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 10 and William Blazinski

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

14 VIETNAM VETERANS OF AMERICA, *et al.*,
 15
 Plaintiffs,
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 v.
 17 CENTRAL INTELLIGENCE AGENCY, *et al.*,
 18
 Defendants.
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Case No. CV 09-0037-CW

**STIPULATION AND ORDER
 EXTENDING DISCOVERY
 DEADLINES**

Complaint filed January 7, 2009

1 Pursuant to Civil Local Rules 6-2 and 7-12, the parties hereby respectfully stipulate,
2 subject to the Court's consideration and approval, that certain discovery deadlines in this
3 litigation be modified as follows:

- 4 A. the deadline for completion of fact discovery shall be extended from May 31, 2011, to
5 July 15, 2011;
- 6 B. the deadline for disclosure of the identities and reports of expert witnesses shall be
7 extended from May 31, 2011, to July 15, 2011; and
- 8 C. the deadline for completion of expert discovery shall be extended from
9 August 31, 2011, to October 3, 2011.

10 These stipulated modifications to the discovery schedule are not proposed for the purpose of
11 delay, do not impact the current schedule for filing dispositive motions or the current trial date,
12 and reflect the parties' good faith attempt to accommodate the discovery needs of this litigation.
13 The reasons for this stipulation are set forth below and are supported by the accompanying
14 Declaration of Gordon P. Erspamer ("Erspamer Decl.").

15 1. On December 23, 2009, the Court entered a Case Management Order
16 setting a May 31, 2011 deadline for both (1) the completion of fact discovery and (2) the
17 disclosure of identities and reports of expert witnesses. (Docket No. 54.) The Court set
18 August 31, 2011, as the deadline for completion of expert discovery. (*Id.*)

19 2. For the reasons explained below, it has become apparent that the parties
20 will be unable to complete all necessary fact discovery before the current May 31, 2011 deadline
21 and all necessary expert discovery before the current August 31, 2011 deadline.

22 3. Defendants still are in the process of producing documents responsive to
23 Plaintiffs' document requests. (Erspamer Decl. ¶ 3.)

24 4. In order to prepare Defendant Department of Defense's ("DOD")
25 Rule 30(b)(6) designated witness for deposition on certain relevant documents, Defendants have
26 requested that the deposition occur after DOD has completed its document production. (*Id.* ¶ 4.)
27 To accommodate Defendants' request, Plaintiffs intend to depose the DOD's designee after the
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1 DOD has completed its document production, assuming that production is completed in May as
2 DOD currently anticipates. (*Id.*)

3 5. The parties are in the process of scheduling additional depositions in this
4 matter, and expect that several of these depositions will proceed in June. (*Id.* ¶ 5.)

5 6. Defendants, Department of Veterans Affairs (“DVA”) and its Secretary
6 Eric K. Shinseki (collectively, the “New Defendants”), were added on November 18, 2010. (*See*
7 Docket No. 180.) The current deadline for the New Defendants to answer Plaintiffs’ Third
8 Amended Complaint (“TAC”) is 14 days after the Court resolves Defendants’ Partial Motion to
9 Dismiss Plaintiffs’ Third Amended Complaint. (*See* Docket No. 226.)

10 7. Once Plaintiffs receive the New Defendants’ answer, additional discovery
11 requests may be required. (*Id.* ¶ 7.)

12 8. Defendant DVA provided responses and objections to Plaintiffs’
13 Rule 30(b)(6) deposition notice on April 11, 2011, and to Plaintiffs’ requests for production and
14 interrogatories on April 25, 2011. (*Id.* ¶ 8.) DVA raised many objections, which the parties hope
15 to resolve through a meet-and-confer process. (*Id.*)

16 9. Defendant DVA currently estimates completing its document production
17 by August 31, 2011. (*Id.* ¶ 9.) The parties continue to meet and confer regarding the scope of
18 Plaintiffs’ document requests to the DVA and the timeline for the DVA’s production of
19 responsive documents. (*Id.*)

20 10. Defendants have designated many of their produced documents as “subject
21 to the protective order.” (*Id.* ¶ 10.) The current protective order includes encryption
22 requirements, which have presented technical difficulties as Plaintiffs attempt to review these
23 documents. (*Id.*; *see* Docket No. 183 at 10.) The parties are working to appropriately address the
24 encryption issue. (Erspamer Decl. ¶ 10.)

25 11. Plaintiffs’ experts need to consider documents yet to be produced by
26 Defendants, and the testimony of Defendant witnesses, in order to evaluate the evidence in
27 formulating their opinions and drafting their reports for this litigation. (*Id.* ¶ 11.) Accordingly,
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1 the disclosure of identities and reports of expert witnesses should, as contemplated by the current
2 schedule, occur at the conclusion of fact discovery.

3 12. The current discovery schedule provides for three months of expert
4 discovery. (*See* Docket No. 54.) With a later deadline for completion of fact discovery and the
5 disclosure of experts and expert reports, the deadline for completion of expert discovery should
6 also be extended to accommodate expert discovery needs, including expert depositions.
7 (Erspamer Decl. ¶ 12.)

8 13. In light of the foregoing, and in order to permit the parties to complete
9 necessary discovery, the parties agree that the current deadline of May 31, 2011, for completing
10 fact discovery and disclosing the identities and reports of expert witnesses should be extended to
11 July 15, 2011, and that the current August 31, 2011 deadline for completion of expert discovery
12 should be extended to October 3, 2011. (*Id.* ¶ 13.)

13 14. This agreed-upon extension of the discovery schedule is not submitted for
14 the purpose of delay, and the remaining schedule for the case, including the deadline for
15 dispositive motions and trial, will not be affected by this stipulated extension. (*Id.* ¶¶ 14-15.)

16 **IT IS SO STIPULATED.**

17 Dated: May 3, 2011

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Dated: May 3, 2011

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ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: 5/4/2011



The Honorable Claudia Wilken
District Judge, United States District Court
for the Northern District of California

