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Justice for Warriors Newsletter

March 2024

NATIONAL VIETNAM VETERANS DAY

On March 29, 2024, the nation recognizes National Vietnam War Veterans Day on the 50th anniversary of the date the last combat troops left South Vietnam.

The National Veterans Legal Services Program's (NVLSP) work for Vietnam veterans in the landmark case of Nehmer v. U.S. Department of Veterans Affairs has resulted in over \$5.2 billion in retroactive VA disability and death benefits to hundreds of thousands of Vietnam veterans and their surviving family members. The case originated with VA regulations mandating denial of benefits claims by Vietnam veterans who had diseases associated with exposure to Agent Orange. In 1989, a federal court found the regulation unlawful, and class members received retroactive and prospective benefits. NVLSP, as class counsel, has represented the veterans and their survivors as the VA has recognized more diseases associated with Agent Orange exposure, including three recognized in 2021. Learn more about NVLSP's work on the Nehmer class action here.

LITIGATION UPDATE

Marine Corps Veteran Oscar Torres Wins Long-Overdue Military Medical Retirement
Pro Bono Counsel Perkins Coie LLP

On February 28, 2024, Sgt. Oscar Torres (Ret.)—a U.S. Marine Corps veteran and the lead plaintiff in the nationwide class action Torres v. Del Toro—won a ruling of medical retirement that had been unjustly denied to him by the U.S. Navy as a result of its unlawful "Properly Referred" policy for over six years.

Sgt. Torres served honorably in the U.S. Marine Corps and Marine Corps Reserves from August 2007 to January 2018. As a result of his service, Sgt. Torres incurred numerous debilitating injuries to his shoulders, wrists, hands, back, knees, ankles, and feet. Sgt. Torres was referred to the Navy's Physical Evaluation Board (PEB) to be considered for medical retirement. But due to the unlawful "Properly Referred" policy implemented by Navy, the PEB refused to consider all of Sgt. Torres' potentially disabling conditions—resulting in him being denied the medical retirement to which

he was entitled.

Sgt. Torres was represented by the National Veterans Legal Services Program (NVLSP) and pro bono counsel, Donald Friedman and Tommy Tobin, at Perkins Coie LLP. He filed suit in the United States District Court for the District of Columbia on behalf of himself and a class of U.S. Navy and Marine Corps veterans—medically discharged between September 12, 2016 and June 11, 2018—who were denied military disability retirement as a result of the Navy's use of the "Properly Referred" policy. The Court held that it was unlawful of the Navy to prevent the PEB from considering all of a servicemember's disabilities. The court vacated the PEB decisions of all class members, instructing the Navy to remedy its error. Read more

Federal Circuit Unanimously Upholds the Right of Veterans and Caregivers to
Challenge Decisions Related to VA Caregiver Benefits
Over 400,000 Veterans and Their Caregivers Can Appeal VA Decisions to Board of
Veterans' Appeals and to Court

Pro Bono Counsel Paul Hastings LLP

On February 27, 2024, the United States of Court of Appeals for the Federal Circuit unanimously <u>upheld</u> a lower court decision granting hundreds of thousands of veterans and their family caregivers the right to appeal decisions relating to the Department of Veterans' Affairs Program of Comprehensive Assistance for Family Caregivers (Family Caregiver Program). The affected class of veterans and caregivers, led by Jeremy and Maya Beaudette, were represented by pro bono class counsel at Paul Hastings LLP, Public Counsel, and the National Veterans Legal Services Program (NVLSP).

Jeremy Beaudette is a seriously injured Marine Corps veteran who served five combat tours in Iraq and Afghanistan. His wife, Maya, quit her job to care for her husband full time, and in 2013, they were admitted into the Family Caregiver Program. They remained in the program for more than four years, but VA abruptly removed them when the agency refused to reschedule a medical examination while Mr. Beaudette recovered from two major surgeries. The Beaudettes tried to appeal their removal from the program to the Board of Veterans' Appeals (Board), but VA maintained that Caregiver decisions were not reviewable by the Board. Read more



NVLSP File Amicus Brief Urging Supreme Court to Review Federal Circuit and U.S. Courts of Appeals for Veterans Claims Application of "Take Due Account" Provision of Benefit-of-The Doubt Rule

Pro Bono Counsel Williams & Connolly LLP

On February 2, 2024, the National Veterans Legal Services Program (NVLSP) filed a "friend of the Court" brief in *Bufkin, Thornton v. McDonough* urging the Supreme Court to review the U.S. Court of Appeals for the Federal Circuit and United States Court of Appeals for Veterans Claims (CAVC) application of the "take due account" provision of the benefit-of-the-doubt rule.

NVLSP's brief argues that the misinterpretation of the full judicial authority granted

under the Veterans Benefits Act (VBA) runs counter to Congressional intent to bolster the Veterans Court's claims review process and reduce unnecessary delays in the system. Read more

PROGRAM UPDATE

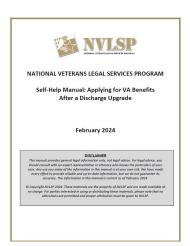
NVLSP and Burn Pits 360 Partner to Assist Veterans & Survivors Obtain VA Disability & Death Benefits

The National Veterans Legal Services Program (<u>NVLSP</u>) and <u>BurnPits360</u> announced on March 19, 2024 a new partnership to assist veterans suffering from toxic exposure from burn pits and their survivors.

"Despite the passage of the PACT Act, not all veterans who are suffering the catastrophic consequences of toxic exposure from burn pits and their surviving family members are automatically receiving the disability or death benefits they are eligible to receive. Many veterans still have to prove service-connection and still others may not realize they can challenge an earlier denial of a claim with new evidence. Through NVLSP's <u>Burn Pits Claims Assistance Program</u> we can assist these veterans at no cost to fight for life-changing benefits," said NVLSP Executive Director Paul Wright. "We are delighted to collaborate with BurnPits360 to make more veterans aware of the assistance NVLSP can provide at no cost to veterans and to ensure the government lives up to the promise of the PACT Act."

"As co-founder of Burn Pits 360, the leading organization for the PACT ACT, we are honored to forge a partnership with NVLSP with the common goal of providing selfless service to our nation's warfighters and their families," said Rosie Torres, Burn Pits 360 Executive Director. Read more

NVLSP PUBLISHES NEW DISCHARGE UPGRADE MANUAL



NVLSP Issues Self-Help Manual: Applying for VA Benefits After a Discharge Upgrade

NVLSP <u>issued</u> a free "Self-Help Manual: Applying for VA Benefits After a Discharge Upgrade" for veterans on February 12, 2024. The manual is designed to be a step-by-step guide to inform and assist veterans in accessing the benefits that they may be eligible to receive once they have obtained a discharge upgrade. It also highlights some resources available to veterans after an upgrade.

The Federal News Network interviewed NVLSP Staff Attorney Abigail Reynolds on the new discharge upgrade manual and navigating VA's complex network of programs on March 18, 2024. You can listen to the interview or read the transcript here

National Veterans Legal Services Program Staff Attorney Nnamdi Okoli, Staff Attorney Ryan Kelley, Appellate Attorney Ann Kenna, Director of Litigation Renee Burbank, Staff Attorney Alexis Ivory, Director of Training and Publications Richard Spataro at National Organization of Veterans' Advocates, Inc. attend Spring Conference on March 7, 2024.





National Veterans Legal Services Program Senior Staff Attorney Alexis Ivory and Special Counsel Louis George shared their insights on Traumatic Brain Injuries last week at National Organization of Veterans' Advocates, Inc. Spring Conference and caught up with Samantha Cohen Allen and Margie Wilks of Virginia Dept. of Veterans Services on March 9, 2024.

2024 NASDVA CONFERENCE



National Veterans Legal Services Program participated in the mid-winter National Association of State Directors of Veterans Affairs (NASDVA) from February 18 - February 21, 2024. NVLSP Special Counsel, Lou George, and NVLSP Of Counsel, Tom Herthel, manned the NVLSP table at the conference.

STAFF SPOTLIGHT: TEKEY WALLACE

LeTiequa "Tekey" Wallace is a Staff Attorney in NVLSP's *Nehmer* Lawsuit Division, representing the class exposed to Agent Orange, and has been with NVLSP for over six years.

Through her work, Tekey has seen long-lost families brought together. There is one matter that continues to resonate with Tekey: through her Nehmer work, a woman was able to connect with, and grow close to, a family she never knew she had.



Years later, that woman's new family helped her during a medical crisis and saved her life. Tekey has seen how her legal work can have a direct, long-term, and powerful impact on people's lives. It is a personal and professional responsibility that Tekey does not take for granted.

For Tekey, being a good veterans attorney takes empathy, patience, and open-mindedness as many veterans have invisible wounds and can be suffering. However, by representing veterans, Tekey can ensure these veterans ultimately receive justice. For Tekey, it is inspiring to work for an organization that she considers the authority on veterans law.

While veterans law was not top of Tekey's mind at law school, Tekey remembered the disabled veterans she would see near her undergraduate university and how she longed to assist them. At NVLSP, she has been able to do that and it is a full circle moment for Tekey.

Outside of NVLSP, Tekey is President Elect of the Military Spouse JD Network (MSJDN).

Tekey is also an avid reader and writer, art collector, and enjoys spending time with her active duty service member husband, three kids, and dog.

WEBINARS

NVLSP continues its dedication to veteran 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:



- Non-Service-Connected Disability Pension (March 20, 2024 and March 21, 2024)
- Recent Court Decisions Veterans Advocates Need to Know About (April 23, 2024; April 24, 2024 and April 25, 2024)

NVLSP also has a <u>comprehensive library</u> of over 20 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 & Publications program also offers: <u>in-person training</u>, the <u>Online Basic Training Course</u>, the <u>Veterans Benefits Manual</u>, and the <u>VA Benefit Identifier App</u>.

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 <u>Twitter</u>, connect with us on <u>LinkedIn</u>, and like us on <u>Facebook</u>.
- 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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