



NVLSP

NATIONAL VETERANS LEGAL SERVICES PROGRAM

**National Veterans Legal Services (NVLSP) Final Report
For the Barbara McDowell and Gerald S. Hartman Foundation
July 30, 2020**

In late March 2020, the McDowell Foundation graciously agreed to accept a successor project from NVLSP when our prior class action around transfer delays had become moot.

In the successor project, the “Category II” class action, NVLSP is challenging the legality of a policy employed by the U.S. Department of the Navy that has resulted in the discharge of more than 16,000 members of the Navy and Marine Corps without the military disability retirement benefits to which they are entitled.

Dechert LLP has agreed to serve as co-counsel with NVLSP, providing their services on a pro bono basis. NVLSP is providing the subject matter expertise on the laws and regulations governing military disability retirement. The class action lawsuit against the U.S. Department of the Navy is to be filed in the U.S. District Court for the District of Columbia.

Progress since March 2020:

Preparation of the NVLSP Category II class action litigation is underway, with significant resources devoted to working with potential plaintiffs and developing the initial filings.

NVLSP is spending significant time providing for the specific needs of our two severely disabled class representatives, who are dependent on their wives to act as caregivers. Due to their severe disabilities and their dependence on their spouses, NVLSP has found that explaining the lawsuit, the arguments to be made, and the benefits to be expected—including the lawsuit’s nature as a putative class action—has taken significantly longer than initially anticipated. Moreover, since both class representatives were harmed by the Navy’s errors, they are both hesitant to trust another set of attorneys. As a result of the above factors, it took approximately 4 one-hour phone calls with each plaintiff, over a period of 3.5 weeks, to ensure they understood the class action sufficiently to sign an engagement letter. NVLSP is also working to explore possible additional plaintiffs to join the class action litigation.

Progress anticipated through the end of 2020:

Our law firm partner is currently drafting the complaint and motion for class certification, which are expected to be filed together in the Fall of 2020. All the attorneys working on this matter believe the best outcome will be obtained by filing the complaint and motion for class certification at the same time, which requires additional preparation.

NVLSP’s filing of the complaint has also been delayed by COVID-19. Both the plaintiffs and the attorneys working on the Category II litigation have experienced internal and external delays.

The complaint and the motion for class certification will be filed in the fall of 2020.

NVLSP has been granted an extension by the Foundation until December 31, 2020 to file the case. As a result of the extension, NVLSP will be submitting a quarterly time statement for the period 10/1/2020 to 12/31/2020. NVLSP will keep the Foundation apprised of the filing of the case.

Contacts:

Bart Stichman, Executive Director (bart@nvlsp.org)

Rochelle Bobroff, Pro Bono Director (rochelle@nvlsp.org)