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101 YGNACIO VALLEY ROAD  
SUITE 450  
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CALIFORNIA 94596-4094

TELEPHONE: 925.295.3300  
FACSIMILE: 925.946.9912

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SINGAPORE, BRUSSELS

August 1, 2007

Writer's Direct Contact  
925.295.3341  
GErspamer@mofo.com

**VIA FAX AND U.S. MAIL**

Steven Y. Bressler, Esq.  
Trial Attorney, Civil Division,  
Federal Programs Branch  
United States Department of Justice  
P.O. Box 883  
Washington, DC 20044

Re: Protective and Preservation Orders and Rule 26 Conference  
*Veterans for Common Sense, et al. v. Nicholson, et al.*,  
USDC, Northern District of California, Case No. C 07 3758 SC

Dear Mr. Bressler:

We write to you with respect to certain items that require immediate attention.

I understand that you are out for a few days, but we would like to set up a meeting or phone conference with you as soon as practicable to discuss three topics. First, we would like to see if we can work out the terms of a protective order which would protect parties and witnesses from retaliation or other adverse actions by any party. This should include procedures for the filing of declarations and affidavits under seal or with aliases to protect their privacy and identities, with designated counsel only knowing their true identities. If we are unable to secure your cooperation in this regard, we would intend to prepare and file an *ex parte* motion with the Court.

Second, we would like to see if we can agree upon the terms of a preservation order which would insure that relevant evidence is not destroyed or disposed of before discovery can be initiated or during the term of this case. The DVA and other defendants are surely already aware that the obligation to preserve extends to e-mail, databases such as PIF and SIRS, and other electronic evidence, and to remote sites such as the Austin Automation Center. At the same time, we realize that the DVA is a large agency and that it would be prohibitively burdensome for it to save every single document that it creates. Our hope is that we can

R. James Nicholson

August 1, 2007

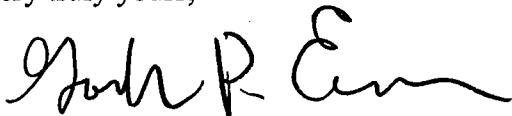
Page Two

agree upon categories of documents and a set of preservation obligations without the need to seek relief from the Court.

Third, we would like to discuss the timing of our Rule 26 Conference with the goal of conducting that conference at the first available opportunity. Of course, protective orders are one topic that must be covered, and in addition to the protective order described above, we would need to discuss a general privacy act protective order to cover certain documents maintained by the Defendants.

Finally, if there are topics that Defendants would like to add to the above list, we would be happy to consider adding to the agenda.

Very truly yours,

A handwritten signature in black ink, appearing to read "Gordon P. Erspamer". The signature is fluid and cursive, with the first name "Gordon" being the most prominent part.

Gordon P. Erspamer

cc: Melissa W. Kasnitz, Esq.

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 SUITE 450  
 WALNUT CREEK  
 CALIFORNIA 94596-4064  
  
 TELEPHONE: 925.295.3300  
 FACSIMILE: 925.946.9912  
  
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| Steven Y. Bressler, Esq.<br>United States Department of<br>Justice | (202) 318-7609 | (202) 514-4781 |
| Melissa W. Kasnitz, Esq.<br>Disability Rights Advocates            | (510) 665-8511 | (510) 665-8644 |

FROM: Gordon P. Erspamer

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