

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

|                              |   |                         |
|------------------------------|---|-------------------------|
| _____                        | ) |                         |
| RALPH BEGLEITER,             | ) |                         |
|                              | ) |                         |
| Plaintiff,                   | ) |                         |
|                              | ) |                         |
| v.                           | ) |                         |
|                              | ) | No. 1:04-cv-01697 (EGS) |
| DEPARTMENT OF DEFENSE        | ) | Hon. Emmet G. Sullivan  |
|                              | ) |                         |
| and                          | ) |                         |
|                              | ) |                         |
| DEPARTMENT OF THE AIR FORCE, | ) |                         |
|                              | ) |                         |
| Defendants.                  | ) |                         |
| _____                        | ) |                         |

**DEFENDANTS' ANSWER TO PLAINTIFF'S COMPLAINT FOR  
INJUNCTIVE AND DECLARATORY RELIEF**

The Department of Defense and the Department of the Air Force ("Defendants"), by and through their attorneys, answer Plaintiff's complaint as follows:

Answering specifically the numbered paragraphs of Plaintiff's complaint and using the same numbering, Defendant answers as follows:

1-2. These paragraphs contain Plaintiff's characterization of this action, to which no response is required. To the extent that a response is required, these paragraphs are denied.

3-4. These paragraphs contains Plaintiff's statement of the jurisdictional basis and venue for this action, to which no response is required. To the extent that a response is required, these paragraphs are denied.

5. Defendants lack sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 5.

6. The first and second sentences of paragraph 6 are admitted. The third sentence of paragraph 6 is denied, except to admit that the Department of the Air Force possesses records that are sought by Plaintiff Begleiter.

7. The first sentence of paragraph 7 is admitted. The second sentence of paragraph 7 is denied, except to admit that the Department of the Air Force is a component of the Department of Defense which is an agency within the meaning of 5 U.S.C. § 552(f). The third sentence of paragraph 7 is admitted.

8. Admitted.

9. Admitted.

10. Denied, except to admit that the Department of Defense has employed photographers to take photographs of the activities of its military components including activities and Dover Air Force Base.

11. Admitted.

12. Paragraph 12 contains Plaintiff's own supposition and opinion to which no response is required. To the extent that a response is required, this paragraph is denied.

13. Admitted.

14. Defendants admit that in February 1991, the Office of the Secretary of Defense Crisis Coordination Center issued an unclassified memorandum which contained, among other statements, the text quoted by Plaintiff. Defendants deny that the 1991 memorandum bans the press from arrival ceremonies as the policy set forth in the 1991 memorandum provides that ceremonies shall occur at the service member's duty or home station and/or the interment site, and not at the port of entry, and that media access to these ceremonies shall be permitted if the

fallen service member's family so desires. Defendants admit that the 1991 policy prevents media access to photograph coffins at Dover Air Force Base or at any interim stops.

15-16. Denied, except to admit that members of the media have been permitted to attend certain ceremonies at Dover Air Force Base and the Air Force has released photographs of such ceremonies.

17. Defendants admit that the Department of Defense has reiterated its policy that media are not permitted access to deceased personnel arriving at Dover Air Force Base.

18. Denied, except to admit that members of the media have been permitted to attend certain ceremonies at Dover Air Force Base.

19. Defendants admit that the cited material is available at <http://www.defenselink.mil/news/Oct2003>, and respectfully refer the Court to this material for a full and accurate statement of its contents.

20. Admitted.

21. Denied.

22. Defendants admit that the cited material is available at <http://www.defenselink.mil/transcripts/2004/tr20040422-0648.html>, and respectfully refer the Court to this material for a full and accurate statement of its contents.

23. The first sentence of this paragraph is admitted. With regard to the second sentence of this paragraph Defendants admit that the cited material is available at [http://www.defenselink.mil/transcripts/2003/t03272003\\_t0326noc.html](http://www.defenselink.mil/transcripts/2003/t03272003_t0326noc.html), and respectfully refer the Court to this material for a full and accurate statement of its contents.

24. Denied, except to admit that there exist some photographs of flag-draped caskets

which photographs do not indicate the name of the fallen soldiers therein.

25. Defendants admit that certain public statements indicate that privacy concerns militate against releasing photographs of fallen service members pursuant to FOIA.

26. Admitted.

27. Denied.

28. The first sentence of this paragraph is admitted. Defendants lack sufficient knowledge or information to form a belief as to the truth of the second sentence in paragraph 28.

29. This paragraph purports to describe the cited materials, to which the Court is respectfully referred for a full and accurate statement of their contents.

30. Denied.

31. Admitted.

32. Admitted.

33. Admitted.

34. Admitted.

35. Admitted.

36. Admitted.

37. Admitted.

38. Admitted.

39. Defendants admit that Plaintiff sent a facsimile on or about June 30, 2004 that purported to appeal the constructive denial of his April 23, 2004 FOIA request.

40. Paragraph 40 states a legal conclusion to which no response is required.

41. Admitted.

42. Admitted.

43. Admitted.

44. Admitted.

45. Admitted.

46. Admitted.

47. Admitted.

48. Admitted.

49. Admitted.

50. Defendants admit that the Department of Defense has not responded to Plaintiff's June 30, 2004 communication which relates to the Department of the Air Force.

51. Paragraph 51 states a legal conclusion to which no response is required.

52. Denied.

53. Denied.

54. Defendants incorporate their responses set forth in paragraphs 1-53 as if set forth fully herein.

55. Paragraph 55 states a legal conclusion to which no response is required.

56. Paragraph 56 states a legal conclusion to which no response is required.

57. Paragraph 57 states a legal conclusion to which no response is required.

The remainder of Plaintiff's complaint presents prayers for relief, to which no response is necessary. To the extent any answer is required, Defendant specifically denies that Plaintiff is entitled to the relief requested, or to any relief at all. Defendant specifically denies each allegation of Plaintiff's complaint not otherwise answered.

Dated: November 10, 2004

Respectfully submitted,

PETER D. KEISLER  
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KENNETH L. WAINSTEIN  
United States Attorney

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/s/

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