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12 Attorneys for Plaintiff(s)  
13 VETERANS FOR COMMON SENSE, and  
14 VETERANS UNITED FOR TRUTH, INC.

15 UNITED STATES DISTRICT COURT  
16 NORTHERN DISTRICT OF CALIFORNIA

17 VETERANS FOR COMMON SENSE, and  
18 VETERANS UNITED FOR TRUTH, INC.,

19 Plaintiffs,

20 v.

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

23 Defendants.

Case No. C-07-3758-SC

**VETERANS FOR COMMON SENSE  
AND VETERANS UNITED FOR  
TRUTH, INC.'S THIRD SET OF  
REQUESTS FOR PRODUCTION OF  
DOCUMENTS TO ALL  
DEFENDANTS**

(Class Action)

Complaint Filed July 23, 2007

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1 **PROPOUNDING PARTY: VETERANS FOR COMMON SENSE and VETERANS UNITED**  
2 **FOR TRUTH, INC.**

3 **RESPONDING PARTIES: JAMES B. PEAKE, M.D., et al.**

4 **SET NUMBER: THREE**

5 Pursuant to Federal Rule of Civil Procedure 34, Plaintiffs VETERANS FOR COMMON  
6 SENSE (“VCS”) and VETERANS UNITED FOR TRUTH, INC. (“VUFT”) request that each of the  
7 named defendants (collectively “Defendants”) separately produce for inspection and copying the  
8 documents and things set forth below that are in their possession, custody, or control, or in the  
9 possession, custody, or control of their attorneys and/or accountants, their investigators, and any  
10 persons acting on their behalf, at the offices of Morrison & Foerster, 101 Ygnacio Valley Road Suite  
11 450, Walnut Creek, California, 94596 or another place as may be mutually agreed upon within thirty  
12 (30) days.

13 **DEFINITIONS**

14 Unless otherwise indicated, the following definitions shall apply.

15 1. “COMMUNICATION” or “COMMUNICATIONS” means, unless otherwise specified,  
16 any of the following: (a) any written letter, memorandum, DOCUMENT, or any other writing;  
17 (b) any telephone call between two or more PERSONS, whether or not such call was by chance or  
18 prearranged, formal or informal; and (c) any conversation or meeting between two or more  
19 PERSONS, whether or not such contact was by chance or prearranged, formal or informal, including,  
20 without limitation, conversations or meetings occurring via telephone, teleconference, video  
21 conference, electronic mail (e-mail), or instant electronic messenger.

22 2. “CONCERNING” means constituting, summarizing, memorializing, referring to, and/or  
23 relating to.

24 3. “DOCUMENT” or “DOCUMENTS” means any tangible thing upon which any  
25 expression, COMMUNICATION or representation has been recorded by any means including, but  
26 not limited to, handwriting, typewriting, printing, photostatting, photographing, magnetic impulse, or  
27 mechanical or electronic recording and any non-identical copies (whether different from the original  
28 because of notes made on such copies, because of indications that said copies were sent to different

1 individuals than were the originals, or because of any other reason), including but not limited to  
2 working papers, preliminary, intermediate or final drafts, correspondence, memoranda, charts, notes,  
3 records of any sort of meetings, invoices, financial statements, financial calculations, diaries, reports  
4 of telephone or other oral conversations, desk calendars, appointment books, audio or video tape  
5 recordings, e-mail or electronic mail, electronic folders, microfilm, microfiche, computer tape,  
6 computer disk, computer printout, computer card, and all other writings and recordings of every kind  
7 that are in your actual or constructive possession, custody or control.

8 4. "IDENTIFY" or "IDENTITY" means:

9 a. with respect to a PERSON, to state the PERSON's full name, current or last  
10 known employer, that employer's address and telephone number, the PERSON's title and/or position  
11 with that employer, and the PERSON's current or last known home address and telephone number;

12 b. with respect to a DOCUMENT, to state the type of DOCUMENT (i.e., letter,  
13 memorandum, telephone note, computer floppy or hard disk, magnetic tape, etc.), the title of the  
14 DOCUMENT (if any), the date it was created, the author, all intended recipients including the  
15 addressee and any and all copyees, a brief description of the subject matter of the DOCUMENT, the  
16 present and/or last known location of the DOCUMENT, and to IDENTIFY all present or last known  
17 person in possession, custody or control of the DOCUMENT;

18 c. with respect to a COMMUNICATION to state the name and affiliation of all  
19 PERSONS participating in, or present for, the COMMUNICATION, the date of the  
20 COMMUNICATION, and whether it was conducted in person or by other means (such as telephone,  
21 correspondence, e-mail), and whether it was recorded (e.g., stenographically or by audio or  
22 videotape);

23 d. with respect to a MEETING to state the names and affiliations of all  
24 PERSONS participating in, or present for, the MEETING, the date of the meeting, and the location of  
25 the meeting, and the purpose of the meeting.

26 5. "MEETING" or "MEETINGS" means any coincidence of, or presence of, or telephone,  
27 television, radio, or other electronic communication between or among persons, whether such was by  
28 chance or prearranged, informal or formal.



1           12. “CLINICIAN’S GUIDE” means the publication entitled VA Clinician’s Guide (Lewis  
2 R. Coulso, ed., Matthew Bender & Co. Inc. 2006), and earlier or later versions of that edition of the  
3 Clinician’s Guide.

4           13. “DEPARTMENT OF DEFENSE” or “DoD” means the United States Department of  
5 Defense, and all its offices, departments, organizations, administrations, boards, commissions, task  
6 forces, management, and past and present employees and service members.

7           14. “DEPARTMENT OF JUSTICE” or “DoJ” means the United States Department of  
8 Justice, and all its offices, departments, organizations, administrations, boards, commissions, task  
9 forces, management, and past and present employees and service members.

10          15. “DEPARTMENT OF THE AIR FORCE” means the United States Department of the  
11 Air Force, and all its offices, departments, organizations, administrations, boards, commissions, task  
12 forces, management, and past and present employees and service members.

13          16. “DEPARTMENT OF THE ARMY” means the United States Department of the Army,  
14 and all its offices, departments, organizations, administrations, boards, commissions, task forces,  
15 management, and past and present employees and service members.

16          17. “DEPARTMENT OF THE NAVY” means the United States Department of the Navy,  
17 and all its offices, departments, organizations, administrations, boards, commissions, task forces,  
18 management, and past and present employees and service members, including the United States  
19 Marine Corps.

20          18. “DOLE/SHALALA REPORT” means the Report of the President’s Commission on  
21 Care for America’s Wounded Returning Warriors, published July 2007 by Co-Chairs Robert Dole  
22 and Donna Shalala.

23          19. “DSM” means any edition of the Diagnostic and Statistical Manual of Mental  
24 Disorders, published by the American Psychiatric Association.

25          20. “DVB” or “DEPARTMENT OF VETERANS BENEFITS” means the Department of  
26 Veterans Benefits within the VA and all its offices, departments, organizations, administrations,  
27 boards, commissions, task forces, management, and past and present employees.

1           21. “GAO” means the United States Government Accountability Office and all its  
2 predecessors, offices, departments, organizations, administrations, boards, commissions, task forces,  
3 management, and past and present employees.

4           22. “INSTITUTE OF MEDICINE” means the Institute of Medicine, National Academy of  
5 Sciences panel and all of its current and past employees and members.

6           23. “OPERATION ENDURING FREEDOM” or “OEF” means Operation Enduring  
7 Freedom, the official name given to military operations in Afghanistan, and the nations and bodies of  
8 water around it.

9           24. “OPERATION IRAQI FREEDOM” or “OIF” means Operation Iraqi Freedom, the  
10 official name given to military operations in Iraq and in the nations and bodies of water near it,  
11 beginning in the year 2003.

12           25. “PERSONALITY DISORDER DISCHARGE” or “PDD” means the separation from  
13 military service of a PERSON under Army Regulation 635-200, Chapter 5-13, Navy Military  
14 Personnel Manual 1910-122, Marine Corps Separation and Retirement Manual Chapter 6, Section 2,  
15 Subsection 6203, Air Force Regulation AFI 36-3208, or any similar DoD regulations, including DoD  
16 Directive 133.2.14 (December 21, 1993), and any actions by the VA based on a PDD or a personality  
17 disorder finding or diagnosis.

18           26. “PTSD” means post-traumatic stress disorder, as described in the DSM and VA  
19 Regulations referencing the DSM.

20           27. “SCDDC” means service-connected death or disability compensation, including  
21 dependency and indemnity compensation, as described in the Complaint.

22           28. “TDIU” means a claim for and/or VA rating of total disability based on individual  
23 unemployability.

24           29. “VA” or “DVA” means the United States Department of Veterans Affairs, and all its  
25 offices, departments, organizations, administrations, boards, consultants, commissions, task forces,  
26 management, and past and present employees.

27           30. “VETERANS AFFAIRS COMMITTEES” means the members of the House or Senate  
28 Veterans Affairs Committees, their staff, and any persons acting on their behalf.



## INSTRUCTIONS

1  
2 1. In the event Defendants produce original documents for inspection and copying, such  
3 production shall be as the documents are kept in the usual course of business.

4 2. In lieu of production for inspection and copying, Defendants may produce the requested  
5 documents by mail or delivery of true copies thereof to Morrison & Forester at the aforesaid address,  
6 and make the originals available for inspection at a mutually agreed-upon location, during normal  
7 business hours and upon reasonable notice. The documents copied shall be copied as they are kept in  
8 the normal course of business, and any titles, labels, or other descriptions on any box, folder, binder,  
9 file cabinet, or other container shall be copied as well.

10 3. Each document is to be produced, along with all non-identical copies, drafts, alterations,  
11 and translations thereof, in its entirety, without abbreviations or redactions.

12 4. If any part of a document is responsive to any of the following requests, the entire  
13 document shall be produced.

14 5. If Defendants withhold any of the requested documents from production under a claim of  
15 privilege or other protection, it must serve within thirty (30) days of the service of this request a list  
16 of such withheld documents (“privilege log”) indicating, for each document withheld, the following  
17 information if known or available to Defendants: (i) the date composed or date appearing on the  
18 document; (ii) the author; (iii) the number of pages; (iv) the number of copies made; (v) the identity  
19 of all persons or entities who saw the original document or saw or received a copy of such document,  
20 and the job titles of each such person; (vi) the subject matter; and (vii) the basis for claim of privilege  
21 or other immunity asserted. The privilege log should be sufficiently detailed to permit Plaintiffs to  
22 determine whether to make a motion with respect thereto.

23 6. If Defendants are aware of the existence of any requested items that they are unable to  
24 produce, specify in writing and serve upon the undersigned a list indicating the identity of such  
25 documents within thirty (30) days of the service of this request. Such identification should, for each  
26 such document, set forth whether the document: (i) has been destroyed; (ii) has been lost, misplaced,  
27 or stolen; or (iii) has never been, or is no longer, in the possession, custody, or control of the  
28 responding party, in which case the name and address of any person or entity known or believed by

1 Defendants to have possession, custody or control of that document or category of documents should  
2 be identified. In each such instance, each Defendant is to identify the document by author, addressee,  
3 date, subject matter, number of pages, attachments or appendices, all persons to whom it was  
4 distributed, shown, or explained, date and manner of destruction or other disposition, the reason for  
5 destruction or other disposition, and persons destroying or disposing of the document.

6 7. If Defendants contend that any of the following requests is objectionable in whole or in  
7 part, Defendants shall state with particularity each objection, the basis for it, and the categories of  
8 information and documents to which the objection applies, and Defendants shall respond to the  
9 request insofar as it is not deemed objectionable.

10 8. If Defendants find the meaning of any term in these requests unclear, Defendants shall  
11 assume a reasonable meaning, state what the assumed meaning is, and respond to the request  
12 according to the assumed meaning.

13 9. The following requests shall be deemed to be continuing. In accordance with Federal  
14 Rule of Civil Procedure 26(e), Plaintiffs request that if, after answering the requests, Defendants  
15 acquire additional knowledge or information regarding documents or things responsive to the  
16 requests, Defendants shall produce such documents or provide Plaintiffs with such additional  
17 knowledge or information.

18 10. Unless otherwise specified, each request calls for all documents created, received, or  
19 dated between January 1, 2000 and the date of your response to the request.

## 20 **REQUESTS FOR PRODUCTION**

21 **PREAMBLE TO ALL REQUESTS:** All DOCUMENTS CONCERNING any one or more  
22 of the following:

### 23 **REQUEST FOR PRODUCTION NO. 192:**

24 Information, reports, printouts, and data contained in the National Mental Health Database  
25 System (“NMHDS”) CONCERNING veterans treated for PTSD, including, without limitation, the  
26 date of the commencement of this program, and all MEETINGS and COMMUNICATIONS  
27 CONCERNING the same.  
28

1 **REQUEST FOR PRODUCTION NO. 193:**

2 The names of the local VA Medical Centers (“VAMC”) that supply information that is  
3 recorded and stored by NMHDS, and all MEETINGS and COMMUNICATIONS CONCERNING  
4 the same.

5 **REQUEST FOR PRODUCTION NO. 194:**

6 The “standard-42 question” interview by clinicians questionnaire administered to new PTSD  
7 patients, and all MEETINGS and COMMUNICATIONS CONCERNING the same.

8 **REQUEST FOR PRODUCTION NO. 195:**

9 Information, reports, printouts, and data contained in the central database located and operated  
10 at the Pittsburgh VAMC by the Mental Health Strategic Health Group, and all MEETINGS and  
11 COMMUNICATIONS CONCERNING the same.

12 **REQUEST FOR PRODUCTION NO. 196:**

13 Information, reports, printouts, and data maintained by the Northeast Program Evaluation  
14 Center (“NEPEC”) in Connecticut, including, without limitation, the date of commencement of this  
15 program, and all MEETINGS and COMMUNICATIONS CONCERNING the same.

16 **REQUEST FOR PRODUCTION NO. 197:**

17 Information, reports, printouts, and data provided by NEPEC regarding performance measures  
18 for specialized outpatient PTSD programs, and all MEETINGS and COMMUNICATIONS  
19 CONCERNING the same.

20 **REQUEST FOR PRODUCTION NO. 198:**

21 Information, reports, printouts, and data contained in the sub-databases maintained by the  
22 Director of NPEC, including, without limitation, the following sub-databases, and all MEETINGS  
23 and COMMUNICATIONS CONCERNING the same.

- 24 (1) CWT Program;  
25 (2) CWT/TR (Transitional Residence);  
26 (3) Domiciliary Care for Homeless Veterans (“DCHV”) Program;  
27  
28

1 (4) Healthcare for Homeless Veterans (“HCHV”) Program, including the Supported  
2 Housing Program and the Housing and Urban Development – (HUD-VASH) & the Special  
3 Needs/Chronically Mentally Ill Program (SN-CMI);

4 (5) Mental Health Case Management (“MHICM”) Program

5 (6) Specialized Intensive PTSD Program (“SIPP”); and

6 (7) Vet-to-Vet Program.

7 **REQUEST FOR PRODUCTION NO. 199:**

8 All COMMUNICATIONS, including, without limitation, e-mails to or from Dr. Robert  
9 Rosenheck, Director, NPEC, West Haven, CT, regarding the above listed sub-databases, and all  
10 MEETINGS and COMMUNICATIONS CONCERNING the same.

11 **REQUEST FOR PRODUCTION NO. 200:**

12 Training videos or transcripts regarding PTSD, TDIU, the VA’s health care obligations under  
13 the Two-Year Statute, and/or the processing of SCDDC claims.

14 **REQUEST FOR PRODUCTION NO. 201:**

15 Statistics, studies, or data CONCERNING a link between PTSD and an increased likelihood  
16 of suicide or attempted suicide.

17 **REQUEST FOR PRODUCTION NO. 202:**

18 Contacts or COMMUNICATIONS between YOU and Dr. Stephen Rathbun CONCERNING  
19 his suicide study for CBS News.

20 **REQUEST FOR PRODUCTION NO. 203:**

21 COMMUNICATIONS between YOU and Dr. Stephen Rathbun or CBS News  
22 CONCERNING the incidence of suicide amongst veterans, any study or analysis of suicide data,  
23 and/or any aspect of the CBS News stories about suicide amongst veterans.

24 **REQUEST FOR PRODUCTION NO. 204:**

25 DOCUMENTS CONCERNING the Data Request Log generated within the Office of  
26 Performance Analysis and Integrity.

1 **REQUEST FOR PRODUCTION NO. 205:**

2 COMMUNICATIONS CONCERNING Data Requests from the Office of Performance  
3 Analysis and Integrity.

4 **REQUEST FOR PRODUCTION NO. 206:**

5 All DOCUMENTS, which were from fiscal 2006 and were made available to McClatchy  
6 Newspapers regarding VA performance with reference to veterans' mental-health care needs in  
7 Network 19 under the Freedom of Information Act, and all MEETINGS and COMMUNICATIONS  
8 CONCERNING the same.

9 **REQUEST FOR PRODUCTION NO. 207:**

10 MEETINGS and COMMUNICATIONS between YOU and the Department of the Army  
11 CONCERNING instructions for the DVA not to assist soldiers at Fort Drum Army base with  
12 paperwork relating to their discharges and disabilities, including, without limitation, DOCUMENTS  
13 relating to the National Public Radio story by Ari Shapiro on January 29, 2008 entitled "Army Blocks  
14 Disability Paperwork Aid at Fort Drum."

15 **REQUEST FOR PRODUCTION NO. 208:**

16 COMMUNICATIONS and MEETINGS between YOU and QTC Management, Inc., it's  
17 affiliates or officers (such as Steve Keeve Kag or Anthony J. Principii) regarding disability  
18 evaluations, including, without limitation, the conduct of medical examinations, allegations of  
19 improper contacts between QTC medical examiners and VA employees, the timing of physical  
20 examination notices, and the quality of QTC's work.

21 **REQUEST FOR PRODUCTION NO. 209:**

22 Patient death, attempted suicide annual reports for every VA medical center or other VHA  
23 facility between 2004 and present, and all MEETINGS and COMMUNICATIONS CONCERNING  
24 the same.

25 **REQUEST FOR PRODUCTION NO. 210:**

26 Staffing shortfalls and/or vacant positions for mental health professionals (such as  
27 psychiatrists, psychologists, and social workers) at each VA medical center or other VHA facility  
28

1 between 2004 and present, and all MEETINGS and COMMUNICATIONS CONCERNING the  
2 same.

3 **REQUEST FOR PRODUCTION NO. 211:**

4 COMMUNICATIONS, DOCUMENTS, statistics, studies, or data CONCERNING research  
5 and analyses of veteran suicide data conducted by the VA's Office of Environmental Epidemiology  
6 including, but not limited to, research and any report on the characteristics of suicides among Iraq  
7 and Afghanistan war veterans for the years of 2001 to 2005, and any research conducted by Dr. Han  
8 Kang of the VHA.

9  
10 Dated: February 13, 2008

GORDON P. ERSPAMER  
ARTURO J. GONZALEZ  
HEATHER A. MOSER  
BILL D. JANICKI  
STACEY M. SPRENKEL  
PAUL J. TAIRA  
MORRISON & FOERSTER LLP

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15 By:   
Gordon P. Erspamer

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Attorneys for Plaintiffs

1 **CERTIFICATE OF SERVICE**

2 I declare that I am employed with the law firm of Morrison & Foerster LLP, whose address is  
3 101 Ygnacio Valley Road, Suite 450, California 94596. I am not a party to the within cause, and I  
4 am over the age of eighteen years.

5 I further declare that on the date hereof, I served a copy of:

6 **VETERANS FOR COMMON SENSE AND VETERANS UNITED FOR TRUTH, INC.’S  
7 THIRD SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS TO ALL  
8 DEFENDANTS**

9  BY FACSIMILE [Code Civ. Proc sec. 1013(e)] by sending a true copy from  
10 Morrison & Foerster LLP’s facsimile transmission telephone number (925) 946-  
11 9912 to the fax number(s) set forth below, or as stated on the attached service list.  
12 The transmission was reported as complete and without error. The transmission  
13 report was properly issued by the transmitting facsimile machine.

14 I am readily familiar with Morrison & Foerster LLP’s practice for sending facsimile  
15 transmissions, and know that in the ordinary course of Morrison & Foerster LLP’s  
16 business practice the document(s) described above will be transmitted by  
17 facsimile on the same date that it (they) is (are) placed at Morrison & Foerster LLP  
18 for transmission.

19  BY U.S. MAIL [Code Civ. Proc sec. 1013(a)] by placing a true copy thereof  
20 enclosed in a sealed envelope with postage thereon fully prepaid, addressed as  
21 follows, for collection and mailing at Morrison & Foerster LLP, 101 Ygnacio  
22 Valley Road, Walnut Creek, California 94596-8130 in accordance with  
23 Morrison & Foerster LLP’s ordinary business practices. I am readily familiar with  
24 Morrison & Foerster LLP’s practice for collection and processing of  
25 correspondence for mailing with the United States Postal Service, and know that  
26 in the ordinary course of Morrison & Foerster LLP’s business practice the  
27 document(s) described above will be deposited with the United States Postal  
28 Service on the same date that it (they) is (are) placed at Morrison & Foerster LLP  
with postage thereon fully prepaid for collection and mailing.

BY OVERNIGHT DELIVERY [Code Civ. Proc sec. 1013(d)] by placing a true  
copy thereof enclosed in a sealed envelope with delivery fees provided for,  
addressed as follows, for collection by UPS, at 101 Ygnacio Valley Road, Walnut  
Creek, California 94596-8130 in accordance with Morrison & Foerster LLP’s  
ordinary business practices.

I am readily familiar with Morrison & Foerster LLP’s practice for collection and  
processing of correspondence for overnight delivery and know that in the  
ordinary course of Morrison & Foerster I LLP’s business practice the document(s)  
described above will be deposited in a box or other facility regularly maintained  
by UPS or delivered to an authorized courier or driver authorized by UPS to  
receive documents on the same date that it (they) is are placed at Morrison &  
Foerster LLP for collection.

BY PERSONAL SERVICE [Code Civ. Proc sec. 1011] by placing a true copy  
thereof enclosed in a sealed envelope addressed as follows for collection and  
delivery at the mailroom of Morrison & Foerster LLP, causing personal delivery of  
the document(s) listed above to the person(s) at the address(es) set forth below.

I am readily familiar with Morrison & Foerster LLP’s practice for the collection  
and processing of documents for hand delivery and know that in the ordinary

1 course of Morrison & Foerster LLP's business practice the document(s) described  
2 above will be taken from Morrison & Foerster LLP's mailroom and hand delivered  
3 to the document's addressee (or left with an employee or person in charge of the  
4 addressee's office) on the same date that it is placed at Morrison & Foerster LLP's  
5 mailroom.

6 Please note: If you check this box, you must follow up the next business day with  
7 an amended proof containing the name and signature of the person actually  
8 effecting service. This amended proof must be filed with the court.

- 9  BY ELECTRONIC SERVICE [Code Civ. Proc sec. 1010.6] by electronically  
10 mailing a true and correct copy through Morrison & Foerster LLP's electronic mail  
11 system to the e-mail address(s) set forth below, or as stated on the attached  
12 service list per agreement in accordance with Code of Civil Procedure section  
13 1010.6.

14 **Steven Y. Bressler, Esq.**  
15 **Trial Attorney, Civil Division, Federal Programs Branch**  
16 **United States Department of Justice**  
17 **P.O. Box 883**  
18 **Washington, DC 20044**  
19 **Steven.Bressler@usdoj.gov**

20 Executed at Walnut Creek, California, this 13th day of February, 2008.

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Kathy Beaudoin