

Exhibit K

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12 Attorneys for DEFENDANTS

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.
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 22
 23
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Case No. CV 09-0037-CW

**DEFENDANTS' FIRST REQUEST
 TO PLAINTIFFS FOR
 PRODUCTION OF DOCUMENTS**

25 Pursuant to Rule 34 of the Federal Rules of Civil Procedure, Defendants, by their
 26 attorneys, hereby request that the named Plaintiffs produce for inspection and copying the
 27 documents and things set forth below that are in their possession, custody, or control or in the
 28

1 possession, custody, or control of their attorneys or accountants, their investigators, and any
2 persons acting on their behalf at the office of Defendants' attorney, Kimberly L. Herb, Trial
3 Attorney, United States Department of Justice, Civil Division, Federal Programs Branch, 20
4 Massachusetts Ave, N.W., Washington, D.C. 20530, within thirty (30) days of the service of this
5 request.
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7 INSTRUCTIONS

- 8 1. Please use the following definitions of terms in answering this request for production of
9 documents:
- 10 a. the terms "document" or "documents" are intended to have the broadest
11 permissible meaning and include, without limitation, all communications, as well
12 as any and all letters, correspondence, memoranda, notes, facsimiles, e-mails,
13 telegrams, pamphlets, reports, ledgers, records, studies, books, working papers,
14 drafts, objects, images, diaries, calendars, charts, papers, drawings, sketches,
15 graphs, data sheets, data processing cards, meeting or conversation notes,
16 transcripts, financial statements or calculations, appointment books, invoices,
17 tapes, sound recordings, and every manner of written, printed, or recorded graphic
18 or photographic matter, sound reproduction, magnetic impulse, or computer entry
19 or posting, regardless of how any of the above may be produced, reproduced,
20 reduced, recorded, punched, stored, taped, transcribed, or received and that are
21 now or were formerly in your possession, custody, or subject to your control. You
22 need not produce identical copies of documents. Handwritten or other notations of
23 any kind on a copy of a document render such a document nonidentical. The term
24 "document" or "documents" shall include all pages, attachments, and inclusions or
25 enclosures, whether in draft or final form;
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- 1 b. The term “plaintiff” and “plaintiffs” or any synonym thereof is intended to
2 embrace and include, in addition to the named Plaintiffs, counsel for said Plaintiffs
3 or others who are in possession of or may have obtained information for or on
4 behalf of the named party Plaintiffs;
- 5 c. “you” or “your” refers to Plaintiffs, their agents, or anyone working on their
6 behalf;
- 7 d. the term “person” or “persons” means any natural person, firm, partnership,
8 association, corporation, or other legal or commercial entity;
- 9 e. “any” is understood to include and encompass “all”; “all” should be understood to
10 include and encompass “any”;
- 11 f. “and” and “or” shall be construed either disjunctively or conjunctively as
12 necessary to bring within the scope of discovery request all responses that might
13 otherwise be construed to be outside of its scope;
- 14 g. the use of the singular form shall include the plural, and vice versa.
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- 17 2. When asked to produce a document, the request pertains to documents within your actual
18 or constructive possession, control, or custody, including those that may be held by your
19 attorneys, representatives, and all persons acting under, by, or through you, or subject to
20 your control or supervision, and all persons acting on your behalf.
- 21
- 22 3. In each instance in which you do not have possession or control of a document that is
23 responsive to a request for production of documents, please set forth the name and
24 addresses of each person, if any, who is known to have such documents within thirty (30)
25 days of the service of this request. If the document or tangible thing has been destroyed,
26 state within thirty (30) days of the service of this request when and where it was
27 destroyed, and identify the person or persons who directed its destruction.
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- 1 4. If you object to the production of a document on the grounds of attorney/client privilege,
2 the work product doctrine, or any other privilege, please provide information as to that
3 document in a privilege log, as required by Fed. R. Civ. P. 26(b)(5). When a privilege is
4 stated as to a portion of a document, produce any portion to which the objection does not
5 apply.
6
- 7 5. If you object to any request on the ground that the request is too broad and/or burdensome,
8 please respond to the extent the request is not deemed overly broad or burdensome.
9
- 10 6. Please restate each numbered request in full before providing the answer.
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- 12 7. As provided in Fed. R. Civ. P. 26(e), plaintiffs are under a continuing duty seasonably to
13 supplement or correct their response to this request to produce documents if they learn
14 that the response is incomplete or incorrect.

14 **REQUESTS FOR PRODUCTION**

- 15 1. Please produce any and all documents that you received in response to your May
16 26, 2009 Rule 45 Subpoena of Dr. James S. Ketchum.
- 17 2. Please produce any and all documents regarding, concerning, or related to the
18 service at Edgewood Arsenal of Bruce Price, Franklin D. Rochelle, Marry Meirow, Eric P. Muth,
19 David C. Dufrane, and Wray C. Forrest.
- 20
- 21 3. Please produce any and all documents regarding, concerning, or related to your
22 assertion that Defendants had “on many occasions, promised . . . health care.” (Second Am.
23 Compl. ¶ 2.)
- 24 4. Please produce any and all documents regarding, concerning, or related to your
25 assertion that “the Attorney General assumed responsibility for the overall governmental effort to
26 locate ‘volunteers.’” (Second Am. Compl. ¶ 13.)
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1 5 Please produce any and all documents regarding, concerning, or related to your
2 assertion that “Director Turner passed off responsibility for finding and compensating the victims
3 of certain MK-related programs to the Department of the Army.” (Second Am. Compl. ¶ 13.)
4

5 6. Please produce any and all documents regarding, concerning, or related to your
6 assertion that “the CIA had in fact secretly obtained a ‘large data base’ from Edgewood Arsenal
7 in 1974, which contained the names and personal information of all the ‘volunteers.’” (Second
8 Am. Compl. ¶ 15.)

9 7. Please produce any and all documents regarding, concerning, or related to your
10 assertion that “Plaintiffs have repeatedly petitioned Congress and Defendants to honor the
11 promises made to them.” (Second Am. Compl. ¶ 20.)
12

13 8. Please produce any and all documents regarding, concerning, or related to your
14 assertion that Swords to Plowshares “has diverted and devoted, and expects to continue to divert
15 and devote, already scarce resources to provide additional services to veterans harmed by
16 Defendants’ actions and failures to act.” (Second Am. Compl. ¶ 28.)

17 9. Please produce any and all documents regarding, concerning, or related to your
18 assertion that “Defendants placed some sort of an implant in Bruce [Price’s] right ethmoid sinus
19 near the frontal lobe of his brain.” (Second Am. Compl. ¶ 34.)
20

21 10. Please produce any and all documents regarding, concerning, or related to your
22 assertion that Defendants required Edgewood Arsenal volunteers to sign the statement quoted in
23 Paragraph 156. (Second Am. Compl. ¶ 156.)
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25 Dated: May 6, 2010

Respectfully submitted,

26 IAN GERSHENGORN
27 Deputy Assistant Attorney General
28 JOSEPH P. RUSSONIELLO
United States Attorney

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VINCENT M. GARVEY
Deputy Branch Director



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Attorneys for Defendants

PROOF OF SERVICE

I declare that I am over the age of eighteen and not a party to the above captioned action.
My business address is 20 Massachusetts Ave. NW, P.O. Box 883, Washington, DC 20530.

I further declare that on May 6, 2010, I served a copy of:

DEFENDANTS' FIRST REQUEST TO PLAINTIFFS FOR PRODUCTION OF DOCUMENTS

on counsel for Defendants, as addressed below:

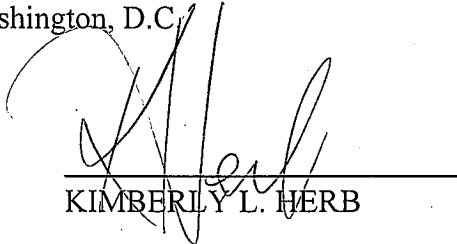
Gordon Erspamer, Esq.
Morrison & Foerster LLP
425 Market Street
San Francisco, CA 94105

(x) By overnight delivery: I placed a true copy in a sealed envelope, with delivery provided, to the address and person stated above and, pursuant to the usual business practice of the Department of Justice for collection and processing of mail, deposited on the same day in a collection box regularly maintained by Federal Express.

(x) By electronic mail: I caused said document to be delivered to the above named individual by electronic mail.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on May 6, 2010 at Washington, D.C.



KIMBERLY L. HERB