

# Exhibit E

**Exhibit E**



**U.S. Department of Justice**  
Civil Division, Federal Programs Branch

**Via First-Class Mail**  
P.O. Box 883  
Washington, D.C. 20044

**Via Overnight Delivery**  
20 Massachusetts Ave., N.W.  
Washington, D.C. 20530

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Brigham J. Bowen  
Trial Attorney

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September 22, 2010

Via Electronic Mail

Mr. Daniel Vecchio, Esq.  
Morrison & Foerster, LLP  
425 Market Street  
San Francisco, CA 94105-2482

RE: Vietnam Veterans of America, et al. v. CIA, et al., No. CV 09 0037-CW (N.D. Cal.)

Dear Mr. Vecchio:

I write concerning the parties' recent discovery correspondence and in response to your request for a summary of Defendants' positions in advance of our meet-and-confer.

1. Pelikan Deposition: As set forth repeatedly by Defendants, CIA records reflect that CIA did not conduct or fund human testing involving service members. Accordingly, your continued efforts to obtain discovery regarding CIA research programs seek irrelevant information and are not reasonably calculated to lead to the discovery of admissible evidence. There is no reason, therefore, for CIA to supplement its already-comprehensive productions by searching for or producing additional documents (assuming any exist) prior to the Pelikan deposition. As to the date for this deposition, Defendants are available the week of November 15. Ms. Herb, who will be attending this deposition, is unavailable prior to that date, as she has numerous obligations and a busy travel schedule in October, as well as a trial scheduled to begin the first week of November.
2. Anderson Deposition: We have repeatedly requested confirmation of your availability for the Anderson deposition proposed for October 20. You have offered no basis for why you have not, as yet, responded to this proposed date. Please inform us of your availability.
3. 30(b)(6) Deposition Topics 15, 31, and 55: Defendants are under no obligation to consult with Plaintiffs regarding whom, in Defendants' discretion, Defendants designate as 30(b)(6) witnesses. Nonetheless, DoD/Army is willing to entertain suggestions from Plaintiffs regarding what type of witness Plaintiffs imagine might be more appropriate to testify concerning Topics 15, 31, and 55. After hearing from you in this regard, DoD and Army will take your suggestions under advisement. Should DoD designate another witness, we will inform you of that decision.

4. Additional 30(b)(6) Depositions: Again, Defendants are under no obligation to consult with Plaintiffs regarding whom, in Defendants' discretion, Defendants designate as 30(b)(6) witnesses. Nonetheless, to the extent Plaintiffs wish to provide suggestions regarding Defendants' designations, Defendants are willing to entertain them. Be advised that Defendants independently have been assessing their prior designations and may, of their own accord, re-designate witnesses as appropriate. Assuming re-designations do not take place, however, we are working to provide available dates for designated witnesses, starting in mid-November. Patricia Camerese is available between December 6 and 15 on business days. We may have additional dates for you at our conference tomorrow.
  
5. Defendants' Interrogatory Responses: We disagree with you concerning both the scope and import of Judge Larson's discovery order. In any event, we consider our amended interrogatory responses fully responsive and compliant with the Rules of Civil Procedure and with the order. As to Defendants' objections — which are the primary focus of your letter of September 10 — I note that although Defendants do assert objections, both general and specific, to Plaintiffs' interrogatories, Defendants nonetheless searched for responsive documents and information and included that information in their responses to all but two of the interrogatories (concerning the VA and regarding which Defendants have maintained their objections). Defendants supplemented those responses on August 12, 2010, including additional responsive information and referring Plaintiffs to documents within their possession. The substance of these responses is largely ignored in your correspondence. In this regard, while we disagree with Plaintiffs' assertions that Defendants' responses are insufficient, Defendants are willing to review their responses and supplement them as Defendants deem appropriate. For example, to the extent Plaintiffs are dissatisfied by references to Defendants' productions, Defendants are willing to review their responses and revise them, where warranted, to refer to specific responsive documents. Other supplementation relating to ongoing searches for documents also may be appropriate. Finally, I note that, with some exceptions, your correspondence fails to specify what substantive areas of inquiry interest Plaintiffs. At the meet-and-confer, please identify specific substantive areas where Plaintiffs believe supplementation is warranted, so that Defendants' review may be targeted to areas of actual dispute.
  
6. Protective Order: Please be prepared tomorrow to discuss Defendants' proposed protective order, filed on September 15. We are hopeful we can resolve this matter so that it will not require the Court's involvement.

We look forward to speaking with you tomorrow.

Sincerely,

/s/

Brigham J. Bowen