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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

STEVE TRUNK,
Plaintiff,

vs.

CITY OF SAN DIEGO, UNITED STATES
OF AMERICA, ROBERT M. GATES,
Secretary of Defense and DOES 1
through 100, inclusive,
Defendants.

MOUNT SOLEDAD MEMORIAL
ASSOCIATION,
Real Parties in Interest.

JEWISH WAR VETERANS OF THE
UNITED STATES OF AMERICA, INC.,
RICHARD A. SMITH, MINA SAGHEB,
and JUDITH M. COPELAND,
Plaintiffs,

vs.

ROBERT M. GATES, Secretary of
Defense, in his official capacity,
Defendant.

CASE NO. 06cv1597-LAB (WMc)
(Consol. w/06cv1728-LAB (WMc))

**ORDER SETTING BRIEFING
SCHEDULE FOR EX PARTE
APPLICATION TO STRIKE**

1 Concurrently with its motion for summary judgment, Defendant moved pursuant to
2 Fed. R. Civ. P. 12(f) to strike certain exhibits and the declaration of Joellyn Zollman, all of
3 which were submitted in support of Plaintiffs' motions for summary judgment. Defendant
4 argues these documents are irrelevant.

5 It is not fully clear why Defendant has chosen to move separately for extraordinary
6 relief rather than merely arguing in its briefing on the cross motions for summary judgment
7 that the documents in question were irrelevant. However, the parties have jointly contacted
8 the Court to request a hearing on this motion.

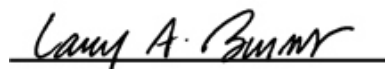
9 Because no hearing date was obtained prior to filing the motion to strike, the Court
10 treats it as an *ex parte* application rather than a noticed motion. See Civil Local Rule 7.1(b).
11 However, this application did not comply with service requirements under the Court's own
12 standing order. See Standing Order, ¶ 8. Had Defendant complied with the Court's service
13 requirement, the Court's usual two-day deadline for opposing *ex parte* applications would
14 have applied. See *id.* As it is, however, no particular deadline is provided for.

15 Plaintiffs may therefore file a brief in opposition, not to exceed six pages, no later than
16 February 25, 2008. No separate hearing will be required.

17 The briefing on this *ex parte* application will be considered for purposes of
18 determining whether extraordinarily relief in the form of striking these documents is
19 appropriate. It should not be considered an alternative vehicle for briefing the issues of the
20 cross motions for summary judgment. The parties of course were and are free to argue the
21 question of relevance in their briefing on the cross motions for summary judgment.

22 **IT IS SO ORDERED.**

23 DATED: January 31, 2008

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25 **HONORABLE LARRY ALAN BURNS**
26 United States District Judge

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