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BULLETIN

#21

THE NEWSLETTER OF VETERANS UNITED FOR TRUTH, INC.

"VETERANS STANDING UP FOR EACH OTHER"

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DISABLED VETS WIN KEY RULING IN NATIONAL SUIT AGAINST VA OVER MISTREATMENT

SAN FRANCISCO, Calif. – A federal court in San Francisco today cleared the way for a major national class action lawsuit on behalf of disabled veterans to directly challenge the Department of Veterans Affairs (VA). The ruling affirms the rights of veterans with Post Traumatic Stress Disorder (PTSD) to sue in federal court over the huge backlog of claims, the lengthy waiting time that veterans face in receiving needed mental health care, and the inadequacy of care for veterans returning from Iraq and Afghanistan. The complaint, filed in the United States District Court in July, seeks a judicial finding that VA's system of handling claims and appeals is so dysfunctional that it violates veterans' constitutional and statutory rights. The suit also calls for court orders requiring VA to provide immediate medical and psychological help to returning troops and to screen them for risk of suicide.

"VA first mistreated hundreds of thousands of veterans, then took the position that the vets could not bring their grievances to court to be heard," says Melissa Kasnitz, the managing attorney for Disability Rights Advocates (DRA), a non-profit law firm in Berkeley, California. "Today, VA's shameful effort to keep these deserving veterans from their day in court was rejected."

Most disabled veterans cannot receive medical treatment without an approved disability claim. However, VA now has a backlog of over 600,000 applications for claims, and a decision on a claim can take up to twelve years to be processed through appeals. Some pending claims go back to the Vietnam era. Even after claims have been approved, veterans face serious problems in receiving care. Because the demand for medical care and treatment by VA has risen dramatically since the U.S. became involved in the conflicts in Iraq and Afghanistan, VA has long waiting lists and, in some cases, no appropriate treatment for disabled veterans is available.

"We can now address the disgraceful fact that it takes an average of 177 days for VA to process an *initial* claim for disability benefits, and an additional 657 days, on average, for an appeal, so most veterans wait years for needed medical and mental health treatment, unless they give up or die first," said DRA attorney Sid Wolinsky.

Many disabled veterans give up in despair or frustration, fall into drug or alcohol dependency, or commit suicide. In fact, the total number of military suicides in 2005 was greater than the cumulative death toll from Iraq and Afghanistan since 2001, according to a CBS News investigation. "Improper delays and denials of treatment and benefits have contributed to an epidemic of suicides," according to Co-counsel Gordon Erspamer of Morrison & Foerster; "Because VA refuses to act, we have to ask the Court to protect our returning soldiers."

The suit claims that numerous VA practices violate the constitutional and statutory rights of veterans with PTSD by denying veterans adequate procedural safeguards in VA benefits process, access to the judicial process, mandated medical care, and VA benefits as a result of their condition. In addition to seeking a declaration from the court that these practices violate the constitutional and statutory rights of veterans, the lawsuit seeks an injunction preventing VA from continuing certain policies and procedures. No money damages are being sought, and the class action lawsuit will not address the individual claims of any veteran. The Court dismissed an additional claim that VA's procedures violate the Rehabilitation Act which requires government agencies to ensure that their programs are accessible to people with disabilities. Plaintiffs in the case include two non-profit organizations, Veterans for

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Common Sense and Veterans United for Truth, on behalf of all veterans who are seeking or receiving health care or disability benefits from VA. Plaintiffs are represented by the public interest law firm Disability Rights Advocates (DRA) and the private law firm of Morrison & Foerster,

Among those veterans suffering with PTSD the most are returning Iraq and Afghanistan troops. Between 15-50% of returning troops have PTSD, according to the complaint. These troops are being deprived of critical mental health services, especially in the early phases of the illness when identification and treatment are crucial. Left untreated, severe PTSD can lead to substance abuse, depression and suicide. Veterans with PTSD and other psychiatric disabilities may also be the most unprepared to face the bureaucratic battles necessary to secure the benefits to which they are entitled.

The suit alleges that VA has not only shortchanged the disabled veterans for whom they are supposed to provide care, but it has also consistently presented misleading statistics to the American public. Specifically, the complaint says that VA has falsely understated the length of time it takes to decide a veteran's claims and the true cost of caring for disabled veterans.

PTSD is a psychiatric disorder that can develop in a person who witnesses, or is confronted with, a traumatic event. PTSD is the most prevalent mental disorder arising from combat. According to the complaint, "more than any previous war, the wars in Iraq and Afghanistan are likely to produce a high percentage of troops suffering from PTSD," due to the widespread use of improvised explosive devices, multiple rotations, the ambiguity of fighting combatants dressed as civilians, and the use of National Guard members and Reservists.

The full complaint in the case and a copy of the ruling allowing the case to go forward are posted on the Disability Rights Advocates website at www.drlegal.org and on the VUFT website at <http://www.vuft.org/PlaintiffsMotionGranted.htm>