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9 Attorneys for Defendants Hon. Gordon H. Mansfield,¹ the U.S. Department of Veterans Affairs,
Hon. James P. Terry, Hon. Daniel L. Cooper, Bradley G. Mayes, Hon. Michael J. Kussman, Ulrike
10 Willimon,² the United States of America, Hon. Peter D. Keisler,³ and Hon. William P. Greene, Jr.

11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA
13 SAN FRANCISCO

14 VETERANS FOR COMMON SENSE and)
VETERANS UNITED FOR TRUTH,)
15)
Plaintiffs,)
16)
v.)
17)
Hon. GORDON H. MANSFIELD, Acting)
18 Secretary of Veterans Affairs, *et al.*,)
19 Defendants.)
20)
_____)

No. C 07-3758-SC

) Initial Case Management Conference Set For:
) Date: November 16, 2007
) Time: 10:00 a.m.
) Courtroom 1

) **DEFENDANTS' INITIAL**
) **DISCLOSURES**
)
)
)

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22
23 ¹ Hon. Gordon H. Manfield became the Acting Secretary of the Department of
Veterans Affairs on October 1, 2007. Accordingly, he should be substituted for his predecessor
24 R. James Nicholson pursuant to FED. R. CIV. PROC. 25(d)(1).

25 ² Ulrike Willimon has replaced Pritz K. Navara as the Service Center Manager for
26 the Oakland Regional Office of the Department of Veterans Affairs. Accordingly, she should be
substituted as a defendant in this action pursuant to FED. R. CIV. PROC. 25(d)(1).

27 ³ Hon. Peter D. Keisler became the Acting Attorney General of the United States on
28 September 18, 2007. Accordingly, he should be substituted for his predecessor, Alberto
Gonzalez, pursuant to FED. R. CIV. PROC. 25(d)(1).

1 Pursuant to Federal Rule of Civil Procedure 26(a)(1), the defendants make the following
2 initial disclosures based on the information reasonably available to them as of October 18, 2007.
3 By these disclosures, defendants do not waive any objection or privilege permitted under the
4 Federal Rules of Civil Procedure as to any discovery in this action. Defendants also note that any
5 challenge to Department of Veterans Affairs rules and regulations must be based on review of a
6 certified administrative record produced by the agency and not subject to *de novo* discovery in this
7 Court or the requirements of Rule 26(a)(1). See FED. R. CIV. PROC. 26(a)(1)(E); 38 U.S.C. § 502.
8 Finally, despite repeated requests, counsel for plaintiffs have done little to explain or otherwise
9 clarify the issues they believe are raised by the broad, vague and conclusory allegations of their
10 Complaint. The parties also appear to disagree as to what, if any, facts may be relevant to their
11 claims or defenses. Therefore, defendants' initial disclosures concern only those matters that can
12 be reasonably deduced to be relevant based on the Complaint.

13 **A. Federal Rule of Civil Procedure 26(a)(1)(A):**

14 Defendants disclose the following individuals and probable subjects of information:

- 15 • Mr. Michael Walcoff

16 Associate Deputy Under Secretary for Field Operations

17 810 Vermont Avenue, NW (20F)

18 Washington, DC 20420

19 202-461-9340

20 Probable subject(s) of information: Veterans Benefit Administration (VBA)

21 procedures for ensuring productivity and managing work flow in the processing of
22 veterans disability compensation claims; means of addressing under-productivity;
23 information about employee work credit system.

- 24 • Ms. Ulrike Willimon

25 Veteran Service Center Manager, Oakland Regional Office

26 1301 Clay Street

27 Oakland, CA 94612

28 510-637-6059

1 Probable subject(s) of information: The filing and adjudication of a claim at the
2 agency of original jurisdiction; the claims adjudication process at the Oakland
3 Regional Office.

- 4 • Mr. Steve Keller
5 Senior Deputy Vice Chairman
6 Board of Veterans' Appeals
7 (202) 565-5978

8 Probable subject(s) of information: Information on the two incidents described in
9 Paragraphs 231 and 232 of plaintiffs' Complaint involving Lawrence Gottfried and
10 Jill Rygwalski.

- 11 • Mr. Bradley Mayes
12 Director, Compensation and Pension Service
13 c/o Office of General Counsel
14 810 Vermont Ave., N.W.
15 Washington, D.C. 20420
16 (202) 273-6315

17 Probable subject(s) of information: Compensation and pension policies and policy
18 circulars.

- 19 • Mr. Ronald Aument
20 Deputy Under Secretary for Benefits
21 c/o Office of General Counsel
22 810 Vermont Ave., N.W.
23 Washington, D.C. 20420
24 (202) 273-6315

25 Probable subject(s) of information: Provision of benefits to veterans.

- 26 • Mr. John Brown
27 Director, Seamless Transition Office
28 c/o Office of General Counsel

1 810 Vermont Ave., N.W.

2 Washington, D.C. 20420

3 (202) 273-6315

4 Probable subject(s) of information: Veterans' transition from Department of
5 Defense to VA services.

- 6 • Dr. Gerald Cross
7 Principal Deputy Under Secretary for Health
8 c/o Office of General Counsel

9 810 Vermont Ave., N.W.

10 Washington, D.C. 20420

11 (202) 273-6315

12 Probable subject(s) of information: Provision of health care to veterans.

- 13 • Admiral Patrick Dunne
14 Assistant Secretary for Policy and Planning
15 c/o Office of General Counsel

16 810 Vermont Ave., N.W.

17 Washington, D.C. 20420

18 (202) 273-6315

19 Probable subject(s) of information: Actuarial studies and assessments, veterans'
20 demographics (including the National Survey of Veterans), and statistical analyses.

- 21 • Mr. William F. Feeley
22 Deputy Under Secretary for Health for Operations and Management
23 c/o Office of General Counsel

24 810 Vermont Ave., N.W.

25 Washington, D.C. 20420

26 (202) 273-6315

27 Probable subject(s) of information: The Veterans Integrated Service Network
28 (VISN).

- 1 • Mr. Raymond Sullivan
2 Executive Director, Office of Information and Technology Field Operations
3 1601 East Fourth Plain Blvd., Bldg. D-5
4 Vancouver, WA 98661
5 (360) 619-5901

6 Probable subject(s) of information: Feasibility of data retention and/or production.

7 **B. Federal Rule of Civil Procedure 26(a)(1)(B):**

8 Defendants disclose the following descriptions by category and location of documents,
9 electronically stored information (“ESI”), and tangible things that are in defendants’ possession,
10 custody, or control that defendants may use to support their claims and defenses:

- 11 • Document/ESI Category: Data on scheduling and patient wait times for health care
12 appointments within the Veterans Health Administration (VHA).

13
14 Location: Data resides in the Patient Appointment Information Transmission
15 (PAIT) database, which is in VA’s possession at the Corporate Franchise Data
16 Center (CFDC) in Austin, Texas. Defendants do not provide copies at this time, as
17 the information is voluminous and may be privileged and/or confidential.

- 18
19 • Document/ESI Category: Data on services for and treatment of individual veterans
20 with Post Traumatic Stress disorder (PTSD) provided by the VHA.

21
22 Location: Original patient medical information resides on one of many Veterans
23 Health Information Systems Technology Architecture (VistA) databases across the
24 country, with the relevant information being widely dispersed. Copies of the
25 potentially relevant portions of the information may be found more centrally in the
26 Patient Treatment File and the National Patient Care Database, both of which are
27 located at the CFDC in Austin, Texas. Copies of VistA data relating to PTSD
28 treatment may also be found at the Northeast Program Evaluation Center (NEPEC)

1 in New Haven, Connecticut. Defendants are not providing copies, given the
2 enormity of the data pool and the fact that some of the data may be privileged
3 and/or confidential.

- 4
5 • Document/ESI Category: Information on the adjudication of individual
6 compensation claims at the agency of original jurisdiction, the VBA.

7
8 Location: Data may reside on one of two parallel systems for tracking claims
9 adjudications: the Benefits and Delivery Network (BDN), which is the legacy
10 system, or the VETSNET suite, with which the VBA is replacing BDN. As
11 between these two systems, the location of claims data depends, *inter alia*, on when
12 the veteran's original claim was filed. BDN data is housed at the CFDC in Hines,
13 Illinois, with the exception of data on disallowed claims, which is housed at the
14 CFDC in Austin, Texas. The VETSNET suite is maintained on the corporate Unix
15 server at the CFDC in Austin, Texas. Duplicate data may also reside in the VBA's
16 Enterprise Data Warehouse in Austin. Defendants do not provide copies at this
17 time, as the data is voluminous and may be privileged and/or confidential.

- 18
19 • Document/ESI Category: Data, and reports that may be drawn from such data, on
20 the Board of Veterans' Appeals (BVA) appeals process: workload, timeliness,
21 appeals disposition, and information on whether claimants are represented before
22 the BVA by an attorney or service organization.

23
24 Location: Veterans Appeals Control and Locator System (VACOLS), a database in
25 VA's possession in Washington, D.C. Defendants do not provide copies at this
26 time due to the volume of the data and the fact that some of the data may be
27 privileged and/or confidential.

- 1 • Document/ESI Category: Docketing data of the U.S. Court of Appeals for Veterans
2 Claims.

3
4 Location: Quill, a docketing database in the Court's possession in Washington,
5 D.C. Defendants do not provide copies at this time due to the volume of the data
6 and the fact that some of the data may be privileged and/or confidential.

7 **C. Federal Rule of Civil Procedure 26(a)(1)(C):**

8 Defendants do not seek any damages.

9 **D. Federal Rule of Civil Procedure 26(a)(1)(D):**

10 There are no relevant or applicable insurance agreements.

11 **E. Additional Statements:**

12 Defendants will supplement these initial disclosures as appropriate.

13 Dated October 18, 2007

Respectfully Submitted,

14 PETER D. KEISLER
15 Assistant Attorney General

16 SCOTT N. SCHOOLS
17 Interim United States Attorney

18 RICHARD LEPLEY
19 Assistant Branch Director

20 /s/ Steven Y. Bressler
21 STEVEN Y. BRESSLER D.C. Bar #482492

22 /s/ Kyle R. Freeny
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Counsel for Defendants