



# NVLSP

NATIONAL VETERANS LEGAL SERVICES PROGRAM

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## Justice for Warriors Newsletter



**December 2024**

Dear Friends,

As the year winds down, we extend our heartfelt thanks to all who have supported our mission. Together, we made a lasting impact by advocating for those who served to receive the benefits which they are entitled to because of disabilities resulting from their military service to our country. This month, we're sharing a compilation of litigation successes, updates on our ongoing initiatives, and ways you can continue to make a difference. Thank you for being part of our community—your commitment fuels our efforts each and every day. Warm wishes for a joyful holiday season and a bright start to the new year!

Sincerely,

A handwritten signature in black ink, appearing to read "Paul Wright".

Paul Wright,  
Executive Director

## NVLSP'S SIXTEENTH ANNUAL BENEFIT RECEPTION

On November 21, 2024, NVLSP hosted its Sixteenth Annual Benefit Reception — *Enduring Valor: Honoring Veterans of All Eras*. Thank you to all of our sponsors, partners, and attendees. Your support and participation made it a memorable evening as we honored the dedication of *all* of our nation's veterans and showcase the impact of our shared efforts. Congratulations to honorees Troutman Pepper, recipient of the Pro Bono Partner of the Year Award, and Christina Sarchio, Partner, Dechert LLP, recipient of the Lawyers Serving Warriors® Excellence Award. Watch [the event video here](#) and check out the highlights of NVLSP's work over more than 40 years [here](#).



Pictured from left to right: NVLSP board member Barry McCoy, NVLSP board Co-Chair Amy Schuh, NVLSP Executive Director Paul Wright, NVLSP board member Don Kassilke, NVLSP board member Chris Antoniou.



## NVLSP COMMENTS

### **NVLSP Applauds VA Proposed Rule to Reform PCAFC Program For Veterans and their Caregivers**

On December 6, 2024 NVLSP issued the following statement in response to the U.S. Department of Veterans Affairs announcement of a proposed rule to reform its Program of Comprehensive Assistance for Family Caregivers (PCAFC):

“This proposed rule is the culmination of years of promises from VA leadership to improve PCAFC and NVLSP commends the agency and administration for finally moving these proposals forward. These proposed changes reflect years of work and advocacy by caregivers, veterans, and their community,” said NVLSP Director of Litigation Renee Burbank. [Read more here](#).

## LITIGATION UPDATE

### **Oral Arguments for *Bufkin v. McDonough* heard by Supreme Court**

On October 16, 2024, The Supreme Court of the United States heard oral arguments including [Bufkin v. McDonough](#). The case, on which we filed an [amicus brief](#) in July, concerns whether, when federal law instructs the U.S. Court of Appeals for Veterans Claims to “take due account of the” application of the idea that veterans should receive the benefit of the doubt on close issues involving veterans’ law. Watch the oral arguments [here](#).

In the Supreme Court of the United States

JOSHUA E. BUFRIN, PETITIONER, DENIS McDONOUGH, SECRETARY OF VETERANS AFFAIRS, RESPONDENT, NORMAN F. THORNTON, PETITIONER, DENIS McDONOUGH, SECRETARY OF VETERANS AFFAIRS, RESPONDENT.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

BRIEF OF NATIONAL VETERANS LEGAL SERVICES PROGRAM AND NATIONAL ORGANIZATION OF VETERANS' ADVOCATES AS AMICI CURIAE IN SUPPORT OF PETITIONERS

RENÉE A. BURBANK, ZACHARY R.M. OUTZEN, BARTON F. STECHMAN, NATIONAL VETERANS LEGAL SERVICES PROGRAM, 1109 Wilson Blvd., Ste. 900, Arlington, VA 22209, Renee.Burbank@nvlsp.org, D. SHAYON GHOSH, Counsel of Record, F. GREG BOWMAN, LIAM J. MONTGOMERY, ANDREW G. BOHRASSO, LUKE R. SANDOR, WILLIAMS & CONSOLY LLP, 680 Maine Avenue, S.W., Washington, DC 20024, (202) 434-5000, Sghosh@wc.com

Counsel for Amici Curiae

Additional counsel listed on inside cover

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA, KYLE A. SMOKE, 231 Park Ridge Ln, Newark, OH 43055, and JENNIFER M. MCINTYRE, 2360 Glory Dr, Waterford, PA 16841, Plaintiff, on Behalf of Themselves and Others Similarly Situated, v. CHRISTINE WORMUTH, in her official capacity as United States Secretary of the Army, 101 Army Pentagon, Washington, DC 20301-1000, Defendant.

INTRODUCTION

1. This lawsuit challenges the United States Army Physical Evaluation Board's ("PEB") unlawful policy that denies soldiers the "combat-related" finding to which they are entitled under 26 U.S.C. § 104 when they are medically retired for certain combat-related injuries. Specifically, the Army PEB refuses to find that injuries presumptively caused by exposure to military burn pits—an instrumentality of war ("IOW") used by the military in post-9/11 military operations in Afghanistan, Iraq, and Southwest Asia—are "combat-related." This

NVLSP and Sidley File Class Action Lawsuit Challenging U.S. Army's Medical Retirement Policy of Denying Combat-Related Findings for Disabilities Caused by Gulf War Burn Pits Pro Bono Counsel Sidley Austin LLP

NVLSP and Sidley Austin LLP filed a class action complaint in the United States District Court for the District of Columbia on October 15, 2024, on behalf of Sergeant First Class (SFC) (Ret.) Kyle Smoke, Lieutenant Colonel (LTC) (Ret.) Jennifer McIntyre, and a class of current and future Army veterans who have been, or will be, wrongfully denied combat-related tax-exempt disability retirement pay for disabilities caused by Gulf War burn pits.

NVLSP STAFF ON THE MOVE

New Jersey Department of Military and Veterans Affairs Training and Information Seminar

NVLSP Director of Training and Publications Rick Spataro presented at the New Jersey Department of Military and Veterans Affairs 48th Semi-Annual Training and Information Seminar in Sea Girt, NJ on October 24, 2024.



Tennessee Department of Veterans Services Training and Awards Banquet

NVLSP was delighted to attend Tennessee Department of Veterans Services Training and Awards Banquet from September 30 – October 2, 2024 and connect with colleagues dedicated in service to veterans

Pictured from left to right: Kentucky





Department of Veterans Affairs (KDVA) Commissioner Whitney Allen, Tennessee Department of Veterans Services Commissioner MG Tommy H. Baker, Zaneta Adams, J.D., VA's Deputy Assistant Secretary for Intergovernmental Affairs, Office of Public and Intergovernmental Affairs (OPIA), NVLSP Executive Director Paul Wright, and Indiana Department of Veterans Affairs Director Dennis Wimer.

NVLSP Staff Attorney Elizabeth Tarloski covered fiduciary issues and NVLSP Special Counsel Louis George shared his insights on VA's AMA review system at the Tennessee Department of Veterans Services training.



### U.S. Court of Appeals for Veterans Claims (CAVC) 16th Judicial Conference



NVLSP was well represented at the CAVC 16th Judicial Conference on September 19-20, 2024.

From left to right, top row: Appellate Attorney Heather Olson, Senior Managing Appellate Attorney Christopher Murray, Appellate Attorney Emily Mills, second row from top: Director of Litigation Renee Burbank, Appellate Attorney Shara Abraham, Appellate Attorney Alec Ghezzi, Director of Training and Publications Rick Spataro, third row: Staff Attorney Margaret Costello, fourth row: Senior Staff Attorney Alexis Ivory, Staff Attorney Elizabeth Tarloski, Appellate Attorney Brandy Disbennett-Albrecht, Senior

Appellate Attorney Abigail Schopick, Appellate Attorney Rebecca Pierce, Appellate Attorney Katherine Orr, Appellate Attorney Jeffrey Price, fifth row: Senior Appellate Attorney Carlie Steiner, Senior Appellate Attorney Caitlin Milo, Staff Attorney Samantha Greenstein, Director of CAVC Litigation Stacy Tromble, Special Counsel Christine Cote Hill, Special Counsel Bart Stichman, Staff Attorney Ryan Kelley.

Appellate Attorney Kenneth Meador and Appellate Attorney Margaret Wilks representing NVLSP at CAVC 16th Judicial Conference.



NVLSP Director of Litigation Renee Burbank spoke on a panel regarding the PACT Act with (pictured left to right) Board of Veterans' Appeals Veterans Law Judge Jonathan Hager, Senior Appellate Attorney U.S. Department of Veterans Affairs Office of General Counsel James Drysdale, Senior Policy Advisor U.S. Senate Committee on Veterans' Affairs Carlos Fuentes, Assistant Director, Policy Staff,

Compensation Service Veterans Benefit Administration Jessica Pierce, and Staff Director Disability Assistance and Memorial Affairs Subcommittee U.S. House Committee on Veterans' Affairs Jenny J. Tang.

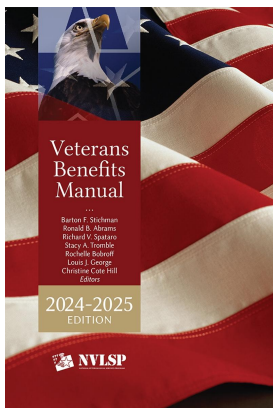
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## NVLSP IN THE NEWS

- On November 5, 2024, NVLSP Senior Managing Attorney Esther Leibfarth and NVLSP Board Member and Sidley Austin Pro Bono Counsel Emily Wexler were quoted in a Military.com story: "[Veterans File Class-Action Suit over Medical Retirements for Burn Pit-Related Illnesses](#)". The article, which also appeared on [Yahoo](#), covered the class action lawsuit filed by NVLSP and Sidley Austin on behalf of two veterans (and a class of current and future Army veterans) against the Army for denying combat-related tax-exempt disability retirement pay for conditions caused by Gulf War burn pits. The announcement of the lawsuit was also picked up by [Lawyer Monthly](#).
- On October 15, 2024, NVLSP's Director of Litigation, Renee Burbank, was interviewed by [The New York Times](#), [The Washington Post](#), and [The War Horse](#) on the Pentagon's limited discharge upgrades for LGBTQ veterans affected by "Don't Ask, Don't Tell" (DADT), following Secretary of Defense Lloyd Austin's announcement of 820 upgrades.
- Renee Burbank was also interviewed by [Gray TV](#) and [Military.com](#) about the Supreme Court case [Bufkin v. McDonough](#), which questions the "benefit-of-the-doubt" standard in veterans' law. The story was picked up by more than 60 Gray TV affiliates nationwide. This followed an October 14 article from the National Constitution Center titled "[Veterans Take Another Battle to the U.S. Supreme Court](#)," which highlights NVLSP's support for the veterans' position through our [amicus brief](#). [Military Times'](#) Leo Shane also covered this issue while referencing our brief.



## TRAINING AND PUBLICATIONS



### NVLSP Releases Its 2024-2025 Veterans Benefits Manual

NVLSP proudly announces the release of the 2024-2025 edition of its renowned [Veterans Benefits Manual](#). This latest edition has been meticulously updated to reflect critical changes in veterans law and includes new advocacy strategies to better assist veterans and their representatives.

### WEBINAR SCHEDULE

NVLSP continues its dedication to veterans law education by growing its webinar schedule in an effort to educate more veterans advocates on strategies for securing disability benefits for their clients. Experienced NVLSP attorneys will lead discussions on the following topics in the coming months:



- Recent Court Decisions Veterans Advocates Need to Know About (July 2024 – November 2024) (December 10, 11, and 12)
- Understanding Discharge Upgrades (January 14, 15, and 16)
- Revisions of VA Decisions Based on Clear and Unmistakable Error (February 25, 26, and 27)

NVLSP also has a [comprehensive library](#) of over 40 previously recorded webinars that are available at your convenience.

#### Webinar topics include:

- VA Accreditation Training: Attorney and Agent Practice before the VA
- Navigating the VA's Modernized/AMA Review System
- VA Benefits Based on National Guard and Reserve Service
- How Involvement with the Criminal Justice System Impacts VA Benefits
- And many more!

For more information on NVLSP's Training and Publications program [watch this video](#).

NVLSP's Training and Publications program also offers: [in-person training](#), the [Online Basic Training Course](#), the [Veterans Benefits Manual](#), and the [VA Benefit Identifier App](#).

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## WAYS YOU CAN HELP

We hope this newsletter inspires you to become more

active with NVLSP. If you want to help NVLSP do more for our veterans, here are a few suggestions.

1. You can follow us on [X](#), connect with us on [LinkedIn](#), and like us on [Facebook](#).
2. Help us promote our free [App](#) for veterans.
3. Tell a friend about [NVLSP](#).



We look forward to connecting with you again soon!

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**STAY CONNECTED:**



**[www.nvlsp.org](http://www.nvlsp.org)**

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