

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

JOHN A. PATTERSON, et al.,)	
)	
Plaintiffs,)	
)	
v.)	No. 5:17-CV-00467
)	
DEFENSE POW/MIA ACCOUNTING)	
AGENCY, et al.,)	
)	
Defendants.)	

DEFENDANTS' MOTION FOR ORAL ARGUMENT ON PENDING MOTIONS

Pursuant to Local Rule 7(h), Defendants request that the Court hear oral argument on the three pending motions: (1) Defendants' Motion to Exclude the Proffered Expert Opinions of John Eakin and Renee Richardson, ECF No. 55; (2) Defendants' Motion for Summary Judgment, ECF No. 61; and (3) Plaintiffs' Cross-Motion for Partial Summary Judgment, ECF No. 65. Briefing on the cross-motions was completed two days ago. *See* ECF No. 70. Defendants propose that the oral argument be set for any day after July 8, 2019 convenient for the Court.

Oral argument is likely to assist the Court in weighing the arguments advanced through more than 250 pages of briefing and more than 2,000 pages of supporting evidence (some of which is overlapping). *See* ECF Nos. 55, 56, 58, 59, 61, 63, 64, 65, 68, 70. The parties' factual evidence and legal arguments have developed substantially since the Court heard oral argument on June 27, 2018 regarding Plaintiffs' motion to compel discovery and Defendants' motion for judgment on the pleadings. At oral argument, the parties could address the Court's specific questions and direct the Court to the evidence most salient to the Court's specific inquiries.

Defendants also submit that it is more efficient to work through the parties' legal arguments and supporting evidence now rather than postponing analysis until trial. Because this case turns on issues of law and the significance of undisputed historical records, a trial is not necessary and little would be gained from burdening the parties and the Court with the time and expense required to prepare for and conduct a trial. This case does not turn on the credibility of witnesses and the permissible inferences from the historical records do not support Plaintiffs' efforts to create material factual disputes. *See* Defs.' Reply on Motion for Summary Judgment, ECF No. 68 at 3-6; Defs.' Response to Pls.' App'x, ECF No. 68-1. Moreover, Defendants have shown that Plaintiffs' proffered expert opinions are inadmissible as a matter of law and cannot be relied upon in place of the historical records themselves. *See* ECF Nos. 55, 59.

Accordingly, Defendants respectfully request that the Court schedule an oral argument on the three pending motions at the Court's convenience after July 8, 2019. Undersigned counsel and lead agency counsel will be out of the office for portions of the next two weeks for vacations around Independence Day. Undersigned counsel conferred with Plaintiffs' counsel regarding this motion on May 28 and June 20, who stated that Plaintiffs take no position on this motion.

Dated: June 21, 2019

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 21st day of June, 2019, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

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