

1 GORDON P. ERSPAMER (CA SBN 83364)
 Gerspamer@mofo.com
 2 TIMOTHY W. BLAKELY (CA SBN 242178)
 TBlakely@mofo.com
 3 ADRIANO HRVATIN (CA SBN 220909)
 AHrvatn@mofo.com
 4 STACEY M. SPRENKEL (CA SBN 241689)
 SSprenkel@mofo.com
 5 DANIEL J. VECCHIO (CA SBN 253122)
 DVecchio@mofo.com
 6 DIANA LUO (CA SBN 233712)
 DLuo@mofo.com
 7 MORRISON & FOERSTER LLP
 425 Market Street
 8 San Francisco, California 94105-2482
 Telephone: 415.268.7000
 9 Facsimile: 415.268.7522

10 Attorneys for Plaintiffs
 Vietnam Veterans of America; Swords to
 11 Plowshares: Veterans Rights Organization;
 Bruce Price; Franklin D. Rochelle; Larry
 12 Meirow; Eric P. Muth; David C. Dufrane; and
 Wray C. Forrest
 13

14 UNITED STATES DISTRICT COURT
 15 NORTHERN DISTRICT OF CALIFORNIA
 16 OAKLAND DIVISION
 17

18 VIETNAM VETERANS OF AMERICA, *et al.*,
 19 Plaintiffs,
 20 v.
 21 CENTRAL INTELLIGENCE AGENCY, *et al.*,
 22 Defendants.
 23

Case No. CV 09-0037-CW

**DECLARATION OF DANIEL J.
 VECCHIO IN SUPPORT OF
 PLAINTIFFS' MOTION TO
 OVERRULE OBJECTIONS AND
 COMPEL PRODUCTION OF
 DOCUMENTS**

Complaint filed January 7, 2009

1 I, Daniel J. Vecchio, declare as follows:

2 1. I am an attorney licensed to practice law in the State of California and am admitted
3 to practice before this Court. I am an associate with the law firm of Morrison & Foerster LLP,
4 counsel of record for Vietnam Veterans of America, Swords to Plowshares: Veterans Rights
5 Organization, Bruce Price, Franklin D. Rochelle, Larry Meirow, Eric P. Muth, David C. Dufrane
6 and Wray C. Forrest (“Plaintiffs”) in this action. I submit this Declaration in Support of
7 Plaintiffs’ Motion to Overrule Objections and Compel Production of Documents. I make this
8 Declaration based on personal knowledge. If called as a witness, I would testify to the facts set
9 forth below.

10 2. Attached hereto as Exhibit A is a true and correct copy of Plaintiffs’ First Set of
11 Requests for Production, served on Defendants on May 15, 2009.

12 3. Attached hereto as Exhibit B is a true and correct copy of Defendants’ Response to
13 Plaintiffs’ First Request for Production of Documents, served on March 4, 2010.

14 4. Plaintiffs served their Second Set of Requests for Production on May 10, 2010.
15 Plaintiffs served their Third Set of Requests for Production on July 1, 2010. Together, these two
16 sets totaled ninety-six individual Requests. To date, Defendants have not served responses to
17 these Requests for Production.

18 5. Plaintiffs served their Fourth Set of Requests for Production on August 2, 2010.
19 The Fourth Set of Requests for Production included nineteen individual Requests.

20 6. On information and belief, Defendants collectively have produced fewer than
21 16,500 pages (approximately 1600 documents) in response to Plaintiffs’ First Set of Requests for
22 Production.

23 7. Attached hereto as Exhibit C is a true and correct copy of a May 18, 2010 letter
24 from Caroline Lewis-Wolverton, counsel for Defendants, to Gordon Erspamer, lead counsel for
25 Plaintiffs.

26 8. Attached hereto as Exhibit D is a true and correct copy of a July 12, 2010 letter
27 from Caroline Lewis-Wolverton to me and Gordon P. Erspamer.

28

1 9. Attached hereto as Exhibit E is a true and correct copy of what I am informed and
2 believe is an April 26, 1995 Department of Defense Memorandum concerning Records Review,
3 Edgewood Arsenal, Maryland.

4 10. Attached hereto as Exhibit F is a true and copy of what I am informed and believe
5 is an excerpt from the Briefing Book for the September 28, 1994 Hearing Before the
6 Subcommittee on Legislation and National Security of the Committee on Government
7 Operations, Volume II: Chemical and Biological Warfare and Drug Testing.

8 11. Attached hereto as Exhibit G is a true and correct copy of what I am informed and
9 believe is a December 3, 1955 Memorandum from Allen Dulles, Director of Central Intelligence
10 regarding research on psychochemicals.

11 12. Attached hereto as Exhibit H is a true and correct copy of what I am informed and
12 believe is a May 29, 1973 Summary of Project OFTEN Clinical Tests at Edgewood, produced by
13 Defendants with the Bates labels VVA 023819 through VVA 023820.

14 13. Attached hereto as Exhibit I is a true and correct copy of what I am informed and
15 believe is a May 14, 1974 Records Retirement Request produced by Defendants with the Bates
16 labels VVA 023826 through VVA 023833.

17 14. Counsel for the parties met and conferred regarding their dispute over Plaintiffs'
18 Requests for Production telephonically on May 19, 2010. and in-person on June 30, 2010, per the
19 Judge Larson's order.

20 15. Counsel for the parties met and conferred in person on June 30, 2010, per the
21 Court's order. At that meet and confer session, the parties discussed Plaintiffs' Requests for
22 Production.

23 16. Attached hereto as Exhibit J is a true and correct copy of an April 30, 2010 letter
24 from Gordon P. Erspamer to Caroline Lewis-Wolverton.

25 17. Attached hereto as Exhibit K is a true a correct and correct copy of a Privilege Log
26 to Defendants' Production in Response to Plaintiffs' First Set of Requests for Production, served
27 by Defendants on July 29, 2010.

28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Attestation Pursuant to General Order 45, section X.B

I hereby attest that I have on file all holograph signatures for any signatures indicated by a “conformed” signature (/S/) within this efiled document.

/s/ GORDON P. ERSPAMER

Gordon P. Erspamer