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BULLETIN

THE NEWSLETTER OF VETERANS UNITED FOR TRUTH, INC.

#32

"VETERANS STANDING UP FOR EACH OTHER"

16 SEPTEMBER 2009

UPDATE – CLASS ACTION SUIT

Our advocates and the VA met to discuss the possibility of mediation rather than continuing the class action lawsuit. The VA would only mediate if we waived that portion of our suit that calls for the courts to enforce the terms of any ruling. Obviously that was a non-starter since it would render any finding almost meaningless, leaving the VA as the sole monitor of its own response. Because we could not agree, the court has agreed to take the appeal to the panel.

The following story appeared today in the LA Times:

FEDERAL APPEALS COURT TO DECIDE SUIT OVER WOUNDED VETERANS

Carol J. Williams - September 16, 2009

Veterans groups brought suit alleging systemic failures in the way Veterans Affairs processes disability claims. After mediation fails, the 9th Circuit Court of Appeals takes the case.

Court-ordered mediation has failed to settle a lawsuit over delayed and denied care for wounded veterans so the case now goes to a U.S. 9th Circuit Court of Appeals panel, the court reported Tuesday.

Two veterans groups brought suit in 2007, alleging systemic failures in the Department of Veterans Affairs' processing of disability claims. They noted that 3,000 veterans die each year while their appeals are pending, and 18 veterans commit suicide each day on average, many suspected to be acts of despair by those with untreated post-traumatic stress disorder.

In a push for an out-of-court settlement after an Aug. 12 hearing in the case, 9th Circuit Chief Judge Alex Kozinski suggested that lawyers for the veterans and the government "go and get a sandwich together." Kozinski said he saw goodwill on both sides to do right by those hurt while serving their country and ordered the parties to seek help from the court's mediation service.

More than a month later, the veterans' pro bono lawyer, Gordon Erspamer, and Department of Justice attorney Charles Scarborough reported to the court that they were "unable to reach any agreement to utilize mediation as a vehicle for resolving the appeal."

Kozinski indicated at the hearing that the court might find it difficult to compel the veterans agency to process claims faster. A district court judge who heard the veterans case last year declined to intervene, saying the claim denials and treatment delays were unjust but beyond the court's power to rectify. It was that decision that prompted Veterans for Common Sense and Veterans United for Truth to appeal to the 9th Circuit.

The 9th Circuit panel, which includes Judges Proctor Hug Jr. and Stephen Reinhardt along with Kozinski, has no deadline for issuing a decision. Most appeals take at least a few months to be decided and complicated cases can remain under deliberation for more than a year.

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latimes.com/news/local/la-me-vets-lawsuit16-2009sep16,0,6134063.story