

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION**

JOHN EAKIN  
Plaintiff,

v.

AMERICAN BATTLE MONUMENTS  
COMMISSION; et al.,  
  
Defendants

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CASE NUMBER: SA-12-CA-1002-FB-HB

**PLAINTIFFS' SECOND REQUEST FOR ADMISSION**

Plaintiff John Eakin, through undersigned counsel, submits the following Second Request for Admissions to Defendants American Battle Monuments Commission (ABMC), Max Cleland, U.S. Department of Defense (DoD), Chuck Hagel, W. Montague Winfield and Johnie E. Webb to be responded to within thirty (30) days of service in accord with Rule 36 of the Federal Rules of Civil Procedure.

**INSTRUCTIONS**

If Defendants fail to respond or object to any request within 30 days of the service of the Requests, the matter shall be deemed admitted under Rule 36.

As is more fully set out in Rule 36(a), the Defendants must admit or deny each request, and, where necessary, specify the parts of each request to which they object or cannot in good faith admit or deny. If the Defendants object to only part of a Request, they must admit or deny the remainder of the Request. In the event that the Defendant objects to or denies any Request or portion of a Request, the Defendants must state the reasons for its objection or denial.

These Requests shall be deemed continuing and supplemental answers shall be required if you directly or indirectly obtain further information after your initial response as provided by FRCivP Rule 26(e).

Each Request solicits all information obtainable by Defendants from their attorneys, investigators, agents, employees and representatives. If you answer a Request on the basis that you lack sufficient information to respond, describe any and all efforts you made to inform yourself of the facts and circumstances necessary to answer or respond.

### **DEFINITIONS**

1. The word "or" is used herein in its inclusive sense unless the context clearly requires otherwise.

2. The term "document" means and includes without limitation all correspondence, memoranda, certificates, notes, books, manuals, pamphlets, brochures, advertisements, books of account, balance sheets, financial statements, profit and loss statements, working papers, schedules, diaries, calendars, logs, time records, equipment records, microfilms, transcripts, recordings, tapes, telexes, telegrams, files, proposals, bids, offers, contracts, agreements, change orders, worksheets, drawings, blue prints, designs, specifications, time cards, compilations, graphs, charts, bills, statements, invoices, receipts, bills of lading, shipping records, confirmations, applications, purchase orders, checks, checkbooks and other checking records, photographs, formulae, prescriptions, studies, projections, reports, computer programs, information contained in computer banks, tapes, cards, printouts and drafts to the extent they differ from the originals, and all other records and papers of any nature whatsoever.

3. Any reference to a specifically named person, corporation or other entity and any reference generally to "person" shall include the employees, agents, representatives and other

persons acting on behalf thereof or through whom the referenced person acts. The term "person" means and includes natural persons, corporations, partnerships, joint ventures, sole proprietorships, associations, trusts, estates, firms and any other entity.

4. As used herein, "Plaintiff" means, unless otherwise indicated, John Eakin.

5. As used herein, "Defendant", shall be deemed to include American Battle Monuments Commission (ABMC), Max Cleland, U.S. Department of Defense (DoD), Chuck Hagel, W. Montague Winfield and Johnie E. Webb.

### **REQUESTS FOR ADMISSION**

1. Admit or deny that family members of deceased U.S. military personnel have a right to possess for burial the remains of members of their family.

2. Admit or deny that the U.S. Government is obligated to timely identify the remains of deceased U.S. military personnel.

3. Admit or deny the authenticity and receipt of attachment number 1, an email dated 28 Feb 2013 from Benjamin Toyama to Kelly McKeague, Bradford Byrnes and Samuel Locklear.

Respectfully submitted,

/S/  
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Attorney for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on the 13th day of May, 2014, I forwarded the foregoing request for production to Defendants by email to the following address:

Susan Strawn, Assistant United States Attorney  
601 N.W. Loop 410, Suite 600  
San Antonio, Texas 78216  
Sstrawn@usa.doj.gov

/S/ \_\_\_\_\_  
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