

# **Exhibit 74**

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

VIETNAM VETERANS OF AMERICA, a  
Non-Profit Corporation; SWORDS  
TO PLOWSHARES: VETERANS RIGHTS  
ORGANIZATION, a California  
Non-Profit Corporation; BRUCE  
PRICE; FRANKLIN D. ROCHELLE;  
LARRY MEIROW; ERIC P. MUTH;  
DAVID C. DUFRANE; TIM MICHAEL  
JOSEPHS; and WILLIAM BLAZINSKI,  
individually, on behalf of  
themselves and all others  
similarly situated,

Case No. CV 09-0037-CW

Plaintiffs,

vs.

CENTRAL INTELLIGENCE AGENCY;  
LEON PANETTA, Director of the  
Central Intelligence Agency;  
UNITED STATES DEPARTMENT OF  
DEFENSE; DR. ROBERT M. GATES,  
Secretary of Defense; UNITED  
STATES DEPARTMENT OF THE ARMY;  
PETE GEREN, United States  
Secretary of the Army; UNITED  
STATES OF AMERICA; ERIC H.  
HOLDER, JR., Attorney General  
of the United States; UNITED  
STATES DEPARTMENT OF VETERANS  
AFFAIRS; and ERIC K. SHINSEKI,  
UNITED STATES SECRETARY OF  
VETERANS AFFAIRS,

Defendants.

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DEPOSITION OF ELINOR ROBERTS

DATE: JULY 14, 2011  
TIME: 9:44 a.m.  
LOCATION: MORRISON & FOERSTER  
101 Ygnacio Valley Road, Suite 201  
Walnut Creek, California 94596

REPORTED BY: Gayle Pichierri, RPR, CRR  
CSR License Number 11406

1 VA claim related information because of perceived secrecy  
2 obligations," you testified that is accurate; right?

3 MR. ERSPAMER: Objection. Asked and answered.

4 THE WITNESS: Yes.

5 BY MR. LITTLETON:

6 Q. Could you describe these conversations for me?

7 MR. ERSPAMER: Okay. I'm going to object to the  
8 question as calling for the content of attorney-client  
9 privileged communications and instruct you not to answer.

10 (So noted.)

11 THE WITNESS: On the advice of counsel, I will  
12 refrain from answering that question.

13 MR. LITTLETON: Counsel, are you contending that  
14 the substance of any conversations that are referenced in  
15 this sentence about "...speaking with veterans who were  
16 unwilling to share certain VA claim related information  
17 because of perceived secrecy obligations," that any further  
18 substance of those conversations is privileged?

19 MR. ERSPAMER: Counsel, you can ask your questions  
20 and I'll make my instructions. That question I instruct  
21 her not to answer because it directly calls for the content  
22 of attorney-client privileged communications.

23 BY MR. LITTLETON:

24 Q. About how many Vietnam-era veterans do you recall  
25 having conversations with who expressed concerns about

1 sharing VA claim related information because of perceived  
2 secrecy obligations?

3 A. I would say between ten and a hundred.

4 Q. Can you get any narrower of an estimate than  
5 between ten and 100?

6 A. That's the best I can do.

7 Q. Did those veterans who expressed this concern, did  
8 they tell you that they had been participants in chemical  
9 or biological testing programs?

10 MR. ERSPAMER: Objection. Compound. Vague.

11 You may answer generally, but please don't divulge  
12 specific attorney-client privileged communications.

13 THE WITNESS: Again, without going into any  
14 specifics, I did talk to veterans who had -- who stated  
15 that they had been participants in chemical, medical drug  
16 testing and who had or thought that they had some secrecy  
17 and security obligations.

18 BY MR. LITTLETON:

19 Q. Did all of the veterans you spoke with who  
20 expressed concern about secrecy and security obligations  
21 say that they had been participants in chemical or  
22 biological testing programs?

23 A. Well, I don't want to restate the question for  
24 you, so why don't you be more specific.

25 Q. Were -- out of the 10 to 100 conversations that

1 CERTIFICATION OF DEPOSITION OFFICER

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3 I, GAYLE PICHIERRI, RPR, CRR, CSR, duly authorized to  
4 administer oaths pursuant to Section 2093(b) of the  
5 California Code of Civil Procedure, hereby certify that  
6 the witness in the foregoing deposition was by me sworn  
7 to testify to the truth, the whole truth and nothing but  
8 the truth in the within-entitled cause; that said  
9 deposition was taken at the time and place therein  
10 stated; that the testimony of the said witness was  
11 thereafter transcribed by means of computer-aided  
12 transcription; that the foregoing is a full, complete and  
13 true record of said testimony; and that the witness was  
14 given an opportunity to read and correct said deposition  
15 and to subscribe to same.

16 I further certify that I am not of counsel  
17 or attorney for either or any of the parties in the  
18 foregoing deposition and caption named, or in any way  
19 interested in the outcome of this cause named in said  
20 caption.

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Gayle Pichierri  
RPR, CRR, CSR No. 11406

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