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10 UNITED STATES DISTRICT COURT
 11 NORTHERN DISTRICT OF CALIFORNIA
 12 OAKLAND DIVISION

13 VIETNAM VETERANS OF AMERICA, <i>et al.</i> ,)	Civil Action No. C 09-0037 CW
)	
14 Plaintiffs,)	
)	
15 v.)	DEFENDANTS' MOTION
)	TO FILE PRIVACY-ACT COVERED
16 CENTRAL INTELLIGENCE AGENCY, <i>et al.</i> ,)	RECORDS UNDER SEAL
)	IN THE NON-PUBLIC DOCKET
18 Defendants.)	

19

20 Pursuant to Civil Local Rules 7-11 and 79-5, Defendants respectfully request that the

21 Court to order that records maintained by the Department of Veterans Affairs concerning

22 Plaintiffs Bruce Price, Franklin D. Rochelle, Eric P. Muth and David C. Dufrane be filed under

23 seal in the non-public docket. Defendants offer the records in support of their Motion to

24 Dismiss, also to be filed today, June 30, 2009. Submitted in support of this motion are the

25 attached Declaration of Caroline Lewis Wolverton, undersigned counsel for Defendants, and a

26 proposed Order. In accordance with Civil Local Rule 79-5, Defendants are lodging with the

27 Clerk the records that are requested to be filed under seal.

28

1 As explained in undersigned counsel's declaration, the records proposed for filing under
2 seal – the attachments to the authenticating declarations of Kimberly J. Albers, Clyde Bennett,
3 Norris Jones, Rebecca Sawyer Smith and Paul Weiss – contain sensitive private information and
4 are covered by the Privacy Act. *See* 5 U.S.C. § 552a(a)(4) (defining records covered by Privacy
5 Act as “any item, collection, or grouping of information about an individual that is maintained by
6 an agency, including, but not limited to, his . . . medical history. . . and that contains his name, or
7 the identifying number, symbol, or other identifying particular assigned to the individual . . .”).
8 Accordingly, the records are appropriately filed under seal. *See* Civil Local Rule 79-5.

9 In accordance with Civil Local Rule 7-11(a), as explained in undersigned counsel's
10 declaration, undersigned counsel has conferred with counsel for Plaintiffs regarding the filing of
11 this motion. Plaintiffs are in general agreement with the concept that material covered by the
12 Privacy Act is entitled to protection under the law and generally should be filed under seal, but
13 Plaintiffs have not stipulated to the motion because they have not seen the actual documents
14 submitted for filing under seal.

15 The parties anticipate being able to negotiate and agree to a Stipulated Protective Order
16 for submission to the Court. Upon entry by the Court and required signatures by counsel for
17 Plaintiffs, Defendants will provide Plaintiffs, pursuant to that order, with a copy of the records
18 submitted for filing under seal.

19 Dated: June 30, 2009

20 Respectfully submitted,

21 IAN GERSHENGORN
22 Deputy Assistant Attorney General
23 JOSEPH P. RUSSONIELLO
24 United States Attorney
25 VINCENT M. GARVEY
26 Deputy Branch Director

27 /s/ Caroline Lewis Wolverton
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