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 16 UNITED STATES DISTRICT COURT  
 17 NORTHERN DISTRICT OF CALIFORNIA  
 18 OAKLAND DIVISION

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 20 VIETNAM VETERANS OF AMERICA, *et al.*,  
 21 Plaintiffs,  
 22 v.  
 23 CENTRAL INTELLIGENCE AGENCY, *et al.*,  
 24 Defendants.  
 25

Case No. CV 09-0037-CW

**DEFENDANTS' REPLY TO  
 PLAINTIFFS' STATEMENT OF  
 DISCOVERY DISPUTES, AND  
 MOTION TO SET A BRIEFING  
 SCHEDULE**

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1 Defendants file this brief reply because they object to both the timing of the briefing  
2 proposed in Plaintiffs' opposition and the requested page limitations. With respect to the timing  
3 of Defendants' response to Plaintiffs' discovery dispute statement, Defendants proposed in their  
4 opposition a June 7, 2012 deadline. Dkt. 426. Plaintiffs' response, however, proposes a deadline  
5 nine days earlier on May 29, 2012. Plaintiffs' proposed deadline fails to acknowledge both the  
6 upcoming Memorial Day holiday weekend and the fact that Defendants must work with agency  
7 counsel to develop multiple declarations in response to aspects of the forty-paragraph  
8 "supplemental and amended" declaration of John Ashley that Plaintiffs only recently provided to  
9 Defendants. Indeed, as noted in Defendants' Motion to Set a Briefing Schedule, Plaintiffs are  
10 briefing for the very first time issues related to the Central Intelligence Agency's ("CIA") review  
11 of certain magnetic tapes that previously have not been subject to any discovery dispute, and  
12 Plaintiffs only days ago offered a declaration that purports to address those issues. Dkt. 426 at 2.  
13 The CIA, however, will not be able to adequately and fully respond to the arguments raised in  
14 Plaintiffs' statement and declaration by May 29, 2012; agency counsel for the CIA was  
15 unavailable last week due to pressing national security matters, and agency counsel further is  
16 scheduled to be out of town May 25-28, 2012. While Plaintiffs suggest that Defendants'  
17 proposed schedule somehow will delay the resolution of the issues identified in Plaintiffs'  
18 discovery dispute statement, a difference of nine days will have no legitimate impact on the  
19 timely resolution of these issues, but will provide a reasonable time in which Defendants can  
20 respond to Plaintiffs' arguments.

21 Furthermore, Plaintiffs proposed page limitation of eight pages is inappropriate. As  
22 mentioned in Defendants' opposition, Plaintiffs' eight page statement cross-references another six  
23 page brief concerning cost-shifting that Defendants have not had the opportunity to respond to, as  
24 well as the forty paragraph "amended and supplemental" declaration of Mr. Ashley.  
25 Accordingly, if the Court is inclined to impose page limitations, Defendants suggest that they be  
26 allowed at least 15 pages.

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28 Respectfully submitted,

1  
2 May 22, 2012

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