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13 UNITED STATES DISTRICT COURT
 14 NORTHERN DISTRICT OF CALIFORNIA
 15 OAKLAND DIVISION

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

Case No. CV 09-0037-CW

**DEFENDANTS' AMENDED
 ANSWER TO SECOND AMENDED
 COMPLAINT**

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 23
 24 Defendants in this action, by and through undersigned counsel, hereby answer the
 25 numbered paragraphs of Plaintiffs' Second Amended Complaint ("Complaint") as follows:
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1 1. Paragraph 1 of the Complaint contains Plaintiffs characterization of the nature of
2 this action, argument, and conclusions of law, to which no response is required; to the extent a
3 response is deemed required, Defendants deny the allegations contained in the paragraph.

4 2. First sentence: Defendant Department of Defense (“DOD”) admits. Second
5 sentence: this sentence contains Plaintiffs’ characterization of DOD’s research of chemical and
6 biological weapons, argument, and conclusions of law regarding the extent of such programs, to
7 which no response is required; to the extent a response is deemed required, Defendants deny the
8 allegations contained in this sentence except to admit that DOD and the Central Intelligence
9 Agency (“CIA”) studied chemical and biological weapons. Third sentence: this sentence
10 contains Plaintiffs’ characterization of the CIA’s work with the Federal Bureau of Narcotics
11 (“FBN”), to which no response is required; to the extent a response is deemed required,
12 Defendants deny the allegations contained in this sentence except to admit that the CIA had a
13 relationship with the FBN for a drug research program that involved human subjects. Fourth
14 sentence: this sentence contains Plaintiffs’ characterization of the research of chemical and
15 biological weapons, argument, and legal conclusions regarding the extent of such programs, to
16 which no response is required; to the extent a response is deemed required, Defendants deny the
17 allegations contained in this sentence except to admit that DOD’s experimentation program
18 involving human subjects was centered at Edgewood Arsenal and Fort Detrick. Fifth sentence:
19 this sentence contains a conclusion of law, to which no response is required; to the extent a
20 response is deemed required, Defendants deny the allegations contained in this sentence. Sixth
21 sentence: Defendants deny. Seventh and ninth sentences: these sentences contain Plaintiffs’
22 characterization of DOD’s research programs and argument, to which no response is required; to
23 the extent a response is deemed required, Defendants deny the allegations. Eighth sentence: this
24 sentence constitutes argument, to which no response is required; to the extent a response is
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1 deemed required, Defendants are without knowledge or information sufficient to admit or deny
2 this sentence.

3 3. First sentence, including subparts a–q: this sentence contains Plaintiffs’
4 characterization of government research of chemical and biological weapons, to which no
5 response is required; to the extent a response is deemed required, Defendants are without
6 knowledge or information sufficient to admit or deny the allegations contained in this paragraph
7 except to admit that DOD’s research program had many purposes. Defendants aver that the
8 purpose of the program at Fort Detrick from 1943–73 was twofold: develop defensive
9 mechanisms against biological attack and develop weapons with which the United States could
10 respond “in kind” if attacked by an enemy that used biological weapons. Defendants further aver
11 that the purpose of the studies at Edgewood Arsenal was to ensure that the U.S. military could
12 adequately protect its service members from possible wartime exposures to chemical warfare
13 agents. The Central Intelligence Agency (“CIA”) avers that it researched behavior modification.
14
15 Second sentence: The last sentence of paragraph 3 contains Plaintiffs’ characterization of DOD’s
16 research programs, to which no response is required; to the extent a response is deemed required,
17 Defendants deny the allegations.
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19 4. Paragraph 4 constitutes Plaintiffs’ characterization of the cited 1976 Army IG
20 Report and the 1975 Memorandum from Army Office of the Adjutant General. Defendants
21 respectfully refer the Court to that report and memorandum, which speak for themselves, and
22 deny Paragraph 4 to the extent that the allegations are inconsistent with those documents.
23

24 5. First sentence: Defendants deny the allegations in this sentence except to admit
25 that DOD used approximately 7,800 armed services personnel in the experimentation program at
26 Edgewood Arsenal, most of whom were from the Army, although DOD also used troops from the
27 Air Force and Marines. Second sentence: Defendants deny the allegations in this sentence
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1 except to admit that DOD administered 250 to 400 chemical and biological agents during the
2 course of its research at Edgewood Arsenal involving human subjects; Defendants are without
3 knowledge or information sufficient to admit or deny that the true identities, doses, and properties
4 of these agents were not disclosed. Third sentence: Defendants are without knowledge or
5 information sufficient to admit or deny the allegations contained in this sentence. Fourth
6 sentence, including the bulleted list: Defendants are without knowledge or information sufficient
7 to admit or deny the allegations contained in this sentence except that DOD admits that, of those
8 agents listed in this sentence, its records reflect that DOD used the following agents at Edgewood
9 Arsenal: mylaxen, VX, GB, GA, GD, G agents, atropine, scopolamine, BZ (3-quinuclidinyl
10 benzilate), CAR 302,688, EA 3580, 2-PAM (pralidoxime), toxogonin (obidoxim) irritant, CA
11 (Bromobenzylcyanide), CS (ortho-chlorobenzalmalononitrile), CN (chloroacetophenone), EA
12 1778, mustard gas, mustard agents, Lewisite, CX (phosgene oxime), LSD, DMHP, EA 1476, EA
13 2233, valium, thorazine, secobarbital, P2S, and TMB-4.
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16 6. Defendants deny the allegations except to admit that DOD videotaped many
17 experiments involving human subjects at Edgewood.

18 7. First sentence: Defendants deny the allegations except to admit that DOD
19 administered varying doses of substances through multiple pathways, including through
20 intravenous, inhalation, oral, and percutaneous. Second sentence: this sentence contains
21 argument, to which no response is required; to the extent a response is deemed required,
22 Defendants deny the allegations in this sentence and aver that DOD used placebos in some studies
23 as part of the scientific method to provide a control group.
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25 8. Defendants are without knowledge or information sufficient to admit or deny the
26 allegations contained in paragraph 8.
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1 9. Paragraph 9 constitutes Plaintiffs' characterization of the 1976 Army IG Report.
2 Defendants respectfully refer the Court to that report, which speaks for itself, and deny Paragraph
3 9 to the extent that the allegations are inconsistent with that report.

4 10. First sentence: this sentence contains Plaintiffs' characterization of government
5 research of chemical and biological weapons, to which no response is required; to the extent a
6 response is deemed required, Defendants lack knowledge or information sufficient to admit or
7 deny the allegations contained in this sentence except to aver that CIA obtained materials from
8 commercial drug manufacturers. Second sentence: Defendants are without knowledge or
9 information sufficient to admit or deny the allegations contained in this sentence except that DOD
10 admits its research program at Edgewood used the substances listed in this sentence.

11 11. First through third sentences: Defendants are without knowledge or information
12 sufficient to admit or deny the allegations contained in the first, second, and third sentences of
13 paragraph 11. Fourth sentence: Defendants deny. Fifth sentence: this sentence contains
14 Plaintiffs' characterization of this case and DOD's research of chemical and biological weapons,
15 to which no response is required; to the extent a response is deemed required, Defendants deny
16 the allegations contained in this sentence except to admit that DOD's research program had
17 defensive and offensive purposes.

18 12. Paragraph 12 contains Plaintiffs' characterization of this case, argument, and
19 conclusions of law, to which no response is required; to the extent a response is deemed required,
20 Defendants deny this paragraph.

21 13. First sentence: this sentence contains Plaintiffs' characterization of this case and
22 argument, to which no response is required; to the extent a response is deemed required,
23 Defendants are without knowledge or information sufficient to admit or deny the allegations
24 contained in the first sentence of paragraph 13. Second sentence: Defendants admit that
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1 Congress convened hearings in 1975 and 1977 that, among other things, concerned activities at
2 Edgewood Arsenal; Defendants are without knowledge or information sufficient to admit or deny
3 the remaining allegations in this sentence. Third through fifth sentences: these sentences
4 constitutes Plaintiffs' characterizations of Admiral Turner's testimony. Defendants respectfully
5 refer the Court to that testimony, which speaks for itself, and deny the fourth and fifth sentences
6 to the extent they are inconsistent with that testimony. Sixth sentence: Defendants are without
7 knowledge or information sufficient to admit or deny the allegations contained in this sentence.
8 Seventh sentence: this sentence contains Plaintiffs' characterization of Defendants' efforts to
9 locate participants, to which no response is required; to the extent a response is deemed required,
10 Defendants deny the allegations.
11

12 14. First and second sentences: these sentences constitute Plaintiffs' characterization
13 of the cited DOJ opinion. Defendants respectfully refer the Court to that opinion, which speaks
14 for itself, and deny the first and second sentences to the extent they are inconsistent with that
15 opinion. Third sentence: this sentence contains Plaintiffs' argument and conclusions of law, to
16 which no response is required; to the extent a response is deemed required, Defendants are
17 without knowledge or information sufficient to admit or deny the allegations contained in this
18 sentence. Fourth sentence: Defendants are without knowledge or information sufficient to admit
19 or deny the allegations contained in this sentence.
20

21 15. First through third sentences: these sentences contains Plaintiffs' characterization
22 of this case and argument, to which no response is required; to the extent a response is deemed
23 required, Defendants deny the allegations. Fourth and fifth sentences: Defendants are without
24 knowledge or information sufficient to admit or deny the allegations contained in these sentences.
25 Sixth sentence: Defendants admit that DoD is working to compile a registry of participants and
26 expects to complete the registry in 2011. The remainder of the sentence constitutes argument, to
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1 which no response is required; to the extent a response is deemed required, Defendants deny the
2 allegations. Seventh sentence: this sentence constitutes Plaintiffs' characterization of the cited
3 website. Defendants respectfully refer the Court to that website, which speaks for itself, and deny
4 the seventh sentence to the extent it is inconsistent with the website.

5
6 16. Paragraph 16 contains Plaintiffs' characterization of this case and argument, to
7 which no response is required; to the extent a response is deemed required, Defendants deny the
8 allegations.

9 17. First and second sentences: these sentences constitute Plaintiffs' characterization
10 of Army regulations. Defendants respectfully refer the Court to those regulations, which speak
11 for themselves, and deny the first and second sentences to the extent they are inconsistent with the
12 regulations. Third sentence: this sentence contains Plaintiffs' characterization of this case,
13 argument, and legal conclusions, to which no response is required; to the extent a response is
14 deemed required, Defendants deny the allegations.

15
16 18. First through third sentences: Defendants are without knowledge or information
17 sufficient to admit or deny the allegations contained in these sentences. Fourth sentence: this
18 sentence contains Plaintiffs' characterization of this case and argument, to which no response is
19 required; to the extent a response is deemed required, Defendants deny the allegations.

20
21 19. Defendants are without knowledge or information sufficient to admit or deny the
22 allegations contained in this paragraph except that DOD admits that it has given many volunteers
23 access to their available Edgewood files.

24 20. Paragraph 20 contains Plaintiffs' characterization of this case, argument, and legal
25 conclusions and prayer for relief, to which no response is required; to the extent a response is
26 deemed required, Defendants deny the allegations and that Plaintiffs are entitled to the relief
27 requested, or to any relief whatsoever.
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1 21. Paragraph 21 contains Plaintiffs' characterization of the nature of this action and
2 its claims to relief, to which no response is required; to the extent a response is deemed required,
3 Defendants deny that Plaintiffs are entitled to the relief requested, or to any relief whatsoever.

4 22. Paragraph 22 contains Plaintiffs' allegations concerning jurisdiction, to which no
5 response is required; to the extent a response is deemed required, Defendants deny the allegations
6 in paragraph 22.

7 23. Paragraph 23 contains Plaintiffs' allegations concerning venue and discovery, to
8 which no response is required; to the extent a response is deemed required, Defendants are
9 without knowledge or information sufficient to admit or deny the allegations in paragraph 23.

10 24. Defendants are without knowledge or information sufficient to admit or deny the
11 allegations contained in paragraph 24.

12 25. Defendants are without knowledge or information sufficient to admit or deny the
13 allegations contained in paragraph 25.

14 26. Defendants are without knowledge or information sufficient to admit or deny the
15 allegations contained in paragraph 26.

16 27. Defendants are without knowledge or information sufficient to admit or deny the
17 allegations contained in paragraph 27.

18 28. Defendants are without knowledge or information sufficient to admit or deny the
19 allegations contained in paragraph 28.

20 29. Defendants admit paragraph 29.

21 30. Defendants are without knowledge or information sufficient to admit or deny the
22 allegations contained in paragraph 30.

23 31. First sentence: Defendants admit that Bruce Price signed a consent form that did
24 not provide information about the drugs to be given. The remainder of the sentence constitutes
25

1 Plaintiffs' characterization of the consent form, to which no response is required. To the extent a
2 response is deemed required, Defendants respectfully refer the Court to that form, which speaks
3 for itself, and deny the first sentence to the extent it is inconsistent with the form. Second and
4 third sentences: Defendants are without knowledge or information sufficient to admit or deny the
5 allegations contained in these sentences.

6
7 32. First sentence: Defendants are without knowledge or information sufficient to
8 admit or deny the allegations contained in this sentence except to admit that Bruce Price
9 participated in approximately four experiments. Second through fifth sentences: Defendants are
10 without knowledge or information sufficient to admit or deny the allegations contained in these
11 sentences.

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13 33. Defendants are without knowledge or information sufficient to admit or deny the
14 allegations contained in paragraph 33.

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16 34. Defendants are without knowledge or information sufficient to admit or deny the
17 allegations contained in paragraph 34.

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19 35. Defendants are without knowledge or information sufficient to admit or deny the
20 allegations contained in paragraph 35.

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22 36. Defendants are without knowledge or information sufficient to admit or deny the
23 allegations contained in paragraph 36.

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25 37. First sentence, first clause: Defendants admit that Bruce Price received an
26 honorable discharge. First sentence, second clause through third sentences: Defendants are
27 without knowledge or information sufficient to admit or deny the allegations contained in this
28 clause and these sentences.

38. Defendants are without knowledge or information sufficient to admit or deny the
allegations contained in paragraph 38.

1 39. Defendants are without knowledge or information sufficient to admit or deny the
2 allegations contained in paragraph 39.

3 40. First and third sentences: Defendants are without knowledge or information
4 sufficient to admit or deny the allegations contained in these sentences. Second sentence:
5 Defendants admit that Bruce Price is rated 100% for post-traumatic stress disorder (“PTSD”) by
6 the Veterans Administration (“VA”), but Defendants are without knowledge or information
7 sufficient to admit or deny the remainder of the allegations in this sentence.
8

9 41. Defendants are without knowledge or information sufficient to admit or deny the
10 allegations contained in these sentences.

11 42. First through third sentences: Defendants admit. Fourth sentence: Defendants are
12 without knowledge or information sufficient to admit or deny the allegations contained in this
13 sentence except to admit that Eric Muth served in the National Guard from 1960 to 1969.
14

15 43. Defendants are without knowledge or information sufficient to admit or deny the
16 allegations contained in paragraph 43.

17 44. First, second, third, fifth, and sixth sentences: Defendants are without knowledge
18 or information sufficient to admit or deny the allegations contained in these sentences. Fourth
19 sentence: this sentence contains Plaintiffs’ characterization of the role of service members, to
20 which no response is required; to the extent a response is deemed required, Defendants deny the
21 allegations except to admit that service members are expected to follow lawful orders.
22

23 45. First, second, and fourth sentences: Defendants are without knowledge or
24 information sufficient to admit or deny the allegations contained in these sentences. Third
25 sentence: Defendants admit Eric Muth was enrolled as a medical volunteer at Edgewood. The
26 remaining allegations contained in the third sentence are Plaintiffs’ characterization of the case, to
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1 which no answer is required; to the extent a response is deemed required, Defendants deny the
2 allegations.

3 46. First sentence: Defendants admit. Second sentence: Defendants admit Eric Muth
4 was involved in at least five tests during his tours at Edgewood. Defendants are without
5 knowledge or information sufficient to admit or deny the remaining allegations contained in this
6 sentence. Third through sixth sentences: Defendants are without knowledge or information
7 sufficient to admit or deny the allegations contained in these sentences.
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9 47. First sentence, first and second clauses: Defendants admit Eric Muth volunteered
10 for a second tour at Edgewood from November to December 1958. The remainder of the first and
11 second clauses constitutes Plaintiffs' characterization of this case and argument, to which no
12 response is required; to the extent a response is deemed required, Defendants deny the
13 allegations. First sentence, third clause through fourth sentences: Defendants are without
14 knowledge or information sufficient to admit or deny the allegations contained in this clause and
15 these sentences.
16

17 48. Defendants are without knowledge or information sufficient to admit or deny the
18 allegations contained in paragraph 48 except to admit that Eric Muth was exposed to EA 1476.

19 49. Defendants are without knowledge or information sufficient to admit or deny the
20 allegations contained in paragraph 49.
21

22 50. Defendants are without knowledge or information sufficient to admit or deny the
23 allegations contained in paragraph 50 except to admit that Eric Muth has been assigned a 100%
24 disability rating by the VA for PTSD.

25 51. First, second, and fifth sentences: Defendants are without knowledge or
26 information sufficient to admit or deny the allegations contained in these sentences. Third and
27 fourth sentences: Defendants admit.
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1 52. First sentence: Defendants are without knowledge or information sufficient to
2 admit or deny the allegations contained in this sentence: Second and third sentences: Defendants
3 admit.

4 53. First and second sentences: Defendants are without knowledge or information
5 sufficient to admit or deny the allegations contained in these sentences. Third sentence:
6 Defendants admit.

7 54. First through fourth and seventh through tenth sentences: Defendants are without
8 knowledge or information sufficient to admit or deny the allegations contained in these sentences.
9 Fifth and sixth sentences: Defendants admit.

10 55. First sentence: Defendants admit. Second and third sentences: Defendants are
11 without knowledge or information sufficient to admit or deny the allegations contained in these
12 sentences.
13

14 56. Defendants are without knowledge or information sufficient to admit or deny the
15 allegations contained in paragraph 56 except that DOD admits that Eric Muth was exposed to
16 Compound 302,608.
17

18 57. Defendants are without knowledge or information sufficient to admit or deny the
19 allegations contained in paragraph 57 except that DOD admits that Eric Muth was exposed to EA
20 2233-1 and EA 2233-2.
21

22 58. First and second sentences: Defendants are without knowledge or information
23 sufficient to admit or deny the allegations contained in these sentences. Third sentence:
24 Defendants admit that Frank Rochelle served in Vietnam. The remainder of the sentence
25 constitutes argument, to which no response is required; to the extent a response is deemed
26 required, Defendants deny the allegations.
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1 59. First through third sentences: Defendants are without knowledge or information
2 sufficient to admit or deny the allegations contained in these sentences. Fourth sentence:
3 Defendants admit.

4 60. First sentence: Defendants are without knowledge or information sufficient to
5 admit or deny the allegations contained in this sentence except that Defendants admit that Frank
6 Rochelle received a certificate and a letter of commendation on June 2, 1958. Second sentence:
7 Defendants admit. Third sentence: Defendants are without knowledge or information sufficient
8 to admit or deny the allegations contained in this sentence.

9 61. Defendants are without knowledge or information sufficient to admit or deny the
10 allegations contained in paragraph 61.

11 62. Defendants admit.

12 63. First sentence: Defendants admit. Second through fifth sentences: Defendants are
13 without knowledge or information sufficient to admit or deny the allegations contained in these
14 sentences.

15 64. Defendants are without knowledge or information sufficient to admit or deny the
16 allegations contained in paragraph 64 except that DOD admits that Larry Meirow reported to
17 Edgewood on November 3, 1972.

18 65. First through third sentences: Defendants are without knowledge or information
19 sufficient to admit or deny the allegations contained in these sentences. Fourth sentence:
20 Defendants are without knowledge or information sufficient to admit or deny the allegations
21 contained in this sentence except that DOD admits that Larry Meirow was given a medical exam.

22 66. Defendants are without knowledge or information sufficient to admit or deny the
23 allegations contained in paragraph 66.

1 67. Defendants are without knowledge or information sufficient to admit or deny the
2 allegations contained in paragraph 67.

3 68. Defendants are without knowledge or information sufficient to admit or deny the
4 allegations contained in paragraph 68.

5 69. Defendants are without knowledge or information sufficient to admit or deny the
6 allegations contained in paragraph 69.

7 70. First, second, and fourth sentences: Defendants are without knowledge or
8 information sufficient to admit or deny the allegations contained in these sentences. Third
9 sentence: Defendants admit.

10 71. Defendants admit.

11 72. Defendants are without knowledge or information sufficient to admit or deny the
12 allegations contained in paragraph 72.

13 73. Defendants are without knowledge or information sufficient to admit or deny the
14 allegations contained in paragraph 73 except that Defendants admit that David Dufrane was given
15 physical and written tests at Edgewood.

16 74. First and third sentences: Defendants are without knowledge or information
17 sufficient to admit or deny the allegations contained in these sentences. Second sentence:
18 Defendants admit.

19 75. First sentence: Defendants admit. Second through seventh sentences: Defendants
20 are without knowledge or information sufficient to admit or deny the allegations contained in
21 these sentences.

22 76. First sentence: Defendants deny the allegations contained in this sentence except
23 to admit that David Dufrane served at Edgewood in April and May 1965. Second through fourth
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1 sentences: Defendants are without knowledge or information sufficient to admit or deny the
2 allegations contained in these sentences.

3 77. Defendants are without knowledge or information sufficient to admit or deny the
4 allegations contained in paragraph 77.

5 78. Defendants are without knowledge or information sufficient to admit or deny the
6 allegations contained in paragraph 78.

7 79. Defendants are without knowledge or information sufficient to admit or deny the
8 allegations contained in paragraph 79.

9 80. First through sixth sentences: Defendants are without knowledge or information
10 sufficient to admit or deny the allegations contained in these sentences. Seventh sentence:
11 Defendants admit. Eighth sentence: Defendants deny the allegation in this sentence except to
12 admit that the VA granted David Dufrane a 30% rating for PTSD and a 40% rating for chronic
13 pain, headaches, dyesthesia in the arms and legs, and arthralgia in all joints, for an overall rating of
14 60%.
15

16 81. Defendants admit paragraph 81.

17 82. Defendants are without knowledge or information sufficient to admit or deny the
18 allegations contained in paragraph 82.

19 83. Defendants are without knowledge or information sufficient to admit or deny the
20 allegations contained in paragraph 83.

21 84. First through sixth sentences: Defendants are without knowledge or information
22 sufficient to admit or deny the allegations contained in these sentences. Seventh sentence:
23 Defendants admit.
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1 85. First sentence: Defendants admit. Second and third sentences: Defendants are
2 without knowledge or information sufficient to admit or deny the allegations contained in these
3 sentences.

4 86. First sentence: Defendants are without knowledge or information sufficient to
5 admit or deny the allegations contained in this sentence. Second sentence: Defendants are
6 without knowledge or information sufficient to admit or deny the allegations in this sentence
7 except to admit that Wray Forrest did not receive a medal for his service at Edgewood and to
8 deny that he did not receive any other recognition. Defendants aver Wray Forrest received a
9 letter of commendation on August 31, 1973. Third sentence: Defendants are without knowledge
10 or information sufficient to admit or deny the allegations contained in this sentence. Fourth
11 sentence: Defendants are without knowledge or information sufficient to admit or deny the
12 allegations contained in this sentence except to admit that a VA outreach letter was sent to Wray
13 Forrest on May 17, 2007.
14

15 87. Defendants are without knowledge or information sufficient to admit or deny the
16 allegations contained in paragraph 87.
17

18 88. First sentence: this sentence contains Plaintiffs’ characterization of this case,
19 argument, and conclusions of law, to which no response is required; to the extent a response is
20 deemed required, Defendants deny the allegations. Second sentence: Defendants are without
21 knowledge or information sufficient to admit or deny the allegations contained in this sentence.
22

23 89. First sentence: Defendants admit. Second and third sentences: Defendants are
24 without knowledge or information sufficient to admit or deny the allegations contained in these
25 sentences. Fourth sentence: this sentence contains Plaintiffs’ characterization of this case, to
26 which no response is required; to the extent a response is deemed required, Defendants deny the
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1 allegations except to admit that the CIA has provided some compensation associated with
2 participation in MKULTRA research.

3 90. First sentence: this sentence contains Plaintiffs' characterization of this case, to
4 which no response is required; to the extent a response is deemed required, Defendants deny the
5 allegations. Second and third sentences: Defendants are without knowledge or information
6 sufficient to admit or deny the allegations contained in these sentences.
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8 91. Paragraph 91 contains Plaintiffs' characterization of this case and the relief they
9 seek, to which no response is required; to the extent a response is deemed required, Defendants
10 deny the allegations and that Plaintiffs are entitled to the relief requested, or to any relief
11 whatsoever.

12 92. First through fourth sentences: The first four sentences of this paragraph
13 constitute Plaintiffs' characterization of the National Security Act. Defendants respectfully refer
14 the Court to that Act, which speaks for itself, and deny the first four sentences of this paragraph to
15 the extent they are inconsistent with that Act. Fifth sentence: Defendants deny. Sixth sentence:
16 this sentence contains argument and legal conclusions, to which no response is required; to the
17 extent a response is deemed required, Defendants deny the allegations.
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19 93. First sentence: Defendants admit. Second sentence through the remainder of the
20 paragraph: these sentences constitute Plaintiffs' characterization of the National Security Act and
21 the Intelligence Reform and Terrorism Prevention Act. Defendants respectfully refer the Court to
22 those Acts, which speak for themselves, and deny the remainder of paragraph 93 to the extent it is
23 inconsistent with those Acts.
24

25 94. Defendants admit paragraph 94.

26 95. First through fourth sentences: Defendants admit. Fifth sentence: this sentence
27 contains Plaintiffs' characterization of this case, argument, and legal conclusions, to which no
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1 response is required; to the extent a response is deemed required, Defendants deny the allegations
2 except to admit that DOD Instruction 5030.29 in 1964 stated, “DOD assumes full responsibility
3 for humans involved in research under its sponsorship, whether this involves investigational drugs
4 or other hazards.” Sixth sentence: this sentence contains Plaintiffs’ characterization of this case,
5 to which no response is required; to the extent a response is deemed required, Defendants deny
6 the allegations except to admit that Defendants entered into an agreement to supply the VA with
7 information to help service members with their claims to the VA. Seventh and eighth sentences:
8 these sentences constitute Plaintiffs’ characterizations of the Bob Stump National Defense
9 Authorization Act for Fiscal Year 2003. Defendants respectfully refer the Court to that Act,
10 which speaks for itself, and deny the seventh and eighth sentences to the extent they are
11 inconsistent with the Act. Ninth sentence: this sentence constitutes Plaintiffs’ characterizations
12 of the report of the Government Accountability Office (“GAO”). Defendants respectfully refer
13 the Court to the GAO report, which speaks for itself, and deny the ninth sentence to the extent it
14 is inconsistent with that report. Tenth sentence: this sentence contains Plaintiffs’ characterization
15 of this case, to which no response is required; to the extent a response is deemed required,
16 Defendants deny the allegations.

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19 96. Defendants admit paragraph 96.

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21 97. Defendants deny the allegations in paragraph 97 and aver that John M. McHugh is
22 the current U.S. Secretary of the Army. Replacing McHugh’s name for Geren’s throughout
23 paragraph 97, Defendants aver to the remaining allegations in this paragraph.

24 98. First and second clauses: Defendants admit that Eric Holder, Jr. is the current U.S.
25 Attorney General and is named in this suit in his official capacity. Third clause: the allegations
26 concerning “the Attorney General’s assumption of responsibility” are Plaintiffs’ characterization
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1 of this case and call for legal conclusions, to which no response is required; to the extent a
2 response is deemed required, Defendants deny the allegations.

3 99. Paragraph 99 contains Plaintiffs' characterization of this case, argument, and legal
4 conclusions, to which no response is required; to the extent a response is deemed required,
5 Defendants deny the allegations.
6

7 100. Defendants admit paragraph 100.

8 101. Defendants admit paragraph 101.

9 102. Defendants are without knowledge or information sufficient to admit or deny the
10 allegations contained in paragraph 102.

11 103. Paragraph 103 constitutes Plaintiffs' characterizations of the 1976 Army IG
12 Report. Defendants respectfully refer the Court to that report, which speaks for itself, and deny
13 paragraph 103 to the extent that it is inconsistent with that report.
14

15 104. Defendants are without knowledge or information sufficient to admit or deny the
16 allegations contained in paragraph 104.

17 105. First through fourth sentences: Defendants are without knowledge or information
18 sufficient to admit or deny the allegations contained in these sentences except that Defendants
19 admit the existence of the cited legal authority, which speaks for itself and to which the Court is
20 respectfully referred for a full and accurate statement of its contents. Fifth and sixth sentences:
21 these sentences constitute Plaintiffs' characterizations of the cited appendix to Congressional
22 testimony. Defendants respectfully refer the Court to that appendix, which speaks for itself, and
23 deny the fifth and sixth sentences to the extent they are inconsistent with that appendix.
24

25 106. First and second sentence: Defendants are without knowledge or information
26 sufficient to admit or deny the allegations contained in these sentences. Third and fourth
27 sentences: Defendants deny except to admit the allegations with respect to DOD. Fifth through
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1 seventh and eleventh sentences: Defendants are without knowledge or information sufficient to
2 admit or deny the allegations contained in these sentences. Eighth through tenth sentences: these
3 sentences contain Plaintiffs' characterization of this case and DOD's research programs, to which
4 no response is required; to the extent a response is deemed required, Defendants deny the
5 allegations except that Defendants admit that DOD's research programs shifted from offensive to
6 defensive purposes.
7

8 107. First sentence: Defendants admit. Second through seventh sentences: Defendants
9 are without knowledge or information sufficient to admit or deny the allegations contained in
10 these sentences. Eighth sentence: Defendants deny the allegations except to admit that DOD's
11 research programs involving human subjects included tests on possible vaccines for biological
12 warfare agents.
13

14 108. First sentence: this sentence contains Plaintiffs' characterization of this case, to
15 which no response is required; to the extent a response is deemed required, Defendants deny the
16 allegations except that Defendants are without knowledge or information sufficient to admit or
17 deny the allegations concerning other government agencies. Second sentence: this sentence
18 contains Plaintiffs' characterization of this case and argument, to which no response is required;
19 to the extent a response is deemed required, Defendants are without knowledge or information
20 sufficient to admit or deny the allegations concerning other government agencies. Defendants
21 aver that DOD has provided the VA with over 6,000 names of service members who participated
22 in research programs at Edgewood Arsenal that involved over 254 substances. Third sentence:
23 Defendants are without knowledge or information sufficient to admit or deny the allegations
24 contained in this sentence.
25

26 109. Defendants deny the allegations in paragraph 109 except to admit that DOD tested
27 newer chemical agents including LSD, PCP, and synthetic cannabis analogs. Defendants aver
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1 that DOD's objectives with regards to its activities at Edgewood and Fort Detrick included
2 understanding both the offensive and defensive uses of LSD.

3 110. First sentence: Defendants deny except to admit that DOD's Edgewood research
4 program involving human subjects included research on mustard agents. Second sentence:
5 Defendants admit that riot control agents have been tested at Edgewood and are without
6 knowledge or information sufficient to admit or deny the remaining allegations contained in this
7 sentence.

8
9 111. First sentence: Defendants are without knowledge or information sufficient to
10 admit or deny the allegations contained in this sentence except to admit that DOD performed field
11 tests as part of its research program. Second sentence: Defendants are without knowledge or
12 information sufficient to admit or deny the allegations contained in this sentence.

13
14 112. First sentence: Defendants deny the allegations except to admit that DOD
15 conducted field tests at Ford Ord using military personnel. Second through fourth sentences:
16 Defendants are without knowledge or information sufficient to admit or deny the allegations
17 contained in these sentences; to the extent that Plaintiffs' allegations rest on the cited
18 Congressional testimony, Defendants respectfully refer the Court to that testimony, which speaks
19 for itself, and deny the second, third, and fourth sentences to the extent they are inconsistent with
20 that testimony.

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22 113. First sentence: this sentence contains Plaintiffs' characterization of this case and
23 government research programs, to which no response is required; to the extent a response is
24 deemed required, Defendants deny the allegations except that DOD and CIA admit involvement
25 in research programs involving human subjects. Second sentence: this sentence constitutes
26 argument and a legal conclusion, to which no response is required; to the extent a response is
27 deemed required, Defendants deny the allegations except that, to the extent that Plaintiffs'
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1 allegations rest on 50 U.S.C. § 403-3(d)(1), Defendants respectfully refer the Court to that statute,
2 which speaks for itself, and deny the sentence to the extent it is inconsistent with that statute.

3 114. First sentence: this sentence contains Plaintiffs' characterization of this case, to
4 which no response is required; to the extent a response is deemed required, Defendants deny the
5 allegations. Second sentence: this sentence constitutes Plaintiffs' characterizations of the
6 Memorandum from Richard Helms. Defendants respectfully refer the Court to that
7 Memorandum, which speaks for itself, and deny this sentence to the extent it is inconsistent with
8 that Memorandum. Third sentence: Defendants are without knowledge or information sufficient
9 to admit or deny the allegations contained in this sentence except that CIA admits Richard Helms
10 was convicted of a crime.
11

12 115. First sentence: this sentence constitutes Plaintiffs' characterization of the cited
13 Memorandum from Allen Dulles, to which no response is required; to the extent a response is
14 deemed required, Defendants respectfully refer the Court to the Memorandum, which speaks for
15 itself, and deny the first sentence to the extent it is inconsistent with the Memorandum. Second
16 sentence: this sentence constitutes Plaintiffs' characterizations of the cited Advisory Committee
17 on Human Radiation Experiments ("ACHRE"), Interim Report. Defendants respectfully refer the
18 Court to the Interim Report, which contains the opinion of ACHRE and speaks for itself, and
19 deny the second sentence to the extent it is inconsistent with the Interim Report. Third and fourth
20 sentences: Defendants deny.
21

22 116. First sentence: Defendants deny. Second sentence: Defendants admit. Third and
23 fourth sentences: these sentences constitute Plaintiffs' characterizations of Dr. Gottlieb's
24 Congressional testimony. Defendants respectfully refer the Court to that testimony, which speaks
25 for itself, and deny the third and fourth sentences to the extent they are inconsistent with that
26 testimony.
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1 117. First sentence: Defendants neither admit nor deny on the basis of 50 U.S.C. §
2 403g. Second sentence: this sentence constitutes Plaintiffs' characterizations of Exhibit B to the
3 Second Amended Complaint. Defendants respectfully refer the Court to that document, which
4 speaks for itself, and deny the second sentence to the extent it is inconsistent with the exhibit.
5 Third sentence: Defendants deny the allegations in this sentence except to admit that MKULTRA
6 is believed to have had 149 research subprojects. Fourth sentence: this sentence contains
7 Plaintiffs' characterizations of this case, to which no response is require; to the extent a response
8 is deemed required, Defendants deny the allegations except to admit that CIA had relationships
9 with research organizations. These allegations are subject to the state secrets privilege. Fifth
10 sentence: this sentence contains Plaintiffs' characterization of this case, to which no response is
11 required; to the extent a response is deemed required, Defendants deny the allegations.
12

13 118. Paragraph 118 constitutes Plaintiffs' characterizations of the cited Report on the
14 Covert Activities of the Central Intelligence Agency. Defendants respectfully refer the Court to
15 that report, which speaks for itself, and deny paragraph 118 to the extent it is inconsistent with
16 that report.
17

18 119. First sentence: to the extent the sentence constitutes Plaintiffs' characterization of
19 the cited Wilson memorandum, the sentence requires no response; to the extent a response is
20 deemed required and as to the remainder of the sentence, Defendants deny the allegations in this
21 sentence, and aver that on February 26, 1953, the Secretary of Defense issued a memorandum,
22 also known as the Wilson memorandum, to the service secretaries that incorporated the principles
23 of the 1947 Nuremberg Code on medical research. Defendants respectfully refer the Court to the
24 Wilson memorandum, which speaks for itself, and deny the first sentence to the extent it is
25 inconsistent with the Wilson memorandum. Second sentence, including subparts a–g: this
26 sentence and its subparts constitute Plaintiffs' characterizations of Exhibit C to the Second
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1 Amended Complaint. Defendants respectfully refer the Court to the exhibit, which speaks for
2 itself, and deny the second sentence and its subparts to the extent that they are inconsistent with
3 the exhibit.

4 120. First sentence: Defendants are without knowledge or information sufficient to
5 admit or deny the allegations contained in this sentence. Second sentence: Defendants are
6 without knowledge or information sufficient to admit or deny the allegations contained in this
7 sentence.

8 121. First sentence, first clause: Defendants are without knowledge or information
9 sufficient to admit or deny the allegations contained in the first clause of this sentence concerning
10 the reasons for the President's issuance of Executive Order 11905. First sentence, second clause:
11 this clause constitutes Plaintiffs' characterizations of Executive Order 11905. Defendants
12 respectfully refer the Court to Executive Order 11905, which speaks for itself, and deny the
13 second clause to the extent it is inconsistent with Executive Order 11905.

14 122. Paragraph 122 constitutes Plaintiffs' characterizations of the cited report from the
15 National Commission for the Protection of Human Subjects of Biomedical Research. Defendants
16 respectfully refer the Court to that report, which speaks for itself, and deny paragraph 122 to the
17 extent it is inconsistent with that report.

18 123. Paragraph 123 constitutes Plaintiffs' characterizations of Executive Order 12333.
19 Defendants respectfully refer the Court to Executive Order 12333, which speaks for itself, and
20 deny paragraph 123 to the extent it is inconsistent with Executive Order 12333.

21 124. Paragraph 124 constitutes Plaintiffs' characterizations of Directive No. 3216.2.
22 Defendants respectfully refer the Court to Directive No. 3216.2, which speaks for itself, and deny
23 paragraph 124 to the extent it is inconsistent with Directive No. 3216.2.

1 125. Paragraph 125 constitutes Plaintiffs' characterizations of Confidential
2 Memorandum 3247. Defendants respectfully refer the Court to Confidential Memorandum 3247,
3 which speaks for itself, and deny paragraph 125 to the extent it is inconsistent with Confidential
4 Memorandum 3247.

5 126. Paragraph 126 constitutes Plaintiffs' characterizations of Army Regulation 70-25.
6 Defendants respectfully refer the Court to Army Regulation 70-25, which speaks for itself, and
7 deny paragraph 126 to the extent it is inconsistent with that regulation.
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9 127. Paragraph 127 constitutes Plaintiffs' characterizations of Army Regulation 70-25.
10 Defendants respectfully refer the Court to Army Regulation 70-25, which speaks for itself, and
11 deny paragraph 127 to the extent it is inconsistent with that regulation.
12

13 128. Paragraph 128 constitutes Plaintiffs' characterizations of Army Regulation 70-25.
14 Defendants respectfully refer the Court to Army Regulation 70-25, which speaks for itself, and
15 deny paragraph 128 to the extent it is inconsistent with that regulation.

16 129. First sentence: this sentence constitutes Plaintiffs' characterizations of 32 C.F.R.
17 Part 219. Defendants respectfully refer the Court to 32 C.F.R. Part 219, which speaks for itself,
18 and deny paragraph 129 to the extent it is inconsistent with 32 C.F.R. Part 219. Second sentence:
19 Defendants admit.

20 130. First sentence: Defendants admit. Second sentence: Defendants are without
21 knowledge or information sufficient to admit or deny the allegations contained in this sentence.
22 Third and fourth sentences: these sentences contain Plaintiffs' characterization of this case and
23 argument, to which no response is required; to the extent a response is deemed required,
24 Defendants deny the allegations and aver the existence of standards governing the ethical use of
25 human subjects as discussed above in paragraphs 119–129 of this Answer.
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1 131. Paragraph 131 constitutes Plaintiffs’ characterization of this case and argument, to
 2 which no response is required; to the extent a response is deemed required, Defendants deny the
 3 allegations except to admit the existence of the quoted memorandum, which speaks for itself and
 4 to which the Court is respectfully referred for a full and accurate statement of its contents;
 5 Defendants deny the allegations to the extent that they are inconsistent with the quoted
 6 memorandum.
 7

8 132. First sentence: this sentence contains Plaintiffs’ characterization of this case, to
 9 which no response is required; to the extent a response is deemed required, Defendants deny the
 10 allegations. Second sentence: this sentence contains Plaintiffs’ characterization of this case, to
 11 which no response is required; to the extent a response is deemed required, Defendants deny the
 12 allegations except to admit that the CIA employed Dr. Treichler and to state that Defendants are
 13 without knowledge or information sufficient to admit or deny allegations concerning his place of
 14 employment. Third sentence: Defendants deny. Fourth sentence: this sentence contains
 15 Plaintiffs’ characterization of this case, to which no response is required; to the extent a response
 16 is deemed required, Defendants deny the allegations. CIA avers that it provided funding to a
 17 research project at Edgewood as a part of Project OFTEN. Fifth sentence: Defendants are
 18 without knowledge or information sufficient to admit or deny the allegations contained in this
 19 sentence. Sixth sentence: this sentence contains Plaintiffs’ characterization of this case, to which
 20 no response is required; to the extent a response is deemed required, Defendants deny the
 21 allegations. Seventh and eighth sentences: these sentences contain Plaintiffs’ characterization of
 22 this case, argument, and legal conclusion, to which no response is required; to the extent a
 23 response is deemed required, Defendants deny the allegations.
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1 133. Paragraph 133 constitutes Plaintiffs’ characterizations of the cited 1963 CIA IG
2 Report. Defendants respectfully refer the Court to the 1963 CIA IG Report, which speaks for
3 itself, and deny paragraph 133 to the extent that it is inconsistent with that report.

4 134. First sentence: this sentence contains Plaintiffs’ characterization of this case, to
5 which no response is required; to the extent a response is deemed required, Defendants deny the
6 allegations. Second sentence: this sentence constitutes Plaintiffs’ characterizations of the 1963
7 CIA IG Report. Defendants respectfully refer the Court to the 1963 CIA IG Report, which speaks
8 for itself, and deny this sentence to the extent that it is inconsistent with that report.

9 135. Paragraph 135 contains Plaintiffs’ characterizations of the cited 1963 CIA IG
10 Report. Defendants respectfully refer the Court to the 1963 CIA IG Report, which speaks for
11 itself, and deny paragraph 135 to the extent that it is inconsistent with that report.

12 136. Paragraph 136 constitutes Plaintiffs’ characterizations of Exhibit B to the
13 Complaint. Defendants respectfully refer the Court to that exhibit, which speaks for itself, and
14 deny paragraph 136 to the extent that it is inconsistent with that exhibit.

15 137. First sentence, first and second clause: these clauses constitute Plaintiffs’
16 characterizations of Exhibit B to the Complaint. Defendants respectfully refer the Court to that
17 exhibit, which speaks for itself, and deny this sentence to the extent that it is inconsistent with that
18 exhibit. Subpart a: this subpart constitutes Plaintiffs’ characterizations of Exhibit B to the
19 Complaint, the cited ACHRE Interim Report, and the cited Memorandum from Allen Dulles.
20 Defendants respectfully refer the Court to that exhibit and those reports, which speak for
21 themselves, and deny subpart a to the extent that it is inconsistent with the cited exhibit and
22 reports. Subpart b: Defendants are without knowledge or information sufficient to admit or deny
23 the allegations in this subpart except CIA admits that it provided a small grant to Dr. Cameron.
24 Subparts c–f: these subparts constitute Plaintiffs’ characterizations of Exhibit B to the Complaint.

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1 Defendants respectfully refer the Court to that exhibit, which speaks for itself, and deny subparts
2 c–f to the extent that they are inconsistent with that exhibit.

3 138. First sentence: this sentence contains Plaintiffs’ characterization of MKULTRA,
4 to which no response is required; to the extent a response is deemed required, Defendants deny
5 the allegations. Second sentence: this sentence constitutes Plaintiffs’ characterizations of Exhibit
6 B to the Complaint and the cited report “Project MKULTRA, The CIA’s Program of Research in
7 Behavior Modification.” Defendants respectfully refer the Court to that exhibit and report, which
8 speak for themselves, and deny the second sentence to the extent that it is inconsistent with that
9 exhibit and report. Third and fourth sentences: these sentences constitute Plaintiffs’
10 characterizations of Exhibit B to the Complaint. Defendants respectfully refer the Court to that
11 exhibit, which speaks for itself, and deny the third and fourth sentences to the extent that they are
12 inconsistent with that exhibit.
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15 139. First sentence: Defendants deny. Second and third sentences: Defendants are
16 without knowledge or information sufficient to admit or deny the allegations contained in these
17 sentences except to admit that Dr. Van Sim was involved in experiments at Edgewood.

18 140. First sentence: this sentence contains Plaintiffs’ characterization of this case, to
19 which no response is required; to the extent a response is deemed required, Defendants deny the
20 allegations except to admit that DOD administered LSD and other drugs to test subjects at
21 Edgewood and other locations. Second sentence: Defendants are without knowledge or
22 information sufficient to admit or deny the allegations contained in this sentence.
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24 141. First sentence: Defendants deny. Second and third sentences: Defendants are
25 without knowledge or information sufficient to admit or deny the allegations in these sentences
26 except that CIA denies employing Paul Hoch as a CIA consultant; to the extent that Plaintiffs’
27 allegations rest on the cited legal authority, Defendants respectfully refer the Court to that
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1 authority, which speaks for itself, and deny the sentences to the extent they are inconsistent with
2 that authority. Fourth sentence, first clause: this clause contains a legal conclusion, to which no
3 response is required; to the extent a response is deemed required, Defendants deny. Fourth
4 sentence, second clause: this clause contains Plaintiffs' characterization of Dr. Olson's death, to
5 which no response is required; to the extent a response is deemed required, CIA admits that Dr.
6 Olson jumped out of a window to his death subsequent to receiving a dose of LSD. Fifth
7 sentence: this sentence constitutes Plaintiffs' characterizations of the cited 1994 GAO Report.
8 Defendants respectfully refer the Court to the 1994 GAO Report, which speaks for itself, and
9 deny the fifth sentence to the extent that it is inconsistent with that report.
10

11 142. First sentence: Defendants are without knowledge or information sufficient to
12 admit or deny whether sporadic information regarding Defendants activities began to circulate.
13 The remainder of this sentence constitutes Plaintiffs' characterization of the cited 1963 CIA IG
14 Report. Defendants respectfully refer the Court to the 1963 CIA IG Report, which speaks for
15 itself, and deny the first sentence to the extent it is inconsistent with that report. Second sentence:
16 Defendants deny the allegations in this sentence except to admit the existence of MKSEARCH.
17 Third sentence: Defendants deny.
18

19 143. First sentence: Defendants are without knowledge or information sufficient to
20 admit or deny the allegations contained in this sentence. Second sentence: this sentence contains
21 Plaintiffs' characterization of this case and conclusions of law, to which no response is required;
22 to the extent a response is deemed required, Defendants deny the allegations. Third sentence:
23 this sentence constitutes Plaintiffs' characterization of Exhibit B to the Complaint. Defendants
24 respectfully refer the Court to that exhibit, which speaks for itself, and deny the third sentence to
25 the extent it is inconsistent with that exhibit. Fourth sentence: Defendants are without
26 knowledge or information sufficient to admit or deny the allegations contained in this sentence.
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1 Fifth sentence: Defendants deny the allegations in this sentence except to admit that Director
2 Helms authorized the destruction of certain documents relating to MKULTRA in 1973. Sixth
3 sentence: this sentence contains Plaintiffs' characterization of this case, to which no response is
4 required; to the extent a response is deemed required, Defendants deny the allegations except to
5 admit that many documents relating to MKULTRA were destroyed in 1973.
6

7 144. Paragraph 144 contains legal conclusions, to which no response is required; to the
8 extent a response is deemed required, Defendants deny the allegations.

9 145. First sentence: this sentence constitutes Plaintiffs' characterizations of the cited
10 1947 Haywood memo. Defendants respectfully refer the Court to the 1947 Haywood memo,
11 which speaks for itself, and deny the first sentence to the extent it is inconsistent with that memo.
12 Second sentence: this sentence constitutes Plaintiffs' characterizations of the cited CIA Inspector
13 General's Survey of Technical Services Division. Defendants respectfully refer the Court to the
14 CIA Inspector General's Survey of Technical Services Division, which speaks for itself, and deny
15 the second sentence to the extent it is inconsistent with that survey. Third sentence: this sentence
16 constitutes Plaintiffs' characterizations of the cited July 26, 1963 Memorandum. Defendants
17 respectfully refer the Court to the July 26, 1963 Memorandum, which speaks for itself, and deny
18 the third sentence to the extent it is inconsistent with that Memorandum.
19

20 146. Paragraph 146 constitutes Plaintiffs' characterizations of the cited CIA's
21 Memorandum from WVB. Defendants respectfully refer the Court to the CIA's Memorandum
22 from WVB, which speaks for itself, and deny paragraph 146 to the extent it is inconsistent with
23 that Memorandum.
24

25 147. First sentence, introductory language: this sentence contains Plaintiffs'
26 characterization of this case and argument, to which no response is required; to the extent a
27 response is deemed required, Defendants deny the allegations. Subpart a: Defendants deny the
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1 allegations in this subparagraph except to admit the existence of the MKULTRA and
2 MKSEARCH projects. Subpart b: Defendants deny the allegations in this subparagraph except
3 to admit the existence of the OFTEN and CHICKWIT projects. Subpart c: Defendants deny the
4 allegations in this subparagraph except to admit the existence of the BLUEBIRD and
5 ARTICHOKE projects. Subpart d: Defendants deny the allegations in this subparagraph except
6 to admit the existence of the MKDELTA project. Subpart e: Defendants deny the allegations in
7 this subparagraph except to admit the existence of the MKNAOMI project. Subpart f:
8 Defendants are without knowledge or information sufficient to admit or deny the allegations
9 contained in this subparagraph. Subpart g, first sentence: Defendants are without knowledge or
10 information sufficient to admit or deny the allegations contained in this sentence. Subpart g,
11 second sentence: this sentence contains Plaintiffs' characterization of this case, to which no
12 response is required; to the extent a response is deemed required, Defendants deny the
13 allegations.
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16 148. Defendants deny.

17 149. First sentence: this sentence constitutes Plaintiffs' characterization of the cited
18 Memorandum for the Record re MKULTRA Subproject 119. Defendants respectfully refer the
19 Court to the Memorandum for the Record re MKULTRA Subproject 119, which speaks for itself,
20 and deny the first sentence to the extent it is inconsistent with that Memorandum. Second
21 sentence: this sentence constitutes Plaintiffs' characterization of the cited Proposal Materials.
22 Defendants respectfully refer the Court to the Proposal Materials, which speak for themselves,
23 and deny the second sentence to the extent it is inconsistent with those materials. Third sentence:
24 this sentence constitutes Plaintiffs' characterization of the cited U.S. Army Med. Dep't, LSD
25 Follow-Up Study Report. Defendants respectfully refer the Court to that Report, which speaks
26 for itself, and deny the third sentence to the extent it is inconsistent with that report. Fourth
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1 sentence: Defendants deny. Fifth sentence: Defendants are without knowledge or information
2 sufficient to admit or deny the allegations concerning “Agency Top Secret” classification, and
3 Defendants deny the remaining allegations in this sentence.

4 150. Defendants are without knowledge or information sufficient to admit or deny the
5 allegations contained in paragraph 150.

6 151. Paragraph 151 contains Plaintiffs’ characterizations of the book “Physical Control
7 of the Mind, Toward a Psychocivilized Society,” which speaks for itself, and deny paragraph 151
8 to the extent it is inconsistent with that book.

9 152. Defendants deny the allegations in paragraph 152 except that the CIA admits it
10 provided a small grant to Dr. Cameron.

11 153. Defendants are without knowledge or information sufficient to admit or deny the
12 allegations contained in paragraph 153.

13 154. Defendants are without knowledge or information sufficient to admit or deny the
14 allegations in paragraph 154 except to admit that the CIA financed some MKULTRA research at
15 Stanford University.

16 155. Paragraph 155 contains Plaintiffs’ characterization of this case, argument, and
17 conclusions of law, to which no response is required; to the extent a response is deemed required,
18 Defendants deny the allegations.

19 156. First sentence: Defendants are without knowledge or information sufficient to
20 admit or deny whether volunteers were asked to sign an agreement containing the quoted text.
21 Defendants aver that most of the named plaintiffs’ personnel records contained copies of the
22 volunteer’s participation agreement, which did not contain any mention of a secrecy oath.
23 Defendants further aver that service members were informed, through a variety of means, of the
24 secrecy of DOD’s research program involving human subjects. Second sentence: Defendants
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1 deny the allegations in this sentence except to admit that plaintiffs’ personnel records contain
2 copies of signed forms consenting to the videotaping of experiments.

3 157. Paragraph 157 contains Plaintiffs’ characterization of this case, to which no
4 response is required; to the extent a response is deemed required, Defendants deny the
5 allegations.

6 158. First sentence: this sentence contains Plaintiffs’ characterization of this case and
7 legal conclusions, to which no response is required; to the extent a response is deemed required,
8 Defendants are without knowledge or information sufficient to admit or deny the allegations in
9 this sentence. Second and third sentences: Defendants are without knowledge or information
10 sufficient to admit or deny the allegations contained in these sentences.

11 159. Defendants are without knowledge or information sufficient to admit or deny the
12 allegations contained in paragraph 159.

13 160. First sentence: Defendants admit. Second sentence: this sentence contains
14 Plaintiffs’ characterization of this case, to which no response is required; to the extent a response
15 is deemed required, Defendants deny the allegations except to admit that DOD maintains a
16 website regarding its research programs involving human subjects.

17 161. Paragraph 161 contains Plaintiffs’ characterization of this case, argument, and
18 legal conclusions, to which no response is required; to the extent a response is deemed required,
19 Defendants deny the allegations.

20 162. First sentence: this sentence contains Plaintiffs’ characterization of this case and
21 legal conclusions, to which no response is required; to the extent a response is deemed required,
22 Defendants deny the allegations. Second sentence: Defendants are without knowledge or
23 information sufficient to admit or deny the allegations contained in this sentence.
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1 163. First sentence: this sentence constitutes Plaintiffs' characterization of the cited
2 1958 Army publication. Defendants respectfully refer the Court to that publication, which speaks
3 for itself, and deny the allegations to the extent that they are inconsistent with that publication.
4 Second sentence: this sentence constitutes Plaintiffs' characterization of the cited 1972 Army
5 publication. Defendants respectfully refer the Court to that publication, which speaks for itself,
6 and deny the allegations to the extent that they are inconsistent with that publication.
7

8 164. Paragraph 164 constitutes Plaintiffs' characterization of the 1976 Army IG Report.
9 Defendants respectfully refer the Court to the 1976 Army IG Report, which speaks for itself, and
10 deny paragraph 164 to the extent that it is inconsistent with that report.

11 165. First through fourth sentences: these sentences constitute Plaintiffs'
12 characterization of the 1976 Army IG Report. Defendants respectfully refer the Court to the 1976
13 Army IG Report, which speaks for itself, and deny the first four sentences to the extent that they
14 are inconsistent with that report. Fifth sentence: this sentence contains Plaintiffs'
15 characterizations of this case, argument, and legal conclusions, to which no response is required;
16 to the extent a response is deemed required, Defendants deny the allegations in this sentence.
17

18 166. First through fourth sentences: these sentences constitute Plaintiffs'
19 characterization of the 1976 Army IG Report. Defendants respectfully refer the Court to the 1976
20 Army IG Report, which speaks for itself, and deny the first four sentences to the extent that they
21 are inconsistent with that report. Fifth sentence: Defendants admit.
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23 167. Defendants are without knowledge or information sufficient to admit or deny the
24 allegations contained in paragraph 167.

25 168. First through third sentences: these sentences constitute Plaintiffs'
26 characterizations of the 1976 Army IG Report. Defendants respectfully refer the Court to the
27 1976 Army IG Report, which speaks for itself, and deny the first three sentences to the extent that
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1 they are inconsistent with that report. Fourth sentence: this sentence contains Plaintiffs'
2 characterizations of this case and conclusions of law, to which no response is required; to the
3 extent a response is deemed required, Defendants deny the allegations in this sentence. Fifth
4 sentence: Defendants deny except to admit that DOD drew volunteers from Army bases
5 throughout the country. Sixth sentence: this sentence contains Plaintiffs' characterizations of this
6 case and its expectations with regard to discovery, to which no response is required; to the extent
7 a response is deemed required, Defendants deny the allegations in this sentence except that they
8 are without knowledge or information regarding Plaintiffs' expectations with regard to discovery.
9 Seventh sentence: Defendants are without knowledge or information sufficient to admit or deny
10 allegations concerning other government agencies.
11

12 169. Paragraph 169 constitutes Plaintiffs' characterizations of the cited 1993 GAO
13 Report. Defendants respectfully refer the Court to the 1993 GAO Report, which speaks for itself,
14 and deny paragraph 169 to the extent it is inconsistent with that report.
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16 170. Defendants are without knowledge or information sufficient to admit or deny
17 allegations concerning other government agencies.
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19 171. Paragraph 171 constitutes Plaintiffs' characterization of the cited CIA's
20 Memorandum for the Record from William V. Broe. Defendants respectfully refer the Court to
21 the CIA's Memorandum for the Record from William V. Broe, which speaks for itself, and deny
22 paragraph 171 to the extent it is inconsistent with that memorandum.
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24 172. First sentence: this sentence contains Plaintiffs' characterization of this case and
25 conclusions of law, to which no response is required; to the extent a response is deemed required,
26 Defendants deny this sentence. Second sentence: Defendants are without knowledge or
27 information sufficient to admit or deny the allegations contained in this sentence.
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1 173. Paragraph 173 contains Plaintiffs’ characterization of this case and conclusions of
2 law, to which no response is required; to the extent a response is deemed required, Defendants
3 deny the allegations.

4 174. Paragraph 174 contains Plaintiffs’ allegations regarding the proposed class, to
5 which no response is required; to the extent a response is deemed required, Defendants are
6 without knowledge or information sufficient to admit or deny the allegations contained in
7 paragraph 174.

8 175. Paragraph 175 contains Plaintiffs’ allegations regarding the proposed class
9 representatives, to which no response is required; to the extent a response is deemed required,
10 Defendants are without knowledge or information sufficient to admit or deny the allegations
11 contained in paragraph 175.

12 176. Paragraph 176 contains Plaintiffs’ characterization of this case and a legal
13 conclusion, to which no response is required; to the extent a response is deemed required,
14 Defendants deny the allegations.

15 177. Paragraph 177 contains legal conclusions, to which no response is required; to the
16 extent a response is deemed required, Defendants are without knowledge or information sufficient
17 to admit or deny the allegations contained in paragraph 177.

18 178. Paragraph 178 contains Plaintiffs’ characterization of this case and legal
19 conclusions, to which no response is required; to the extent a response is deemed required,
20 Defendants are without knowledge or information sufficient to admit or deny the allegations
21 contained in paragraph 178.

22 179. Paragraph 179 contains legal conclusions, to which no response is required; to the
23 extent a response is deemed required, Defendants are without knowledge or information sufficient
24 to admit or deny the allegations contained in paragraph 179.

1 180. Paragraph 180 contains legal conclusions, to which no response is required; to the
2 extent a response is deemed required, Defendants are without knowledge or information sufficient
3 to admit or deny the allegations contained in paragraph 180.

4 181. Paragraph 181 contains legal conclusions, to which no response is required; to the
5 extent a response is deemed required, Defendants are without knowledge or information sufficient
6 to admit or deny the allegations contained in paragraph 181.

7 182. Defendants incorporate by reference the responses set forth in paragraphs 1
8 through 181, inclusive.

9 183. Paragraph 183 constitutes Plaintiffs' prayer for relief on their first claim for relief,
10 to which no response is required. To the extent a response is required, the paragraph is denied.

11 184. Paragraph 184 consists of conclusions of law and/or statements of Plaintiffs' case
12 to which no response is required. To the extent a response is deemed necessary, the paragraph is
13 denied.

14 185. Paragraph 185 consists of conclusions of law and/or statements of Plaintiffs' case
15 to which no response is required. To the extent a response is deemed necessary, the paragraph is
16 denied.

17 186. Paragraph 186 consists of conclusions of law and/or statements of Plaintiffs' case
18 to which no response is required. To the extent a response is deemed necessary, the paragraph is
19 denied.

20 187. Paragraph 187 constitutes Plaintiffs' prayer for relief on their first claim for relief,
21 to which no response is required. To the extent a response is required, the paragraph is denied.

22 188. Defendants incorporate by reference the responses set forth in paragraphs 1
23 through 187, inclusive.

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1 189. Paragraph 189 constitutes Plaintiffs’ prayer for relief on their second claim for
2 relief, to which no response is required. To the extent a response is required, the paragraph is
3 denied.

4 190. Defendants incorporate by reference the responses set forth in paragraphs 1
5 through 189, inclusive.

6 191. Paragraph 191 constitutes Plaintiffs’ characterization of the Federal Tort Claims
7 Act and *Feres v. United States*, 340 U.S. 135 (1950), to which no response is required. To the
8 extent a response is deemed required, Defendants deny that Plaintiffs are entitled to relief on the
9 basis of the Federal Tort Claims Act and *Feres v. United States*. See *Vietnam Veterans of*
10 *America, et al. v. C.I.A.*, No. 09-0037CW, 2010 WL 291840, at *4 (N.D. Cal. Jan. 19, 2010).

11 192. Paragraph 192 consists of conclusions of law and/or statements of Plaintiffs’ case
12 to which no response is required. To the extent a response is deemed necessary, Defendants deny
13 that Plaintiffs are entitled to relief on the basis of the Federal Tort Claims Act and *Feres v. United*
14 *States*. See *Vietnam Veterans of America, et al. v. C.I.A.*, No. 09-0037CW, 2010 WL 291840, at
15 *4 (N.D. Cal. Jan. 19, 2010).

16 193. Paragraph 193 consists of conclusions of law and/or statements of Plaintiffs’ case
17 to which no response is required. To the extent a response is deemed necessary, Defendants deny
18 that Plaintiffs are entitled to relief on the basis of the Federal Tort Claims Act and *Feres v. United*
19 *States*. See *Vietnam Veterans of America, et al. v. C.I.A.*, No. 09-0037CW, 2010 WL 291840, at
20 *4 (N.D. Cal. Jan. 19, 2010).

21 194. Paragraph 194 consists of conclusions of law and/or statements of Plaintiffs’ case
22 to which no response is required. To the extent a response is deemed necessary, Defendants deny
23 that Plaintiffs are entitled to relief on the basis of the Federal Tort Claims Act and *Feres v. United*
24 *States*.

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1 States. See *Vietnam Veterans of America, et al. v. C.I.A.*, No. 09-0037CW, 2010 WL 291840, at
2 *4 (N.D. Cal. Jan. 19, 2010).

3 195. Paragraph 195 consists of conclusions of law and/or statements of Plaintiffs' case
4 and Plaintiffs' characterization of the decisions cited therein to which no response is required. To
5 the extent a response is deemed necessary, Defendants deny that Plaintiffs are entitled to relief on
6 the basis of the Federal Tort Claims Act and *Feres v. United States*. See *Vietnam Veterans of*
7 *America, et al. v. C.I.A.*, No. 09-0037CW, 2010 WL 291840, at *4 (N.D. Cal. Jan. 19, 2010).

9 196. Paragraph 196 consists of conclusions of law and/or statements of Plaintiffs' case
10 and Plaintiffs' characterization of *Feres v. United States*, 340 U.S. 135 (1950), to which no
11 response is required. To the extent a response is required, Defendants deny that Plaintiffs are
12 entitled to relief on the basis of the Federal Tort Claims Act and *Feres v. United States*. See
13 *Vietnam Veterans of America, et al. v. C.I.A.*, No. 09-0037CW, 2010 WL 291840, at *4 (N.D.
14 Cal. Jan. 19, 2010).

16 197. Paragraph 197 consists of conclusions of law and/or statements of Plaintiffs' case
17 and Plaintiffs' characterization of *Feres v. United States*, 340 U.S. 135 (1950), to which no
18 response is required. To the extent a response is required, Defendants deny that Plaintiffs are
19 entitled to relief on the basis of the Federal Tort Claims Act and *Feres v. United States*. See
20 *Vietnam Veterans of America, et al. v. C.I.A.*, No. 09-0037CW, 2010 WL 291840, at *4 (N.D.
21 Cal. Jan. 19, 2010).

23 198. Paragraph 198 consists of conclusions of law and/or statements of Plaintiffs' case
24 and Plaintiffs' characterization of *Feres v. United States*, 340 U.S. 135 (1950), to which no
25 response is required. To the extent a response is required, Defendants deny that Plaintiffs are
26 entitled to relief on the basis of the Federal Tort Claims Act and *Feres v. United States*. See
27

1 *Vietnam Veterans of America, et al. v. C.I.A.*, No. 09-0037CW, 2010 WL 291840, at *4 (N.D.
2 Cal. Jan. 19, 2010).

3 Defendants hereby deny all allegations in Plaintiff’s Complaint not expressly admitted or
4 denied or otherwise responded to, including the prefatory quote and all section headings.

5
6 **AFFIRMATIVE AND OTHER DEFENSES**

7 **First Affirmative Defense**

8 The Court lacks subject matter jurisdiction.

9 **Second Affirmative Defense**

10 The Second Amended Complaint fails to state a claim upon which relief can be granted.

11 **Third Affirmative Defense**

12 Plaintiffs are barred from asserting any causes of action by virtue of the applicable statute
13 of limitations.

14
15 **Fourth Affirmative Defense**

16 Plaintiffs are barred from asserting any causes of action by virtue of their consent to the
17 alleged acts or conditions.

18 THEREFORE, having fully answered, Defendants deny that Plaintiff are entitled to the
19 relief requested in paragraphs 182–203, or to any relief whatsoever, and request that this action be
20 dismissed in its entirety with prejudice and that Defendants be given such other relief as this
21 Court deems proper, including costs and disbursements.

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24 Dated: April 7, 2010

Respectfully submitted,
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United States Attorney
VINCENT M. GARVEY
Deputy Branch Director

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/s/ Kimberly L. Herb

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