

EXHIBIT D

March 20, 2008

Writer's Direct Contact
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By Facsimile and Email

Ms. Kyle R. Freeny
U.S. Department of Justice
Civil Division, Federal Programs Branch
20 Massachusetts Ave., NW, Room 6109
Washington, DC 20530

Re: *Veterans for Common Sense v. Peake*
N.D. Cal. No. C-07-3758


Dear Ms. Freeny:

I am writing to respond to your letter of March 17, 2008 regarding 38 U.S.C. § 7332 and your declination to stipulate to a protective-order provision. Although you note in your letter that you do not expect Section 7332 to “affect many of the categories of documents in Judge Conti’s March 14 discovery order,” you have indicated to me that some documents, including suicide incident reports, will be affected. Incident reports are important to the suicide issues in the case and have been the subject of outstanding document requests for months. To further underscore their importance, incident reports were mentioned by VA witnesses many times during the four days of preliminary injunction testimony. Plaintiffs need to know immediately how many incident reports Defendants plan to withhold on the basis of this statute and whether Defendants plan to produce them in redacted form or simply withhold them entirely. It is a matter that we will have to raise with the Court in a motion to compel. Also, please identify any other responsive documents (or categories thereof) that Defendants anticipate withholding on the basis of Section 7332.

Ms. Kyle Freeny
March 20, 2008
Page Two

Based on our telephone conversation this week, it is my understanding that Defendants do plan to produce responsive incident reports not affected by Section 7332. Please confirm that those reports will be produced within the next week.

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