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February 22, 2008

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*Via e-mail and facsimile*Mr. Daniel Bensing, Senior Counsel  
U.S. Department of Justice  
Civil Division, Federal Programs Branch  
20 Massachusetts Ave., NW  
Washington, DC 20530Re: *Veterans for Common Sense v. Mansfield*  
N.D. Cal. No. C-07-3758

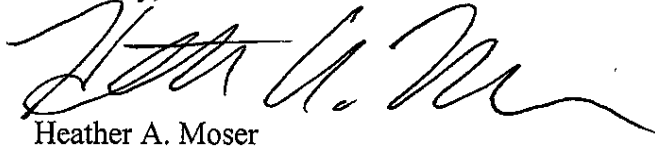
Dear Mr. Bensing:

I am writing with respect to Defendants' recently filed reply on their motion to dismiss Defendant Greene. Defendants' reply brief (last section, pages 7-8) raises a brand new legal argument – judicial immunity. The case law relevant to the newly raised judicial immunity argument was not cited in previous briefing. Moreover, this is not the first time this has happened. As you recall, the present motion to dismiss Greene is an outgrowth of a new legal argument raised on reply in your original motion to dismiss. Plaintiffs cannot consistently suffer prejudice in this seriatim fashion and are entitled to an opportunity to fully brief the issues before the Court. Assuming the Court is even inclined to address a new issue improperly raised on reply for the second time, Plaintiffs propose that the parties enter into a stipulation granting Plaintiffs adequate opportunity to fully research and brief this potentially complicated issue for the Court. In light of the up-coming preliminary injunction hearing, Plaintiffs propose that the hearing on the motion to dismiss Greene be rescheduled for April 11, 2008, with Plaintiffs' brief on judicial immunity due March 21, 2008. In light of the fact that this is the third round of briefing on issues that could have and should have been raised in the original motion to dismiss, Plaintiffs ask that Defendants waive their right to reply.

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If Defendants are amenable to the proposed stipulation, please let me know by noon PST on Monday, February 25, 2008. If I have not heard anything from Defendants at that time, we will assume that Defendants are not inclined to enter into the proposed stipulation. Please be advised that Plaintiffs plan to make an appropriate motion to set a proper briefing schedule on the judicial immunity issue should Defendants decline our offer to stipulate. Thank you in advance for your anticipated professional courtesy in this regard.

Sincerely,

A handwritten signature in black ink, appearing to read "Heather A. Moser". The signature is fluid and cursive, with a long horizontal stroke at the end.

Heather A. Moser