

UNITED STATES OF AMERICA  
MERIT SYSTEMS PROTECTION BOARD  
WESTERN REGIONAL OFFICE

_____		)
ROBERT J. MACLEAN,		)
	Appellant,	)
		)
	v.	)
		)
DEPARTMENT OF HOMELAND SECURITY,		)
TRANSPORTATION SECURITY		)
ADMINISTRATION,		)
	Agency.	)
_____		)

DOCKET NUMBER:  
SF-0752-06-0611-I-1

ADMINISTRATIVE  
JUDGE:  
Philip D. Reed

July 10, 2006

**AGENCY RESPONSES TO COMBINED INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS PROPOUNDED BY APPELLANT TO THE AGENCY**

The Transportation Security Administration (TSA or Agency) provides the following responses to Appellant's Combined Interrogatories and Requests for Production of Documents ("Discovery Requests"), according to the parties' stipulation for an extension of time in which to respond.

**GENERAL OBJECTIONS**

1. The Agency objects to Appellant's Discovery Requests to the extent they seek information protected by the attorney-client privilege, the deliberative process privilege or any other applicable privilege, or the attorney work product doctrine.
2. The Agency objects to Appellant's Discovery Requests to the extent they are vague, ambiguous, overbroad and unduly burdensome, or seek information not relevant to the issues in this proceeding.
3. The Agency objects to Appellant's Discovery Requests to the extent they seek information that is available in the Agency File that was previously provided to Appellant.
4. The Agency objects to Appellant's Discovery Requests to the extent they seek information within the possession of Appellant or that could be readily obtained by him.
5. The Agency objects to Appellant's Discovery Requests to the extent that they seek information protected from disclosure by the Privacy Act, 5 U.S.C. § 552a, or otherwise unduly interferes with the privacy rights of others.

6. The Agency objects to Appellant's Discovery Requests to the extent that they seek sensitivity security information protected from disclosure to non-covered parties, notwithstanding Appellant's and his counsel agreement to use such information solely in connection with this litigation.
7. The Agency objects to Appellant's Discovery Requests to the extent that they exceed the limit of thirty in number, including all discrete subparts.
8. The Agency reserves the right to supplement its responses herein upon further discovery.

The above general objections are hereby incorporated into each and every individually numbered response as if set forth therein.

### **AGENCY RESPONSES**

#### **Interrogatory No. 1.**

Please provide the name, title, and position of each and every employee who drafted, prepared, reviewed and authorized the release of the text message that the Agency charges Appellant with having disclosed to the media.

The Agency objects to this request on the grounds of irrelevancy. The Agency further objects to this request on the grounds that it seeks Sensitive Security Information protected from disclosure. Without waiving these objections, the Agency responds as follows: Assistant to Special Agent in Charge Michael Lum received and followed instructions to send the subject text message.

#### **Interrogatory No. 2.**

Please identify each and every person by name, address and place of employment, who will or may be called by the Agency as a witness in this litigation, and describe specifically the area or areas of expected testimony; the documents to be relied upon, if any; and state whether the persons so designated will or will not be an expert witness, and if so state the substance of the facts and opinions to which each such expert is expected to testify and a summary of the grounds for such opinion of each expert.

The Agency may call the following individuals as witnesses in this litigation:

Frank Donzanti, Special Agent in Charge, Los Angeles Field Office for the Federal Air Marshal Service, P.O. Box 51522, Irvine, CA 92619. He is the deciding official and relies upon the Agency File and the supervisory file that he maintained on this matter.

David Graceson, Senior SSI Program Officer, 601 South 12th Street, Arlington, VA 22202, will rebut Appellant's allegations that the subject text message was not Sensitive Security Information, as described in Agency policies and regulations.

Douglas Hladky, Assistant Special Agent in Charge, Las Vegas Field Office for the Federal Air Marshal, 6380 S. Valley View Blvd. #338, Las Vegas, NV 89118. He was one of Appellant's

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managers and will testify about training and practices regarding Sensitive Security Information, as described in Agency policies and regulations.

Robert MacLean, unknown. He is the Appellant.

Charles Ortman, Assistant Special Agent in Charge, Los Angeles Field Office for the Federal Air Marshal Service, P.O. Box 51522, Irvine, CA 92619. As the proposing official, he will rebut Appellant's affirmative defenses that the Agency had a discriminatory or retaliatory animus against him. He relies upon the Agency File, the supervisory file that he maintained on this matter, and Appellant's workers' compensation file.

**Request for production No. 1.**

Please provide copies of all relevant statements, notes of conversations, documents prepared by, about, or concerning the individuals referred to in the immediately preceding Interrogatory or the answer thereto.

See documents attached hereto at 1 to 7.

**Request for production No. 2.**

Please provide copies of all documents prepared by, or relied upon, by each expert witness or any witness identified in the immediately preceding Interrogatory with regard to their expected testimony.

TSA does not have any non-privileged documents responsive to this request.

**Request for production No. 3.**

Please provide copies of any and all federal laws and Agency rules and regulations currently in effect that govern the disclosure of sensitive security information.

The Agency objects to this request on the grounds of irrelevancy. Without waiving this objection, the Agency responds as follows: see Agency File at Tab 4(B) and 4(N).

**Request for production No. 4.**

Please provide copies of any and all federal laws and Agency rules and regulations that governed the disclosure of sensitive security information on July 29, 2003, the date on which Appellant allegedly made an Unauthorized Disclosure of Sensitive Security Information.

See Agency File at Tab 4(R), 4(N), and 4(T); also see Title 49 U.S.C. §§ 1520 et seq., 40199, and Excerpts of Standard Operation Procedures Regarding Protected Information attached hereto at 8 to 10.

**Request for production No. 5.**

Please provide copies of any all notices, announcements, manuals, memoranda, e-mails, or other documents by which the Agency notified Appellant prior to July 29, 2003 of any Agency policies pertaining to sensitive security information.

See Agency File at Tab 4(N) and 4(T).

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**Interrogatory No. 3.**

Please identify every person of whom the Agency is aware, who may have information or knowledge which is relevant to the subject matter of this appeal or which may lead to the discovery of information relevant to the subject matter of this action or who has knowledge of any of the facts concerning the occurrences that are the subject of this appeal.

The Agency objects to this request on the grounds of irrelevancy and overbreadth. Based on the organizational structure of the Federal Air Marshal Service, including its prior transfer from TSA to the Bureau of Immigration and Customs Enforcement, identifying each person possibly responsive to this request is unduly burdensome.

**Interrogatory No. 4.**

If the Agency or any of its agents, attorneys, or employees has obtained any statement from any individual, either orally or in writing, concerning the occurrences that are the subject of this appeal or concerning any allegation against the Appellant, please describe separately each such statement by setting forth the substance of the statement, the name, title, address and telephone number of the person who gave it, the name, address and employment position of the person who received it, the date it was received, whether it was recorded, whether it was reduced to writing, whether it was signed, and the present location of all notes, recordings, transcripts, or writings of any kind pertaining to each such statement.

See Agency File at Tab 4(J). Appellant provided a statement, signed by him on May 4, 2005. Also see Declaration of Patricia Radar, signed February 8, 2006, attached hereto at 11 to 13.

**Request for production No. 6.**

Please provide copies of any and all documents, notes, memoranda, or other writing referred to in the immediately preceding Interrogatory.

See Agency File at Tab 4(J) and Declaration of Patricia Radar, signed February 8, 2006, attached hereto at 11 to 13.

**Request for production No. 7**

Please provide a complete copy of Appellant's official personnel folder.

See Appellant's Official Personnel File attached hereto at 15 to 129. One document has been redacted to protect Sensitive Security Information regarding the identity of certain Federal Air Marshals.

**Interrogatory No. 5.**

Please state the name, address and title of all individuals who conducted and/or were involved in the investigation into the allegations against the Appellant, including the names of each and every individual who questioned or was questioned, interrogated or was interrogated, requested or provided information regarding the Appellant, in any way.

See Agency File at Tab 4(J).

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**Request for production No. 8.**

Please provide any and all documents contained in all investigations of appellant, including, but not limited to, all documents the Agency intends to use as evidence at the hearing of this matter.

The Agency objects to this request on the grounds of irrelevancy. Without waiving this objection, the Agency responds as follows: see Conduct Incident Report at 130 to 149.

**Request for production of documents No. 9.**

Please provide any and all documents upon which the Agency relied in charging Appellant with (1) Unauthorized Media Disclosure, (2) Unauthorized Release of Information to the Media, and (3) Unauthorized Disclosure of Sensitive Security Information.

See Agency File.

**Request for production of documents No. 10.**

Please provide complete copies of any and all e-mails, letters, or other written materials sent to any Agency employee that concern or relate to Appellant, from January 2003 through the present.

The Agency objects to this request on the grounds of irrelevancy, overbreadness, the attorney-client communications privilege, and the attorney work-product doctrine. Without waiving these objections, the Agency responds as follows: see Agency's responses to request for production of documents Nos. 1 and 13, which is incorporated herein.

**Request for production of documents No. 11.**

Please provide a complete list of employees whom the Agency has charged with and/or investigated for Unauthorized Disclosure of Sensitive Security Information, or any substantially similar charge, from January 2003 through the present. Please include in your answer a description of the information each such employee allegedly disclosed.

The Agency objects to this request on the grounds of irrelevancy, overbreadness, and privacy. Without waiving these objections, the Agency responds as follows: it appears that, except for Appellant, TSA has not removed a Federal Air Marshal for the unauthorized disclosure of Sensitive Security Information from January 2003 to the date of this response.

**Interrogatory No. 6.**

For each employee listed in the Agency's answer to the immediately preceding request for production of documents, please identify what discipline, if any, the Agency proposed and what discipline, if any, the Agency sustained.

The Agency objects to this request on the grounds of irrelevancy, overbreadness, and privacy. Without waiving these objections, the Agency responds as follows: it appears that, except for Appellant, the Agency has not removed a Federal Air Marshal for the unauthorized disclosure of Sensitive Security Information from January 2003 to the date of this response.

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**Request for production No. 12.**

Please provide a complete copy of the text-message that the Agency charges Appellant with having disclosed to the media. Please include in your production any notices that may have accompanied the text-message indicating that it was sensitive security information.

TSA does not have any non-privileged documents responsive to this request.

**Interrogatory No. 7.**

Please state the Agency's complete basis for sustaining the charge of Unauthorized Disclosure of Sensitive Security Information. Please include in your response any and all reasons, regulations, interpretations and policies that support the Agency's determinations that Appellant's July 29, 2003 disclosure was "unauthorized" and a disclosure "of sensitive security information."

See Agency File at Tab 4(A).

**Interrogatory No. 8.**

Please state any and all reasons why the Agency failed to sustain the charges of (1) Unauthorized Media Appearance and (2) Unauthorized Release of Information to the Media.

The Agency rescinded ADM Directive 3700 on April 18, 2006.

**Interrogatory No. 9.**

Please state whether, when, and why the Agency decided to cancel its Remain Overnight missions up to August 9, 2003, including in your answer a complete explanation of the considerations that entered the decision-making process and the persons involved in it. Please include in your answer a description of the impact the Agency expected this decision to have on the safety of the flying public.

The Agency objects to this request on the grounds of irrelevancy and to the extent that it seeks Sensitive Security Information. The policy behind any decision regarding Remain Overnight missions does not change the characterization of the subject text message as Sensitive Security Information.

**Interrogatory No. 10.**

Please state whether, when, and why the Agency decided to reverse itself and reinstate the Remain Overnight missions referred to in the immediately preceding Interrogatory. Please include in your answer a discussion of the role, if any, that Appellant's July 29, 2003 disclosure to the media played in the Agency's decision to reinstate the Remain Overnight missions. Please also include in your answer a description of the impact the Agency expected this decision to have on the safety of the flying public.

The Agency objects to this request on the grounds of irrelevancy and to the extent that it seeks Sensitive Security Information. The policy behind any decision regarding Remain Overnight missions does not change the characterization of the subject text message as Sensitive Security Information. Without waiving these objections, the Agency responds as follows: the Agency was unaware of Appellant's July 29, 2003 disclosure to the media until he voluntarily admitted to this conduct on May 4, 2005. See Agency File at Tab 4(J).

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**Request for Production No. 13.**

Please provide copies of any and all files, records, notes, emails, memoranda and other written documents of any kind upon which the Agency relied in drafting the letter proposing Appellant's removal.

The Agency objects to this request on the grounds of the attorney-client communications privilege and the attorney work-product doctrine. Without waiving these objections, the Agency responds as follows: see file maintained by the FAM EEO and Employee Services Division for non-privileged documents responsive to this request, attached hereto at 150 to 205. Certain documents have been redacted to preserve the attorney-client communications privilege and attorney work-product doctrine.

**Interrogatory No. 11.**

Please explain any and all reasons why the Agency chose text-message as the medium for informing its Air Marshals of the impending cancellation of Remain Overnight missions up to August 9, 2003.

Text-messaging allows for the efficient transmission of information and is but one of several methods by which to provide information to Federal Air Marshals who are trained to protect Sensitive Security Information and are obligated to protect Sensitive Security Information as a condition of employment.

**Interrogatory No. 12.**

Please state each and every fact, allegation, reason and belief relied upon by the Agency to support its removal of the Appellant.

See Agency File.

**Request for production No. 14.**

Please provide all documents upon which Agency relied and/or considered in making its decision to remove the Appellant. Please also provide all draft copies of the Agency's letter of proposed removal and the Agency's final decision letter.

The Agency objects to this request on the grounds of attorney-client communications and attorney work-product doctrine. Without waiving these objections, the Agency responds as follows: see Agency File and file maintained by the FAM EEO and Employee Services Division for non-privileged documents responsive to this request, attached hereto at 150 to 205.

**Request for production No. 15.**

Please provide copies of all of the Agency's written procedures, rules, guidelines, regulations or policies relevant to the removal of its employees.

See Agency File at Tab 4(Q) and 4(T).

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**Interrogatory No. 13.**

With respect to the Agency's removal of the Appellant, please state the name, title and address of each and every individual who decided, was consulted, or had any part in the decision.

The deciding official was Frank Donzanti, Special Agent in Charge, Los Angeles Field Office for the Federal Air Marshal Service, P.O. Box 51522, Irvine, CA 92619. Staff members of FAM Policy Compliance Unit, FAM EEO and Employee Services Division, and Chief Counsel's Office also were consulted.

**Interrogatory No. 14.**

Please state each and every fact upon which the Agency bases its conclusion that the removal of the Appellant promotes the efficiency of the service. Please include in your answer how and in what manner Appellant's removal promotes the efficiency of the service.

See Agency File at Tab 4(A).

**Interrogatory No. 15.**

Please state each and every fact, allegation, and belief relied upon by Agency to support the removal of Appellant.

See Agency File at Tab 4(A).

**Request for production No. 16.**

Please provide copies of any and all federal laws or Agency regulations, practices, policies or procedures concerning how sensitive security information is to be disbursed, distributed, or disclosed.

For the relevant time period, see Agency File at Tab 4(N). Also see 49 C.F.R. Part 1520 (Protection of Sensitive Security Information) (West 2003), Standard Operating Procedures attached hereto at 8 to 10, and ADM 3700 regarding the release of sensitive or classified information attached hereto at 260.

**Interrogatory No. 16.**

Please explain any and all reasons why the Agency claims in its Notice of Removal that the information Appellant disclosed on July 29, 2003 "had the potential to reveal vulnerabilities in the aviation security system."

See Agency File at Tab 4(A) and 4(J).

**Request for production No. 17.**

Please provide any and all documents upon which the Agency relied, or which the Agency produced, in the course of deciding to cancel all Remain Overnight missions up to August 9, 2003. Please also provide any and all documents upon which the Agency relied, or which the Agency produced, in the course of deciding to reinstate those Remain Overnight missions.

The Agency objects to this request on the grounds of irrelevancy and to the extent that it seeks Sensitive Security Information. The policy behind any decision regarding Remain Overnight

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missions does not change the characterization of the subject text message as Sensitive Security Information.

**Interrogatory No. 17.**

Please state any and all reasons why the Agency's Notice of Removal finds that Appellant's July 29, 2003 disclosure was "not protected by the First Amendment to the U.S. Constitution."

See Agency File at Tab 4(A).

**Interrogatory No. 18.**

Please state any and all reasons why the Agency proposed Appellant's removal instead of a less severe penalty.

See Agency File at Tab 4(A).

**Request for production No. 18.**

Please provide a complete copy of the Agency's Table of Penalties, as well as any other written documents relevant to penalty selection.

The Agency objects to this request on the grounds of irrelevancy. TSA does not maintain any table of penalties nor did it utilize one in this matter. Without waiving this objection, the Agency responds as follows: while part of the Bureau of Immigration, Customs, and Enforcement, the Federal Air Marshal Service was subjected to the interim ICE Table of Offenses and Penalties for Non-Bargaining Unit Employees, attached hereto at 206 to 232.

**Interrogatory No. 19.**

Please identify and explain each and every Douglas factor the Agency considered in selecting the penalty of removal.

See Agency File at Tab 4(A).

**Request for production of documents No. 19.**

Please provide copies of any and all documents, notes, emails, memoranda, or other writing pertaining to the immediately preceding Interrogatory.

See Agency File and Appellant's Official Personnel File.

**Interrogatory No. 20.**

Please provide a complete description of how the Agency discovered the facts underlying its charge that Appellant made an Unauthorized Disclosure of Sensitive Security Information. Please also provide a complete description of how the Agency subsequently investigated the facts underlying this charge and the results of that investigation.

The Agency was unaware of Appellant's July 29, 2003 disclosure to the media until he voluntarily admitted to this conduct on May 4, 2005. See Agency File at Tab 4(J).

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**Request for production No. 20.**

Please provide a complete copy of any documents, notes, memoranda, e-mails, and other written materials relevant to the immediately preceding Interrogatory. Please include in your production a complete copy of the Agency's report of investigation into the charges against Appellant. Please also include any and all relevant documents from Senators Barbara Boxer and Charles Schumer.

The Agency objects to this request on the grounds of irrelevancy, the attorney-client communication privilege, and the attorney work-product doctrine. Without waiving these objections, the Agency responds as follows: see Agency File at Tab 4(J). TSA is not aware of any inquiries regarding Appellant from Senators Boxer and/or Schumer, and as such, TSA does not have any non-privileged documents responsive to this part of the request. TSA understands, however, that the Bureau of Immigration and Customs Enforcement responded to an inquiry from Senator Harry Reid regarding Appellant on an issue irrelevant to this matter. While it appears that Appellant already received a copy of the final response to that inquiry, the Agency does not have such a copy. Attached hereto is a copy of the inquiry at 233 to 251.

**Request for production No. 21.**

Please provide a complete copy of any written material of which the Agency is aware, published or unpublished, internal or external, that criticizes any Agency rule, regulation, or policy to which Federal Air Marshals must adhere.

The Agency objects to this request on the grounds of irrelevancy and overbreadth. The Agency further objects on the grounds of vagueness as to the term "criticizes." TSA does not systematically monitor or maintain written material that requests a change in any TSA rule, regulation, or policy for the Federal Air Marshal Service.

**Interrogatory No. 21.**

Please explain any and all reasons why the Agency contends in its Notice of Removal that the media person to whom Appellant made his July 29, 2003 disclosure "is not a covered person within the meaning of the SSI regulations." Please include an explanation of which persons were "covered persons" under the SSI regulations as they existed on July 29, 2003.

See Agency File at Tab 4(A), 4(J), and 4(N); also see 49 C.F.R. § 1520.5 (West 2003).

**Request for production No. 22.**

Please provide complete copies of any and all written materials memorializing Agency policy, practices, or procedures, whether formal or informal, official or unofficial, concerning disclosures to the media.

The Agency objects to this request on the grounds of irrelevancy and overbreadth. Without waiving these objections, the Agency responds as follows: for the relevant time period, see Agency File at Tab F(N), and ADM Directive 3700 attached hereto at 252 to 261.

**Interrogatory No. 22.**

Please explain any and all reasons why the Agency contends in its Notice of Proposed Removal that Appellant's July 29, 2003 disclosure "concerned RON deployments."

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See Agency File at Tab 4(A) and 4(J).

**Interrogatory No. 23.**

Please identify any training sessions the Agency has provided to Appellant regarding media disclosures or sensitive security information.

As a condition of employment, Appellant was aware and acknowledged in writing that he may be removed from his position as Federal Air Marshal for the unauthorized release of Sensitive Security Information. In addition to the issuance, posting, and distribution of the above-referenced policies electronically and by hard copy, Appellant received in-person training when he was first assigned to the Las Vegas Field Office. As part of his performance agreement, he also agreed to handle all classified and sensitive documents/materials according to proscribed operational security guidelines and later, acknowledged in writing that he read, understood, and would adhere to the Policy Regarding the Protection of Sensitive Security Information as set forth in OMS 1643 and TSA's Interim Sensitive Security Information (SSI) Policies and Procedures for Safeguarding and Control.

**Request for production of documents No. 23.**

Please provide complete copies of any investigative files or records the Agency compiled in the course of investigating any of the charges set forth in the Agency's Notice of Proposed Removal.

See Agency File at Tab 4(J).

**Request for production of documents No. 24.**

Please provide a job description for the position Appellant held prior to his removal. Please also provide a copy of the vacancy announcement for the Federal Air Marshal position to which the Agency appointed Appellant.

See Agency File at Tab 4(T); also see Vacancy Announcement and other information attached hereto at 262 to 267.

**Request for production No. 25.**

Please provide a complete copy of the investigative report, as well as any and all supporting documents, related to any investigation of an Agency employee, other than Appellant, charged with disclosing sensitive security information. Please include in your production any and all Notices of Proposed Discipline and Notices of Discipline issued to any Agency employee, other than Appellant, charged with disclosing sensitive security information. Please also include complete copies of any investigative file for an employee other than Appellant who is alleged to have disclosed the contents of the text message regarding Remain Overnight missions.

The Agency objects to this request on the grounds of irrelevancy, overbreadth, and privacy. Without waiving these objections, the Agency responds as follows: it appears that, except for Appellant, TSA has not removed a Federal Air Marshal for the unauthorized disclosure of Sensitive Security Information from January 2003 to the date of this response.

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**Interrogatory No. 24.**

Please provide a full and complete description of the Appellant's past work record, including length of service, performance on the job, awards received, ability to get along with other workers, and dependability and, in addition, state whether Appellant failed to perform at a satisfactory level citing each and every specific instance in which the Appellant failed to perform at a satisfactory level.

See Agency File at Tab 4(P). Also see performance appraisals, attached hereto at 268 to 316.

**Interrogatory No. 25**

Please state any Agency policies, written or unwritten, instructing any Agency personnel on whether and how to respond to media disclosures stemming from anonymous Agency employee(s).

The Agency objects to this request on the grounds of vagueness, irrelevancy, and overbreadth. Without waiving these objections, the Agency responds as follows: TSA does not have any specific policy that addresses anonymous conduct by TSA employees.

**Request for production No. 26**

Please provide a copy of any policy that responds to the immediately preceding Interrogatory.

The Agency objects to this request on the grounds of vagueness, irrelevancy, and overbreadth. Without waiving these objections, the Agency responds as follows: TSA does not have any non-privileged documents responsive to this request.

**Interrogatory No. 26**

Please state whether any Agency employee, current or former, communicated with representatives of NBC regarding the NBC Nightly News broadcast of September 9, 2004, entitled "Terror in the Skies." For every such employee who had such communication, please state his or her name, title, and the date and content of the communications.

The Agency objects to this request on the grounds of irrelevancy. Without waiving this objection, the Agency responds as follows: on behalf of TSA, Special Agent in Charge David Adams is responsible for communicating with television network representatives but did not do so with regard to the September 9, 2004 NCB Nightly News broadcast.

**Request for Production No. 27**

Please provide any and all documents relevant to the immediately preceding Interrogatory.

The Agency objects to this request on the grounds of irrelevancy. Without waiving this objection, the Agency responds as follows: TSA does not have any non-privileged documents responsive to this request.

**Interrogatory No. 27**

Please identify and describe all instances in which the Agency has officially responded to non-criminal allegations by an anonymous employee, other than Appellant.

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The Agency objects to this request on the grounds of vagueness, irrelevancy, and overbreadth.

**Interrogatory No. 28**

Please identify any and all Agency employees, other than Appellant, who complained, formally or informally, verbally or in writing, about the Agency's decision to discontinue Remain Overnight missions up to August 9, 2003.

The Agency objects to this request on the grounds of irrelevancy and overbreadth. Without waiving these objections, the Agency responds as follows: TSA does not systematically monitor or maintain written material that requests a change in any Agency rule, regulation, or policy for the Federal Air Marshal Service, except if presented as a grievance under TSA's grievance procedure. There has been no grievance presented to TSA on the subject of Remain Overnight missions up to August 9, 2003.

**Request for production No. 28**

Please provide any and all documents relevant to the immediately preceding Interrogatory.

The Agency objects to this request on the grounds of irrelevancy and overbreadth. Without waiving these objections, the Agency responds as follows: TSA does not have any non-privileged documents responsive to this request.

**Interrogatory No. 29**

Please identify all Agency employees who were involved in drafting, developing, amending, or implementing the sensitive security information regulations with which the Agency charges Appellant with violating.

The Agency objects to this request on the grounds of irrelevancy and overbreadth. Various offices within the Agency, such as the Office of Chief Counsel and Sensitive Security Information Program Office were involved in drafting, developing, and amending the Sensitive Security Information regulations, and all TSA employees are involved in implementing such regulations.

**Request for production No. 29**

Please provide complete copies of any print-media articles, or television broadcasts, relying upon or quoting Federal Air Marshals for the purpose of criticizing any Agency policy.

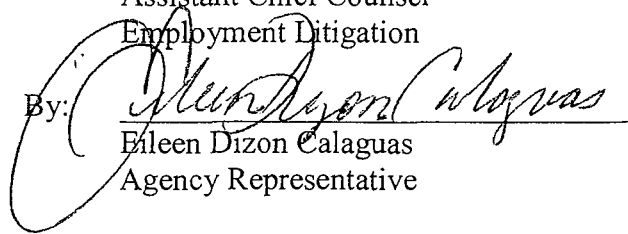
The Agency objects to this request on the grounds of vagueness, irrelevancy and overbreadth. Without waiving these objections, the Agency responds as follows: TSA does not systematically maintain any print-media articles or television broadcasts relying upon or quoting Federal Air Marshals that criticize Agency policy and that such information is equally available to Appellant through the use of various Internet search engines.

Respectfully Submitted,

Robin S. Wink  
Assistant Chief Counsel  
Employment Litigation

July 10, 2006

By:



Eileen Dizon Calaguas  
Agency Representative

**CERTIFICATE OF SERVICE**

I certify that the attached discovery requests was sent as indicated this day to each of the following:

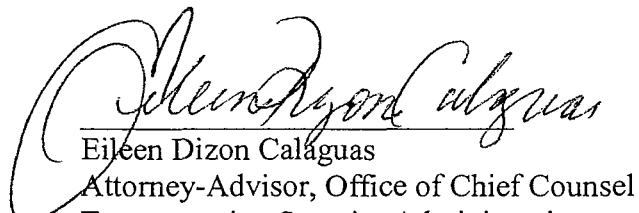
Appellant

Via U.S. Mail      Robert J. MacLean  
11 Knotty Oak Circle  
Coto de Caza, CA 92679

Appellant's Representative

Via U.S. Mail      Peter H. Noone, Esq.  
Avery, Dooley, Post & Avery, LLP  
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July 10, 2006



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