

Gary Kendall
PO Box 6017
Boise, ID 83707
Pro Persona

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF IDAHO

PLAINTIFF(S)

- 1) Gary Kendall, Pro Persona, representative of the class.
 - 2) E. C., Pro Persona, assistant class representative.
 - 3) B. W., Pro Persona, assistant class representative.
 - 4) M. R., Pro Persona, assistant class representative.
 - 5) Class of Named Plaintiffs, Veterans and their families.
 - 6) Class of unnamed Plaintiffs, Veterans and their families.
- vs

RESPONDENT(S)

- 1) UNITED STATES OF AMERICA (a corporate fiduciary, contract agent of governance)
- 2) UNITED STATES DEPARTMENT OF VETERANS AFFAIRS (an executive agency of the UNITED STATES OF AMERICA) corporate fiduciary
- 3) Secretary of the US Dept of Veterans Affairs, corporate fiduciary, Eric Ken Shinseki.

All respondents are sued in their corporate, legal, fiduciary, official and personal capacities.

Case No.: 12-330-CV LMB

**COMPLAINT
DEPRIVATION OF CIVIL RIGHTS
and
INTENTIONAL INFLICTION OF
EMOTIONAL AND PHYSICAL DISTRESS,
and
CONSPIRATORIAL DEPRIVATION OF
CIVIL RIGHTS and
FAILURE TO PROHIBIT DEPRIVATION
OF CIVIL RIGHTS and
DEPRIVATION OF ADMINISTRATIVE
REMEDY RIGHTS and
DEPRIVATION OF DUE PROCESS and
GENDER BIAS and
SEGREGATION and
TAMPERING WITH, OBFUSCATION OF,
OFFICIAL RECORDS and
DEFAMATION OF CHARACTER and
LIBEL and
SLANDER and
MEDICAL MALPRACTICE and
WRONGFUL DEATH and
GENOCIDE and TERRORISM and
EXTORTION, BREACH OF FIDUCIARY
DUTY,
of VETERANS and IMMEDIATE FAMILY
Pursuant to Titles 5, 15, 18, 38, & 42 USC
and Title 38 CFR**

1 **I. INTRODUCTION**

2 A. Comes now, Gary Kendall, representative of the Plaintiff class, with E. C., B. W., and M. R.,
3 assistant representatives of the class, making complaints under the US Constitution, 42 USC
4 §1981 Et Seq., 5 USC, 18 USC, 38 USC, 38 CFR, and other applicable laws and regulations
5 – under color of law, on behalf of the class of named Veterans and their family members, and
6 the class of all unnamed present and future Veterans and their family members.

7 B. Bringing to the scrutiny of this Court – and nation - the long standing, oft complained about,
8 and consistently un-addressed issues of the conspiratorial, systemic, intentional deprivation
9 of the sovereign, civil, and Veterans’ rights - and the Intentional Infliction of Emotional,
10 physical and painful distress of - of those honorable Veterans. Those eligible for Veterans
11 Affairs benefits and care, Veterans of United States of America military service, and their
12 immediate families who have suffered at the hands of a corrupt and cruel US Veterans
13 Administration.

14 C. Herein are listed complaints of a long standing – unconscionable – history of specified and
15 detailed government and Veterans Administration deprivations and intentional harassment,
16 infliction of emotional and physical distress, witting violations of law surpassing the US
17 Code definitions of outright treason against the US Constitution and citizens, including -
18 during times of war – actions and deprivations lawfully defined as aid and assistance to the
19 enemy.

20 D. Worst, is the past and continuing efforts – defined under law as GENOCIDE – to delay,
21 deny, and withhold proper medical care so as to exacerbate and accelerate the deaths of
22 Veterans of honorable US military service to their nation. The purpose of this governmental

1 genocide - perpetrated by every administration since 1940 – has been to reduce the numbers
2 of active, living, disabled Veterans in effort to reduce:

- 3 1. the rise in financial costs to the nation of keeping it's word to care for an ever increasing
4 number of Veterans, and;
- 5 2. the cognitive abilities of these Veterans so as to reduce the numbers of litigations brought
6 by Veterans seeking justice for the deprivations they suffered at the hands of the rogue
7 agency, the US Department of Veterans Affairs. Proof of the systemic nature and
8 direction of this effort resides – in part – in the decades of delays and disappearances of
9 Veterans disability claims, Board of Veterans Appeal actions, and Veterans Court
10 actions, as well as the delays in fully staffing the judiciary of the Veterans Court system.
11 Veterans have also been disenfranchised from the Equality of Protection under the law
12 via the unconstitutional US Courts application of the Feres Doctrine to bar suits against
13 the VA by Veterans, and;
- 14 3. the numbers of cognitive and active disabled Veterans so as to reduce the probability of
15 Veterans organizing a politically strong “third” political party, thereby unbalancing the
16 “traditional” two party strength system that has been for way too long perverted by the
17 powerful citizens in this nation.

18 E. Complaints are of numerous issues of:

- 19 1. Deprivations of Civil Rights: Equality of Access to the Courts, Equality of Protection
20 under the Law, Enjoyment of Property
- 21 2. Deprivation of Due Process Rights [Procedural Violations]
- 22 3. Deprivation of Administrative Remedy Rights, intentional denial and prohibition of
23 access to administrative remedy and procedural process 38 CFR §3.103.

- 1 4. Intentional Injuries of Emotional (delay, deceit, denials) and Physical (pain) Distress
- 2 5. Conspiracy in Deprivation of Civil Rights (2 or more persons, witting or unwitting)
- 3 6. Deprivation of civil rights to Equality of protection under the law: intentional denial of
- 4 the protections and benefits mandated under P.L. 106-117 mandated extension of
- 5 domiciliary benefits (FTCA – Truman v USA, 26 F. 3d 592 (5th Cir. 1996))
- 6 7. Failure to Prohibit Deprivation of Civil Rights (after multiple years and thousands of
- 7 individual complaints through the US Congress, VA, Office of the Inspector General, US
- 8 Dept Of Justice, US Courts, Veterans Service Organizations, and news media; including
- 9 multiple findings of the guilt of the VA and multiple findings of outright and intentional
- 10 deceit by the VA of Congress, Of. of the Insp. General and other federal investigators.)
- 11 8. TERRORISM, as defined within 18 USC §2331 & 2333. “to intimidate or coerce a
- 12 civilian population;”
- 13 9. Gender Bias (differences by gender in application of care and benefits)
- 14 10. Use of illegal separation codes (differences in application of care and benefits)
- 15 11. Segregation (differences in application of care and benefits by region, differences in
- 16 application of care and benefits by gender, race, age, and period of service.)
- 17 12. Tampering and Obfuscation of Official Records [Spoliation, Tampering, and
- 18 Obfuscation] (OIG and Congressional findings of VA intentional destruction of Veterans
- 19 claim and medical records so as to prohibit award of disability benefits, hiding and
- 20 refusing to provide Veterans’ Claim Files (C-Files) upon lawful request by the Veteran)
- 21 13. Deprivation of 38 United States Code §5103A, Due Diligence and Duty to Assist
- 22 mandates, failure to maintain and obtain available records, refusal to utilize claimant
- 23 cited records during entitlement, evaluation, and rating board hearings.

- 1 14. Deprivation of Due Process rights, Denial of right to face witnesses against the Veteran at
2 SECRETLY HELD VA entitlement, evaluation, and rating board hearings. The members
3 of the boards ARE witnesses against the Veteran, discussing reasons why the Veteran
4 should be denied his/her claim, therefore; the Veteran with the property right interest in
5 his/her claim is denied the very basic US Constitutional civil rights of: 1) facing the
6 witnesses against him, 2) perfecting defense of the accusations against him/her in denial
7 of his/her claim, and 3) due process. The VA boards can do anything they wish with
8 complete impunity, legal or illegal, as there is NO METHOD OF DISCIPLINE, NO
9 OVERSIGHT, and NO ACCOUNTABILITY of the boards or their secret membership!
- 10 15. Defamation of Character/Libel/Slander/Public Humiliation (Patient Behavioral Contracts
11 and Flagging of Patient Records (PRF) in the absence of due process, differences in
12 application of care and benefits via illegal separation codes). The VA Directive 2010 053
13 specifically warns against use of PRF except in extreme circumstances of patient violence
14 due to the absolute defamation of character, libel, slander, and humiliation of the patient
15 in front of his/her fellow Veterans. Yet, without regard to those warnings, VA utilizes
16 PRF against patients as a humiliating punitive and retaliatory measure to control patients
17 whose complaints the VA dislikes.
- 18 16. Extortion and Distribution of extorted funds: use of threat, duress, coercion, and terrorism
19 to extort from Veterans their rightful property interests, property, medical care, benefits,
20 good public character, good public image, ect.! The funds extorted – as in saved from
21 being spent upon those Veterans – were then undeniably and indefensibly distributed by
22 the USA to other uses in both direct and indirect benefit to all federal electees,
23 appointees, employees, and agents. RICO has been met... individual employees

1 conducted the RICO violations by order of superiors, thereby extorting the funds via
2 illegal means, and causing said funds to be distributed to the benefit of other participants
3 in the profits of the illegal schemes.

4 17. Medical Malpractice: denial of access to medical and medical specialty consult and
5 evaluation, denial of access to available medical treatments, denial of available medical
6 treatments, application of wrongful medical treatments, failure to document diagnoses
7 though treatment is prescribed. In effort to deny Veterans their rightful avenue of claim
8 based upon diagnoses.

9 18. Wrongful Death: denial of access to available medical treatments, denial of available
10 medical treatments, application of wrongful medical treatments until death.

11 19. Genocide and violation of Human Rights Treaties: VA wide efforts to reduce the
12 numbers of living Veterans via withholding of available necessary medical care and
13 intentional infliction of pain and emotional distress, and unlawful restrictions through the
14 Office of Budget and Management on the spending of VA funds for medical care.

15 Defined: 18 USC §1091(a).

16 20. VA Attempted murder of a multitude of Veterans via unlawful withholding and delay of
17 necessary and available medical care as unavailable due to Veteran patient backlog,
18 whilst local private medical care had capability to have cared for the Veterans under VA
19 Referral and Fee Basis rules – until the Veteran died. VA is mandated by law to provide
20 Fee Basis care to a Veteran whenever the VA cannot – for any reason – provide the care
21 itself.

1 20. Maintenance of an overly costly, antiquated and irreparable Veterans' medical care
2 system which cannot - and refuses to attempt - to provide either the top quality, accuracy,
3 or speed of medical care available to citizens through USA private medical enterprise.

4 21. Multiple Breaches of Fiduciary Duty under 15 USC §77aaa Et Seq. where the Veterans'
5 property rights held in Trust by the USA were not distributed to the Veterans as
6 mandated by law.

7 – in direct violation of the Constitution of The United States of America and applicable United
8 States Codes, Codes of Federal Regulations, and International Human Rights Treaties - against
9 all Veterans and their families eligible for Veterans Administration benefits and medical care,
10 conducted as systemic practice by the US Department of Veterans Affairs through the offices of
11 Veterans Benefits and Veterans Health Care.

12 F. Why are our nation's Veterans of honorable military service - who sustained and are
13 plagued by a wide variety of ills, physical and mental injuries via their service - denied
14 the same high quality of medical care available to the poorest of our non-Veteran
15 citizens... in the most culturally advanced nation on the face of the earth? While persons
16 from all over the world come to this nation seeking that high quality medical care?

17 G. This is an unconscionable abomination of this nation's promise, gratitude, debt, contract, and
18 honor to Veterans. This is treasonous defamation of the very basic foundations of freedom upon
19 which our nation was founded and continues to be maintained – as fought at war to defend by
20 these very Veterans!

21 H. Not one soul, in governance of this nation, is untarnished with blame for these travesties of
22 justice to Veterans – every President, politician, employee, agent, and member of the judiciary is

1 as guilty as the most culpable perpetrators. For not one raised voice to stop the travesties from
2 growing into a giant albatross upon the neck of our nation!

3 **II. JURISDICTION**

4 This Court holds jurisdiction under the following mandates:

5 A. Pursuant to Order of the US 9th Circuit Court of Appeals, 12/30/2009, Appeal No.: 08-35560,
6 arising out of USDC ID Civil Action Cs. No.: 07-cv-00103-EJL-LMB AFFIRMED in part, and
7 VACATED and REMANDED in part, with instructions to the district court to enter judgment of
8 dismissal without prejudice.

9 Constitution of the United States of America

10 A. Federal Question: 28 USC §1331

11 B. Amount in Controversy: 28 USC §1332

12 C. Diversity in citizenship, Plaintiffs from all States: 28 USC §1332

13 D. Civil Rights and Elective Franchise: 28 USC §1343

14 E. United States as a defendant: 28 USC §1346

15 F. Action to Compel an officer of the United States to perform his duty: 28 USC §1361

16 G. 18 USC §§2333, 1962 & 1964, §2, and therefore; §§241 & 242, §§1091, 1092,

17 H. 42 USC §1988

18 I. JURISDICTION TO HEAR CLASS ACTION AS BROUGHT HEREIN:

19 1. ALL previous jurisdictional bases are contained herein via this reference thereto.

20 2. 28 USC §1711(3) Definitions: “Class counsel. - The term “class counsel” means the
21 persons who serve as the attorneys for the class members in a proposed or certified class
22 action.” NOTE: Class counsel IS NOT defined the same as class representative.

1 3. FRCP rule 23 NOTE: **THERE IS NO REQUIREMENT FOR REPRESENTATIVE**
2 **OF THE CLASS TO BE AN ATTORNEY**

3 (a) Prerequisites. **One or more members of a class may sue** or be sued as representative
4 parties on behalf of all members only if:

5 (1) the **class is so numerous** that joinder of all members is impracticable;[TRUE]

6 (2) there are **questions of law or fact common to the class**:[TRUE]

7 (3) the **claims or defenses of the representative parties are typical of the claims**
8 **or defenses of the class**:[TRUE] and

9 (4) the **representative parties will fairly and adequately protect the interests of**
10 **the class**. [TRUE on the face of the complaint] (Emphasis added)

11 (g) Class Counsel.

12 (1) Appointing Class Counsel. “Unless a statute provides otherwise, a court that
13 certifies a class must appoint class counsel. In appointing class counsel, the
14 court:...”

15 **NOTE: clearly the class action is FIRST: filed by a class representative (any**
16 **member of the class); SECOND: the class action then is certified by the court,**
17 **THIRD: a Class Counsel is then appointed by the court. There is no requirement**
18 **that the filing party be an attorney, the rule states that ANY MEMBER of the class**
19 **may sue!” US Constitutional Pro Persona rights are retained by the People!**

20
21 **III. TRANSFER TO CURE WANT OF JURISDICTION**

22 A. Pursuant to 28 USC §1631, Should this court have any question of jurisdiction, determine
23 there is a “want of jurisdiction”, or determine it lacks jurisdiction, Plaintiffs request this court

1 to apply this law and properly transfer this case to the proper jurisdiction, to preserve the
2 filing date, the image of justice, the access to justice, the viability of justice, and the prompt
3 application of justice, and the civil rights of each member to Equality of Access to the Courts
4 – as is the civil right of every member of this action Plaintiff or Respondent.

5 **IV. RIGHT TO PRO PERSONA FILING CLASS ACTION**

6 **PENDING ASSIGNMENT OF COUNSEL, AND PRO PERSONA REPRESENTATION**

7 **OF THE RIGHTS OF THE CLASS IN ANY CONFERENCE, NEGOTIATION, OR**

8 **AGREEMENT**

9 A. The Pro Persona, Representative of the Class, Gary Kendall – identified above, as granted by
10 the class, shall retain all authority to speak for the class in any conference, meeting,
11 negotiation, ADR, ect. and shall be the voice of the class regarding all forms of agreement to
12 terms, ect.

13 B. Assigned counsel shall be solely for the purposes of guiding the action within the
14 requirements of the court and representing the complaints ect. to the court.

15 **V. PLAINTIFFS**

16 A. **Gary Kendall, Pro Persona, representative of the class**, domiciled within the jurisdiction
17 of this court, all class mail to: PO Box 6017, Boise ID 83707

18 B. **E. C., Pro Persona, assistant representative of the class**, domiciled at and mail to:

19
20 C. **B. W., Pro Persona, assistant representative of the class**, domiciled at and mail to:

21
22 D. **M. R., Pro Persona, assistant representative of the class**, domiciled at and mail to:

1 E. **Class: Named Plaintiffs** on the plaintiff roster: all Veterans with eligibility for Veterans
2 Affairs services and their families. Plaintiff roster and Plaintiff inclusion motions supplied
3 within 180 days of issue of a Case number, or as ordered by the court for the discovery of all
4 named plaintiff members.

5 F. **Class: Unnamed Plaintiffs:** all present and future Veterans with or obtaining eligibility for
6 Veterans Affairs services and their families; for whom named identification is impossible or
7 would impose a weight of effort that would create an unconscionable number of years of
8 delay and travesty of justice.

9 **VI. RESPONDENTS**

10 A. United States of America (hereinafter USA)

11 B. United States Department of Veterans Affairs (hereinafter VA)

12 C. Secretary of the US Department of Veterans Affairs, current and all past Secretaries still
13 living. (hereinafter Secretaries, current Eric Ken Shinseki hereinafter Secretary Shinseki)

14 **VII. FACTS**

15 A. **VA Office of the Inspector General, Inspection of the VA Regional Office Oakland,**
16 **California**, report dated May 10, 2012, No.: 12-00247-175, is a damning report of one VA
17 Regional Office (VARO). This report stands as a representative sampling and highlights the
18 problems affecting all said VARO's. This report shows the all encompassing failure of the
19 VA to accomplish it's Congressionally mandated tasks in the provision of the Veterans'
20 Benefits and property held in Trust by the USA and managed by the VA. This one report
21 applies to all VARO's and shows the deliberate lack of intent and responsibility in training
22 employees to do their jobs correctly and in compliance with existing law that pervades the
23 entire VA – from the Secretary to the lowest, hourly wage, employee. This report shows that

1 the VA doctors and employees ARE BEING TAUGHT BY VA – ORDERED - to routinely
2 violate the Veterans’ rights, to mismanage records and to misinterpret records, and to deny
3 claims as a matter of course of doing business with Veterans. *Refer to VA Office of the*
4 *Inspector General, Inspection of the VA Regional Office Oakland, California, report dated*
5 *May 10, 2012, No.: 12-00247-175.*

6 B. **VA EMPLOYEES** have begun speaking out around the nation, highlighting the corrupt VA
7 intentional delays and deceit regarding treatment of Veterans and their rights under law and
8 contract. From Los Angeles, CA beginning some years ago to Columbia S.C., June 2012,
9 VA employees are breaking ranks and speaking evidence of the ugly truth. The VA would
10 rather kill off Veterans than to provide either proper medical care or the rightful benefits the
11 Veterans earned as a contract right for their active duty service to this nation. *Refer to NY*
12 *Times Article 6/18/2012 “Workers Point Finger at Their Own Agency Amid Backlog in*
13 *Veterans’ Benefits”*

14 C. **THE EXTREME CORRUPTION OF THE VA** is no longer the ugly sister quietly and
15 secretly kept in the family closet by the USA government, it is now public knowledge and
16 the basis of lawful demand by the Veterans and citizens that such dishonorable and unlawful
17 practices by the government and VA WILL CEASE IMMEDIATELY. This court WILL
18 rule to begin that process of ending the nightmare of torture and deprivations being willfully
19 thrust upon the honorable Veterans of this nation. *Refer to VA Office of the Inspector*
20 *General, Inspection of the VA Regional Office Oakland, California, report dated May 10,*
21 *2012, No.: 12-00247-175*

22

1 D. **EVEN US JUSTICES** write that the VA system is corrupt[t and does not work as it was
2 intended. They ask why nothing is being done by the courts and Congress. Refer to
3 Veterans for Common Sense Et Al v Shinseki US Court of Appeals, No.:08-16728, D.C.,
4 No.: 3:07-cv-03758-SC, Dissenting Opinion, Senior Circuit Judge Schroeder.

5 E. **OATH OF OFFICE:** Pursuant to 5 USC §3331 all individuals in civil or uniformed service
6 in the USA (federal or State) are mandated to take and certify the following oath regardless
7 of any other oath required by law: *“I, AB, do solemnly swear (or affirm) that I will support
8 and defend the Constitution of the United States against all enemies, foreign and domestic;
9 that I will bear true faith and allegiance to the same; that I take this obligation freely,
10 without any mental reservation or purpose of evasion; and that I will well and faithfully
11 discharge the duties of the office on which I am about to enter. So help me God.”*

12 Employment in any capacity by government in the USA is, therefore; absolute proof of the
13 individual having taken and sworn to this oath to adhere to and defend the US Constitution.
14 This includes any member of the judiciary presiding over this case as well as any other
15 individual in civil servant or uniformed service. Any violation of this oath is treason against
16 the US Constitution, and therefore; treason against the citizens of the USA. All oaths of all
17 individuals of civil and uniformed services in the USA are included herein as evidence of
18 their inalienable allegiance to the US Constitution as the supreme law of the land. US
19 Constitution Art. VI.

20 F. **VETERAN DEFINED**, pursuant to 38 USC Veterans are defined:

21 1. **VETERAN:** 38 USC §101(2) “The term “veteran” means a person who served in the
22 active military, naval, or air service, and who was discharged or released therefrom under
23 conditions other than dishonorable.”

1 2. VETERAN OF WAR or VETERAN OF ANY WAR: 38 USC §101(12): “The term
2 “veteran of any war” means any veteran who served in the active military, naval, or air
3 service during a period of war.”

4 3. Veteran: 38 USC §1101(1): “The term “veteran” includes a person who died in the active
5 military, naval, or air service.”

6 **G. BASIC ENTITLEMENT:** Pursuant to 38 USC §1131 – BASIC ENTITLEMENT “*For*
7 *disability resulting from personal injury suffered or disease contracted in line of duty, or for*
8 *aggravation of a preexisting injury suffered or disease contracted in line of duty, in the active*
9 *military, naval, or air service, during other than a period of war, the United States will pay*
10 *to any veteran thus disabled and who was discharged or released under conditions other*
11 *than dishonorable from the period of service in which said injury or disease was incurred, or*
12 *preexisting injury or disease was aggravated, compensation as provided in this subchapter,*
13 *but no compensation shall be paid if the disability is a result of the veteran’s own willful*
14 *misconduct or abuse of alcohol or drugs.” Each Veteran applying for VA Service Connected*
15 *or War Pension Disability holds a property right interest in the care and benefits authorized*
16 *by law and contract, as well as, full civil right to Due Process. Further, each Veteran*
17 *awarded VA Service Connected or War Pension Disability owns property right to the care*
18 *and benefits the USA has mandated be provided by the VA. Refer to Cushman v Shinseki*
19 *USCA 2008-7129 (2009).*

20 **H. INTERNATIONAL BASIS OF THE US DEPT VETERANS AFFAIRS:** The VA
21 operates facilities in nations around the world for the care of Allied nation persons assigned
22 to the US Militaries and for care of US Veterans residing in those foreign nations. This

1 makes any systemic efforts of the VA an international effort pursuant to which International
2 Human Rights Treaties apply..

3 I. **ADMISSIBILITY IN EVIDENCE:** Pursuant to 1 USC §112 “*The United States Statutes at*
4 *Large shall be legal evidence of laws, concurrent resolutions, treaties, international*
5 *agreements other than treaties, proclamations by the President, and proposed or ratified*
6 *amendments to the Constitution of the United States therein contained, in all the courts of the*
7 *United States, the several States, and the Territories and insular possessions of the United*
8 *States.*” Proclamation: An official public announcement.

9 J. **OFFICIALLY DOCUMENTED ADMISSION OF GUILT:** The United States of
10 America, via it’s President has placed upon the official record a proclamation in total and
11 undeniable admission of guilt via President Barrack Obama, speech at Washington Navy
12 Yard, Washington, D.C., March 19, 2009, which text was publicly posted by the Whitehouse
13 at <http://www.whitehouse.gov/issues/veterans> and [http://www.whitehouse.gov/the-press-](http://www.whitehouse.gov/the-press-office/2011/08/05/remarks-president-administrations-work-prepare-our-nations-veterans-work)
14 [office/2011/08/05/remarks-president-administrations-work-prepare-our-nations-veterans-](http://www.whitehouse.gov/the-press-office/2011/08/05/remarks-president-administrations-work-prepare-our-nations-veterans-work)
15 [work](http://www.whitehouse.gov/the-press-office/2011/08/05/remarks-president-administrations-work-prepare-our-nations-veterans-work) as well as being reported by various news media. The text of the speech is quoted as
16 follows:

17 *"For their service and sacrifice, warm words of thanks from a grateful nation*

18 *are more than warranted, but they aren't nearly enough.*

19 **We also owe our veterans the care they were promised and the benefits**

20 **that they have earned. We have a sacred trust** with those

21 *who wear the uniform of the United States of America.*

22 **It's a commitment that begins at enlistment, and it must never end.**

23 **But we know that for too long,**

1 ***we've fallen short of meeting that commitment.***

2 *Too many wounded warriors go without the care that they need.*

3 *Too many veterans don't receive the support that they've earned.*

4 *Too many who once wore our nation's uniform now sleep in our nation's streets."*

5 -President Obama, March 19, 2009 (Emphasis added)

6 4. This speech, given by - and in the official capacity of - the President of the United States
7 of America, Mr. Barack Obama, is an official, recorded document, that is a full
8 admission of guilt that supports - without any available defense - the entirety of the
9 complaints made via this Veterans' Class Action complaint.

10 5. This speech is irrefutable evidence of the existence – under full premeditated, knowledge,
11 intent, and refusal to make correction of the USA and the VA – of ALL the deprivations,
12 unlawful delays, unlawful denials, unlawful deceit, perjury, and intentional inflictions of
13 emotional and physical distress upon Veterans and their families.

14 6. This complaint is made undeniably and indefensibly viable by the existence of this
15 formal, official, documented, admission of guilt.

16 **B. PROOF OF EXISTING, PERMANENT CONTRACT:** Within the March 19, 2009 speech
17 made by President Obama, the head official of the USA admits that the provision of VA care
18 and benefits to Veterans is a “promise” a “commitment” and a “debt” – the legal definition of
19 which is **contract** - under which the Veterans have “earned” a property right for their
20 fulfillment of their contractual responsibilities. President Obama officially declares the
21 provision of the care and benefits a “sacred trust”, “that must never end” thereby, legally,
22 defining the status of the USA and VA in these matters as **trustees** and admitting that there
23 exists a permanent contract and fiduciary responsibility on the part of the USA and VA

1 which both have abrogated in violation of existing civil rights, contract and fiduciary
2 responsibility law!

3 1. Under United States Codes covering civil rights – 42 USC, contract USC and UCC, and
4 fiduciary responsibility USC any party damaged by such actions is ENTITLED to collect
5 direct and punitive damages from each and every individual actor, agent, or agency, as
6 well as treble those damages for the intentional – witting – acts in the absence of any and
7 all attempts by the perpetrators, knowledgeable parties, agents, and/or agencies to enforce
8 complete fulfillment of the rights.

9 **C. OFFICIALLY DOCUMENTED EVIDENCE:** All evidence referred to within this litigation
10 is contained within the United States Codes, United States Code of Federal Regulations, and
11 the official Veterans Administration files, reports, articles, employee educational materials
12 and other official documentations. Pursuant to 1 USC §§112, 113, 204 reference citing said
13 official documentation or codification is sufficient for the court to presume the evidence
14 exists in the absence of opponent party proof to the contrary. There is no requirement that
15 copy of each said official document be presented in evidence.

16 **D. CONTRACTUAL VOLUNTARY SERVICE WITH USA PROMISE OF CARE &**
17 **PROPERTY RIGHTS:** Veterans, Plaintiff class, provided voluntary military service in the
18 United States militaries under signed contractual agreement, many earned medals, awards,
19 early promotions for meritorious service, and each and every Veteran separated from service
20 with other than a dishonorable discharge – therefore hold property rights to their VA care and
21 benefits. Each and every individual Veteran of service was promised by the USA proper,
22 prompt, and professional Veterans Administration medical, health, and compensation
23 benefits for their service, under law. Those promises of care are contractual rights after

1 completion of service and whether or not those promises were written into the individual
2 contracts of entry into military service, they are acknowledged by every President and the
3 government of the USA, and as such acknowledged promises – they are PROPERTY
4 RIGHTS of the Veterans’ who completed service in any fashion except under dishonorable
5 discharge without pardon. The promised care and benefits are ABSOLUTELY the
6 PROPERTY of each and every honorable discharged Veteran and every single disabled
7 Veteran whether or not the disabilities are Service Connected. *Refer to President Obama’s*
8 *official admission of the facts. Refer to Cushman v Shinseki USCA 2008-7129 (2009).*

9 **E. PROVISION OF SERVICES AND CARE:** Pursuant to 38 USC §301, such care is provided
10 by the USA through the US Department of Veterans Affairs. Which is mandated by this law
11 to “*administer the laws providing benefits and other services to veterans...*” Nowhere in the
12 law is the Department of Veterans Affairs authorized to do anything not specifically
13 authorized by law.

14 **G. Class Representative, Plaintiff Gary Kendall:** provided voluntary military service in the
15 United States Air Force under signed contractual agreement, earned meritorious early
16 advancement in grade, was awarded multiple military recognitions of service, performance of
17 duty, exemplary conduct of service, and earned an HONORABLE discharge after sustaining
18 Toxic Chemical Exposure to herbicides and many other toxic chemicals, Traumatic Brain
19 Injury, knee and spinal injuries, and still completing his contract for active duty service.

20 **H. PURSUANT TO LAW AND CONSTITUTION:** By lawful order of Congress, passed into
21 public law and then into United States Code Title 38, processed by the VA into applicable
22 operational rules under Title 38 Code of Federal Regulations, all Veterans Benefits and
23 Health care – including Service Connected and War Pension disability compensation benefits

1 – are issues in which all applying Veterans hold Property right interest and therefore US
2 Constitutional civil right to Equality of Protection under the Law, Equality of Access to the
3 Courts, and Due Process in the entire process of VA evaluations of the Veterans’ claim,
4 determination of the Veterans’ eligibility, determination of rates of disability and
5 determination of award of compensation and/or other benefits.

6 **I. DECADES OF VETERANS’ COMPLAINTS IGNORED BY COURTS AND**

7 **CONGRESS:** For decades Veterans have been complaining regarding the breaches of law by
8 the VA as well as about the VA constant deprivations of Veterans’ civil rights. Congress and
9 the VA have turned deaf ears to the complaints until litigations were begun on a plethora of
10 issues which have yet to be addressed so as to attend to the rights of ALL Veterans and their
11 families. *Refer to President Obama’s official admission of the facts.*

12 **J. ELIGIBLE VETERANS DENIED BENEFITS, CARE, & COMPENSATION:** For

13 decades the VA has operated under an internal, illegal, mandate that no more than 14% of
14 annual viable disability claims would be allowed to ratings and award of compensation. In
15 direct defiance of the existing laws. *Refer to President Obama’s official admission. Refer to*
16 *VA Office of the Inspector General, Inspection of the VA Regional Office Oakland,*
17 *California, report dated May 10, 2012, No.: 12-00247-175*

18 **K. VA UNCONSTITUTIONALLY TRANSFORMED INTO A CONTENTIOUS**

19 **AGENCY:** *Refer to VA Office of the Inspector General, Inspection of the VA Regional*
20 *Office Oakland, California, report dated May 10, 2012, No.: 12-00247-175.* In direct
21 contempt of existing law that the VA is to exist to **ASSIST** Veterans to access their Benefits,
22 Medical Care, and Disability Compensation, the VA has developed a thoroughly contentious
23 system that from the very first contact with the majority of Veterans establishes a contentious

1 and abusive atmosphere with the instruction that the Veteran must PROVE every single step
2 of his or her application or claim. The VA routinely, as a matter of day-to-day business with
3 Veterans ignores Congressional mandates to the VA regarding VA: Duty to Assist, Duty to
4 Gather All Applicable Proof and Documentation for the Veteran, Duty to Apply Benefit of
5 Any Doubt to the Claiming Veteran, and instead makes it VA business to harass, threaten,
6 burden with duress, and to coerce and defame most Veterans into dropping their efforts to
7 gain their rightful benefits, care, and compensation. This is proven without argument or
8 defense by the following facts of official record:

9 **DELAY – DECEIT – DENIAL – UNTO DEATH DEATH BEFORE BENEFITS**

- 10 1. **DELAY:** The VA has NEVER been able to reduce their backlog of unprocessed claims
11 to any acceptable level for private enterprise business success, EXCEPT when the VA
12 intentional DESTROYED and SHREDDDED active claims and records! (Intentional
13 Systemic Deprivation of Civil Rights to Equality of Protection under the Law, Enjoyment
14 of Property, and Due Process – in the least.) Proven by multiple Congressional and VA
15 OIG investigations. *Refer to President Obama’s official admission. Refer to VA Office*
16 *of the Inspector General, Inspection of the VA Regional Office Oakland, California,*
17 *report dated May 10, 2012, No.: 12-00247-175*
- 18 2. **DECEIT:** a. The VA was caught by the VA OIG with computer software that allowed –
19 and was used by VA officials – to eradicate claiming Veterans’ active records. It was
20 proven that the VA was destroying those records which would SUSTAIN the Veterans’
21 claims – so as to support denial of those Veterans’ claims! b. The VA was caught
22 illegally instructing eligible Veterans that those Veterans had no lawful claim! c. The
23 VA allowed employees to take home confidential Veterans records that were then stolen.

1 VA systemically LIED to official investigators – and directly to Congress. Yet, the VA
2 perpetrators of those multiple violations and lies to officials went without a single
3 element of punishment for their TREASON. d. The VA has repeatedly lied regarding
4 multiple issues and multiple investigations and been caught by Congress and the VA
5 OIG! (Intentional Systemic Deprivation of Civil Rights to Equality of Protection under
6 the Law, Enjoyment of Property, Due Process – in the least.) *Refer to President Obama's*
7 *official admission. Refer to VA Office of the Inspector General, Inspection of the VA*
8 *Regional Office Oakland, California, report dated May 10, 2012, No.: 12-00247-175.*

- 9 3. **DENIAL:** The VA repeatedly illegally denies eligible Veterans claims. The Veterans'
10 Board of Appeals (VBA) rate of overturn of VA Ratings and awards decisions exceeds
11 90% of all Veterans Appeals - UNDENIABLE PROOF that VA ratings boards are
12 dysfunctional and in violation of existing law! WORSE: over 90% of all BVA refusal to
13 overturn ratings boards decisions that are then taken to the Veterans' Court are then
14 overturned to the Veterans' benefit by the Veterans' Court! By simple math doesn't this
15 mean that of the VA ratings boards determinations taken to the VBA and Vets' Court...

16 **99% of VA board denials were in violation of the law?**

17 The VA routinely denies Veterans' Appellate access to the VBA utilizing several
18 methods: Failure to notify the Veteran in writing (as law mandates) of determinations –
19 sometimes there is never any notification, often the notification is sent after the Veterans
20 term to appeal has run out; Statement the appeal is baseless; Denial of access to the
21 Veterans' records upon which to perfect appeal. *Refer to President Obama's official*
22 *admission.* (Intentional Systemic Deprivation of Civil Rights to Equality of Protection
23 under the Law, Enjoyment of Property, Due Process – in the least.) *Refer to VA Office of*

1 *the Inspector General, Inspection of the VA Regional Office Oakland, California,*
2 *report dated May 10, 2012, No.: 12-00247-175*

3 4. **UNTO DEATH:** The VA routinely delays and repeatedly denies Veterans' claims –
4 which would be otherwise extremely expensive to resolve - for years, while restricting
5 and/or denying medical care and restricting and denying pain reducing medication,
6 waiting for the Veterans to die and their claims to therefore lapse – this is defined under
7 US Code as Genocide! *Refer to President Obama's official admission.*

8 5. **REWARD FOR DEPRIVATION OF VETERAN'S RIGHTS:** Proof that the USA
9 wittingly ordered and encourages VA directors to deprive Veterans of their rights is in the
10 FACT that directors are rewarded with annual bonuses based upon the amount of money
11 they save the US Dept of Veterans Affairs by not spending those funds on Veterans'
12 care!

13 *Refer to VA Office of the Inspector General, Inspection of the VA Regional Office*
14 *Oakland, California, report dated May 10, 2012, No.: 12-00247-175 RE claims processing*
15 *and breaches of responsibility and law. Including findings that VA improperly processed*
16 *53% of disability evaluations the VAOIG reviewed!*

17 Why hasn't this overbearing, fractured, treasonous, wasteful, costly and corrupt system been
18 restructured – or awarded to private insurance and medical enterprise with a no-deductible
19 insurance policy where premiums are paid by the USA and eligible Veterans carry an
20 insurance card usable at any free world medical facility of the individual Veteran's choice?
21 How long would it be before such an influx of funding and research support would make the
22 USA private medical system far better than any other system in the world?

1 **L. VA CAUSED DEPRIVATION OF SOCIAL SECURITY DISABILITY RIGHTS:** In
2 thousands of cases where a Veteran's disabilities drove that Veteran out of employment, the
3 VA took years, even in excess of a decade, to determine the Veteran's eligibility for Service
4 Connected or War Pension Disability compensation, thereby; running out the ten year
5 window of opportunity for that Veteran to gain his or her Social Security Disability based
6 upon the VA medical and eligibility determinations. Because the VA delays were intentional
7 and could have been eradicated at any time, the VA is responsible for those Veterans' loss of
8 the SSD funding opportunity. Since the VA is at fault and Social Security has only followed
9 the rules under which it is mandated to operate, it is the VA that should be ordered to pay the
10 Veterans their lost SSD compensation benefits. That payment of lost SSD compensation
11 benefits should be at the maximum SSD compensation rate for the individually applicable
12 timeframe. *Refer to President Obama's official admission. Refer to VA Office of the*
13 *Inspector General, Inspection of the VA Regional Office Oakland, California, report dated*
14 *May 10, 2012, No.: 12-00247-175*

15 **M. VETERANS DOCUMENTS INTENTIONALLY OBFUSCATED BY VA OFFICIALS,**
16 **US VA A ROGUE AGENCY OUT OF CONTROL:** The VA has lied directly to a
17 multitude of Congressional and VA OIG investigations, AND BEEN CAUGHT
18 REDHANDED in such TREASONOUS deceit to the Constitutional authority of the citizens!
19 Often, the VA has been caught, after investigations resulted in corrective mandate, in
20 premeditated, deliberate, contempt of the mandate – continuing to use and accomplish the
21 very same unlawful tactics and systems!
22 NOTHING has been done to properly discipline, direct, restructure, and oversee the VA!
23 Instead Congress turns a nearly **BLIND EYE TO VA TREASON!** Both the US Congress

1 and the VA Office of the Inspector General have investigated, discovered and ordered
2 corrections only to have the VA repeatedly ignore the mandates, hide their violations even
3 deeper, be discovered in direct CONTEMPT of government authority, AND NOT BE
4 DISCIPLINED FOR THE CONTEMPT! Clearly and without any doubt or defense, the
5 government of the United States of America both condones and directs the continuing VA
6 deprivations of Veterans' rights and Genocide of Veterans. There exists NO DEFENSE to
7 the decades and plethora of instances and failures to correct and restructure the VA and
8 provide the Veterans with their lawful rights! The USA and VA, under existing law, are
9 liable directly to the Veterans – and their families - for the direct damages, fines, and such
10 massive punitive damages as to make unthinkable any future thought of or attempt at
11 rebuilding such a heinous system! *Refer to President Obama's official admission. Refer to*
12 *VA Office of the Inspector General, Inspection of the VA Regional Office Oakland,*
13 *California, report dated May 10, 2012, No.: 12-00247-175*

14 N. **DISABLED VETERANS TORTURED & DESTROYED BY USA & VA ABUSE OF**
15 **RIGHTS:** For decades the VA has deprived Veterans of their rights in the absence of any
16 court finding of guilt on any felony charge. This effort is then clear and undeniably cruel and
17 unusual punishment and is specifically prohibited by the US Constitution. This
18 unconstitutional effort under two unconstitutional precepts: *Refer to President Obama's*
19 *official admission. Refer to VA Office of the Inspector General, Inspection of the VA*
20 *Regional Office Oakland, California, report dated May 10, 2012, No.: 12-00247-175*

21 1. **REDUCTION OF EXPENDITURE:** That there are too many Veterans and denial of
22 care and benefits to many who are otherwise eligible would save tremendous amounts of
23 funds (DEPRIVATION OF VETERANS RIGHTS), and;

1 2. **REDUCTION IN NUMBERS OF LIVING VETERANS:** That by denying care and
2 benefits to otherwise eligible Veterans, large numbers of Veterans will be reduced by the
3 increase in the early death rate of untreated and under-treated Veterans (**GENOCIDE OF**
4 **VETERANS**), further increasing savings. Proof of this intentional Genocide of Veterans
5 resides in the official records of the Office of Budget and Management (OBM) where are
6 listed the actual directives from each and every Presidential Administration to the OBM
7 to mandate the restriction of VA expenditures and to return the “saved” funds to the
8 General Fund. Such restriction of expenditure is the actual worded order that effects
9 **DENIAL OF BENEFITS, MEDICAL CARE AND RIGHT TO LIFE** of the living
10 Veterans of honorable military service to this nation. Could there ever be more truth to
11 the old saying that in War Warriors are Lauded and Praised but in peacetime Veterans of
12 War are Feared, Shunned, and Disenfranchised of society! Shame on this nation!

13 **O. FAMILIES TORTURED, ABUSED & DESTROYED, CHILDREN ABUSED BY USA**

14 **& VA:** Veterans’ immediate families are innocent bystanders of VA unconscionable harmful
15 actions and inactions, as well as to the deprivations of civil rights to which their Veterans
16 were eligible pursuant to the Constitution of the United States of America and Public Law
17 codified in 38 USC and precedent US Supreme Court clarification rulings – in the least. Said
18 immediate families suffered – in the absence of charge of crime or trial - the cruel and
19 unusual punishment of extensive emotional distress due to the unlawful VA harassment,
20 intimidation, threat, coercion, delays, deceptions, and denials foisted upon their Veterans.
21 Said families suffered the erosive consequences of the VA deprivations to care, benefits, and
22 compensation. The VA infliction of emotional, physical, and painful distress upon the
23 Veteran caused immense emotional distress upon the entire family unit. Many families

1 suffered emotional upheavals as the direct result of VA violations that included domestic
2 violence, incarceration, divorce, and abusive trauma to children. In thousands of cases, such
3 deprivations caused the destruction of marriages and family ties, depriving children of the
4 family unit involving the immediate presence of both mother and father. The unlawful
5 violations conducted by VA against the Veterans and the VA intentional infliction of
6 emotional, physical, and painful distress also stands the tests under law as VA abuse of the
7 minor children in the family – child abuse. *Refer to President Obama’s official admission.*

8 **P. DENIAL OF ACCESS TO THE COURTS:** In thousands of cases where Veterans held
9 rightful Appeal of VA determinations, their filed Appeal was denied by the local VA director
10 who was responsible for the denial in the first place. The Veterans’ Appeals never made it to
11 the Veterans’ Court, Veterans Board of Appeals due to this unconscionable side track to their
12 access rights. NOWHERE else in any US or State court system is there any right of
13 opposing party to short stop the Appellate process via a simple statement denying the
14 propriety of the Appeal in the absence of any right to counter argue by the Appellant! So
15 why do the directors of the VA division guilty of the deprivation hold such right to STOP all
16 appeal access that would question the propriety of their original illegal denial of benefits?
17 Isn’t this a question of the guilty fox stopping authorities from investigating the farmer’s
18 complaint about the raid on his henhouse –by that fox! As in all other US Courts, the process
19 of determining the viability of any one complaint or appeal should be handled by the Court
20 under adversarial argument and proof via evidence, NOT BY the arbitrary and self-serving
21 determinations of directors under the conflict of interest of preserving their own careers.
22 **Why are Veterans denied the Equality of Access to the Veterans Courts enjoyed by**
23 **ALL other persons accessing other US Courts?** Why the unconstitutional segregation?

1 *Refer to President Obama's official admission. Refer to VA Office of the Inspector General,*
2 *Inspection of the VA Regional Office Oakland, California, report dated May 10, 2012, No.:*
3 *12-00247-175.*

4 **Q. DENIAL OF ACCESS TO THE COURTS:** In thousands more cases, Veterans were
5 denied access to care or benefits and never informed by the VA! The VA intentionally
6 refused to issue the mandatory letter of notification, thereby; intentionally denying the
7 Veteran all right to appeal the determination. Thereby, the VA intentionally avoids a huge
8 percentage of appeals to the Board of Veterans Appeals – by simply never notifying the
9 Veteran in writing of it's determination! This is clear and undeniable, systemic,
10 conspiratorial, premeditated, deprivation of the Veterans' civil rights to due process and
11 Equality of Access to the Courts.

12 **R. VA USE OF ILLEGAL CODES TO DENY OR RESTRICT CARE:** The use by Depts.
13 of the Military of stigmatizing codes upon separation documentation was outlawed many
14 years ago by Congress. The DOD simply changed the codes and continued, finally Congress
15 issued an undeniable Cease and Desist ORDER, however; the VA continues to use said
16 stigmatizing separation codes in their system to categorized eligibility and – worse – total
17 denial of benefits and care! Both Congressional and VA OIG investigation has repeatedly
18 uncovered the VA coding still in use despite direct orders to eradicate such illegal coding.
19 Such illegal coding continues to be found in VA systems and in use by VA facilities despite
20 multiple direct orders to cease and desist. Veterans are still unlawfully denied benefits and
21 care based upon illegal stigmatizing coding. *Refer to President Obama's official admission.*

1 S. **VA DEPRIVATION OF IT'S 38 USC §5107(a) MANDATORY DUTY TO ASSIST:**

2 Where the claiming Veterans cite the existence of records – official and private – to support
3 their claim, the VA is mandated to go get those records and to use them in all further
4 evaluations of the Veterans' claims. Further, where a Veterans claim may be instituted by
5 the individual Veteran in the absence of any trained legal guidance, the VA is mandated by
6 the applicable 38 USC to assist the Veteran in properly forming his or her claim.

7 **HOWEVER**, in direct contempt of those laws, the VA routinely responds to claiming
8 Veterans that their claim cannot be processed or is denied because the claim is unintelligible
9 (not stated in the VA preferred phrases), does not put forth claims upon which relief may be
10 granted (as in does not use the VA's codes or medical codes for the medical injuries,
11 illnesses, or symptoms under claim, or claims disability for secondary or tertiary symptoms
12 without first making claim for the primary condition under which the others would be
13 considered. The law clearly and without any doubt states that the VA is responsible for
14 assisting the Veteran in properly clarifying and writing his or her claim. There is **NO LAW**
15 under which the VA can deny Veterans' claims on these bases without first having attempted
16 to determine what the Veteran is actual claiming and the order of proper claim of issues, and
17 then; where necessary – having assisted the Veteran in properly writing the claim. Each and
18 every one of thousands of similarly unlawful VA denial responses to Veterans were acts of
19 Deprivations of Due Process rights and civil right to Equality of Access to the Courts, and
20 acts of deprivation of the civil right to enjoyment of property! *Refer to President Obama's*
21 *official admission*. The courts have ruled that: "the duty to assist under 38 U.S.C. § 5107(a)
22 is a duty to assist a claimant "in developing the facts pertinent to the claim," and that duty is
23 separate from the VA's mandate to fully develop the veteran's claim." *Refer to Roberson v*

1 *Principi USCA Case no.: 00-7009 (2001) Refer to VA Office of the Inspector General,*
2 *Inspection of the VA Regional Office Oakland, California, report dated May 10, 2012, No.:*
3 *12-00247-175 highlighting lack of basic knowle3dge of procedures and law by VA*
4 *employees.*

5 **T. VA USE OF ILLEGAL SERVICE DOCUMENTATION AND MEDICAL RECORD**

6 **ENTRIES:** Despite existing laws prohibiting the use by the VA of any documentation the
7 Veteran signed while on active duty that would prohibit or deny eligibility for VA benefits,
8 the VA continues to cite to Veterans that they are not eligible for VA benefits or care because
9 they signed some sort of disclaimer while on active duty. Additionally, the VA continues to
10 place secret entries into Veterans VA records – of which the Veteran is never notified until it
11 becomes basis for denial of claim. By that time any applicable term of availability of Appeal
12 has expired – by direct intent of the VA. Deprivation of the VA’s duty to assist pursuant to
13 38 USC §5107(a). *Refer to VA Office of the Inspector General, Inspection of the VA*
14 *Regional Office Oakland, California, report dated May 10, 2012, No.: 12-00247-175.*

15 **U. POST TRAUMATIC STRESS DISORDER (PTSD):** Decades after Vietnam Era Veterans
16 forced both the medical world and the government to recognize and properly treat the
17 Veterans’ disabling effects of PTSD, this issue is still wrapped in VA obstinacy and denial of
18 diagnosis and treatment. The VA continues to use all sorts of in-house, secret, directives to
19 deny Veterans proper diagnosis and treatment - from diagnoses of “Bi-Polar due to childhood
20 stressors”, to “personality disorder”, ect, ect. The VA still refuses to allow proper diagnosis
21 and treatment of PTSD in Veterans the VA determines could not have sustained sufficient
22 COMBAT ZONE stressors to instigate PTSD, even though it is medically proven that
23 military stressors instigating PTSD run the gamut from basic training incidents, Stateside

1 service events and duties, support zone duties, AND Stateside treatment by the public, the
2 VA, and even elected officials, NOT JUST COMBAT STRESSORS. The applicable 38
3 USC laws mandate the allowance of stressors other than combat, why does the VA continue
4 to deny on the basis of non-combat stressors? Worse, why does the USA allow the VA to
5 continue to act in Contempt of the law? *Refer to Presidential official admission. Refer to*
6 ***VA Office of the Inspector General, Inspection of the VA Regional Office Oakland,***
7 ***California, report dated May 10, 2012, No.: 12-00247-175***

8 V. **TOXIC CHEMICAL EXPOSURE:** After decades of battle led by the Vietnam Era
9 Veterans, multiple laws passed by Congress, and mandatory compliance forced upon the VA,
10 proof of toxicity and exposure at overseas non-combat military facilities, EPA proof of
11 toxicity and exposure at US military facilities, the VA has yet to comport to the law and
12 properly attend to Veterans' claims of toxic chemical exposure and resulting disabilities. The
13 VA openly and without either oversight or discipline routinely violates the law, deprives the
14 Veterans of their civil rights, and instigates open contention and deprivation upon claiming
15 Veterans. Worst amongst all this deprivation is the VA routine and absolute refusal to seek
16 out and use (under VA Duty To Assist) the actual EPA records of Stateside military facilities
17 contaminated by toxic chemicals as well as the VBA precedent rulings regarding proof of
18 contamination and exposure at various overseas and Stateside military facilities as cited and
19 proven by claiming Veterans. *Refer to Presidential official admission. Refer to VA Office*
20 ***of the Inspector General, Inspection of the VA Regional Office Oakland, California, report***
21 ***dated May 10, 2012, No.: 12-00247-175, including findings that VA incorrectly processed***
22 ***7% of herbicide exposure-related claims.***

1 **W. TRAUMATIC BRAIN INJURY (TBI) & POST CONCUSSIVE SYNDROME (PCS):**

2 Despite decades of argument, medical proof, Presidential Directives, and Congressional
3 passage of law, the VA continues to make this single issue the most contentious of all
4 disabling conditions – and upon the most unable Veterans to stand up for their own rights!
5 Simply because there is no way - short of dissection of the brain - to prove without doubt
6 whether or not a particular Veteran suffers this horrible disability, the VA will refuse to allow
7 a Veteran claiming TBI and/or PCS access to medical evaluation and diagnostic consult,
8 internally orders specialists not to diagnose TBI or PSC – to use several other diagnoses
9 instead for which there is no authorized compensation. Veterans are forced to undergo years
10 of failure, pain and humiliation – often without even knowing what is wrong with them and
11 believing that they are going insane. The VA will intentionally misdirect Doctors and
12 Veterans to many other diagnoses such as “Bi-Polar” or “Personality Disorder” so as to avoid
13 expensive treatments and compensation. Mostly out of fear that a few Veterans might be
14 scamming the VA and gaining compensation to which they are not entitled. Unbelievable.
15 *Refer to Presidential official admission. Refer to VA Office of the Inspector General,*
16 *Inspection of the VA Regional Office Oakland, California, report dated May 10, 2012, No.:*
17 *12-00247-175. Including findings that VA improperly processed 57% of TBI claims: which*
18 *included not providing proper medical examinations, proper evaluations, proper*
19 *recordation, and proper application of VA’s own definitions of TBI and related symptoms.*

20 **X. MILITARY SEXUAL TRAUMA (MST):** The VA is adamantly opposed to allowing
21 diagnosis of any military sexual trauma, except that which is clearly and without doubt,
22 thoroughly documented by military authorities. Yet, it is abundantly proven by Veterans that
23 ALL branches of the military have been – and still are – abhorrent to documenting sexual

1 trauma inflicted on an Active Duty US troop by Active duty US troops! Both the DOD and
2 the VA are even more unbelievably antiquated where the MST was inflicted upon a male
3 Active Duty Troop. Both Female and Male Veterans have gone decades without VA
4 consideration of treatment for or disability compensation for the effects of MST. The VA is
5 still medieval in it's response to MST and it's disabling effects! It is time that the courts
6 process punitive damages for the systemic VA abuse of Veterans regarding this issue. It is
7 time that Congress mandates TOTAL adherence to applicable law AND PUNISHMENT
8 FOR REFUSAL! This court will mandate the start of that process via its ruling in this case.
9 *Refer to Presidential official admission. Refer to VA Office of the Inspector General,*
10 *Inspection of the VA Regional Office Oakland, California, report dated May 10, 2012, No.:*
11 *12-00247-175*

12 **Y. DEPRIVATION OF ACCESS TO SURGICAL REPAIR OF PHYSICAL DAMAGE:**

13 The VA uses the catch phrase of "Elective Surgery" under which they deny eligible Veterans
14 provision of VA corrective surgery for any issue which the VA feels is "non-critical".
15 Where, under law, for Service Connected Veterans medical surgical issues and for ALL War
16 Pension disabled Veterans any and all surgical needs are mandated to be provided by the VA.
17 There is NO PROVISION under law for the VA to refuse to provide surgery diagnosed by a
18 doctor and requested by the Veteran. ANY VA refusal to provide surgery not based in sound
19 medical reason for denial or delay is a Deprivation of the Veterans/ civil rights to life, pursuit
20 of happiness, and enjoyment of property – in the least. At worst it can be considered and act
21 of delayed Genocide! *Refer to Presidential official admission.*

22 **Z. DEPRIVATION OF ACCESS TO CHIROPRACTIC CARE:** Whether or not the specific
23 VA facility has an on-staff Chiropractor, VA Directive 2009 059 mandates that the VA shall

1 provide Chiropractic care for any Veteran receiving VA care who is referred for Chiropractic
2 care by either the Veterans' Physician or other VA medical provider such as Physical
3 Therapy. Where the facility has no on-staff Chiropractor, the Directive mandates the facility
4 to allow "Fee Basis" access and compensation to the Chiropractor of the Veterans' choice.
5 The Directive states very clearly that it requires ONLY ONE referral and that the VA facility
6 administration is prohibited from requiring referral from any specific provider, such as
7 Physical Therapy. Further, the Directive mandates that so long as either the Veteran or the
8 Chiropractor continues to state that Chiropractic care is producing either pain reduction
9 and/or increased range of motion the Chiropractic care shall continue indefinitely. The VA
10 facilities with no on-staff Chiropractor are routinely allowing only a few Chiropractic
11 sessions for the Veteran and then denying further Chiropractic care REGARDLESS of the
12 Veteran's or the Chiropractor's reports and prognosis. VA Physical Therapy Doctors and
13 Technicians routinely argue that Chiropractic care is a sham and produces no measurable or
14 sustainable benefits to the Veterans. Yet, hundreds of Veterans, patients of Chiropractic care
15 swear and report that both reduction in daily pain occurs as does increase in range of motion.
16 The Veterans' reports are undeniable - despite VA contention, Chiropractic care WORKS
17 FOR VETERANS WITH BACK PROBLEMS! WITHOUT the damaging and addictive
18 medications the VA would prefer to administer in the absence of less damaging medical
19 treatment! *Refer to Presidential official admission. Refer to VA Directive 2009 059.*

20 AA. **VA FLAGGING OF PATIENT RECORDS:** Under VA Directive 2010 053 Flagging
21 of VA Patient Records is authorized to warn VA employees of violent or dangerous
22 Veterans. This is often necessary due to the nature of some physical and mental illnesses to
23 cause the patient to easily become outraged and/or violent. Obviously, there is existing need

1 for a means to forewarn and protect VA medical and other personnel. The problem is this,
2 there is NO PROVISION for the Veteran patient to protect his or her Due Process rights via
3 Answer and Defense of the whatever “charges” are lodged against he or she. The Directive
4 clearly warns against the use of Patient Record Flags except in extreme and thoroughly
5 documented cases due to the issues of clear and undeniable violation of right to Defense and
6 Due Process, right to medical privacy and confidentiality, defamation of character, liable, and
7 the public humiliation of the Veteran patient. In FACT, the directive states that Flags ARE
8 NOT TO BE USED where there has been no incident of violence and NOT EVER TO BE
9 USED AS A PUNITIVE MEASURE! Yet, the VA authorizes as few as one or two
10 individuals to apply Patient Record Flags WITHOUT OVERSIGHT and WITHOUT
11 PATIENT DEFENSE, and WITHOUT ANY AVENUE OF PATIENT APPEAL! NO
12 offering of a Defender or avenue of defense is ever made to the effected Veteran! Behavioral
13 contracts and threat if total denial of medical treatment are still being demanded of Veterans
14 the VA wishes to humiliate or expunge from their facilities, even though such behavioral
15 contracts have been ruled by the courts to be unconstitutional. Once applied to a patient – a
16 Veteran of military service – a Flag stays in place for an entire year without defense, appeal,
17 or review and there is no provision for any other means of removing the Flag. During the
18 existence of a Flag on a patient’s record – on every visit the patient makes to a VA facility,
19 Doctor, or provider the Veteran is accompanied by a uniformed, armed Federal Police
20 Officer both in public and private areas. NO ONE can miss that fact that the Veteran is
21 under escort of an armed Federal Officer and that Veteran is publicly humiliated in front of
22 all his or her pears and their families. Yet, despite the foreknowledge that Patient Record
23 Flags are abusive, the VA still allows them to be placed without defense for the Veteran and

1 without avenue of appeal. In fact, the VA systemically uses Patient Record Flags in
2 unconscionable abuse and retaliation upon Veterans who have made complaints against the
3 VA and as punishment for any behavior by a Veteran in attempt to protect the Veteran's
4 rights - his or her own or those of other Veterans! Since the use of behavioral contracts
5 under threat of cessation of care and benefits by the VA has been ruled unconstitutional, the
6 VA clearly and undeniably seeks another method by which to maintain unconstitutional
7 threat, duress, and coercion over Veterans who actively, with lawful complaint and/or
8 litigation, seek their property rights. *Refer to Presidential official admission. Refer to VA*
9 *Directive 2010 053.*

10 **BB. USA & VA GUILTY OF RICO ACTS?:** Under the RICO Acts and laws we do not
11 allow organized crime to benefit from such a process of denial of Due Process – neither the
12 heads of crime “families”, the actual criminal actors, nor the associates in the process of
13 covering up those crimes are allowed to deny access to the courts by the complainants! So
14 why do we allow USA and VA RICO violations against Veterans and their families to
15 continue UNCHALLENGED! While the VA perpetrators - the administrators and actors
16 continue to be more interested in saving funds and increasing their personal financial awards!

17 1. Pursuant to the definitions under the RICO Acts and the rights to civil recovery of treble
18 damages, recovery can be made against the corporate and governmental employers of any
19 employee or agent utilizing EXTORTION to unlawfully take or withhold either funds or
20 property that otherwise is lawfully due to the victim. Most especially where-ever the
21 proceeds of said EXTORTION have been distributed to the benefit of other entities,
22 either individual, corporate, or government.

1 2. The proceeds of the EXTORTION promulgated upon these Veterans via the illegal denial
2 of care, benefits, or application of threat, duress, and coercion, emotional and or physical
3 distress, and pain by the individual employees or agents of the VA/USA constitutes a
4 direct savings of funds which were then otherwise distributed to the benefit of
5 Respondents USA.

6 3. THEREFORE, by definition of law, the USA HAS BEEN the unlawful recipient of
7 EXTORTED funds, AND IS – without doubt or defense - liable under RICO!

8 **CC. THREAT, DURESS, COERCION, EXTORTION, AND RICO VIOLATIONS:**

9 *Refer to Presidential official admission.*

10 1. All the above issues of fact and violation prove a plethora of individual USA employee
11 and agent acts of threat, duress, coercion and extortion against the Veterans and their
12 families wittingly perpetrated, protected, and continued by individual employees and
13 agents of the United States of America – crimes accomplished by paid servants of We the
14 People. *Refer to Presidential official admission.*

15 2. The United States of America has DIRECTLY SAVED AND PROFITED - and
16 redistributed profits - from this plethora of individual acts of extortion and RICO
17 violation. *Refer to Presidential official admission.*

18 3. The Veterans' and their families – those so heinously and wittingly negatively effected
19 and deprived of their rightful funds and property by these VA violations of law and US
20 Constitution – are ENTITLED under Constitution and law to financial redress of their
21 grievances as well as to IMMEDIATE declarative and corrective redress by Congress.

22 *Refer to Presidential official admission.*

1 4. GRIEVANCE, INVESTIGATION, INDICTMENT, REDRESS, FINES and PUNITIVE
2 DAMAGES: These Veterans’ and their families are ENTITLED under law and
3 Constitution to the fullest investigation, impeachment, indictment, sentencing of the
4 instigators, and to the financial redress and fines for the violations, deprivations,
5 damages, wittingly inflicted upon them under color of law by their paid servants. These
6 victims are also ENTITLED to HEFTY punitive damages for the intentional
7 governmental efforts and genocide of Veterans involved therein. *Refer to Presidential*
8 *official admission.*

9 5. These victims are ENTITLED to the treble damages mandated under law, which
10 Congress intended to act to prohibit further similar violations under threat, duress, and
11 coercion. *Refer to Presidential official admission.*

12 6. This court is subject to the: US Constitutional mandate to provide legal, equitable, and
13 financial redress; US Constitutional mandate to provide speedy justice; and is US
14 Constitutionally “bound” to do so “anything... to the contrary not with standing!”

15 DD. **BREACH OF FIDUCIARY DUTY:** *Refer to Presidential official admission and 15*

16 *USC §77aaa Et Seq. Refer to VA Office of the Inspector General, Inspection of the VA*
17 *Regional Office Oakland, California, report dated May 10, 2012, No.: 12-00247-175.* The
18 provision of the Veterans’ VA medical care a benefits property rights was held in Trust by
19 the USA which ORDERED the VA to properly manage the distribution of that Veterans’
20 property. Instead, the USA actively worked and connived with the VA, the OMB, Congress,
21 and other servant agencies to the People, to wrongfully withhold, delay, deny, and prohibit
22 that property from the Veterans and to deceitfully redirect the Veterans to believe that they
23 did not hold the right to that property. Thereby – amongst many, many benefits to USA – the

1 USA was enabled to redirect funding, property, and personnel away from the provision of the
2 Veterans' rightful property held in trust. These deprivations are heinous and unconscionable,
3 beyond which, ALL the deprivations constitute actions in BREACH OF FIDUCIARY
4 DUTY on which the Veterans and their families hold the civil right to gain financial redress
5 in reparation of damages – as the ONLY workable redress for said damages.

6 **EE. COURT MANDATED TO PROVIDE FULL REDRESS:** This court is mandated by the
7 US Constitution and each individual justice's Certified Oath to Adhere to the supreme law of
8 the US Constitution, to provide whatever ruling is necessary to FORCE the fastest possible
9 correction to this rogue VA system by the congress of the United States of America. Since
10 this court has no jurisdiction to order Congress into action – but does hold the discretion to
11 order EXTREMELY costly financial redress, which WILL force Congress to act fast to
12 correct the system – this court is mandated by the Constitution to use the fullest possible
13 force of it's jurisdiction to instigate the fastest possible changes by Congress – the ONLY
14 instigation within this court's jurisdiction is the award of massive financial redress. Such
15 that the inaction of Congress would become foundation for a repeat litigation, on the same
16 grounds, for the same or increased redress, for the failure to make corrections and prohibit
17 further violations of the same ilk!

18 **THIS COURT HAS THE JURISDICTION TO INSTIGATE CONGRESS TO ACT !!!!!**

19 **VIII. COMPLAINTS**

20 A. **ALL COMPLAINTS:** are directly applicable to the individual and class of Veterans and
21 indirectly to any and all immediate family members of those Veterans whose worry for the
22 welfare of their loved Veteran was intensified, their suffering intensified, and /or their lives

1 irreparably damaged by the refusal and failure of the rogue VA to adhere to the existent laws
2 and provide care and benefits for the Veterans.

3 **B. STIPULATION BY RESPONDENTS:** In light of the Presidential admission of guilt, the
4 Plaintiff members of this class action request the Respondents to avoid extremely damaging,
5 defaming, internationally inflaming, destruction of the international image of the USA,
6 destruction of the honorable and patriotic image of the Veterans of military service to this
7 nation, public court argument of these issues under the evidence of the official admission of
8 guilt presented by President Barrack Obama – and to so stipulate the following points:

9 **1.** That the herein complaints of witting, premeditated, heinous acts, and deprivations of
10 Veterans’ and civil rights are valid and viable;

11 **2.** That there is no defense – after the Presidential admission - that said acts were committed
12 by the trustees in witting violation of their active fiduciary responsibilities in
13 management of the property and civil rights of the Veterans of military service to this
14 nation,

15 **3.** That the immediate family members of the Veterans who were unlawfully denied their
16 rights by the USA and VA, were also subjected to USA and VA infliction of emotional
17 and physical distress via their concern for the welfare of their loved Veteran,

18 **4.** That threat, duress, and coercion were inflicted upon the Veterans and their immediate
19 families by overzealous, errant, and rogue USA and VA employees and agents,

20 **5.** That if not actual, RICO-like actions were utilized by USA and VA employees and
21 agents to save funding, which mandate treble damages to the victims,

1 **6.** That funds saved were distributed to other uses by both the VA and the USA, establishing
2 a RICO system of extortion, unlawful distribution of the proceeds of criminal activity,
3 and RICO connection of the crimes,

4 **7.** That via unlawful denial and delay of proper and prompt medical care, the VA and USA
5 exacerbated the suffering of Veterans and their families, in many cases unto death of the
6 Veteran,

7 **8.** That the VA and USA have used denial, delay, and deceit in prohibiting proper and
8 prompt medical care and benefits in order to cause the entitled Veterans to stop
9 requesting their property rights, and therefore, in many cases, directly caused the death of
10 Veterans in the absence of care – i.e. having caused the untimely death (murder) of those
11 Veterans via the withholding of necessary medical care - Genocide,

12 **9.** That the VA and USA have engaged in intentional genocide via the intentional reduction
13 of the number of living Veterans so as to reduce the expenditures,

14 **10.** That the Veterans and their families are ENTITLED under the US Constitution, Codes
15 and applicable authorities to financial redress of grievance intended to be so large as to
16 prohibit further acts in similar, systemic, premeditated, governmental violation of the
17 Veterans' and citizens' rights – including the Right To Life as a PROPERTY RIGHT!

18 **C. DEPRIVATION OF US CONSTITUTIONAL CIVIL RIGHTS UNDER COLOR OF**

19 **LAW:** 42 USC §1981, 1982, 1983, 1988. The USA and VA have undeniably engaged in
20 conspiratorial deprivations of the civil rights of a multitude of Veterans, in the least those
21 named within the class herein, and upon a plethora of unnamed Veterans and their families.

22 By itself, President Obama's speech at Washington Navy Yard proves that the USA officially

1 recognizes AND ADMITS that it has deprived these Veterans and families of their civil
2 rights.

3 **D. CONSPIRATORIAL DEPRIVATION OF CIVIL RIGHTS:** 42 USC §1985. Without
4 any doubt, and indefensibly, there were an unknown multitude of government and VA
5 agents, administrators, employees, and contractors – including US Court justices – who
6 played parts in unlawfully and unconstitutionally perpetrating the decades of deprivations of
7 the Veterans’ civil rights. There is no conceivable thought process under which it can be
8 supported or argued that the effort was not conspiratorial in nature – it was.

9 **E. NEGLECT TO PROHIBIT DEPRIVATION OF CIVIL RIGHTS:** 42 USC §1986.
10 Without any doubt, and indefensibly, there were an unknown multitude of government and
11 VA agents, administrators, employees, and contractors – including US Court justices – who
12 recognized the unlawfully and unconstitutionally perpetration - for decades - of deprivations
13 of the Veterans’ civil rights. These players – especially the US Court justices – had the full
14 knowledge of the crimes, the full knowledge of how to make complaint to bring the crimes to
15 an end, every opportunity open to them to act in honorable outrage, AND WILLFULLY
16 CHOOSE TO REMAIN SILENT! There is no conceivable thought process under which it
17 can be supported or argued that they exhibited NEGLECT TO PREVENT the conspiratorial
18 deprivations of the Veterans’ civil rights.

19 **F. THREAT, DURESS, COERCION:** 18 USC §1961 Et Seq., Civil Remedies 18 USC §1964.
20 The basis of the threat, duress, and coercion, the USA and VA foisted upon all the plethora of
21 Veterans and families they deprived of their civil rights was that the meager amount of care
22 that was allowed would be stopped altogether if the Veteran did not stop demanding their full
23 rights. In many cases, VA utilized abusive, harassing, and damaging behavioral contracts,

1 flagging of the Veteran's patient records so as to cause the Veterans to be humiliated in front
2 of his/her fellow Veterans by the ARMED VA or Federal Police chaperone wherever the
3 Veteran move on any VA campus. Even into and out off Doctor's appointments.

4 **G. INTENTIONAL INFLICTION OF EMOTIONAL AND PHYSICAL DISTRESS:** The
5 decades of USA and VA threat, duress, coercion, deceit, denial, and deprivations of the
6 Veterans' civil rights caused thousands of cases of unmanaged PTSD, emotional problems,
7 family destruction, child abuse, emotional turmoil within families, all due to the VA
8 infliction of extensive worry and mental illness via it's deprivations fo the Veterans' civil
9 rights. The VA's own reports on the rate of family disintegration, divorce, and child abuse
10 amongst disabled Veterans spotlights the very fact that it was the VA which caused all that
11 destruction.

12 **H. GENDER BIAS AND SEGREGATION:** To this date the USA and VA still treat female
13 and male Veterans differently, expecting female Veterans to maintain the old "stiff upper lip"
14 expected of male Veterans and to express their medical concerns and ills the same way as do
15 male Veterans. The VA still expects that the very same mental counseling that works with
16 male Veterans WILL work with female Veterans. Even today, female Veterans are
17 disenfranchised, denied treatment, and even PUNISHED by the VA because they express a
18 more emotional relationship with their ills and worries. And yet, in every other aspect of our
19 society and culture, we EXPECT AND DEMAND our females to be more motional and of a
20 more emotionally nurturing nature. It is time that degenderization of law and rights came to
21 mean – and as actually applied – that both genders of Veterans are fully and equally entitled,
22 BUT THAT: each gender has it's own unique means of expressing itself and feeling it's ills
23 and emotional turmoil – that each gender has it's Creator given, human, civil, and legal rights

1 to have full medical and benefit service – the right that each gender of Veteran earned under
2 the contract of Active Duty service – provided via the friendly means and method most
3 successful to their gender – as a class of Veterans and citizens at minimum equal to all other
4 classes!

5 **I. TAMPERING AND OBFUSCATION OF OFFICIAL RECORDS:** Both the USA and
6 VA have been caught red-handed tampering with, obfuscating, destroying, and most recently
7 actually HIDING the active duty records of honorable Veterans in effort to unlawfully deny
8 VA care and benefits. In light of these outrageous discoveries it should be ruled that any
9 Veterans claiming for VA benefits – whose records cannot be found – must be awarded the
10 benefits pending the ability of USA and VA to prove the individual IS NOT entitled.

11 **J. DEFAMATION OF CHARACTER, LIBEL, AND SLANDER:** USA and VA have
12 embarked upon a plethora of avenues of efforts to defame the character, libel, and slander the
13 Veterans as a class of citizens – such as the Homeland Security release to law enforcement of
14 a manual that categorized ALL VETERANS as potential homeland terrorists –
15 OUTRAGEOUS! How dare publicly paid SERVANTS malign the character of ALL the
16 Veterans who have honorably served to protect this nation and to maintain the freedoms
17 which we all are supposed to enjoy! Further the VVA has utilized unconstitutional means to
18 defame, libel, and slander Veterans via behavioral contracts, flagging of patient records,
19 public humiliation, and news media releases to label certain groups of Veterans as “whiners”
20 and “troublemakers”, and actual REFUSAL to provide medical and other services to
21 individual Veterans. Yet, in each and every case, it was the VA deprivations of civil rights
22 and law which sparked the negative behavior of the Veteran in question – YES This is an
23 open challenge to respondents to publicly prove otherwise! Try it, please. The VA holds no

1 authority whatsoever to utilize any of these means of BEHAVIOR control and threat, duress,
2 and coercion upon Veterans, the VA is a service e agency NOT a law enforcement agency.

3 **K. MEDICAL MALPRACTICE:** In a plethora of individual cases, the VA has utilized
4 medical malpractice as: a money saving device, threat on behavioral control to stop Veterans
5 from complaining about the deprivations of their rights, and as means by which to force the
6 quieting of complaining Veterans by allowing them to become too ill to continue their
7 activism for their rights. Medical malpractice cover every aspect of the VA medical services,
8 from the arbitrary and capricious changing of any one Veterans medications because the VA
9 decides to stop carrying the medication that has been working for the Veteran, to denial of
10 access to certain medications as “non-formulary” (not carried within the VA pharmacy
11 system) while, in fact, the medication is listed and carried in the VA wide pharmacy system
12 but the local VA unit doesn’t wish to extend it’s costs to carry that medication, to
13 administrative denial of access to VA surgeries and other treatment as “not clinically
14 necessary”. If the Veteran’s VA primary physician or any other licensed private provider has
15 diagnosed the surgery or treatment as medically necessary, who is ANY VA administrator to
16 second guess that medcial diagnosis and DENY the care?

17 **L. WRONGFUL DEATH:** The VA has caused the deaths of many Veterans by illegally
18 denying medical care, treatment, and access the VA benefits that the Veteran has earned.
19 This is murder as defined under criminal law.

20 **M. GENOCIDE:** The USA and VA have worked together for over sixty years to restrict
21 Veterans access to VA medical care and benefits that would have extended their lives – with
22 the sole purpose of reducing the numbers of living Veterans and causing so much grief for
23 the disabled Veterans that they would be unable to muster sufficient stamina to unit in

1 political effort. Title 18 USC §§1091 Et Seq define this attempt “in whole or substantial
2 part” upon a specific national, ethnic, racial or religious group to be GENOCIDE. The USA
3 and VA are guilty of this offense under subsections (a) (1),(2),(3),(4),(5),and (6). Further,
4 under law, there is no exclusion of remedies public or civil for the crime.

5 N. **TERRORISM:** The acts, denials, deceits, and omissions of the USA and vA toward the
6 Veterans and the families are the exact same as those defined as TERRORISM under Title
7 18, USC §§2331 Et Seq. and pursuant to 18 USC §2333 civil remedy is authorized for the
8 damages. Depite any effort of governance to escape punitive action for its terrorist actions
9 against the citizens – such as 18 USC §2337 – the US Consitution – as the SUPREME law of
10 this land authorizes civil action against any government official for their breaches of law, ect.
11 NO lesser United States Code can override that Constitutional declaration of ultimate
12 sovereignty and right of the citizens to bring civil action against their government servants!

13 O. **BREACH OF FIDUCIARY RESPONSIBILITY:** pursuant to 15 USC §§77aaa Et Seq. the
14 UISA held the Veterans’ property – the VA provision of health care and benefits – in trust
15 for the Veterans. A trust that USA breached via its various efforts to deny, delay, and
16 deceitfully withhold that property from the Veterans. The Veterans and their families are
17 entitle to civil remedy for that breach of fiduciary duty.

18 **IX. REDRESS MANDATED BY LAW**

19 A. **DEPRIVATION OF US CONSTITUTIONAL CIVIL RIGHTS UNDER COLOR OF**
20 **LAW:** Redress on each violation mandated by 42 USC §1983 and 18 USC §1964.

21 **1. DEPRIVATION OF EQUALITY OF PROTECTION UNDER THE LAW:** Redress
22 on each violation mandated by 42 USC §1983 and 18 USC §1964.

- 1 **2. DEPRIVATION OF EQUALITY OF ACCESS TO THE COURTS:** Redress on each
2 violation mandated by 42 USC §1983 and 18 USC §1964.
- 3 **3. DEPRIVATION OF PROPERTY RIGHTS:** Redress on each violation mandated by
4 42 USC §1983 and 18 USC §1964.
- 5 **4. DEPRIVATION OF RIGHT TO PEACE AND TRANQUILITY:** Redress on each
6 violation mandated by 42 USC §1983 and 18 USC §1964.
- 7 **5. DEPRIVATION IF RIGHT TO ADMINISTRATIVE REMEDY:** Redress on each
8 violation mandated by 42 USC §1983 and 18 USC §1964.
- 9 **6. DEPRIVATION OF RIGHT TO DUE PROCESS:** Redress on each violation
10 mandated by 42 USC §1983 and 18 USC §1964.
- 11 **7. DEPRIVATION OF RIGHT TO PERSON AND PUBLIC IMAGE:** Redress on each
12 violation mandated by 42 USC §1983 and 18 USC §1964.
- 13 **8. BREACH OF FIDUCIARY DUTY:** Pursuant to 15 USC §77aaa Et Seq.
- 14 B. **CONSPIRATORIAL DEPRIVATION OF CIVIL RIGHTS:** Redress on each violation
15 mandated by 42 USC § 1983 and 18 USC §1964.
- 16 **1. DEPRIVATION OF EQUALITY OF PROTECTION UNDER THE LAW:** Redress
17 on each violation mandated by 42 USC §1983 and 18 USC §1964.
- 18 **2. DEPRIVATION OF EQUALITY OF ACCESS TO THE COURTS:** Redress on each
19 violation mandated by 42 USC §1983 and 18 USC §1964.
- 20 **3. DEPRIVATION OF PROPERTY RIGHTS:** Redress on each violation mandated by
21 42 USC §1983 and 18 USC §1964.
- 22 **4. DEPRIVATION OF RIGHT TO PEACE AND TRANQUILITY:** Redress on each
23 violation mandated by 42 USC §1983 and 18 USC §1964.

- 1 **5. DEPRIVATION IF RIGHT TO ADMINISTRATIVE REMEDY:** Redress on each
2 violation mandated by 42 USC §1983 and 18 USC §1964.
- 3 **6. DEPRIVATION OF RIGHT TO DUE PROCESS:** Redress on each violation
4 mandated by 42 USC §1983 and 18 USC §1964.
- 5 **7. DEPRIVATION OF RIGHT TO PERSON AND PUBLIC IMAGE:** Redress on each
6 violation mandated by 42 USC §1983 and 18 USC §1964.
- 7 **8. BREACH OF FIDUCIARY DUTY:** Pursuant to 15 USC §77aaa Et Seq.
- 8 **C. NEGLECT TO PROHIBIT DEPRIVATION OF CIVIL RIGHTS:** Redress on each
9 violation mandated by 42 USC § 1986.
- 10 **1. DEPRIVATION OF EQUALITY OF PROTECTION UNDER THE LAW:** Redress
11 on each violation mandated by 42 USC §1983 and 18 USC §1964.
- 12 **2. DEPRIVATION OF EQUALITY OF ACCESS TO THE COURTS:** Redress on each
13 violation mandated by 42 USC §1983 and 18 USC §1964.
- 14 **3. DEPRIVATION OF PROPERTY RIGHTS:** Redress on each violation mandated by
15 42 USC §1983 and 18 USC §1964.
- 16 **4. DEPRIVATION OF RIGHT TO PEACE AND TRANQUILITY:** Redress on each
17 violation mandated by 42 USC §1983 and 18 USC §1964.
- 18 **5. DEPRIVATION IF RIGHT TO ADMINISTRATIVE REMEDY:** Redress on each
19 violation mandated by 42 USC §1983 and 18 USC §1964.
- 20 **6. DEPRIVATION OF RIGHT TO DUE PROCESS:** Redress on each violation
21 mandated by 42 USC §1983 and 18 USC §1964.
- 22 **7. DEPRIVATION OF RIGHT TO PERSON AND PUBLIC IMAGE:** Redress on each
23 violation mandated by 42 USC §1983 and 18 USC §1964.

1 Petitioners also ask that this court retain jurisdiction under specification in any order for the
2 benefit of Plaintiffs, that Redress to named Plaintiffs shall be completed by check mailed via
3 USPS Certified Delivery mail within ninety (90) calendar days of the issuance of the written
4 order. Jurisdiction – and right to file contempt shall continue until the court is notified by
5 Plaintiffs of the receipt of the last redress check.

6 Plaintiffs request the court to hear within sixty (60) calendar days any filing of Contempt
7 Complaint based upon any order awarding redress to Plaintiffs.

8 **C. ON DEPRIVATIONS OF CIVIL RIGHTS:** To each Veteran and immediate family
9 member effected by the actions under complaint in this action – for each individual act in
10 deprivation of civil rights - the court shall award the Veteran or family member \$250,000
11 (two hundred fifty thousand US Dollars) per year of infliction of deprivation or such equal
12 equity relief as shall be agreed upon by the class and it’s non-attorney class representatives.

13 **D. ON CONSPIRATORIAL DEPRIVATION OF CIVIL RIGHTS:** To each Veteran and
14 immediate family member effected by the actions under complaint in this action – for each
15 individual act in deprivation of civil rights – the court shall award the Veteran or family
16 member \$250,000 (two hundred fifty thousand US Dollars) per year of infliction of
17 deprivation or such equal equity relief as shall be agreed upon by the class and it’s non-
18 attorney class representatives.

19 **E. ON NEGLECT TO PROHIBIT DEPRIVATION OF CIVIL RIGHTS:** To each Veteran
20 and immediate family member effected by the actions under complaint in this action – for
21 each individual act in deprivation of civil rights – the court shall award the Veteran or family
22 member \$250,000 (two hundred fifty thousand US Dollars) per year of infliction of

1 deprivation or such equal equity relief as shall be agreed upon by the class and it's non-
2 attorney class representatives.

3 **F. ON THREAT, DURESS, and COERCION:** To each Veteran and immediate family
4 member effected by the actions under complaint in this action – for each individual act in
5 deprivation of civil rights – the court shall award the Veteran or family member \$250,000
6 (two hundred fifty thousand US Dollars) per year of infliction of deprivation or such equal
7 equity relief as shall be agreed upon by the class and it's non-attorney class representatives.

8 **G. ON INTENTIONAL INFLICTION OF EMOTIONAL AND PHYSICAL DISTRESS:**
9 To each Veteran and immediate family member effected by the actions under complaint in
10 this action – for each individual act in deprivation of civil rights – the court shall award the
11 Veteran or family member \$250,000 (two hundred fifty thousand US Dollars) per year of
12 infliction of deprivation or such equal equity relief as shall be agreed upon by the class and
13 it's non-attorney class representatives.

14 **H. ON GENDER BIAS AND SEGREGATION:** To each Veteran and immediate family
15 member effected by the actions under complaint in this action – for each individual act in
16 deprivation of civil rights – the court shall award the Veteran or family member \$250,000
17 (two hundred fifty thousand US Dollars) per year of infliction of deprivation or such equal
18 equity relief as shall be agreed upon by the class and it's non-attorney class representatives.

19 **I. ON TAMPERING AND OBFUSCATION OF OFFICIAL RECORDS:** To each Veteran
20 and immediate family member effected by the actions under complaint in this action – for
21 each individual act in deprivation of civil rights – the court shall award the Veteran or family
22 member \$250,000 (two hundred fifty thousand US Dollars) per year of infliction of

1 deprivation or such equal equity relief as shall be agreed upon by the class and it's non-
2 attorney class representatives.

3 J. **ON MEDICAL MALPRACTICE:** To each Veteran and immediate family member
4 effected by the actions under complaint in this action – for each individual act in deprivation
5 of civil rights – the court shall award the Veteran or family member \$250,000 (two hundred
6 fifty thousand US Dollars) per year of infliction of deprivation or such equal equity relief as
7 shall be agreed upon by the class and it's non-attorney class representatives.

8 K. **ON WRONGFUL DEATH:** To the survivors of any similarly effected deceased Veteran, to
9 each immediate family member effected by the actions under complaint in this action – for
10 the wrongful death of their Veteran – the court shall award the Veteran or family member
11 \$1,000,000 (one million US Dollars) per death or such equal equity relief as shall be agreed
12 upon by the class and it's non-attorney class representatives.

13 L. **ON EFFORTS OF GENOCIDE:** To each Veteran and immediate family member effected
14 by the actions under complaint in this action – for each individual act in deprivation of civil
15 rights – the court shall award the Veteran or family member \$1,000,000 (one million US
16 Dollars) per year of infliction of deprivation or such equal equity relief as shall be agreed
17 upon by the class and it's non-attorney class representatives.

18 M. **ON TERRORISM:** To each Veteran and immediate family member effected by the actions
19 under complaint in this action – for each individual act in deprivation of civil rights – the
20 court shall award the Veteran or family member \$1,000,000 (one million US Dollars) per
21 year of infliction of deprivation or such equal equity relief as shall be agreed upon by the
22 class and it's non-attorney class representatives.

1 N. **ON VIOLATIONS IN CONTEMPT OF EXISTING LAW OR ORDER:** To each
2 Veteran and immediate family member effected by the actions under complaint in this action
3 – for each individual act of contempt – the court shall award the Veteran or family member
4 \$250,000 (two hundred fifty thousand US Dollars) per year of infliction of violations or such
5 equal equity relief as shall be agreed upon by the class and it’s non-attorney class
6 representatives.

7 O. **ON VA DENIALS OF ACCESS TO MEDICAL CARE:** To each Veteran and immediate
8 family member effected by acts of VA denial of access to medical care – for each individual
9 act of denial - the court shall award the Veteran or family member \$250,000 per year of
10 infliction of denials or such equitable relief as shall be agreed upon by the class and it’s non-
11 attorney class representatives.

12 P. **LIFE ENDANGERMENT:** To each Veteran and immediate family members – for each
13 individual act endangering the life of the Veteran – the court shall award \$2,500,000 (two
14 million five hundred thousand US Dollars) per year of infliction of or such equal equity relief
15 as shall be agreed upon by the class via it’s non-attorney class representatives.

16 Q. **ON BREACH OF FIDUCIARY DUTY:** To each Veteran and immediate family member –
17 for each individual act in breach of fiduciary duty – the court shall award \$250,000 (two
18 hundred fifty thousand US dollars) per year of infliction of or such equal equity relief as shall
19 be agreed upon by the class via it’s non-attorney representatives.

20 R. **IN PUNITIVE REDRESS FOR THREAT, DURESS, AND COERCION – DAMAGES**
21 **TREBLED ONCE:** – with the intent of creating costly prohibition to future violations of the
22 same ilk – that the court shall order that the sum amount of the above and all other damages
23 awarded to each Veteran or family member shall be trebled.

1 **S. PURSUANT TO MALICIOUS INTENT – DAMAGES TREBLED A SECOND TIME:**

2 that the amount of cumulative award, as trebled under item R. above, to any one Veteran of
3 family member shall be again trebled for the malicious intent involved.

4 **T. PURSUANT TO MANDATES UNDER RICO – DAMAGES TREBLED A THIRD**

5 **TIME:** that the amount of award, as trebled via items R. and then S. immediately above,
6 shall be again trebled under the RICO mandates of redress.

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XI. ATTESTATION AND AFFIDAVIT

1
2 County of Ada)
3 Ss ()
4 State of Idaho)
5

6 A. I, Gary Kendall, so state and certify that I am the Representative of the Class and a plaintiff in
7 the above action, and that:

- 8 1. Under penalty of perjury applicable to a sovereign citizen, I have read the above opinions
9 of fact, and that it is true and correct to the best of my knowledge, and;
- 10 2. **SERVICE MANDATED TO BE PROVIDED BY THE COURT:** That under Title 38
11 USC rights of Veterans to bring their litigations on deprivations of civil rights to the
12 courts free of charge, and under the In Forma Pauperis rights of all disabled Veterans on
13 disability compensation, the court is responsible to provide all process and service, and to
14 perform all duties for the In Forma Pauperis Litigant(s), whether as a class or as
15 individuals. In Forma Pauperis applies to ALL plaintiffs herein due to their receipt of
16 VA disability which is prohibited by federal law from being considered as income for any
17 other purpose than the necessary costs of living.
- 18 3. **SERVICE:** On or about , , I provided service of the above identified documents, via
19 personal hand delivery or through the USPS mail, upon Respondent’s, through their legal
20 representative at the offices of:
 - 21 **a. Personal Delivery:**
 - 22 **b. USPS mail:**
- 23 4. I approach this Court as a United States recognized sovereign, individual entity equal to
24 any in the kingdoms and nation states of humans, and as a Royal Prince in the Kingdom
25 of God, as empowered and officially recognized via the Declaration of Independence, the
26 Paris Peace Accord of 1783 and the United States Congress ratification of that Accord as
27 a United States Treaty and part of the supreme law of this land - and by the Constitution
28 of the United States of America, and;
- 29 5. I accept the sworn oaths of all officers and justices of the United States, the States of the
30 Union and all lawful Courts there-under – that each said such officer shall uphold and
31 defend the United States Constitution, US Laws, and US Treaties, as the Supreme Law of
32 this land, and that they shall each be BOUND thereby “ANYTHING... TO THE
33 CONTRARY NOTWITHSTANDING” - into evidence before this Court, and that this
34 Court – in this action - is a Court of United States Constitutional and US Law – and is
35 therefore bound to US Constitution, US Codes, US Regulations, and US Treaties as the
36 supreme law of the land - where Equity under the Law is Paramount and Mandatory.

37
38 _____
39 petitioner

40 Signed and dated, by the identified person

41
42 on this date _____.

43
44 _____
45 Notary

46
47 Commission expires: _____

1 **APPENDIX A: CITES OF LAW, PRECEDENT, AND AUTHORITIES**

2 **A. ON Gary Kendall Class Representative Petitioner:**

- 3 1. Existing USAF master record on Class Representative petitioner - which the VA never
4 actively sought under its duty to assist.
5 2. Existing VA "C" file on petitioner.
6 3. Existing VA records of the doctors, medical professionals, and VA facilities to which the
7 VA sent this petitioner during the course of evaluations and diagnoses.
8 4. Existing medical records in VA files on petitioner from private medical care sources.
9 5. Existing archived records of the USAF medical facilities and personnel providing care for
10 this petitioner during active duty – which the VA never actively sought under its duty to
11 assist.
12 6. Existing archived records of the USAF base commanders under which this Veterans
13 served during active duty - which the VA never actively sought under its duty to assist.
14 7. Existing archived records of the USAF Base Safety Office having authority in the duty
15 stations, instances, and incidences of active duty injury or medical care to petitioner -
16 which the VA never actively sought under its duty to assist.

17 **B. ON Assistant Class Representatives:**

- 18 1. Existing Dept of the Military master record on Assistant Class Representative petitioner -
19 which the VA never actively sought under its duty to assist.
20 2. Existing VA "C" file on petitioner.
21 3. Existing VA records of the doctors, medical professionals, and VA facilities to which the
22 VA sent this petitioner during the course of evaluations and diagnoses.
23 4. Existing medical records in VA files on petitioner from private medical care sources.
24 5. Existing archived records of the Dept of the Military medical facilities and personnel
25 providing care for this petitioner during active duty – which the VA never actively sought
26 under its duty to assist.
27 6. Existing archived records of the Dept of the military commanders under which the
28 Veteran served during active duty - which the VA never actively sought under its duty to
29 assist.
30 7. Existing archived records of the various facility safety offices having authority in the
31 duty stations, instances, and incidences of active duty injury or medical care to petitioner
32 - which the VA never actively sought under its duty to assist.

33 **C. ON the entire class of Plaintiff Veterans:**

- 34 1. Existing military branch master records on each Veteran plaintiff - which the VA never
35 actively sought under its duty to assist.
36 2. Existing VA "C" file on plaintiffs.
37 3. Existing VA records of the doctors, medical professionals, and VA facilities to which the
38 VA sent the Veteran plaintiffs during the course of evaluations and diagnoses.
39 4. Existing medical records in VA files on Veteran plaintiffs from private medical care
40 sources.
41 5. Existing archived records of the military medical facilities and personnel providing care
42 for the Veteran plaintiffs during active duty – which the VA never actively sought under
43 its duty to assist.
44 6. Existing archived records of the military base commanders under which the Veteran
45 plaintiffs served during active duty - which the VA never actively sought under its duty
46 to assist.

- 1 7. Existing archived records of the military Base Safety Offices having authority in the duty
2 stations, instances, and incidences of active duty injury or medical care to the Veteran
3 plaintiffs - which the VA never actively sought under its duty to assist.
4

5 **The Constitution of the United States of America**

6
7 **Title 1 USC §§**

8 112 Official Documents and Proclamations Admissibility as Evidence

9 113

10 204

11
12 **Title 42 USC §§**

13 1981 Equal rights under the law

14 1982 Property rights of citizens

15 1983 Civil action for deprivation of rights

16 1985 Conspiracy to interfere with civil rights

17 1986 Action for neglect to prevent

18 1987 Prosecution of violation of certain laws

19 1988 Proceedings in vindication of civil rights

20 1992 Speedy trial

21 1995 Criminal contempt proceedings

22 2000d Et Seq.

23 2000h Et Seq.

24
25 **Title 5 USC §§**

26 702 Right of review.

27 3331 Oaths of Office

28 App. §2 Purpose and establishment of Office of Inspector General;...

29 §4 duties and responsibilities; report of criminal violations to Attorney General

30
31 **Title 15 USC §§**

32 77aaa Et Seq.

33
34 **Title 18 USC §§**

35 2

36 241

37 242

38 1091(a)

39 1092

40 1961 - 1968

41 2331, 2333 Terrorism

42 2337

43
44 **Title 28 USC §§**

45 1331

46 1332

1 1343
2 1346
3 1361
4 1631
5 1711(3)
6 2671
7 2674

8

9 **Title 38 USC §§**

10 101(2) “VETERAN” defined.
11 101(12) “VETERAN OF WAR” (various forms) defined
12 105 Line of duty and misconduct
13 301 Department
14 501 Rules and Regulations
15 1101(1) Veteran includes deceased
16 1110, 1121, 1131, 1141, Basic entitlement
17 1151 Et Seq. General Compensation Provisions
18 1725 Reimbursement for emergency treatment
19 5103A Duty to assist claimants
20 5107(a) Claimant responsibility; benefit of the doubt

21

22 **Title 38 CFR §§**

23 3.102 Reasonable doubt
24 3.103 Procedural due process and appellate rights
25 3.159 Department of Veterans Affairs assistance in developing claims (c)(4) Providing medical
26 examinations or obtaining medical opinions.
27 17.1002 Substantive conditions for payment or reimbursement

28

29 **FRCP rule 23**

30

31 **Public Law 106-117**, the “Veterans Millennium Act Bill”

32

33 **PRECEDENT COURT RULINGS**

34 **Veterans for Common Sense Et Al v Shinseki** US Court of Appeals, No.:08-16728, D.C.,
35 No.: 3:07-cv-03758-SC, Dissenting Opinion, Senior Circuit Judge Schroeder.

36

37 **FTCA – Truman v. United States, 26 F. 3d 592 (5th Cir. 1994)**

38

39 **Cushman v Shinseki** USCA 2008-7129 (2009)

40

41 **President Obama’s official proclamation:** at Washington Navy Yard, Washington D.C., March
42 19, 2009.

43 <http://www.whitehouse.gov/issues/veterans> and [http://www.whitehouse.gov/the-press-](http://www.whitehouse.gov/the-press-office/2011/08/05/remarks-president-administrations-work-prepare-our-nations-veterans-work)
44 [office/2011/08/05/remarks-president-administrations-work-prepare-our-nations-veterans-work](http://www.whitehouse.gov/the-press-office/2011/08/05/remarks-president-administrations-work-prepare-our-nations-veterans-work)

45

1 **VA Office of the Inspector General, Inspection of the VA Regional Office Oakland,**
2 **California**, report dated May 10, 2012, No.: 12-00247-175
3
4 **NY Times Article** 6/18/2012 “Workers Point Finger at Their Own Agency Amid Backlog in
5 Veterans’ Benefits”
6
7