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13 Attorneys for DEFENDANTS

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

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

Case No. CV 09-0037-CW

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

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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 represent Defendants in this case. I submit this declaration in  
 28 support of Defendants' Motion for Protective Order Limiting Discovery. This declaration

1 is based on my personal knowledge and based upon my review of documents provided to  
2 me in my official capacity as counsel in this litigation.

3 2. Attached hereto as Exhibit A is a true and accurate copy of relevant excerpts of the  
4 Transcript of Proceedings held before Magistrate Judge Corley on August 4, 2011. As  
5 reflected in the second excerpt, Plaintiffs will file a motion to compel discovery responses  
6 on August 18, 2011, and Defendants will respond with any relevance or burden objection  
7 on September 1, 2011.

8 3. Attached hereto as Exhibit B is a true and accurate copy of relevant excerpts of Plaintiffs'  
9 Amended and Supplemental Responses to Defendants' First Set of Interrogatories, dated  
10 March 11, 2011.

11 4. Attached hereto as Exhibit C is a true and accurate copy of a letter sent by me to Timothy  
12 W. Blakely, counsel for plaintiffs, on June 13, 2011.

13 5. Attached hereto as Exhibit D is a true and accurate copy of Plaintiffs' Amended and  
14 Supplemental Response to Defendants' Interrogatory No. 8, dated August 3, 2011.

15 6. Attached hereto as Exhibit E is a true and accurate copy of Plaintiffs' Amended Set of  
16 Requests for Admission to Defendants Department of Defense, Department of Army, and  
17 Central Intelligence Agency, dated July 12, 2011.

18 7. Attached hereto as Exhibit F is a true and accurate copy of relevant excerpts of Plaintiffs'  
19 Amended Set of Requests for Production of Documents to All Defendants, dated  
20 December 2, 2010.

21 8. Attached hereto as Exhibit G is a true and accurate copy of relevant excerpts of the  
22 deposition testimony of Richard Weidman, which was conducted on June 22, 2011.

23 9. Attached hereto as Exhibit H is a true and accurate copy of Plaintiffs' Amended Second  
24 Set of Interrogatories to Defendants Department of Defense, Department of the Army, and  
25 Central Intelligence Agency, dated July 12, 2011.

26 10. Defendants have produced over one million pages of documents in this case; plaintiffs  
27 have taken more than ten depositions, including a three-day Rule 30(b)(6) deposition of a  
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designee of the Department of Defense and Department of the Army; and defendants have spent hundreds of thousands of dollars in discovery in this case.

I declare under penalty of perjury that the foregoing is true and correct. Executed in Washington, D.C. on August 15, 2011.

/s/ Kimberly L. Herb  
Kimberly L. Herb