

Final: 4/30/08

Interim for week ending: _____

TITLE SHEET

CASE NUMBER C-07-3758-SC	
CASE TITLE VETERANS FOR COMMON SENSE, et al. -v- JAMES B. PEAKE, M.D., et al.	
COURT REPORTERS Belle Ball, Debra Pas	
DEPUTY CLERK T. De Martini	JUDGE Samuel Conti
ATTORNEYS FOR PLAINTIFF	ATTORNEYS FOR DEFENDANT
Gordon Erspamer	Daniel Bensing
Sidney Wolinsky	Kyle Freeny
Heather Moser, <u>Natalie Dangle</u>	James Schwartz, Suzanne Will
Stacey Sprengel, Ryan Hassanein	Richard Lepley, Al Bocchicchio
Arturo Gonzalez, Katrina Corbit	Ron Wiltsie, Chris McNamee

LIST OF EXHIBITS AND WITNESSES

CASE NO. C-07-3758-SC VETERANS FOR COMMON SENSE, et al. -v- JAMES B. PEAKE, M.D., et al.								
Plaintiff			Defendant			DATE/TIME	EXHIBITS/WITNESSES	BY
No.	ID	EV	No.	ID	EV			
						9:15 A.M.	4/21/08 Court Trial Began	
							Preliminary Matters	
							Defendants Motion to Exclude Expert	
							Testimony - Denied	
							Exhibits will be handled on a case	
							by case basis.	
							Evidence regarding Court of Appeals	
							will be handled on a case by case basis	
							There is no adverse inference in a Court Trial	
							Exclude Documents not produced will	
							be heard on a case by case basis	
							Dr. Michael Kusman is required to	
							appear appear	
							James Teary is required to appear.	

LIST OF EXHIBITS AND WITNESSES

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CASE NO. C-07-3758-SC VETERANS FOR COMMON SENSE, et al. -v- JAMES B. PEAKE, M.D., et al.								
Plaintiff			Defendant			DATE/TIME	EXHIBITS/WITNESSES 4/21/08	BY
No.	ID	EV	No.	ID	EV			
							Parties to exchange list of witnesses and exhibits on an ad hoc basis. Legal testimony - Please by case	
							The parties will have as much time as they need to present their case.	
						9:57 a.m.	Plaintiffs Opening Statement by Espamer	TT
						10:31 a.m.	Defendants Opening Statement by Hepley	Δ
						11:15 a.m.	Recess	
						11:30 a.m.	Reconvene	
							Witness Ronald Abrams - Sworn	TT
							Direct by Espamer	
1279	X						Chart: Veterans Administration Organizational Chart Abrams offered as an expert	4/08
						11:49 a.m.	Voir Dire by Wiltsee	
							Continued Direct	
1275	X	X					Individual	
1274	X						Mental & Personality Disorders	
						12:15 p.m.	Recess	
						1:30 p.m.	Reconvene	
							Continued Direct of Abrams by Espamer	
1274		X						
425	X	X					VA Adjudication Procedures Manual Revised 8/8/07	
423	X	X					VA Clinicians' Guide 8/9/06	
1282	X						M-21-4 Manual: Work Rate Standards	
1276	X						Timeline: VBA Adjudication Process - Service Connected	
1277	X						Timeline: VBA Adjudication Process - PTSD Claims	
1278	X						Chart: Cumulative Adjudication Error Rates	
414	X						CNA Corporation Report to VA 5/07	
375	X						Memo from Mayer to VA Regional Office Director 8/27/07	
						2:55 p.m.	Recess	

CASE NO. C-07-3758-SC VETERANS FOR COMMON SENSE, et al. -v- JAMES B. PEAKE, M.D., et al.									
Plaintiff			Defendant			DATE/TIME	EXHIBITS/WITNESSES	4/21/08, 4/22/08	BY
No.	ID	EV	No.	ID	EV				
						3:05 p.m.	Reconvene		
							Cross of Abrams by Wittsie		
						3:32 p.m.	Witness Donald Hubbard - Sworn		TT
							Direct by Hassanain		
1310	X	X					Board of Veterans' Appeals VACOLS Field Station		
1323	X	X					Appeals Resolution Time		
1309	Y	Y					BVA Dispositions by VA Regional Offices		
1318	X	Y					BVA Appeals Pending		
1174	X	X					Form VA 9 Appeal to BVA		
1324	Y	Y					BVA Hearing Requests		
1314	Y	X					Board of Veterans Appeals		
1312	X	X					Board of Veterans Appeals Remand Panel 1/1/08 - 5/1/08		
1320	X	X					Workload by Statra (without Remand)		
						4:50pm	Recess		
							April 22, 2008		
						9:15 A.M.	Reconvene		
							Continued Direct of Hubbard		TT
1315	X	X					Certified to BVA		
1317	Y	Y					BVA Appeals pending by BO		
1316	Y	X					BVA Disposition of Appeals		
1322	X	X					Consolidated Monday Morning Reports		
1243	Y						Defendants' Responses and Objections to Plaintiffs Subpoenas		
						9:56 A.M.	Cross by Wittsie		
						9:59 A.M.	Dr. Ronald Mains - Sworn		TT
							Direct by Gonzalez		
							Dr. Mains offered as an expert re Suicide		
							No Voir Dire		
1330	X	X					15 Suicide Factors, Excerpt from Comprehensive Textbook		
133	X						Dept Vet Affairs Office Insp. General Report 5/10/07		

CASE NO. C-07-3758-SC VETERANS FOR COMMON SENSE, et al. -v- JAMES B. PEAKE, M.D., et al.								
Plaintiff			Defendant			DATE/TIME	EXHIBITS/WITNESSES 4/22/08	BY
No.	ID	EV	No.	ID	EV			
365	X	X					Template: Suicide Risk Screening and Capelaine	
1331	X						VA Departures from Standard Care	
1255	X						Report: Compilation of Suicide Incident Briefs	
1256	X						Chart: Compilation of Suicide Incident Briefs	
						10:55 am	Recess	
						11:10 am	Reconvene	
							Continued Direct of Maris	
						11:21 A.M.	Cross of Maris by Schwartz	
1259	X						Video deposition excerpts of William Feeley	TT
							Parties stipulate to the Court Reporter not taking down the video testimony	
							Plaintiffs to allow Defendant to designate and play their designations - video stopped	
							parties to work out both sides designations	
						11:47 A.M.	William Foy - Sworn	TT
							Direct by Wolinsky	
1015	X	X					Curriculum Vitae of Professor William Foy	
							offer as an expert in Veterans Law.	
						12:01 p.m.	Vari Die by Wittsie	
						12:02 p.m.	Recess	
						1:15 p.m.	Reconvene	
							Continued Direct of Foy	
1286	X						Chart: Characteristics of Today's Veterans	
1284	X						Chart: Solutions Claims Adjudication	
						2:11 p.m.	Cross by Wittsie	
						2:40 p.m.	Re direct	
						2:48 p.m.	Recess	
						3:05 p.m.	Reconvene	
							Witness Casimir Matuszak - Sworn	TT

CASE NO. C-07-3758-SC VETERANS FOR COMMON SENSE, et al. -v- JAMES B. PEAKE, M.D., et al.

Plaintiff			Defendant			DATE/TIME	EXHIBITS/WITNESSES	4/22/08	4/23/08	BY
No.	ID	EV	No.	ID	EV					
						3:05 p.m.	Direct of Matuszak by Spunkel			
1069	X	X					Veterans Application for Compensation or Pension VA Form			
1321	X	X					Statement in support of Claim for Service			
						3:43 p.m.	Cross by Freeman			
						3:47 p.m.	Redirect			
							Video deposition excerpts of William Feeley			Y
						5:00 p.m.	Government ^{County} excerpts of Feeley read into the record.			Δ
						5:00 p.m.	Wednesday, April 23, 2008			
						9:15 a.m.	Recess			
							Witness Richard Weidman - Sworn			Y
							Direct by Wolinsky			
1192	X	Y					Biography of Richard Weidman			
							affidavit as VA Expert on Budget			
						9:40 a.m.	Vari Due by Bensing			
						10:36 a.m.	Cross by Continued Direct			
						10:36 a.m.	Cross by Bensing			
						10:39 a.m.	Recess			
						10:55 a.m.	Recess			
							Witness James Terry - Sworn			Y
							Direct by Hassanain			
370	Y	X					Board of Veterans' Appeals Report of the Chairman 2/8/08			
1243	Y	X					Defendants' Responses & Objections to Plaintiff's Interrogatories			
1309	X						already in evidence			
1312	X						already in evidence			
377	X	X					Chart: Board of Veterans' Appeals Obligations of FTE 4/1/05			
378	X	X					Chart: Board of Veterans' Appeals Executive Summary 2/06			
413	X	Y					Chart: Board of Veterans' Appeals MFR Next 3045 Days 2/08			
1323	X						already in evidence			
						12:02 p.m.	Recess			

CASE NO. C-07-3758-SC VETERANS FOR COMMON SENSE, et al. -v- JAMES B. PEAKE, M.D., et al.								
Plaintiff			Defendant			DATE/TIME	EXHIBITS/WITNESSES 4/23/08, 4/24/08	BY
No.	ID	EV	No.	ID	EV			
						1:15 p.m.	Recess	
							Continued Direct of Teeey	
1097	Y	X					U.S. of Appeals for Veterans Claims: Annual Report	
1237	Y	X					Aquayo - Peake email to members re: "Home stretch"	
1230	X						Battling the Backlog Part II hearing 7/13/06	
						2:20 p.m.	Cross by Feeeny	
			555	X	X		Dept Vet Affairs Board of Vet Appeals Budget Authority 2005-2009	
						3:05 p.m.	Recess	
						3:20 p.m.	Recess	
							Continued cross of Teeey	
			557	X	X		Federal Register Vol 73 No. 79 4/16/08 Proposed Rules	
						3:33 p.m.	Redirect by Hassanein	
						3:47 p.m.	Recross	
						3:49 p.m.	Witness Tia Christopher - Sworn	
							Direct	
						4:07 p.m.	Witness Robert Handy - Sworn	
							Direct by Wolinski	
1332	Y						Veterans United for Truth, Health Care Complaints Amendments	
						4:29 p.m.	Cross by Feeeny	
						4:33 p.m.	Recess	
							Thursday, April 24, 2008	
						9:15 A.M.	Recess	
							Direct Witness Michael Kussman - Sworn	Y
							Direct by Gonzalez	
427	Y						Organizational Chart: Office of the Under Secretary for Health	
398	X						The Comprehensive VHA Mental Health Strategic plan 7/1/04	
397	Y						Statement of Francis Murphy M.D.	
118	X						Hearing: Servicemembers' Seamless Transition	
133	X						Dept VA Report 5/10/07	

LIST OF EXHIBITS AND WITNESSES

CASE NO. C-07-3758-SC VETERANS FOR COMMON SENSE, et al. -v- JAMES B. PEAKE, M.D., et al.

Plaintiff			Defendant			DATE/TIME	EXHIBITS/WITNESSES 4/24/08	BY
No.	ID	EV	No.	ID	EV			
169	X						Dept Vet Affairs OIG Report Audited the Vet Health Admin 9/1/07	
1296	X		1291	X			Top 3 Complaints Fiscal Year 2008 1 st Quarter	
1304	X	X					Keep email re Monthly Hotline Report	
1305	X	X					VA National Suicide Prevention Hotline Call Report	
226	X						Rep. Bob Filner Holds a Hearing on Vet Suicide 12/14/07	
1306	X						Chasen email re: CBS II	
						11:00 a.m.	Recess	
						11:15 a.m.	Recess	
							Continued Direct of Kussman	
1247	X	X					Email from Katy to Kussman re: suicides	
1249	X	X					Email chain, Email from Katy to Chasen	
1289	X	X					Email between Kussman & various employees	
1248	X	X					Email Chain Lisette Mandello to Ed Chasen	
1191	X						Rand Corp. Study re OIE/OFF Veterans	
1244	X	X					Email re: article "VA Sees No Elevated Suicide"	
1259	X							
1285A	X	X					One e-mail from 12 89	
1285						11:39 a.m.	Cross/Direct by Bensing	
398	X						The Comprehensive VHA Mental Health Strategic Plan 7/1/07	
558	X	X					letter from Peake to Filner 2/5/08	
1245	X					12:01 p.m.	Redirect	
1243	X						already in evidence	
						12:15 p.m.	Recess	
						1:30 p.m.	Recess	
1262	X	X					Video Deposition of Frances Murphy excerpts and government counter excerpts read	
						2:23 p.m.	Witness Paul Sullivan - Sworn	
							Direct by Gonzalez	
1065	X	X					Veterans for Common Sense Brochure	

CASE NO. C-07-3758-SC VETERANS FOR COMMON SENSE, et al. -v- JAMES B. PEAKE, M.D., et al.

Plaintiff			Defendant			DATE/TIME	EXHIBITS/WITNESSES	4/24/08	4/28/08	BY
No.	ID	EV	No.	ID	EV					
							Direct of Sullivan Continued			T
1066	X	X					VCS: Our Mission & Goals for 2008			
						2:33 p.m.	Cross by Freemy			
1191	X	X					Pand Corporation Study re OIG/OES Veterans			
1265	X						Video Deposition of Robert Rosenheck			
						2:35 pm	Recess			
						2:50 pm	Recess			
1265	X						Video Deposition of Robert Rosenheck excerpts shown and counter readings			
						4:18 p.m.	Housekeeping Matters and witnesses discussed			
							7 days after the trial ends Not to exceed 30 pages legal space brief. 12 point. Post Trial briefs including statutes & case law. & refer to record until finding of fact & Conclusion of law			
1276	X	X					Top 3 Complaints 2008 Fargo			
							Parties May have Closing arguments 30 minutes each.			
						4:30 pm	Recess			
							April 28, 2008 Monday			
						9:00 A.M.	The Court has decided that the parties should file findings of fact and conclusions of law. witness - undisclosed plaintiffs witness will be allowed to testify			
							Witness Michael Walcott sworn			A
							Direct by Wittie			
			540	X	X		Typical Regional Office Organizational Chart			
			541	X	X		Disability Claim Timeline			

CASE NO. C-07-3758-SC VETERANS FOR COMMON SENSE, et al. -v- JAMES B. PEAKE, M.D., et al.

Plaintiff			Defendant			DATE/TIME	EXHIBITS/WITNESSES	4/25/08	BY
No.	ID	EV	No.	ID	EV				
						10:55Am	Recess		
						11:15Am	Reconvene		
							Star Report discussed		
							Continued Direct of Mr. Walcott		
			542	X	X		Rating Claims Received Chart		
			544	X			Growth in Pending Claims Inventory Chart		
			543	X			Original Claim Receipts - Issues Per Claim Chart		
			559	X			Claims Receipts + total Issues with ABC Graph		
						11:55A.m.	Recess		
						1:15pm.	Reconvene		
							Plaintiff witness - undischarged witness will not be allowed to testify		
							Star Report will not come in		
			543		X				
			559		X				
			545	X	X		C+P Field FTE Chart		
			560	X	X		Supplemental Statements of the Case 3/08		
			547	X	X		National Performance Plan Journey - Level RVSR		
			561	X			National Performance Plans Veterans Service Rpt. 12/5/05		
			546	X	X		Compensation + Pension Spreadsheet		
						3:00 p.m.	Recess		
						3:15pm.	Reconvene		
							Stipulation of Exhibits attached		
							admitting Plaintiffs exhibits		
							Stipulation + Order of Exhibits entered into evidence signed by the Court.		
							Cross of Walcott by Espener		
			1343	X	X		Grievance filed by Local #2823 (Close land) 4/16/08		
			368	X	X		VA Web Reference Materials 9/12/07		
			1012	X	X		Spreadsheet showing performance at various locations 2008		
			369	X	X		VA Chart - Next 30-45 Days 1/1/08		
			414	X	X		CVA Corporation Report to VA 5/2007		

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9 [see next page for additional counsel for Plaintiffs]

10 Attorneys for Plaintiff(s)
11 VETERANS FOR COMMON SENSE, and
VETERANS UNITED FOR TRUTH, INC.

12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA
14 SAN FRANCISCO DIVISION

15 VETERANS FOR COMMON SENSE, and
16 VETERANS UNITED FOR TRUTH, INC.,

17 Plaintiffs,

18 v.

19 JAMES B. PEAKE, M.D., Secretary of Veterans
Affairs, *et al.*,

20 Defendants.

Case No. C-07-3758-SC

**STIPULATION AND ~~PROPOSED~~
ORDER OF EXHIBITS ENTERED
INTO EVIDENCE**

Trial Date: 4/21/08
Complaint Filed July 23, 2007

1 **ADDITIONAL COUNSEL FOR PLAINTIFFS:**

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5 **DISABILITY RIGHTS ADVOCATES**

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1 The parties hereby stipulate that the following exhibits will be entered into evidence at the
2 trial having commenced April 21, 2008:

- 3 • P-361
- 4 • P-363
- 5 • P-368
- 6 • P-369
- 7 • P-371
- 8 • P-372
- 9 • P-373
- 10 • P-376
- 11 • P-377
- 12 • P-378
- 13 • P-379
- 14 • P-382
- 15 • P-386
- 16 • P-387
- 17 • P-391
- 18 • P-392
- 19 • P-394
- 20 • P-368
- 21 • P-398
- 22 • P-411
- 23 • P-415
- 24 • P-418
- 25 • P-420
- 26 • P-421
- 27 • P-423
- 28 • P-424
- P-425
- P-427
- P-429
- P-430
- P-398
- P-436
- P-437
- P-438

- P439
- P-440
- P-444
- P-448
- P-446
- P-37
- P-445

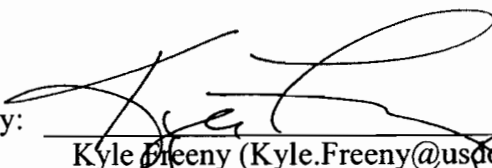
Dated: April 28, 2008

GORDON P. ERSPAMER
ARTURO J. GONZALEZ
HEATHER A. MOSER
RYAN G. HASSANEIN
STACEY M. SPRENKEL
MORRISON & FOERSTER LLP

By: 
Ryan G. Hassanein
(RHassanein@mofo.com)

Attorneys for Plaintiffs

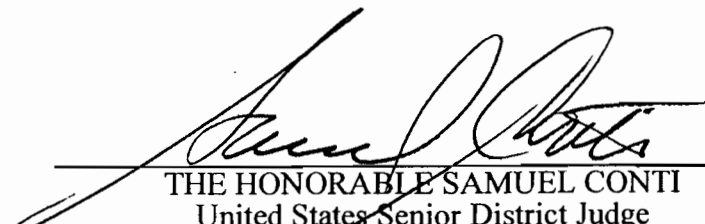
Dated: April 28, 2008

By: 
Kyle Freeny (Kyle.Freeny@usdoj.gov)

Attorney for Defendants

**PURSUANT TO STIPULATION OF EXHIBITS ENTERED INTO EVIDENCE,
IT IS SO ORDERED.**

Dated: April 28, 2008


THE HONORABLE SAMUEL CONTI
United States Senior District Judge

CASE NO. C-07-3758-SC VETERANS FOR COMMON SENSE, et al. -v- JAMES B. PEAKE, M.D., et al.										
Plaintiff			Defendant			DATE/TIME	EXHIBITS/WITNESSES	4/28/08	4/29/08	BY
No.	ID	EV	No.	ID	EV					
1323	X						already in evidence	Appeals Resolution Time		
						4:50 p.m.	Recess	Counsel to Review testimony		
							Re: Star Report			
						4:50 p.m.	Recess			
						9:15 a.m.	April 29, 2008	Tuesday		
							Recess			
							Plaintiff Motion to Compel - Demand			
							Star Report & processes will not come in			
						9:23 a.m.	Continued cross of Walcott by Espamer			↓
1243	Y						already in evidence			
1260A	Y						Transcript			
1337	X						Honoring the call to duty			
						10:19 a.m.	Redirect of Walcott			
			561		X					
						10:22 a.m.	Recess			
						10:40 a.m.	Recess			
1264	X						Video	depositions excerpts of Thomas Panpanini		T
							played	counter excerpts read by Defendant		
1258	X						Video	depositions excerpts of Daniel Cooper played		T
							and counter	excerpts read by Defendant		
						12:15 pm	Recess			
						1:30 p.m.	Recess			
							Cooper deposition continued			
374		X					VA Claims Processing Task Force	10/3/01		
369		X					VA chart titled	Next 30-45 days 4/1/08		
384		X					Chart: Compensation & Pension			
375A		X								
1257	X						Video deposition excerpts of Ronald Aument played			T
							counter	counter designation read into record		

CASE NO. C-07-3758-SC VETERANS FOR COMMON SENSE, et al. -v- JAMES B. PEAKE, M.D., et al.

Plaintiff			Defendant			DATE/TIME	EXHIBITS/WITNESSES	4/29/08	4/30/08	BY
No.	ID	EV	No.	ID	EV					
1266	X					2:45pm.	Video Deposition of Diana Rubens played			T
							counter depo excerpts read into the record			
1260	X						Video Deposition of Bradley Mayer played			T
							counter depo excerpts read into record			
						3:40pm	Recess			
						3:50pm.	Reconvene			
							Housekeeping Matters			
							Brief & Findings of Fact & Conclusions of Law			
							May be 40 pages			
1261	X					3:56pm.	Jack McCoy Video Depo played & counter readings			T
1263	X					4:12pm	Marcus Bennett MD Video depo & counter reading			T
						5:10pm	Recess			
							April 30, 2008, Wednesday			
						9:15am.	Reconvene			
							Witness Dr. Alan Berman - Sworn			A
							Direct by Schwartz			
							offered as an expert in Suicide			
			517	X		admitted 3/5/08	VA Suicide Risk Assessment Guide			
						10:11am.	Cross by Gonzalez			
133	X					admitted 3/5/08	Dept Veterans Affairs Report 5/10/07			
169	X					admitted 3/6/08	VA OIG Report 9/10/07			
						11:01 am.	Redirect			
						11:03 am.	Recess			
						11:20am	Reconvene			
							Housekeeping Matters			
1346	X						Rebuttal witness Natasha Kennedy			
							Request by Plaintiff - Denied			
							exhibits admitted per stipulation following			

CASE NO. C-07-3758-SC VETERANS FOR COMMON SENSE, et al. -v- JAMES B. PEAKE, M.D., et al.								
Plaintiff			Defendant			DATE/TIME	EXHIBITS/WITNESSES	BY
No.	ID	EV	No.	ID	EV			
133		X						
169		X						
374		X						
397		X						
1279		X						
1282		X						
354		X						
380		X						
412B		X						
419		X						
1183		X						
1244		X						
1246		X						
1339		X						
1340		X						
1341		X						
1342		X						
442		X						
1253		X						
1257		X						
1258		X						
1259		X						
1260		X						
1260A		X						
1261		X						
1262		X						
1263		X						
1264		X						
1265		X						

CASE NO. C-07-3758-SC VETERANS FOR COMMON SENSE, et al. -v- JAMES B. PEAKE, M.D., et al.

Plaintiff			Defendant			DATE/TIME	EXHIBITS/WITNESSES	BY
No.	ID	EV	No.	ID	EV			
1266		X			X			
1334		X			X			
1306	page 1+2	X			X			
118	as Redacted	X			X			
226	as Redacted	X			X			
1230	as Redacted	X			X			
1309	as 1039	X						
1315	as 26 11	X						
1320		X						
1323		X						
			553		X			
			544		X			
1245		X						
435							Not in	
1256							no in	
360		X						
1331		X						
1255							Not in	
1066		X					after Redacted	
						11:45 am.	Recess	
						1:30 p.m.	Recommence	
							Plaintiffs opening closing stated by Gonyea	
						2:14 p.m.	Defendants closing statement by Bensing	
						2:51 p.m.	Court will entertain briefs + plaintiffs	
							proposed order. If brief due 5/14/08 then 5/19/08	
							Defendant brief due 5/19/08	
							parties to concentrate on this Court	
							jurisdiction supported by case law.	
							Matter Submitted at that time	
							Briefs not to exceed 40 pages	
							Redacted exhibits admitted	
							Recess	

3:00 pm