSHUA E. GARDNER UNITED STATES DEPARTMENT OF JUSTICE Federal Programs Branch 20 Massachusetts Avenue, N.W. Washington, D.C. 20530 Telephone: 202.305.7583 Facsimile: 202.616.8202</p> <p><i>Attorneys for Defendants</i></p>	<p><input type="checkbox"/> Via U.S. Mail <input checked="" type="checkbox"/> Via Facsimile <input type="checkbox"/> Via Overnight Mail <input type="checkbox"/> Via Hand Delivery <input type="checkbox"/> Via E-mail</p>
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