

CLOSED,STAYED

**U.S. District Court [LIVE]  
Western District of Texas (San Antonio)  
CIVIL DOCKET FOR CASE #: 5:12-cv-01002-FB**

Eakin v. American Battle Monuments Commission et al  
Assigned to: Chief Judge Fred Biery  
Cause: 05:0701 Maritime Subsidy Board

Date Filed: 10/18/2012  
Date Terminated: 03/25/2015  
Jury Demand: None  
Nature of Suit: 890 Other Statutory  
Actions  
Jurisdiction: U.S. Government Defendant

**Plaintiff**

**John Eakin**

represented by **John Eakin**  
9865 Tower View Road  
Helotes, TX 78023  
210-695-2204  
Email: [jeakin@airsafety.com](mailto:jeakin@airsafety.com)  
PRO SE

**Jefferson Kean Moore**  
Jefferson Moore, Attorney at Law  
8438 Fountain Circle  
San Antonio, TX 78229  
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*TERMINATED: 07/16/2014*  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

V.

**Defendant**

**American Battle Monuments  
Commission**

represented by **Susan Leslie Strawn**  
United States Attorney's Office  
601 NW Loop 410 – Ste 600  
San Antonio, TX 78216  
(210) 384-7388  
Fax: 210/384-7322  
Email: [susan.strawn@usdoj.gov](mailto:susan.strawn@usdoj.gov)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Mitchell L. Weidenbach**  
Assistant United States Attorney  
601 N.W. Loop 410  
Suite 600  
San Antonio, TX 78216-5512  
(210) 384-7360  
Fax: 210/384-7312  
Email: [stephanie.rico@usdoj.gov](mailto:stephanie.rico@usdoj.gov)  
*TERMINATED: 10/09/2013*  
*ATTORNEY TO BE NOTICED*

**Defendant**

**Max Cleland**  
*in his official capacity as Secretary of the  
American Battle Monuments Commission*

represented by **Susan Leslie Strawn**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Mitchell L. Weidenbach**  
(See above for address)  
*TERMINATED: 10/09/2013*  
*ATTORNEY TO BE NOTICED*

**Defendant**

**U.S. Department of Defense**

represented by **Susan Leslie Strawn**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Mitchell L. Weidenbach**  
(See above for address)  
*TERMINATED: 10/09/2013*  
*ATTORNEY TO BE NOTICED*

**Defendant**

**W. Montague Winfield**  
*in his official capacity as Deputy*  
*Assistant Secretary of Defense for*  
*POW/Missing Personnel Affairs*

represented by **Susan Leslie Strawn**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Mitchell L. Weidenbach**  
(See above for address)  
*TERMINATED: 10/09/2013*  
*ATTORNEY TO BE NOTICED*

**Defendant**

**Johnie E. Webb**  
*in his official capacity as Deputy to the*  
*Commander for External Relations and*  
*Legislative Affairs, Joint POW/MIA*  
*Accounting Command*

represented by **Susan Leslie Strawn**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Mitchell L. Weidenbach**  
(See above for address)  
*TERMINATED: 10/09/2013*  
*ATTORNEY TO BE NOTICED*

**Defendant**

**Chuck Hagel**  
*in his official capacity as Secretary of*  
*Defense*

represented by **Susan Leslie Strawn**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Mitchell L. Weidenbach**  
(See above for address)  
*TERMINATED: 10/09/2013*  
*ATTORNEY TO BE NOTICED*

**Movant**

**Sally Hill Jones, Ph.D.**

represented by **Sally Hill Jones, Ph.D.**  
2661 Red Bud Way  
New Braunfels, TX 78132  
(830) 624-4170  
PRO SE

**Movant**

**John A. Patterson**

represented by **John A. Patterson**  
721 North Quidnessett Road  
North Kingston, RI 02852  
(401) 885-7776

PRO SE

**Movant****Debbie Gerlich Christian**represented by **Debbie Gerlich Christian**980 View Ridge  
Pipe Creek, TX 78063  
(210) 316-0578  
PRO SE

Date Filed	#	Docket Text
10/18/2012		This case has been randomly ASSIGNED to Chief Judge Fred Biery (mjm) (Entered: 10/19/2012)
10/18/2012		If ordered by the court, all referrals will be assigned to Magistrate Judge Bemporad (mjm) (Entered: 10/19/2012)
10/18/2012	<u>1</u>	COMPLAINT FOR DECLARATORY JUDGMENT AND INJUNCTIVE RELIEF (Filing fee \$ 350 receipt number 500018463), filed by John Eakin (Attachments: # <u>1</u> Exhibit List; Voluminous Exhibits not Available Electronically, # <u>2</u> Civil Cover Sheet and Filing Fee Receipt)(mjm) (Entered: 10/22/2012)
10/18/2012	<u>2</u>	Summons Issued as to American Battle Monuments Commission, Max Cleland, Leon E. Panetta, U.S. Department of Defense, Johnie E. Webb, W. Montague Winfield, U.S. Attorney and U.S. Attorney General (mjm) (Entered: 10/22/2012)
10/22/2012	<u>3</u>	MOTION for leave to file electronically by John Eakin. (rg) (Entered: 10/23/2012)
10/29/2012	<u>4</u>	ORDER REFERRING CASE to Magistrate Judge Henry J. Bemporad for pretrial proceedings including any requests for injunctive relief. Signed by Chief Judge Fred Biery. Referral Magistrate Judge: Henry J. Bemporad. (rg) (Entered: 10/29/2012)
10/30/2012	<u>5</u>	ORDER GRANTING <u>3</u> Motion for leave to file electronically. Signed by Judge Henry J. Bemporad. (rg) (Entered: 10/30/2012)
11/06/2012	<u>6</u>	SUMMONS Returned Executed by John Eakin. U.S. Attorney-San Antonio for Leon E. Panetta served on 10/18/2012, answer due 12/17/2012. (rg) (Entered: 11/06/2012)
12/14/2012	<u>7</u>	Unopposed MOTION for Extension of Time to File Answer <i>or Otherwise Respond</i> by American Battle Monuments Commission, Max Cleland, Leon E. Panetta, U.S. Department of Defense, Johnie E. Webb, W. Montague Winfield. (Attachments: # <u>1</u> Proposed Order). Motions referred to Judge Henry J. Bemporad. (Strawn, Susan) (Entered: 12/14/2012)
12/17/2012	<u>8</u>	ORDER GRANTING <u>7</u> Motion for Extension of Time to Answer; American Battle Monuments Commission answer due 2/15/2013; Max Cleland answer due 2/15/2013; Leon E. Panetta answer due 2/15/2013; U.S. Department of Defense answer due 2/15/2013; Johnie E. Webb answer due 2/15/2013; W. Montague Winfield answer due 2/15/2013. Signed by Judge Henry J. Bemporad. (rg) (Entered: 12/17/2012)
12/18/2012	<u>9</u>	Opposed MOTION for Discovery by John Eakin.. Motions referred to Judge Henry J. Bemporad. (Eakin, John) (Entered: 12/18/2012)
12/26/2012	<u>10</u>	Response in Opposition to Motion, filed by American Battle Monuments Commission, Max Cleland, Leon E. Panetta, U.S. Department of Defense, Johnie E. Webb, W. Montague Winfield, re <u>9</u> Opposed MOTION for Discovery filed by Plaintiff John Eakin (Strawn, Susan) (Entered: 12/26/2012)
12/30/2012	<u>11</u>	REPLY to Response to Motion, filed by John Eakin, re <u>9</u> Opposed MOTION for Discovery filed by Plaintiff John Eakin (Attachments: # <u>1</u> Exhibit, # <u>2</u> Exhibit, # <u>3</u> Exhibit, # <u>4</u> Exhibit)(Eakin, John) (Entered: 12/30/2012)
02/01/2013	<u>12</u>	NOTICE of Filing of <i>Certified Administrative Record</i> by American Battle Monuments Commission, U.S. Department of Defense (Attachments: # <u>1</u> Administrative Record Table of Contents)(Strawn, Susan) Modified on 2/1/2013

		Attached one large folder with Administrative Records, forwarded to Magistrate Judge Bemporad (wg). (Entered: 02/01/2013)
02/15/2013	<u>13</u>	NOTICE of Filing of <i>Certified Supplemental Administrative Record</i> by U.S. Department of Defense (Strawn, Susan) (Entered: 02/15/2013)
02/15/2013	<u>14</u>	MOTION for Leave to Exceed Page Limitation by American Battle Monuments Commission, Max Cleland, Leon E. Panetta, U.S. Department of Defense, Johnnie E. Webb, W. Montague Winfield. (Attachments: # <u>1</u> Brief, # <u>2</u> Affidavit). Motions referred to Judge Henry J. Bemporad. (Strawn, Susan) (Entered: 02/15/2013)
02/15/2013	<u>15</u>	Opposed MOTION to Compel <i>Completion of Administrative Record</i> by John Eakin. (Attachments: # <u>1</u> Memo in Support, # <u>2</u> Affidavit, # <u>3</u> Proposed Order). Motions referred to Judge Henry J. Bemporad. (Eakin, John) (Entered: 02/15/2013)
02/15/2013		Certified Supplemental Administrative Record received – forwarded to Judge Bemporad. (rf) (Entered: 02/19/2013)
02/19/2013	<u>16</u>	Unopposed MOTION for Extension of Time to File Response/Reply as to <u>14</u> MOTION for Leave to Exceed Page Limitation by John Eakin.. Motions referred to Judge Henry J. Bemporad. (Eakin, John) (Entered: 02/19/2013)
02/19/2013	<u>17</u>	ORDER GRANTING <u>14</u> Motion for Leave to File Excess Pages. Signed by Judge Henry J. Bemporad. (rg) (Entered: 02/20/2013)
02/19/2013	<u>18</u>	MOTION to Dismiss or, in the alternative MOTION for Summary Judgment by American Battle Monuments Commission, Max Cleland, Leon E. Panetta, U.S. Department of Defense, Johnnie E. Webb, W. Montague Winfield. (Attachments: # <u>1</u> Declaration) Motions referred to Judge Henry J. Bemporad. (rg) (Entered: 02/20/2013)
02/21/2013	<u>19</u>	ORDER GRANTING <u>16</u> Motion for Extension of Time to File Response/Reply on or before April 22, 2013. Signed by Judge Henry J. Bemporad. (rg) (Entered: 02/21/2013)
02/22/2013	<u>20</u>	Unopposed MOTION for Extension of Time to File Response/Reply as to <u>15</u> Opposed MOTION to Compel <i>Completion of Administrative Record</i> by American Battle Monuments Commission, Max Cleland, Leon E. Panetta, U.S. Department of Defense, Johnnie E. Webb, W. Montague Winfield.. Motions referred to Judge Henry J. Bemporad. (Strawn, Susan) (Entered: 02/22/2013)
02/22/2013	<u>21</u>	ORDER GRANTING <u>20</u> Defendant's Unopposed Motion for Extension of Time to File Response/Reply to Plaintiff's Objection to the Administrative Record and Opposed Motion to Compel. Response to Plaintiff's Objection to the Administrative Record and Opposed Motion to Compel completion of Administrative Record (Docket Entry 15) on or before March 8, 2013. Signed by Judge Henry J. Bemporad. (kh) (Entered: 02/22/2013)
03/08/2013	<u>22</u>	Response in Opposition to Motion, filed by American Battle Monuments Commission, Max Cleland, Leon E. Panetta, U.S. Department of Defense, Johnnie E. Webb, W. Montague Winfield, re <u>15</u> Opposed MOTION to Compel <i>Completion of Administrative Record</i> filed by Plaintiff John Eakin (Strawn, Susan) (Entered: 03/08/2013)
03/13/2013	<u>23</u>	REPLY to Response to Motion, filed by John Eakin, re <u>15</u> Opposed MOTION to Compel <i>Completion of Administrative Record</i> filed by Plaintiff John Eakin (Attachments: # <u>1</u> Exhibit Memo For Record, # <u>2</u> Exhibit Rec. Doc. 14, # <u>3</u> Exhibit Stone Decl)(Eakin, John) (Entered: 03/13/2013)
03/20/2013	<u>24</u>	MOTION for Declaratory Judgment by John Eakin. (Attachments: # <u>1</u> Memo in Support, # <u>2</u> Exhibit #1, # <u>3</u> Exhibit #2, # <u>4</u> Exhibit #3, # <u>5</u> Exhibit #4, # <u>6</u> Exhibit #5, # <u>7</u> Exhibit #6, # <u>8</u> Exhibit #7, # <u>9</u> Exhibit #8). Motions referred to Judge Henry J. Bemporad. (Eakin, John) (Entered: 03/20/2013)
03/25/2013	<u>25</u>	ORDER DENYING AS MOOT <u>9</u> Motion for Discovery. Signed by Judge Henry J. Bemporad. (rg) (Entered: 03/25/2013)

03/27/2013	<u>26</u>	Response in Opposition to Motion, filed by American Battle Monuments Commission, Max Cleland, Leon E. Panetta, U.S. Department of Defense, Johnie E. Webb, W. Montague Winfield, re <u>24</u> MOTION for Declaratory Judgment filed by Plaintiff John Eakin (Strawn, Susan) (Entered: 03/27/2013)
04/02/2013	<u>27</u>	Response in Opposition to Motion, filed by John Eakin, re <u>18</u> MOTION to Dismiss MOTION for Summary Judgment filed by Defendant U.S. Department of Defense, Defendant W. Montague Winfield, Defendant Max Cleland, Defendant Johnie E. Webb, Defendant Leon E. Panetta, Defendant American Battle Monuments Commission (Attachments: # <u>1</u> Exhibit Army Reg 638-2 Extract)(Eakin, John) (Entered: 04/02/2013)
04/02/2013	<u>28</u>	REPLY to Response to Motion, filed by John Eakin, re <u>24</u> MOTION for Declaratory Judgment filed by Plaintiff John Eakin (Eakin, John) (Entered: 04/02/2013)
04/09/2013	<u>29</u>	REPLY to Response to Motion, filed by American Battle Monuments Commission, Max Cleland, Leon E. Panetta, U.S. Department of Defense, Johnie E. Webb, W. Montague Winfield, re <u>18</u> MOTION to Dismiss MOTION for Summary Judgment filed by Defendant U.S. Department of Defense, Defendant W. Montague Winfield, Defendant Max Cleland, Defendant Johnie E. Webb, Defendant Leon E. Panetta, Defendant American Battle Monuments Commission (Strawn, Susan) (Entered: 04/09/2013)
06/11/2013	<u>30</u>	REPORT AND RECOMMENDATIONS re <u>24</u> Motion for Declaratory Judgment, be DENIED; <u>15</u> Motion to compel completion of administrative record be DENIED; <u>18</u> Motion to Dismiss or Motion for Summary Judgment, be GRANTED IN PART and Plaintiff's case be DISMISSED WITHOUT PREJUDICE. Signed by Judge Henry J. Bemporad. (mailed on 6/11/2013 by certified mail, or sent via electronic transmittal)(rg) Modified on 6/28/2013 (rg). (Entered: 06/11/2013)
06/26/2013	<u>31</u>	MOTION for Leave to File 1st Amended Complaint by John Eakin. (Attachments: # <u>1</u> 1st Amended Complaint, # <u>2</u> Exhibit Plf Ex 25, # <u>3</u> Exhibit Plf Ex 26). Motions referred to Judge Henry J. Bemporad. (Eakin, John) (Entered: 06/26/2013)
07/03/2013	<u>32</u>	Response in Opposition to Motion, filed by American Battle Monuments Commission, Max Cleland, Leon E. Panetta, U.S. Department of Defense, Johnie E. Webb, W. Montague Winfield, re <u>31</u> MOTION for Leave to File 1st Amended Complaint filed by Plaintiff John Eakin (Strawn, Susan) (Entered: 07/03/2013)
07/07/2013	<u>33</u>	REPLY to Response to Motion, filed by John Eakin, re <u>31</u> MOTION for Leave to File 1st Amended Complaint filed by Plaintiff John Eakin (Eakin, John) (Entered: 07/07/2013)
08/05/2013	<u>34</u>	ORDER ADOPTING REPORT AND RECOMMENDATIONS for <u>30</u> Report and Recommendations. (rg) (Entered: 08/05/2013)
08/12/2013	<u>35</u>	ORDER APPOINTING Counsel: Jefferson Kean Moore is appointed Pro Bono for John Eakin. Signed by Judge Henry J. Bemporad. (rg) (Entered: 08/12/2013)
08/19/2013	<u>36</u>	Order for Scheduling Recommendations/Proposed Scheduling Order. Parties shall submit a scheduling recommendations/proposed scheduling order to the Court within sixty (60) days after the appearance of any defendant. Scheduling Recommendations/Proposed Scheduling Order due by 9/9/2013,. Signed by Judge Henry J. Bemporad. (wg) (Entered: 08/19/2013)
09/06/2013	<u>37</u>	Joint MOTION to Extend Scheduling Order Deadlines by John Eakin.. Motions referred to Judge Henry J. Bemporad. (Moore, Jefferson) (Entered: 09/06/2013)
09/06/2013	<u>38</u>	ORDER GRANTING <u>37</u> Motion to Extend Scheduling Order Deadlines. The Scheduling Order shall be delayed until after the filing and service of the amended complaint. Signed by Judge Henry J. Bemporad. (rg) (Entered: 09/06/2013)
10/03/2013	<u>39</u>	AMENDED COMPLAINT against All Defendants amending, filed by John Eakin.(Moore, Jefferson) (Entered: 10/03/2013)
10/09/2013	<u>40</u>	MOTION to Stay Case <i>Defendants' Unopposed Motion for a Stay of Case in Light of Lapse of Appropriations</i> by American Battle Monuments Commission, Max Cleland, Chuck Hagel, U.S. Department of Defense, Johnie E. Webb, W.

		Montague Winfield. (Attachments: # <u>1</u> Proposed Order). Motions referred to Judge Henry J. Bemporad. (Strawn, Susan) (Entered: 10/09/2013)
10/10/2013	<u>41</u>	ORDER GRANTING <u>40</u> Motion to Stay Case until the restoration of appropriations to the Department of Justice. Signed by Judge Henry J. Bemporad. (rg) (Entered: 10/10/2013)
10/17/2013	<u>42</u>	ORDER LIFTING STAY – The Parties shall file a joint Proposed Scheduling Order due by 12/2/2013. Signed by Judge Henry J. Bemporad. (rg) (Entered: 10/18/2013)
11/27/2013	<u>43</u>	Scheduling Recommendations/Proposed Scheduling Order <i>Joint Proposed Scheduling Recommendations</i> by American Battle Monuments Commission, Max Cleland, Chuck Hagel, U.S. Department of Defense, Johnie E. Webb, W. Montague Winfield. (Attachments: # <u>1</u> Proposed Order)(Strawn, Susan) (Entered: 11/27/2013)
12/04/2013	<u>44</u>	ORDER Answer due 12/16/13, ADR Report Deadline due by 2/21/2014. Signed by Judge Henry J. Bemporad. (rf) (Entered: 12/04/2013)
12/04/2013		Reset Deadlines: American Battle Monuments Commission answer due 12/16/2013; Max Cleland answer due 12/16/2013; Chuck Hagel answer due 12/16/2013; U.S. Department of Defense answer due 12/16/2013; Johnie E. Webb answer due 12/16/2013; W. Montague Winfield answer due 12/16/2013. (rf) (Entered: 12/04/2013)
12/16/2013	<u>45</u>	Unopposed MOTION for Leave to Exceed Page Limitation by American Battle Monuments Commission, Max Cleland, Chuck Hagel, U.S. Department of Defense, Johnie E. Webb, W. Montague Winfield. (Attachments: # <u>1</u> Memo in Support Motion to Dismiss, or, in the Alternative, for Summary Judgment). Motions referred to Judge Henry J. Bemporad. (Strawn, Susan) (Entered: 12/16/2013)
12/17/2013	<u>46</u>	ORDER GRANTING <u>45</u> Motion for Leave to File Excess Pages. Signed by Judge Henry J. Bemporad. (rg) (Entered: 12/17/2013)
12/17/2013	<u>47</u>	MOTION to Dismiss First Amended Complaint or, in the alternative, MOTION for Summary Judgment by American Battle Monuments Commission, Max Cleland, Chuck Hagel, U.S. Department of Defense, Johnie E. Webb, W. Montague Winfield. Motions referred to Judge Henry J. Bemporad. (rg) (Entered: 12/17/2013)
12/17/2013	<u>48</u>	Unopposed MOTION <i>for Relief from ADR Referral</i> by John Eakin.. Motions referred to Judge Henry J. Bemporad. (Moore, Jefferson) (Entered: 12/17/2013)
12/19/2013	<u>49</u>	ORDER DENYING <u>48</u> Motion for relief from ADR Referral Signed by Judge Henry J. Bemporad. (rg) (Entered: 12/19/2013)
01/21/2014	<u>50</u>	Response in Opposition to Motion, filed by John Eakin, re <u>47</u> MOTION to Dismiss MOTION for Summary Judgment filed by Defendant U.S. Department of Defense, Defendant Chuck Hagel, Defendant W. Montague Winfield, Defendant Max Cleland, Defendant Johnie E. Webb, Defendant American Battle Monuments Commission (Moore, Jefferson) (Entered: 01/21/2014)
02/03/2014	<u>51</u>	Opposed MOTION for Discovery by John Eakin. (Attachments: # <u>1</u> Exhibit Attachment 1, # <u>2</u> Exhibit Attachment 2). Motions referred to Judge Henry J. Bemporad. (Moore, Jefferson) (Entered: 02/03/2014)
02/04/2014	<u>52</u>	MOTION for Leave to Exceed Page Limitation by American Battle Monuments Commission, Max Cleland, Chuck Hagel, U.S. Department of Defense, Johnie E. Webb, W. Montague Winfield. (Attachments: # <u>1</u> Brief Reply to Response to Motion to Dismiss First Amended Complaint). Motions referred to Judge Henry J. Bemporad. (Strawn, Susan) (Entered: 02/04/2014)
02/05/2014	<u>53</u>	ORDER GRANTING <u>52</u> Motion for Leave to File Excess Pages. Signed by Judge Henry J. Bemporad. (rg) (Entered: 02/05/2014)

02/05/2014	<u>54</u>	REPLY to Response to Motion, filed by American Battle Monuments Commission, Max Cleland, Chuck Hagel, U.S. Department of Defense, Johnie E. Webb, W. Montague Winfield, re <u>47</u> MOTION to Dismiss MOTION for Summary Judgment filed by Defendant U.S. Department of Defense, Defendant Chuck Hagel, Defendant W. Montague Winfield, Defendant Max Cleland, Defendant Johnie E. Webb, Defendant American Battle Monuments Commission (rg) (Entered: 02/05/2014)
02/14/2014	<u>55</u>	Response in Opposition to Motion, filed by American Battle Monuments Commission, Max Cleland, Chuck Hagel, U.S. Department of Defense, Johnie E. Webb, W. Montague Winfield, re <u>51</u> Opposed MOTION for Discovery filed by Plaintiff John Eakin (Strawn, Susan) (Entered: 02/14/2014)
02/20/2014	<u>56</u>	ORDER Setting Hearing on <u>51</u> Opposed MOTION for Discovery : Motion Hearing set for 3/18/2014 2:00 PM before Judge Henry J. Bemporad. Signed by Judge Henry J. Bemporad. (aej) (Entered: 02/20/2014)
02/21/2014	<u>57</u>	ADR Report Filed – <i>Joint ADR Report</i> by John Eakin(Moore, Jefferson) (Entered: 02/21/2014)
02/21/2014	<u>58</u>	REPLY to Response to Motion, filed by John Eakin, re <u>51</u> Opposed MOTION for Discovery filed by Plaintiff John Eakin (Attachments: # <u>1</u> Exhibit Stars and Stripes News Article, # <u>2</u> Exhibit Fox News Article)(Moore, Jefferson) (Entered: 02/21/2014)
03/13/2014	<u>59</u>	Unopposed MOTION to Continue <i>of Discovery Hearing</i> by John Eakin.. Motions referred to Judge Henry J. Bemporad. (Moore, Jefferson) (Entered: 03/13/2014)
03/14/2014	<u>60</u>	ORDER GRANTING <u>59</u> Motion to Continue. Motion Hearing is reset for April 10, 2014 @ 2:00 p.m. Signed by Judge Henry J. Bemporad. (rg) (Entered: 03/14/2014)
03/14/2014		Motion Hearing: <u>51</u> Opposed MOTION for Discovery. Motion Hearing reset for 4/10/2014 2:00 PM before Judge Henry J. Bemporad. (rg) (Entered: 03/14/2014)
03/25/2014	<u>61</u>	ADVISORY TO THE COURT by John Eakin. (Moore, Jefferson) (Entered: 03/25/2014)
04/10/2014	<u>63</u>	Minute Entry for proceedings held before Judge Henry J. Bemporad: Motion Hearing held on 4/10/2014 re <u>51</u> Opposed MOTION for Discovery filed by John Eakin (Minute entry documents are not available electronically.). (Court Reporter ftr gold.)(rg) (Entered: 04/15/2014)
04/11/2014	<u>62</u>	ORDER GRANTING IN PART <u>51</u> Motion for Discovery. The parties must complete discovery by October 10, 2014. Signed by Judge Henry J. Bemporad. (rg) (Entered: 04/11/2014)
04/11/2014		Reset Scheduling Order Deadlines: Discovery due by 10/10/2014. (rg) (Entered: 04/11/2014)
07/08/2014	<u>64</u>	MOTION to Dismiss <i>on Suggestion of Mootness and Motion to Stay Discovery</i> by American Battle Monuments Commission, Max Cleland, Chuck Hagel, U.S. Department of Defense, Johnie E. Webb, W. Montague Winfield. (Attachments: # <u>1</u> Affidavit, # <u>2</u> Exhibit, # <u>3</u> Exhibit). Motions referred to Judge Henry J. Bemporad. (Strawn, Susan) (Entered: 07/08/2014)
07/08/2014	<u>65</u>	MOTION for Leave to File Motions to Vacate Appointment of Counsel and to Compel Production by John Eakin. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3, # <u>4</u> Exhibit 4, # <u>5</u> Exhibit 5). Motions referred to Judge Henry J. Bemporad. (aej) (Entered: 07/09/2014)
07/09/2014	<u>66</u>	ORDER GRANTING IN PART <u>65</u> MOTION for Leave to File Motions to Vacate Appointment of Counsel; DENIED WITHOUT PREJUDICE Motion to Compel Production filed by John Eakin. (Setting Status Conference for 7/16/2014 11:00 AM before Judge Henry J. Bemporad) It is further ORDERED that discovery in this case is STAYED pending the Court's ruling on the Motion to Vacate Appointment of Consel. Signed by Judge Henry J. Bemporad. (rg) (Entered: 07/10/2014)

07/10/2014	<u>67</u>	MOTION to Vacate Appointment of Pro Bono Counsel by John Eakin. Motions referred to Judge Henry J. Bemporad. (rg) (Entered: 07/10/2014)
07/14/2014	<u>68</u>	MOTION to Withdraw as Attorney <i>for Plaintiff</i> by John Eakin. (Attachments: # <u>1</u> Exhibit One Pro Se Motion to Vacate Appointed Counsel, # <u>2</u> Exhibit Two TX Disciplinary Rules for Professional Conduct). Motions referred to Judge Henry J. Bemporad. (Moore, Jefferson) (Entered: 07/14/2014)
07/15/2014	<u>69</u>	RESPONSE to Motion, filed by American Battle Monuments Commission, Max Cleland, Chuck Hagel, U.S. Department of Defense, Johnie E. Webb, W. Montague Winfield, re <u>67</u> MOTION to Vacate filed by Plaintiff John Eakin (Strawn, Susan) (Entered: 07/15/2014)
07/16/2014	<u>70</u>	Minute Entry for proceedings held before Judge Henry J. Bemporad: Status Conference held on 7/16/2014. (Minute entry documents are not available electronically.) (Court Reporter ftr gold.)(rg) (Entered: 07/16/2014)
07/16/2014	<u>71</u>	ORDER GRANTING <u>67</u> Motion to Vacate Appointment of Pro Bono Counsel; GRANTING <u>68</u> Motion to Withdraw as Attorney. Signed by Judge Henry J. Bemporad. (rg) (Entered: 07/16/2014)
07/20/2014	<u>72</u>	MOTION to Compel <i>Production</i> by John Eakin. (Attachments: # <u>1</u> Exhibit, # <u>2</u> Exhibit, # <u>3</u> Exhibit, # <u>4</u> Exhibit). Motions referred to Judge Henry J. Bemporad. (Eakin, John) (Entered: 07/20/2014)
07/20/2014	<u>73</u>	Response in Opposition to Motion, filed by John Eakin, re <u>64</u> MOTION to Dismiss <i>on Suggestion of Mootness and Motion to Stay Discovery</i> filed by Defendant U.S. Department of Defense, Defendant Chuck Hagel, Defendant W. Montague Winfield, Defendant Max Cleland, Defendant Johnie E. Webb, Defendant American Battle Monuments Commission (Attachments: # <u>1</u> Affidavit Sally Hill Jones)(Eakin, John) (Entered: 07/20/2014)
07/25/2014	<u>74</u>	MOTION for Protective Order and Response in Opposition to Motion, filed by American Battle Monuments Commission, Max Cleland, Chuck Hagel, U.S. Department of Defense, Johnie E. Webb, W. Montague Winfield, re <u>72</u> MOTION to Compel <i>Production</i> filed by Plaintiff John Eakin <i>Defendants' Response to Plaintiff's Motio to Compel and Motion for Protective Order</i> (Attachments: # <u>1</u> Exhibit, # <u>2</u> Exhibit, # <u>3</u> Exhibit, # <u>4</u> Proposed Order)(Strawn, Susan) Modified on 7/28/2014, to add relief and edit text (rf). (Entered: 07/25/2014)
07/25/2014	<u>75</u>	REPLY to Response to Motion, filed by American Battle Monuments Commission, Max Cleland, Chuck Hagel, U.S. Department of Defense, Johnie E. Webb, W. Montague Winfield, re <u>64</u> MOTION to Dismiss <i>on Suggestion of Mootness and Motion to Stay Discovery</i> filed by Defendant U.S. Department of Defense, Defendant Chuck Hagel, Defendant W. Montague Winfield, Defendant Max Cleland, Defendant Johnie E. Webb, Defendant American Battle Monuments Commission (Strawn, Susan) (Entered: 07/25/2014)
07/28/2014	<u>76</u>	REPLY to Response to Motion, filed by John Eakin, re <u>72</u> MOTION to Compel <i>Production</i> filed by Plaintiff John Eakin (Eakin, John) (Entered: 07/28/2014)
07/28/2014	<u>77</u>	ORDER GRANTING IN PART AND DENYING IN PART <u>72</u> Motion to Compel; GRANTING IN PART AND DENYING IN PART <u>74</u> Motion for Protective Order. Signed by Judge Henry J. Bemporad. (aej) (Entered: 07/28/2014)
07/29/2014	<u>78</u>	Miscellaneous Objection to <u>71</u> Order on Motion to Vacate, Order on Motion to Withdraw as Attorney by American Battle Monuments Commission, Max Cleland, Chuck Hagel, U.S. Department of Defense, Johnie E. Webb, W. Montague Winfield. (Strawn, Susan) (Entered: 07/29/2014)
07/30/2014	<u>79</u>	NOTICE by American Battle Monuments Commission, Max Cleland, Chuck Hagel, U.S. Department of Defense, Johnie E. Webb, W. Montague Winfield (Strawn, Susan) (Entered: 07/30/2014)
08/04/2014	<u>80</u>	RESPONSE to <u>78</u> <i>Objection to 71</i> by John Eakin. (Eakin, John) (Entered: 08/04/2014)



08/07/2014	<u>81</u>	MOTION to Amend/Correct <u>77</u> Order on Motion to Compel, Order on Motion for Protective Order <i>and Unopposed Motion for Extension of Time</i> by American Battle Monuments Commission, Max Cleland, Chuck Hagel, U.S. Department of Defense, Johnie E. Webb, W. Montague Winfield. (Attachments: # <u>1</u> Exhibit, # <u>2</u> Proposed Order). Motions referred to Judge Henry J. Bemporad. (Strawn, Susan) (Entered: 08/07/2014)
08/11/2014	<u>82</u>	RESPONSE <i>Reply to Response to</i> <u>78</u> Miscellaneous Objection, <u>80</u> Response by American Battle Monuments Commission, Max Cleland, Chuck Hagel, U.S. Department of Defense, Johnie E. Webb, W. Montague Winfield. (Strawn, Susan) (Entered: 08/11/2014)
08/11/2014	<u>83</u>	Objection to <u>77</u> Order on Motion to Compel, Order on Motion for Protective Order by American Battle Monuments Commission, Max Cleland, Chuck Hagel, U.S. Department of Defense, Johnie E. Webb, W. Montague Winfield. (Strawn, Susan) Modified on 8/12/2014 (rg). (Entered: 08/11/2014)
08/12/2014	<u>84</u>	ORDER OF STAY AND ADMINISTRATIVE CLOSURE – IT IS ORDERED that defendants SHALL file an advisory every thirty (30) days from the date of this Order informing the Court of the status of these proceedings. Defendants are INSTRUCTED to use every available resource to complete the disinterment and DNA testing as quickly and as efficiently as possible. Any Motions pending are Dismissed Without Prejudice. <u>64</u> MOTION to Dismiss on Suggestion of Mootness and Motion to Stay Discovery filed by U.S. Department of Defense, Chuck Hagel, W. Montague Winfield, Max Cleland, Johnie E. Webb, American Battle Monuments Commission, <u>81</u> MOTION to Amend/Correct <u>77</u> Order on Motion to Compel, Order on Motion for Protective Order and Unopposed Motion for Extension of Time filed by U.S. Department of Defense, Chuck Hagel, W. Montague Winfield, Max Cleland, Johnie E. Webb, American Battle Monuments Commission, <u>47</u> MOTION to Dismiss MOTION for Summary Judgment filed by U.S. Department of Defense, Chuck Hagel, W. Montague Winfield, Max Cleland, Johnie E. Webb, American Battle Monuments Commission. Signed by Chief Judge Fred Biery. (rg) (Entered: 08/12/2014)
09/11/2014	<u>85</u>	STATUS REPORT by American Battle Monuments Commission, Max Cleland, Chuck Hagel, U.S. Department of Defense, Johnie E. Webb, W. Montague Winfield. (Strawn, Susan) (Entered: 09/11/2014)
09/18/2014	<u>86</u>	ORDER REGARDING LETTERS TO THE COURT FROM NON-PARTIES – This Court has no jurisdiction and no power to grant any type of relief based on a lettersent to the Court. Without a case pending before the Court, neither the Court nor Court personnel can give assistance. If you are one of these individuals who has written a letter and you wish to file a civil lawsuit, you must timely file a complaint against the proper defendant(s) in the proper venue in accordance with the Federal Rules of Federal Procedure and the Local Rules for the Western District of Texas. Signed by Chief Judge Fred Biery. (rg) (Entered: 09/18/2014)
10/14/2014	<u>87</u>	STATUS REPORT by American Battle Monuments Commission, Max Cleland, Chuck Hagel, U.S. Department of Defense, Johnie E. Webb, W. Montague Winfield. (Strawn, Susan) (Entered: 10/14/2014)
11/12/2014	<u>88</u>	STATUS REPORT by American Battle Monuments Commission, Max Cleland, Chuck Hagel, U.S. Department of Defense, Johnie E. Webb, W. Montague Winfield. (Strawn, Susan) (Entered: 11/12/2014)
12/04/2014	<u>89</u>	Unopposed MOTION for Extension of Time to File Response/Reply by American Battle Monuments Commission, Max Cleland, Chuck Hagel, U.S. Department of Defense, Johnie E. Webb, W. Montague Winfield. (Attachments: # <u>1</u> Proposed Order). Motions referred to Judge Henry J. Bemporad. (Strawn, Susan) (Entered: 12/04/2014)
12/04/2014	<u>90</u>	OPPOSED MOTION to Intervene by Sally Hill Jones, Ph.D.. (Attachments: # <u>1</u> Complaint in Intervention, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3). Motions referred to Judge Henry J. Bemporad. (rg) (Entered: 12/05/2014)
12/04/2014	<u>91</u>	MOTION for leave to file electronically by Sally Hill Jones, Ph.D. Motions referred to Judge Henry J. Bemporad. (rg) (Entered: 12/05/2014)

12/05/2014	<u>92</u>	ORDER GRANTING <u>89</u> Motion for Extension of Time to File Response/Reply on or before January 16, 2015. Signed by Judge Henry J. Bemporad. (rg) (Entered: 12/05/2014)
12/12/2014	<u>93</u>	STATUS REPORT by American Battle Monuments Commission, Max Cleland, Chuck Hagel, U.S. Department of Defense, Johnie E. Webb, W. Montague Winfield. (Strawn, Susan) (Entered: 12/12/2014)
01/08/2015	<u>94</u>	MOTION for Summary Judgment <i>on issue of Due Process</i> by John Eakin. (Attachments: # <u>1</u> Supplement Statement of Undisputed Facts). Motions referred to Judge Henry J. Bemporad. (Eakin, John). Added MOTION to Lift Stay on 1/26/2015 (rf). (Entered: 01/08/2015)
01/12/2015	<u>95</u>	STATUS REPORT by American Battle Monuments Commission, Max Cleland, Chuck Hagel, U.S. Department of Defense, Johnie E. Webb, W. Montague Winfield. (Strawn, Susan) (Entered: 01/12/2015)
01/16/2015	<u>96</u>	Memorandum in Opposition to Motion, filed by Chuck Hagel, U.S. Department of Defense, Johnie E. Webb, W. Montague Winfield, re <u>90</u> MOTION to Intervene filed by Movant Sally Hill Jones, Ph.D. (Attachments: # <u>1</u> Affidavit)(Strawn, Susan) (Entered: 01/16/2015)
01/21/2015	<u>97</u>	REPLY to Response to Motion, filed by John Eakin, re <u>90</u> MOTION to Intervene filed by Movant Sally Hill Jones, Ph.D. (Attachments: # <u>1</u> Exhibit, # <u>2</u> Exhibit, # <u>3</u> Exhibit)(Eakin, John) (Entered: 01/21/2015)
01/22/2015	<u>98</u>	STATUS REPORT by American Battle Monuments Commission, Max Cleland, Chuck Hagel, U.S. Department of Defense, Johnie E. Webb, W. Montague Winfield. (Strawn, Susan) (Entered: 01/22/2015)
01/22/2015	<u>99</u>	MOTION to Strike <u>94</u> MOTION for Summary Judgment <i>on issue of Due Process or, in the alternative, for an Extension of Time</i> by American Battle Monuments Commission, Max Cleland, Chuck Hagel, U.S. Department of Defense, Johnie E. Webb, W. Montague Winfield. (Attachments: # <u>1</u> Proposed Order). Motions referred to Judge Henry J. Bemporad. (Strawn, Susan). Added MOTION for Extension of Time to File Response/Reply on 1/26/2015 (rf). (Entered: 01/22/2015)
01/22/2015	<u>100</u>	REPLY to Response to Motion, filed by Sally Hill Jones, Ph.D., re <u>90</u> MOTION to Intervene filed by Movant Sally Hill Jones, Ph.D. (Attachments: # <u>1</u> Exhibit)(rg) (Entered: 01/23/2015)
01/23/2015	<u>102</u>	MOTION to Intervene by John A. Patterson. Motions referred to Judge Henry J. Bemporad. (rg) (Additional attachment(s) added on 1/26/2015: # <u>1</u> Exhibit Complaint in Intervention) (rg). (Entered: 01/26/2015)
01/26/2015	<u>101</u>	Response in Opposition to Motion, filed by John Eakin, re <u>99</u> MOTION to Strike <u>94</u> MOTION for Summary Judgment <i>on issue of Due Process or, in the alternative, for an Extension of Time</i> filed by Defendant U.S. Department of Defense, Defendant Chuck Hagel, Defendant W. Montague Winfield, Defendant Max Cleland, Defendant Johnie E. Webb, Defendant American Battle Monuments Commission (Eakin, John) (Entered: 01/26/2015)
02/02/2015	<u>103</u>	REPORT AND RECOMMENDATIONS re <u>90</u> Motion to Intervene filed by Sally Hill Jones, Ph.D., be DENIED; <u>99</u> Motion to Strike, Motion for Extension of Time to File Response/Reply, filed by U.S. Department of Defense, Chuck Hagel, W. Montague Winfield, Max Cleland, Johnie E. Webb, American Battle Monuments Commission, be DENIED AS MOOT; <u>102</u> Motion to Intervene filed by John A. Patterson, be DENIED; <u>91</u> Motion for Miscellaneous Relief filed by Sally Hill Jones, Ph.D., be DENIED AS MOOT; <u>94</u> Motion for Summary Judgment, Motion for Miscellaneous Relief filed by John Eakin be DENIED AS MOOT IN PART, and DENIED FOR LACK OF JURISDICTION IN PART. Signed by Judge Henry J. Bemporad. (rg) (Entered: 02/02/2015)
02/02/2015	<u>104</u>	ORDERED that this case is RETURNED to the District Court for all purposes. CASE NO LONGER REFERRED to Magistrate Judge Henry J. Bemporad. Signed by Judge Henry J. Bemporad. (rg) (Entered: 02/02/2015)

02/02/2015	<u>105</u>	Certified Mail Receipts addressed to Sally Hill Jones, Ph.D and John A. Patterson of <u>103</u> Report and Recommendations. (rg) (Entered: 02/03/2015)
02/05/2015	<u>106</u>	MOTION to Intervene by Debbie Gerlich Christian. (Attachments: # <u>1</u> Proposed Order, # <u>2</u> Intervenor's Complaint)(rg) (Entered: 02/06/2015)
02/09/2015	<u>107</u>	Certified mail acknowledgment receipt for magistrate report and recommendations re <u>103</u> Report and Recommendations, as to Sally Hill Jones, Ph.D. (rg) (Entered: 02/10/2015)
02/12/2015	<u>108</u>	NOTICE of <i>Substitution of Defendants</i> by American Battle Monuments Commission, Max Cleland, Chuck Hagel, U.S. Department of Defense, Johnie E. Webb, W. Montague Winfield (Strawn, Susan) (Entered: 02/12/2015)
02/12/2015	<u>109</u>	NOTICE of <i>Substitution of Defendants (Corrected)</i> by American Battle Monuments Commission, Max Cleland, Chuck Hagel, U.S. Department of Defense, Johnie E. Webb, W. Montague Winfield re <u>108</u> Notice (Other) (Strawn, Susan) (Entered: 02/12/2015)
02/15/2015	<u>110</u>	OBJECTIONS to <u>103</u> Report and Recommendations, and MOTION in Limine, by John Eakin. (Attachments: # <u>1</u> Exhibit Lenev Expert Report, # <u>2</u> Exhibit Anthropology Report, # <u>3</u> Exhibit Sci Dir Report, # <u>4</u> Exhibit Consultant Report, # <u>5</u> Exhibit Hist Report, # <u>6</u> Exhibit Research Memo, # <u>7</u> Exhibit Army Reg 638-2, # <u>8</u> Exhibit Army FM 4-20.65, # <u>9</u> Exhibit NavMedCom Inst 5360.1, # <u>10</u> Exhibit Eakin Decl)(Eakin, John) Modified on 2/17/2015 (rg). (Entered: 02/15/2015)
02/17/2015	<u>111</u>	MOTION to Strike <u>106</u> MOTION to Intervene <i>or, in the Alternative, Opposition to Motion to Intervene</i> by American Battle Monuments Commission, Max Cleland, Chuck Hagel, U.S. Department of Defense, Johnie E. Webb, W. Montague Winfield. (Strawn, Susan) (Entered: 02/17/2015)
02/17/2015	<u>112</u>	Certified mail acknowledgment receipt for magistrate report and recommendations re <u>103</u> Report and Recommendations, as to John A. Patterson. (rg) (Entered: 02/18/2015)
02/18/2015	<u>113</u>	OBJECTIONS to <u>103</u> Report and Recommendations by Sally Hill Jones, Ph.D. (rg) (Entered: 02/19/2015)
02/23/2015	<u>114</u>	RESPONSE to Motion, filed by Debbie Gerlich Christian, re <u>111</u> MOTION to Strike <u>106</u> MOTION to Intervene <i>or, in the Alternative, Opposition to Motion to Intervene</i> filed by Defendant U.S. Department of Defense, Defendant Chuck Hagel, Defendant W. Montague Winfield, Defendant Max Cleland, Defendant Johnie E. Webb, Defendant American Battle Monuments Commission (rf) (Entered: 02/24/2015)
02/24/2015	<u>115</u>	Response in Opposition to Motion, filed by American Battle Monuments Commission, Max Cleland, Chuck Hagel, U.S. Department of Defense, Johnie E. Webb, W. Montague Winfield, re <u>110</u> MOTION in Limine filed by Plaintiff John Eakin <i>Response to Plaintiff's Objection to Report and Recommendation</i> (Attachments: # <u>1</u> Affidavit, # <u>2</u> Exhibit, # <u>3</u> Exhibit, # <u>4</u> Exhibit, # <u>5</u> Exhibit, # <u>6</u> Exhibit, # <u>7</u> Exhibit)(Strawn, Susan) (Entered: 02/24/2015)
02/26/2015	<u>116</u>	Unopposed MOTION for Extension of Time to File Response/Reply as to <u>115</u> Response in Opposition to Motion, by John Eakin. (Attachments: # <u>1</u> Proposed Order)(Eakin, John) (Entered: 02/26/2015)
02/26/2015	<u>117</u>	ORDER GRANTING <u>116</u> Motion for Extension of Time to File Response/Reply on or before March 17, 2015. Signed by Chief Judge Fred Biery. (rg) (Entered: 02/26/2015)
03/02/2015	<u>118</u>	REPLY to Response to Motion, filed by American Battle Monuments Commission, Max Cleland, Chuck Hagel, U.S. Department of Defense, Johnie E. Webb, W. Montague Winfield, re <u>111</u> MOTION to Strike <u>106</u> MOTION to Intervene <i>or, in the Alternative, Opposition to Motion to Intervene</i> filed by Defendant U.S. Department of Defense, Defendant Chuck Hagel, Defendant W. Montague Winfield, Defendant Max Cleland, Defendant Johnie E. Webb, Defendant American Battle Monuments Commission (Strawn, Susan) (Entered: 03/02/2015)

03/16/2015	<u>119</u>	REPLY to Response to Motion, filed by John Eakin, re <u>110</u> MOTION in Limine filed by Plaintiff John Eakin (Attachments: # <u>1</u> Exhibit Huffine Declaration, # <u>2</u> Exhibit Doug Kelder Declaration)(Eakin, John) (Entered: 03/16/2015)
03/25/2015	<u>120</u>	ORDER ADOPTING REPORT AND RECOMMENDATIONS for <u>103</u> Report and Recommendations. Signed by Chief Judge Fred Biery. (rg) (Entered: 03/25/2015)
03/25/2015	<u>121</u>	JUDGMENT– ORDERED that this case is DISMISSED andCLOSED. Signed by Chief Judge Fred Biery. (rg) (Entered: 03/25/2015)
05/28/2015	<u>122</u>	MOTION for Recovery of Costs by John Eakin. (Attachments: # <u>1</u> Affidavit Declaration of Eakin, # <u>2</u> Exhibit Form AO291)(Eakin, John) Modified docket text on 6/30/2015 (rg). (Entered: 05/28/2015)
06/08/2015	<u>123</u>	***DOCUMENT IS DEFICIENT – CERTIFICATE OF SERVICE NOT SIGNED***Miscellaneous Objection to <u>122</u> Bill of Costs by American Battle Monuments Commission, Max Cleland, Chuck Hagel, U.S. Department of Defense, Johnie E. Webb, W. Montague Winfield. (Strawn, Susan) Modified on 6/9/2015, to designate deficiency (rf). (Entered: 06/08/2015)
06/09/2015	<u>124</u>	<b>DEFICIENCY NOTICE:</b> **NOTIFIED COUNSEL THAT DOCUMENT IS DEFICIENT – Pleading not signed with /s/Name on signature line or digital signature. The certificate of service is not signed. *****re <u>123</u> Miscellaneous Objection, (rf) (Entered: 06/09/2015)
06/09/2015	<u>125</u>	ATTACHMENT <i>Certificate of Service</i> by American Battle Monuments Commission, Max Cleland, Chuck Hagel, U.S. Department of Defense, Johnie E. Webb, W. Montague Winfield. (Strawn, Susan) (Entered: 06/09/2015)