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Court Orders VA to Readjudicate Thousands of Disability Claims Denied for Agent Orange-Related Diseases Filed by Veterans Who Served in the Territorial Waters (within 12 nautical miles off the coast of Vietnam)

November 5, 2020 the U.S. District Court for the Northern District of California ruled in favor of thousands of Blue Water Navy Vietnam Veterans and their Survivors in response to the motion filed by attorneys from the National Veterans Legal Services Program (NVLSP) to enforce the 29-Year Old Class Action Consent Decree in **Nehmer v. U.S. Department of Veterans Administration** (VA). The Court ordered the VA to automatically readjudicate thousands of benefits claims that the Court found had been wrongly denied. The Court also ordered the VA to pay retroactive compensation if it finds the veteran served in the territorial seas of Vietnam.

The 1991 Consent Decree applies to a class consisting of hundreds of thousands of Vietnam veterans and their Survivors who applied to the VA for service-connected disability and death benefits due to exposure to Agent Orange, the toxic herbicide used by the U.S. government during the Vietnam War. That Decree required the VA, whenever it recognized an additional disease is associated with exposure to Agent Orange, to identify and readjudicate all prior VA denials of benefit claims filed for that disease and pay benefits retroactive to the date of the claim that led to the prior denial.

Based on the Court's decision, the VA must:

1. Identify within 120 days of the date of this order, all of the Nehmer readjudication decisions made based on the consent decree in which the VA denied compensation on the grounds that the veteran was not entitled to the presumption of herbicide exposure because the veteran did not set foot on the landmass of Vietnam or serve in the inland waterways of Vietnam. VA denials go back to effective dates of claims of 25 Sep 1985.
2. Within 240 days of the date of this order, issue a replacement decision that determines:
 - (a) whether the veteran served in the territorial waters of the Republic of Vietnam (12 nautical miles off the coast) during the war and, if so,
 - (b) the amount of retroactive compensation, if any, the veteran or the veteran's survivor (or, if the veteran or survivor is deceased, the estate of the deceased veteran or survivor) is entitled under the terms of consent decree;