

1 JAMES P. BENNETT (CA SBN 65179)
 JBennett@mofo.com
 2 EUGENE ILLOVSKY (CA SBN 117892)
 EIllovsky@mofo.com
 3 STACEY M. SPRENKEL (CA SBN 241689)
 SSprenkel@mofo.com
 4 BEN PATTERSON (CA SBN 268696)
 BPatterson@mofo.com
 5 MORRISON & FOERSTER LLP
 425 Market Street
 6 San Francisco, California 94105-2482
 Telephone: 415.268.7000
 7 Facsimile: 415.268.7522

8 Attorneys for Plaintiffs
 Vietnam Veterans of America; Swords to
 9 Plowshares; Veterans Rights Organization;
 Bruce Price; Franklin D. Rochelle; Larry
 10 Meirow; Eric P. Muth; David C. Dufrane;
 Kathryn McMillan-Forrest; Tim Michael
 11 Josephs; and William Blazinski

12 UNITED STATES DISTRICT COURT
 13 NORTHERN DISTRICT OF CALIFORNIA
 14 OAKLAND DIVISION

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

Case No. CV 09-0037-CW

**DECLARATION OF
 BEN PATTERSON IN SUPPORT OF
 PLAINTIFFS' REPLY IN SUPPORT
 OF MOTION FOR PARTIAL
 SUMMARY JUDGMENT AND
 OPPOSITION TO DEFENDANTS'
 CROSS-MOTION FOR SUMMARY
 JUDGMENT**

Hearing Date: March 14, 2013
 Time: 2:00 p.m.
 Courtroom: 2, 4th Floor
 Judge: Hon. Claudia Wilken

Complaint filed January 7, 2009

1 I, Ben Patterson, declare as follows:

2 1. I am an attorney licensed to practice law in the State of California and am admitted
3 to practice before this Court. I am an associate with the law firm of Morrison & Foerster LLP,
4 counsel of record for Vietnam Veterans of America, Swords to Plowshares: Veterans Rights
5 Organization, Bruce Price, Franklin D. Rochelle, Larry Meiorow, Eric P. Muth, David C. Dufrane,
6 Kathryn McMillan-Forrest, Tim Michael Josephs, and William Blazinski (“Plaintiffs”) in this
7 action. I submit this Declaration in support of Plaintiffs’ Reply in Support of Motion for Partial
8 Summary Judgment and Opposition to Defendants’ Cross-Motion for Summary Judgment.

9 I make this Declaration based on my personal knowledge and discussions with support staff
10 working under my direction. If called as a witness, I would testify to the facts set forth below.

11 2. Attached hereto as **Exhibit 14** is a true and correct copy of excerpts from the
12 transcript of the July 6, 2011 deposition of Dee Dodson Morris.

13 3. Attached hereto as **Exhibit 15** is a true and correct copy of excerpts from the
14 transcript of the July 6, 2011 deposition of Michael Kilpatrick.

15 4. Attached hereto as **Exhibit 16** is a true and correct copy of excerpts from the
16 transcript of the July 7, 2011 deposition of Martha Hamed.

17 5. Attached hereto as **Exhibit 17** is a true and correct copy of what I am informed
18 and believe is a 1964 article by Samuel B. Lysterly, et al. titled, *Drugs and Placebos: The Effects of*
19 *Instructions upon Performance and Mood under Amphetamine Sulphate and Chloral Hydrate*,
20 contained in the Journal of Abnormal and Social Psychology, Volume 68, No. 3, at pages
21 321-327.

22 6. Attached hereto as **Exhibit 18** is a true and correct copy of what I am informed
23 and believe is an August 6, 1975 dated document titled, “Jerry Baulch inquires re: use of LSD in
24 VAHs,” produced by Defendants at Bates labels DVA078 00041 through DVA078 00043 and
25 identified as Deposition Exhibit 853 in this case.

26 7. Attached hereto as **Exhibit 19** is a true and correct copy of what I am informed
27 and believe is a 1957 study by Lincoln D. Clark and Eugene L. Bliss titled,
28 *Psychopharmacological Studies of Lysergic Acid Diethylamide (LSD-25) Intoxication*, contained

1 in the A.M.A. Archives of Neurology and Psychiatry, Volume 78, at pages 653-655, accessed on
2 June 13, 2012, at <http://archneurpsyc.jamanetwork.com>.

3 8. Attached hereto as **Exhibit 20** is a true and correct copy of what I am informed
4 and believe are excerpts from eight reports to Congress regarding Medical Research in the
5 Veterans' Administration, prepared by the Department of Medicine and Surgery of the Veterans'
6 Administration, dated April 26, 1957; May 6, 1958; January 30, 1959; May 29, 1959; December
7 13, 1961; January 15, 1970; January 21, 1972; and January 25, 1974.

8 9. Attached hereto as **Exhibit 21** is a true and correct copy of what I am informed
9 and believe is a March 3, 1983 dated document titled, "Veterans Administration Studies on
10 Lysergic Acid Diethylamide (LSD)," produced by Defendants at Bates label DVA135 000063
11 and identified as Deposition Exhibit 854 in this case.

12 10. Attached hereto as **Exhibit 22** is a true and correct copy of what I am informed
13 and believe is an August 28, 1992 dated document authored by J. Gary Hickman titled,
14 "Recognized Residuals of Exposure to LSD," produced by Defendants at Bates label DVA135
15 000062 and identified as Deposition Exhibit 852 in this case.

16 11. Attached hereto as **Exhibit 23** is a true and correct copy of what I am informed
17 and believe is an outreach letter from Daniel Cooper, Acting Under Secretary for Benefits, dated
18 June 30, 2006, and produced by Defendants at Bates labels VET001_014266 through
19 VET001_014271 and identified as Deposition Exhibit 264 in this case.

20 12. Attached hereto as **Exhibit 24** is a true and correct copy of what I am informed
21 and believe is a June 29, 2006 email from Mark Brown to Kenneth Hyams and others, produced
22 by Defendants at Bates labels DVA052 000113 through DVA052 000114 and identified as
23 Deposition Exhibit 727 in this case.

24 13. Attached hereto as **Exhibit 25** is a true and correct copy of what I am informed
25 and believe is the August 14, 2006 Under Secretary for Health Information Letter regarding
26 "Potential Health Effects Among Veterans Involved in Military Chemical Warfare Agent
27 Experiments Conducted from 1955 to 1975," produced by Defendants at Bates labels
28 VET001_015606 through VET001_015609 and identified as Deposition Exhibit 275 in this case.

1 14. Attached hereto as **Exhibit 26** is a true and correct copy of what I am informed
2 and believe is Training Letter 06-04, dated September 12, 2006, produced by Defendants at Bates
3 labels VET001_015121 through VET001_015134 and identified as Deposition Exhibit 296 in this
4 case.

5 15. Attached hereto as **Exhibit 27** is a true and correct copy of what I am informed
6 and believe is a draft of Training Letter 06-04, dated July 2006, produced by Defendants at Bates
7 labels DVA083 002631 through DVA083 002638 and identified as Deposition Exhibit 849 in this
8 case.

9 16. Attached hereto as **Exhibit 28** is a true and correct copy of what I am informed
10 and believe is a string of emails between Mark Brown and Kelley Brix and others, dated July 7
11 and July 10, 2006, produced by Defendants at Bates label VET140-000723 and identified as
12 Deposition Exhibit 751 in this case.

13 17. Attached hereto as **Exhibit 29** is a true and correct copy of excerpts from the
14 transcript of the September 4, 2012 deposition of Joseph Salvatore.

15 18. Attached hereto as **Exhibit 30** is a true and correct copy of excerpts from the
16 transcript of the June 29, 2011 deposition of Joseph Salvatore.

17 19. Attached hereto as **Exhibit 31** is a true and correct copy of excerpts from the
18 transcript of the August 23, 2012 deposition of David Abbot.

19 20. Attached hereto as **Exhibit 32** is a true and correct redacted copy of what I am
20 informed and believe is a string of emails between David Abbot and Melissa Hill dated March 6,
21 2006 and June 20, 2005, produced by Defendants at DVA095 003342, and the unredacted version
22 of which was identified as Deposition Exhibit 859 in this case.

23 21. Attached hereto as **Exhibit 33** is a true and correct copy of what I am informed
24 and believe is a February 5, 2010 document titled, "Outreach Efforts of Project 112/SHAD,
25 Mustard Gas and Chemical Biological Programs as of January 31, 2010," prepared by Procedures
26 Staff, Compensation and Pension Service, produced by Defendants at Bates labels DVA004
27 014448 through DVA004 014452 and identified as Deposition Exhibit 581 in this case.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Attestation Pursuant to Civil Local Rule 5-1

I, Eugene Illovsky, am the ECF User whose ID and password are being used to file this document. I hereby attest that Ben Patterson concurs in this filing.

/s/ Eugene Illovsky

EUGENE ILLOVSKY