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

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

Case No. CV 09-0037-CW

**DECLARATION OF KIMBERLY L.
 HERB IN SUPPORT OF
 DEFENDANTS' MOTION FOR
 PROTECTIVE ORDER LIMITING
 SCOPE OF DISCOVERY**

23
24
25 I, Kimberly L. Herb, declare as follows:

26 1. I am a Trial Attorney in the Federal Programs Branch, Civil Division of the United States
 27 Department of Justice. I am assigned to represent Defendants in this case. I submit this
 28

1 declaration in support of Defendants' Reply Brief in Support of Motion for Protective
2 Order Limiting Discovery. This declaration is based on my personal knowledge and
3 based upon my review of documents provided to me in my official capacity as counsel in
4 this litigation.

- 5 2. Attached hereto as Exhibit A is a true and accurate copy of a letter from Defendants, dated
6 August 11, 2010, to Plaintiffs regarding the scheduling of 30(b)(6) depositions.
- 7 3. On September 2, 2010, Plaintiffs responded by letter to Defendants' letter of August 11,
8 2010. In their response, Plaintiffs acknowledged that Defendants' sought to schedule
9 30(b)(6) depositions. Because Plaintiffs designated the letter as confidential, it is not
10 attached herewith.
- 11 4. On September 24, 2010, the parties conducted a telephonic meet-and-confer regarding
12 several discovery disputes. During that conference call, the parties discussed 30(b)(6)
13 depositions, and Defendants offered additional 30(b)(6) deposition dates.
- 14 5. Attached hereto as Exhibit B is a true and accurate copy of a letter from Plaintiffs, dated
15 October 4, 2010, to Defendants regarding Plaintiffs' acceptance of several 30(b)(6)
16 deposition dates.
- 17 6. Attached hereto as Exhibit C is a true and accurate copy of a letter from Defendants, dated
18 July 12, 2010, to Plaintiffs concerning a proposal for discovery searches for information
19 regarding the health effects of the test programs.
- 20 7. Attached hereto as Exhibit D is a true and accurate copy of a letter from Defendants, dated
21 July 30, 2010, to Plaintiffs concerning a second proposal for discovery searches for
22 information regarding consent and the health effects of the test programs.
- 23 8. The Central Intelligence Agency ("CIA") located six classified Department of Defense
24 ("DoD") documents that potentially address the health effects of DoD's test programs on
25 service members. The CIA has referred those documents to DoD for a classification
26 review.

- 1 9. Attached hereto as Exhibit E is a true and accurate copy of what I am informed and
2 believe is an undated memorandum from the CIA, concerning drug research, produced by
3 Defendants to Plaintiffs in this litigation.
- 4 10. Attached hereto as Exhibit F is a true and accurate copy of what I am informed and
5 believe is an undated list from DoD, concerning chemical compounds tested at Edgewood
6 Arsenal, produced by Defendants to Plaintiffs in this litigation.
- 7 11. Attached hereto as Exhibit G is a true and accurate copy of Plaintiffs' Second Set of
8 Requests for Production of Documents to All Defendants, dated May 10, 2010.
- 9 12. Attached hereto as Exhibit H is a true and accurate copy of what I am informed and
10 believe is a memorandum, dated October 18, 1977, from the CIA, concerning its
11 conclusion that Agency funds were not used to conduct service member testing, produced
12 by Defendants to Plaintiffs in this litigation.

13
14 I declare under penalty of perjury that the foregoing is true and correct. Executed in
15 Washington, D.C. on October 13, 2010.

16 /s/ Kimberly L. Herb
17 Kimberly L. Herb

Beaudoin, Kathy E.

From: ECF-CAND@cand.uscourts.gov

Sent: Wednesday, October 13, 2010 5:02 PM

To: efilings@cand.uscourts.gov

Subject: Activity in Case 4:09-cv-00037-CW Vietnam Veterans of America et al v. Central Intelligence Agency et al Declaration in Support

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Case Name: Vietnam Veterans of America et al v. Central Intelligence Agency et al

Case Number: [4:09-cv-00037-CW](#)

Filer: United States of America
Central Intelligence Agency
United States Department of the Army
Leon Panetta
United States Department of Defense
Robert M. Gates
Pete Geren
Eric H. Holder, Jr

Document Number: [167](#)

Docket Text:

[Declaration of Kimberly L. Herb in Support of \[166\] Reply to Opposition,, filed by Central Intelligence Agency, Robert M. Gates, Pete Geren, Eric H. Holder, Jr, Leon Panetta, United States Department of Defense, United States Department of](#)

10/14/2010

the Army, United States of America. (Related document(s)[166]) (Herb, Kimberly) (Filed on 10/13/2010)

4:09-cv-00037-CW Notice has been electronically mailed to:

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Discovery\Reply\Declaration of Kimberly Herb - Reply Brief.pdf

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