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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

VIETNAM VETERANS OF AMERICA, *et al.*,

Plaintiffs,

v.

CENTRAL INTELLIGENCE AGENCY, *et al.*,

Defendants.

Case No. CV 09-0037-CW

PLAINTIFFS' NOTICE OF MOTION AND MOTION TO COMPEL DISCOVERY AND MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF

Hearing Date: September 22, 2011
Time: 2:00 p.m.
Courtroom: E, 15th Floor
Judge: Hon. Jacqueline Scott Corley

Complaint filed January 7, 2009

NOTICE OF MOTION AND MOTION

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on September 22, 2011, at 2:00 p.m., or as soon thereafter as the matter may be heard before U.S. Magistrate Judge Jacqueline Scott Corley, at the United States District Courthouse, San Francisco, California, Vietnam Veterans of America; Bruce Price; Franklin D. Rochelle; Larry Meirow; Eric P. Muth; David C. Dufrane; Tim Michael Josephs; and William Blazinski ("Plaintiffs") will and hereby do move the Court for an order overruling objections and compelling Defendant Department of Veterans Affairs to produce documents responsive to Plaintiffs' requests for production and respond to Plaintiffs' interrogatories as specified in the attached Motion to Compel Discovery.

This motion to overrule objections and compel discovery is based on this Notice of Motion, the Memorandum of Points and Authorities filed herewith, the Declaration of Laura O'Neill ("O'Neill Decl.") and attached exhibits filed herewith, all other pleadings and matters of record, and such further oral and documentary evidence as may be presented at or before the hearing on this motion. Counsel for Plaintiffs certify that, prior to filing this motion, they in good faith conferred with Defendants' counsel in an effort to resolve these matters without court action.

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I. INTRODUCTION

Plaintiffs have waited decades to receive information about the chemical and biological test programs at Edgewood and other sites. Yet the government continues to cloak the tests in secrecy. Defendant Department of Veterans Affairs ("DVA") seeks to insulate itself and its co-defendants by refusing to provide discovery regarding matters that are critical to Plaintiffs' bias, notice, and healthcare claims against Defendants. Plaintiffs have waited long enough. The Court should compel the discovery sought by the Plaintiffs.

Plaintiffs assert a bias claim against DVA. Plaintiffs allege that because DVA was involved in the Edgewood testing program and similar programs, the agency is incapable of making neutral, unbiased benefits determinations for veterans who were test subjects. To fairly adjudge the facts of a claim, an adjudicator must be neutral to the possibility that Defendants' testing programs, including the Edgewood test programs, caused harm to test subjects. DVA cannot be neutral to such a possibility because DVA's own culpable conduct has left it reluctant to admit that such testing caused harm.

To prove their bias claim, Plaintiffs need two general types of evidence: (1) evidence of the *reasons* for DVA's bias (such as evidence of DVA involvement in the Edgewood testing program and similar programs); and (2) evidence of the *manifestation* of DVA's bias (such as evidence that DVA deliberately misled test subjects about the health effects of the testing in order to discourage them from filing claims and statistical evidence regarding claims). The Court should compel production of evidence regarding the *reasons* for and the *manifestation* of DVA's bias. The Court should also compel production of evidence that is relevant to Plaintiffs' notice and healthcare claims against the other Defendants.

II. STATEMENT OF ISSUES TO BE DECIDED

Plaintiffs seek an order compelling DVA to: (1) produce documents improperly withheld or redacted on the basis of the deliberative process privilege; (2) provide statistics as requested in Interrogatory 19; (3) search for and produce documents that evidence DVA involvement in research regarding the substances tested during the Edgewood test programs; (4) search for and

produce documents related to testing that occurred prior to 1953; and (5) produce the death certificates of deceased test subjects. In accordance with the Magistrate's instructions at the August 4, 2011 discovery hearing, this Motion focuses on the relevance of the information sought, with the understanding that Plaintiffs will address in their reply brief any burden objections that Defendants advance in their opposition brief.

III. PLAINTIFFS HAVE MET AND CONFERRED IN GOOD FAITH WITH DEFENDANTS

The parties have attempted to resolve these issues via letters dated April 29, May 12, May 16, May 27, June 3, June 14, and June 20, 2011. The parties also have conferred at length via telephone on May 9, July 14, July 21, August 2, and August 15, 2011. (O'Neill Decl. ¶ 18.) In addition, the parties conferred in person on August 4, 2011, as requested by the Court. (O'Neill Decl. ¶ 19.) Despite these good faith efforts to resolve these disputes, the parties have reached an impasse regarding the issues discussed herein. Civil L.R. 37-1(b). The parties submitted a Joint Statement of Discovery Dispute on July 22, 2011. (Docket No. 243.) On August 4, 2011, the Court ordered the parties to submit formal briefing. (Docket No. 248.)

IV. THE COURT SHOULD GRANT PLAINTIFFS' MOTION TO COMPEL DISCOVERY

A. DVA Must Produce Documents Improperly Withheld on the Basis of the Deliberative Process Privilege

DVA has improperly withheld or redacted hundreds of documents on the basis of the deliberative process privilege. DVA's assertion of the privilege is improper for four reasons. First, DVA has not met the procedural requirements for asserting the privilege. Second, the privilege does not apply where, as here, the government's intent is at issue in the litigation. Third, the deliberative process privilege is qualified and should yield in the face of Plaintiffs' need for the documents. Fourth, DVA should not be allowed to use the privilege as both a shield and a sword. Plaintiffs respectfully request that the Court order DVA to produce the documents that DVA has improperly withheld or, in the alternative, conduct an in camera review of the withheld documents.

DVA has improperly withheld documents related to the following general subject areas: (1) the drafting of the notification letter sent to test subjects (180 documents total); (2) efforts to notify test subjects generally (135 documents total); (3) preparation of training materials for claims adjudicators and clinicians (5 documents total); (4) the provision of healthcare to test subjects (107 documents total); (5) draft correspondence with members of Congress regarding the notification of test subjects (40 documents total); (6) draft correspondence with the American Legion of Honor regarding notification of test subjects (16 documents total).[1]

DVA has represented that it is still in the process of reviewing five million pages of documents and that it intends to produce another privilege log identifying additional documents it is withholding. Plaintiffs reserve the right to challenge any additional documents withheld on the basis of privilege once DVA produces any additional privilege logs.

1. DVA Cannot Rely on the Privilege Because DVA Has Not Met the Privilege's Procedural Requirements

To assert the deliberative process privilege, the government must make a "formal claim of privilege, lodged by the head of the department which has control over the matter, after actual personal consideration by that officer." *Al-Haramain Islamic Found., Inc. v. Bush*, 507 F.3d 1190, 1202 (9th Cir. 2007). In addition, the government must give "'precise and certain reasons'" for asserting confidentiality over the information withheld. *L.H. v. Schwarzenegger*, No. CIV. S-06-2042 LKK/GGH, 2007 WL 2009807, at*2 (E.D. Cal. July 6, 2007) (*quoting United States v. O'Neill*, 619 F.2d 222, 226 (3d Cir.1980)).

To date, DVA has not complied with these important procedural requirements. DVA has made no formal assertion of the deliberative process privilege, nor has it provided "precise and certain reasons" for asserting confidentiality over the information withheld. If the confidentiality of the documents were truly important, DVA would *not* have waited to bring the issue before the head of the department. Moreover, the fact that DVA has waited months until Plaintiffs brought a

[1] Plaintiffs have specifically identified for DVA the documents Plaintiffs contend have been improperly withheld.

motion to compel to address these procedural requirements will only serve to entrench the agency in its litigation position before the appropriate officer has given "actual personal consideration" of the issue. The procedural requirements provide a safeguard to ensure that the privilege is not abused. DVA's failure to properly follow the procedural requirements of the privilege counsels in favor of disclosure.

2. The Deliberative Process Privilege Does Not Apply Because Plaintiffs' Bias Claim Is Directed at DVA's Intent

The deliberative process privilege does not apply where "plaintiff's cause of action is directed at the government's intent." *In re Subpoena Duces Tecum Served on Office of Comptroller of Currency*, 145 F.3d 1422, 1424 (D.C. Cir. 1998); *see L.H. v. Schwarzenegger*, 2007 WL 2009807, at *4 (noting that the privilege does not apply where "the agency's deliberative process is at issue"); *Convertino v. United States DOJ*, 669 F. Supp. 2d 1, 4 (D.D.C. 2009) (noting that the privilege does not apply where the government's intent is squarely at issue). This is particularly true where, as here, a plaintiff has asserted a constitutional claim for discrimination. *In re Subpoena Duces Tecum*, 145 F.3d at 1424 ("it seems rather obvious to us that the privilege has no place in a Title VII action or in a constitutional claim for discrimination").

Because Plaintiffs state a constitutional claim for bias directed at DVA's intent, the deliberative process privilege should not apply. Plaintiffs allege that DVA deliberately discouraged test subjects and survivors from filing claims for benefits by misleading test subjects in its notification letter, by understating the risks posed to test subjects in materials provided to adjudicators, and by excluding survivors and certain test subjects from its notification efforts altogether. (Third Amended Complaint ¶¶ 15, 173, 228, 229, and 231.) In particular, in its notification letter to test subjects, DVA falsely suggested that *no* significant long-term health effects were associated with the testing (*see* O'Neill Decl. ¶ 9, Ex. H at VET001_014268), despite the fact that DVA was aware that studies showed long-term health effects were a likely consequence of the test programs (*see* O'Neill Decl. ¶ 17, Ex. P at VET001_015608). During an

August 4, 2011 hearing, the Court noted that DVA's intent in drafting the notification letter "would be squarely relevant" to Plaintiffs' bias claims. (Docket No. 250 at 88:4–5.)

DVA has withheld documents likely to show the bias alleged by Plaintiffs. DVA has withheld drafts of the notification letter and correspondence discussing these drafts. DVA has also withheld documents discussing the preparation of materials for use by adjudicators in connection with test subjects' claims. In addition, DVA has withheld documents concerning decisions regarding whom it would notify and why. Because Plaintiffs allege that DVA deliberately understated the health risks to test subjects in its notification letter and in materials provided to adjudicators, and because Plaintiffs allege that DVA deliberately excluded survivors and certain test subjects from its notification effort in order to discourage the filing of claims, these withheld documents are likely to evidence bias. DVA should not be allowed to use the privilege to shield incriminating evidence of bias. The Court should order production of the withheld documents.

3. The Privilege Is Qualified and Should Be Overcome Given Plaintiffs' Need for the Documents

The Court should also order production of the documents because the privilege is a qualified privilege and can be overcome by a showing of need. *F.T.C. v. Warner Comms. Inc.*, 742 F.2d 1156, 1161 (9th Cir. 1984); Charles Alan Wright, et al., *Federal Practice & Procedure*, § 5680 (2011) ("[t]he deliberative process privilege should seldom be upheld in a case where there is any need for the evidence because it rests on such a puny instrumental rationale"). "A litigant may obtain deliberative materials if his or her need for the materials and the need for accurate fact-finding override the government's interest in non-disclosure." *F.T.C.*, 742 F.2d at 1161. To determine whether the privilege is overcome by need, the Court must balance the following factors: (1) the relevance of the evidence; (2) the availability of other evidence; (3) the government's role in the litigation; and (4) the extent to which disclosure would hinder frank and independent discussion regarding contemplated policies and decisions. *Id.* A court may also consider the following factors: (5) the interest of the litigant, and ultimately society, in accurate judicial fact finding; (6) the seriousness of the litigation and the issues involved; (7) the presence

of issues concerning alleged governmental misconduct; and (8) the federal interest in the enforcement of federal law. *North Pacifica, LLC v. City of Pacifica*, 274 F. Supp. 2d 1118, 1122 (N.D. Cal. 2003).

The Court should order DVA to produce the withheld documents because each of the relevant factors weighs in favor of disclosure:

- *Relevance of the evidence*. The withheld documents are highly relevant to Plaintiffs' bias claim against DVA. The Complaint alleges that DVA deliberately understated the risks associated with the testing in order to discourage test subjects from applying for benefits. (Third Amended Complaint ¶ 231.) DVA's decisions regarding how and why to notify test subjects about the test programs and associated health risks go to the heart of Plaintiffs' bias claim. At an August 4, 2011 hearing, the Court emphasized that such decisions would be relevant to Plaintiffs' bias claim. (Docket No. 250 at 89:5–6.) For similar reasons, the other withheld documents are likely to show evidence of bias. Therefore, the documents sought are highly relevant to Plaintiffs' bias claim.
- *Availability of other evidence*. Plaintiffs cannot obtain information about DVA's decision to understate the risks associated with the test programs other than through contemporaneous correspondence and memoranda that were prepared in the process of making that decision.
- *Government's role in the litigation*. DVA is a defendant whose action is the focal point of the litigation, which counsels in favor of disclosure. *Sierra Club v. Kempthorne*, 488 F. Supp. 2d 1188, 1193 (S.D. Ala. 2007) (noting that an agency's role in litigation as a defendant whose action is the focal point weighs in afavor of disclosure).
- *Extent to which disclosure would hinder frank and independent discussion.* Disclosure would not hinder the kind of frank and independent discussion the privilege is intended to promote. Rather, it might remind agency employees that discrimination against particular groups of veterans will not be tolerated and that their actions are subject to public scrutiny. *North Pacifica, LLC*, 274 F. Supp. 2d at 1125 ("if because of this case,

[government employees] are reminded that they are subject to scrutiny, a useful purpose will have been served").

- *Interest of the litigant and society in accurate judicial fact finding*. Given the long history of secrecy surrounding the test programs; the selective, partial production by DVA; and the serious nature of the bias allegations, both Plaintiffs and society have a great interest in accurate fact finding. *Id.* at 1124.
- *Seriousness of the litigation and the issues involved.* The fact that Plaintiffs make serious allegations that DVA has discriminated against test subjects in violation of the Constitution counsels in favor of disclosure. *Id.* at 1123-24.
- *Presence of issues concerning alleged governmental misconduct*. As discussed above, Plaintiffs allege that DVA — who participated in the wrongdoing and was therefore motivated by bias — *intentionally* misled test subjects regarding the health risks associated the test programs. The presence of this alleged misconduct weighs in favor of disclosure.
- *Federal interest in the enforcement of federal law.* The federal interest in enforcing the Constitution is strong, which weighs in favor of disclosure. *Id.* at 1123 ("the federal interest in the enforcement of federal constitutional rights weighs in favor of disclosure").

In conclusion, Plaintiffs' need for the evidence is great and the interests in favor of disclosure are strong. Plaintiffs will be handicapped in their efforts to prove a bias claim if DVA is allowed to hide evidence of bias behind the deliberative process privilege. The Court should order production of the documents DVA has withheld on the basis of the deliberative process privilege.

4. DVA Should Not Be Allowed to Use the Privilege as Both a Shield and a Sword

The deliberative process may not be used as both a shield and a sword. *Allstate Ins. Co. v. Serio*, No. 97 CIV. 0670(RCC), 2000 WL 554221, at *11 (S.D.N.Y. May 5, 2000) (concluding that the deliberative process privilege could not be used as both a shield and a sword); *cf. In re City of New York*, 607 F.3d 923, 947 (2nd Cir. 2010) (discussing the law enforcement privilege

and noting that a party cannot use the privilege as both a shield and a sword); *Chiron Corp. v. Genetech, Inc.*, 179 F. Supp. 2d 1182, 1186 (E.D. Cal. 2001) ("[f]airness dictates that a party may not use the attorney-client privilege as both a sword and a shield"). DVA has attempted to use the privilege as both a shield and a sword by selectively withholding documents related to the decision-making process regarding notification efforts while producing others. For example, DVA produced some drafts of the notification letter (*see* O'Neill Decl. ¶ 13, Ex. L) but withheld other drafts (*see* O'Neill Decl. ¶ 14, Ex. M at 37, page #s 1077-1078). DVA's willingness to produce some documents related to the decision-making process but not others shows that DVA is not concerned with protecting the confidentiality of the decision-making process but rather is attempting to shield highly relevant, incriminating evidence. The Court should order production of the documents DVA has withheld on the basis of the deliberative process privilege or, in the alternative, conduct an in camera review of these documents.

B. DVA Must Produce Up-to-Date Statistics Regarding "Chem-Bio Claims"

Plaintiffs seek updated statistics regarding "Chem-Bio" claims for service-connected benefits based on test subjects' exposure to the test substances administered during the test programs (Interrogatory 19).[2] (O'Neill Decl. ¶ 4, Ex. C at 6.) DVA has refused to provide these statistics, stating that it "cannot produce" them. (O'Neill Decl. ¶ 7, Ex. F at 16.) DVA's contention is unconvincing.

DVA has previously and regularly compiled these very statistics regarding "Chem-Bio" claims and included them in a monthly report on its Outreach Activities. (O'Neill Decl. ¶ 11, Ex. J.) These statistics are compiled by running a simple computer query. DVA uses certain "End Product" tags to track particular claims in its computer system; the "End Product" tag 683 (EP 683) identifies claims for service-connected benefits based on exposure to test substances administered during the Chem-Bio test programs. (O'Neill Decl. ¶ 16, Ex. O at

[2] DVA has also refused to produce the statistics requested in Interrogatories 15 and 17 (O'Neill Decl. ¶ 7, Ex. F at 10, 12–13) but has agreed to produce all claims files of identifiable test subjects and survivors. Plaintiffs reserve the right to move to compel responses to Interrogatories 15 and 17 if the information provided in the claims files is not sufficient for purposes of compiling the needed statistics.

VET001_015124.) Thus, *it is very difficult to believe that DVA cannot produce statistics that can be compiled by running a simple query on its computer system*. Documents show that DVA was able to compile these statistics using the EP 683 tag as late as October 2010 (*see* O'Neill Decl. ¶ 10, Ex. I) — the month before DVA was added as a defendant in this litigation.

The clear implication of DVA's refusal to produce these statistics is that the statistics support Plaintiffs' claims. DVA has produced earlier statistics, which show that DVA has granted a surprisingly small number of claims submitted by test participants. As of December 2009, DVA had granted only two out of eighty-six claims. (O'Neill Decl. ¶ 11, Ex. J, p. 11.) DVA cannot refuse to provide discovery of evidence merely because the evidence is not favorable. To date, DVA has not explained why it is suddenly unable to compile statistics that it regularly compiled (through a simple query in a computer system) until DVA was named a party in this litigation.

DVA adjudicators use the EP 683 tag for all claims that allege "disease or injury as a result of participation in any chemical or biological test." (O'Neill Decl. ¶ 16, Ex. O at VET001_015124.) Thus, statistics compiled through use of the EP 683 tag represent claims that are *based* on exposure to the test substances. DVA has provided some statistics, but those statistics include all claims brought by test subjects — whether or not the claimant alleges the injury is related to participation in the testing programs. Plaintiffs need statistics regarding claims in which a test subject alleges that a disease or disability was caused or worsened by participation in the test programs to prove their bias claim.

Statistics compiled through the use of the EP 683 tag are also important because they include the claims of test subjects for whom test participation *cannot* be verified, as well as for those for whom participation *can* be verified. (*See* O'Neill Decl. ¶ 8, Ex. G at 212:11-14.) The statistics provided by DVA to date only include the claims of "identifiable" test subjects — in other words, test subjects for whom participation in testing can be verified. (O'Neill Decl. ¶ 7, Ex. F at 12.) Because we know that testing cannot be confirmed for *thousands* of test subjects who participated in the testing (*see* O'Neill Decl. ¶ 12, Ex. K at 2), it is critical that the universe of test subjects not be limited to those for whom testing can be verified.

Current statistics compiled through use of the EP 683 tag are highly relevant to Plaintiffs' bias claim. The Court should compel DVA to provide these statistics.

C. DVA Must Search for and Produce Documents Related to All Substances Tested as Part of Defendants' Biological and Chemical Warfare Testing Programs

DVA has refused to search for documents regarding the full range of substances tested during Defendants' test programs conducted between 1942 and 1975, as identified in the Chem-Bio Database that Defendants produced. While Plaintiffs are willing to limit discovery to a narrowed list of substances for certain discovery requests (Request For Production Nos. 202, 203, 205, and 216), Plaintiffs seek discovery related to all substances tested during Defendants' testing programs for requests related to DVA involvement in testing (Request for Production Nos. 194, 195, 206, 214, and 215). (O'Neill Decl. ¶ 2, Ex. A.)

Evidence of DVA involvement in research regarding *any* of the substances tested at Edgewood would be highly relevant to Plaintiffs' bias claim. If DVA participated in the testing of any of these substances — whether at Edgewood or elsewhere — then DVA would have an impermissible interest in the outcome of adjudications related to those substances. DVA's own participation in testing has left it reluctant to admit that any harm came from exposure to the substances. Evidence of DVA involvement in testing is therefore highly relevant to Plaintiffs' bias claim.

DVA contends that a search for all test substances would be overly burdensome. That DVA may have succeeded in burying evidence of involvement in the testing does not excuse it from its obligation to look for responsive documents. DVA has shown no effort to locate these key documents, despite the fact that Plaintiffs have pointed DVA to available documents that evidence their participation in the test programs. To deprive Plaintiffs of testing information under these circumstances would add insult to Plaintiffs' injury. Plaintiffs have suffered long enough because of the secret nature of the testing program. Plaintiffs deserve to know the extent of DVA's involvement in research regarding the substances tested at Edgewood.

D. DVA Must Search for and Produce Documents Related to Testing that Occurred Prior to 1953

For the reasons stated in Plaintiffs' Motion to Compel 30(b)(6) Depositions and Production of Documents against the other Defendants, the Court should compel DVA to search for and provide discovery regarding testing that occurred prior to 1953. The Complaint addresses testing from the World War II era through the claimed end of the program in 1975 or 1976.

E. DVA Must Produce Death Certificates of Deceased Test Subjects

Plaintiffs seek the death certificates of all deceased test subjects (Request for Production No. 218). (O'Neill Decl. ¶ 3, Ex. B. at 5.) DVA has refused to produce all of the death certificates that it possesses.

Death certificates are the most reliable means available to Plaintiffs of obtaining cause-of-death information, which is relevant to Plaintiffs' notice and healthcare claims against the other Defendants. Plaintiffs contend that Defendants' test programs have produced many casualties in the form of adverse health effects and premature deaths. Moreover, Defendants have failed to provide test subjects with accurate information about the long-term health effects caused by the test programs by refusing to study patterns in the death certificates. Instead, Defendants rely on highly flawed "studies" of certain substances. Many of the existing studies regarding test subjects' health rely on surveys, and do not encompass information about deceased test subjects — a shortcoming that has the effect of excluding those who suffered the most serious illnesses from the studies' findings.

After months of negotiation, DVA has finally agreed to produce the claims files of test subjects and survivors, which are likely to contain some death certificates. In addition, DVA has agreed to search for death certificates in "Notice of Death" folders and in DVA's electronic recordkeeping system. Nonetheless, DVA has not confirmed that it will produce all death certificates in its possession, custody, or control. DVA should be compelled to produce all death certificates in its possession.

V. CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that the Court order DVA to produce all documents improperly withheld on the basis of the deliberative process privilege, and to undertake a search for and production of documents as discussed above.

Dated: August 18, 2011

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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

VIETNAM VETERANS OF AMERICA, *et al.*,

Plaintiffs,

v.

CENTRAL INTELLIGENCE AGENCY, *et al.*,

Defendants.

Case No. CV 09-0037-CW

[PROPOSED] ORDER GRANTING PLAINTIFFS' MOTION TO COMPEL DISCOVERY

Hearing Date: September 22, 2011
Time: 2:00 p.m.
Courtroom: E, 15th Floor
Judge: Hon. Jacqueline Scott Corley

Complaint filed January 7, 2009

Plaintiffs' Motion to Compel Discovery came before this Court for hearing on September 22, 2011. Having read and considered the submissions of the parties, and finding good cause therefore, the Court hereby GRANTS the motion to overrule objections and compel discovery.

The Court ORDERS Defendant Department of Veterans Affairs ("DVA") to: (1) produce all documents improperly withheld or redacted on the basis of the deliberative process privilege; (2) provide statistics as requested by Interrogatory 19; (3) search for and produce documents that evidence DVA involvement in research regarding the substances tested during the Edgewood test programs; (4) search for and produce documents related to testing that occurred prior to 1953; and (5) produce all death certificates of deceased test subjects in DVA's possession, custody, or control as requested by Request for Production No. 218.

IT IS HEREBY ORDERED that Plaintiffs' Motion is GRANTED.

Dated: _____

By: _____
UNITED STATES MAGISTRATE JUDGE
HONORABLE JACQUELINE SCOTT CORLEY