

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

VIETNAM VETERANS OF AMERICA et
al.,

Plaintiffs,

v.

CENTRAL INTELLIGENCE AGENCY, et
al.,

Defendants.

No. CV 09-0037-CW

INTENDED
INJUNCTION
PURSUANT TO THE
COURT'S SUMMARY
JUDGMENT ORDER

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WHEREAS, the Court has granted Plaintiffs summary judgment that Defendant Department of the Army has an ongoing duty to warn members of the class about newly acquired information that may affect their well-being now and in the future as it becomes available, and good cause appearing therefor;

IT IS HEREBY ORDERED that said Defendant is enjoined as follows:

1. This injunction pertains only to individuals who, while serving in the armed forces, were test subjects in any testing program in which humans were exposed to a chemical or biological substance for the purpose of studying or observing the effects of such exposure (that was sponsored, overseen, directed, funded, and/or conducted by the Department of the Army). Defendant shall provide such test subjects with newly acquired information that may affect their well-being that it has learned since its original notification, now and in the future as it becomes available, as set forth below.

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1 2. This injunction applies only to information that may
2 affect the well-being of test subjects that has been acquired by
3 the Department of the Army and/or its agents since June 30, 2006.
4 Specifically, as the Court has ruled, the Department of the Army
5 shall provide each test subject with any new information it has
6 required with regard to:

- 7 a. The nature, duration, and purpose of the testing
- 8 undergone by that particular test subject;
- 9 b. The method and means by which the testing was
- 10 conducted;
- 11 c. The inconveniences and hazards reasonably to be
- 12 expected by that test subject as a result of
- 13 participation in the testing; and
- 14 d. The effects upon their health which may possibly
- 15 come from such participation.

16 Such information is referred to hereafter as the "Newly
17 Acquired Information";

18 3. Class members who became test subjects before August 8,
19 1988, shall be notified of Newly Acquired Information;

20 4. Within thirty (30) days of the date of entry of this
21 injunction (the "Entry Date"), the Department of the Army shall
22 file with the Court a report:

- 23 a. describing the efforts it has undertaken to locate
- 24 the Newly Acquired Information as of the Entry Date from
- 25 the various sources of information available to it,
- 26 which may include, but are not limited to, such sources
- 27 as the Chem-Bio Database, the Mustard Gas Database, the
- 28 Chemical, Biological, Radiological & Nuclear Defense

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Information Analysis Center ("CBRNIAC") Database and other related databases created in conjunction with Battelle Memorial Institute, and the Defense Technical Information Center ("DTIC") repository;

b. confirming whether Newly Acquired Information has been found and describing generally its nature;

c. explaining the plan it has in its discretion developed for transmitting Newly Acquired Information to the class members entitled to notification, including the methods intended for notification which may include direct mail, online notice, and/or publication notice;

d. committing to transmit the Newly Acquired Information as of the Entry Date to those class members no later than ninety (90) days from the Entry Date, and outlining its plan to do so; and

e. outlining the plan and policies it has in its discretion developed for (i) periodically collecting and transmitting Newly Acquired Information that becomes available to it after the Entry Date and (ii) providing any necessary update reports to the Court regarding such future efforts.

5. The Court retains jurisdiction to enforce the terms of this Injunction and Order.

IT IS SO ORDERED.

Dated:

CLAUDIA WILKEN
United States District Judge