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Location: [Mothership](#) -> [Ufomind Mailing List](#) -> [1998](#) -> [Feb](#) -> National Law Journal on A51 lawsuit dismissal

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## National Law Journal on A51 lawsuit dismissal

From: [Stig\\_Agermose@online.pol.dk](mailto:Stig_Agermose@online.pol.dk) (Stig Agermose)  
Date: Tue, 10 Feb 1998 15:37:35 -0800

Secrets Privilege Scuttles USAF Suit

Claims by ex-employees gutted by 9th Circuit

BY GAIL DIANE COX

The National Law Journal (p. A06)  
Monday, January 26, 1998

SAN FRANCISCO --In an opinion that revives Cold War memories of state secrets and national security, the 9th U.S. Circuit Court of Appeals has rejected efforts by a group of former government employees to prove they were poisoned while working at a hush-hush military installation in Nevada.

The state secrets privilege invoked by the secretary of the Air Force makes discovery and trial on the claims of environmental crimes "impossible", a 3-0 panel held Jan. 8 in a opinion by Judge Pamela Ann Rymer. "The government may use the state secrets privilege to withhold a broad range of information," wrote Judge Rymer. She added that since the Pentagon Papers case, *Ellsberg v. Mitchell*, 709 F2d 51 (D.C. Cir. 1983), "courts recognize the inherent limitations in trying to separate classified and unclassified information."

Notwithstanding a plaintiff's ability to produce unclassified or even nonprivileged evidence, if the "very subject matter of the action" is a state secret, the opinion continues, "then the court should dismiss the plaintiff's action based solely on the invocation of the state secrets privilege." *Kasza v. Browner*, 96-15535.

For rest of article see...

[http://www.ljx.com:80/cgi-bin/f\\_cat?prod/ljextra/data/texts/1998\\_0119\\_33.html](http://www.ljx.com:80/cgi-bin/f_cat?prod/ljextra/data/texts/1998_0119_33.html)

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RELEVANCE OF THIS MESSAGE: Area 51

Index: [Groom Lake Hazardous Waste Lawsuit](#)

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[Mothership](#) -> [Ufomind Mailing List](#) -> [1998](#) -> [Feb](#) -> [Here](#)

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PO Box 30303, Las Vegas, NV 89173 Glenn Campbell, Webmaster & Moderator

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Created: Feb 11, 1998