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Morgan, Lewis, Veterans Group Win \$3.9M Legal Fee Award Against Feds

Marcia Coyle, The National Law Journal, August 4, 2016

A \$3.9 million fee award against the federal government has capped a long and successful legal effort by a team of lawyers from Morgan, Lewis & Bockius and a veteran's legal services group on behalf of more than 2,000 veterans suffering from post-traumatic stress syndrome.

Judge Margaret Sweeney of the U.S. Court of Federal Claims approved the fees on July 26 following a class action settlement for the veterans who served in Iraq and Afghanistan.

Lead counsel Brad Fagg, a litigation partner at Morgan Lewis in Washington, and **Bart Stichman, joint executive director of the National Veterans Legal Services Program**, filed the pro bono suit in 2008, claiming that the veterans' assigned disability ratings of less than 50 percent were contrary to law.

In 2011, the claims court approved a settlement agreement providing that each class member would, at a minimum, have his or her military records corrected to reflect a 50 percent disability rating for a six-month period.

Sweeney rejected multiple arguments by the government against the requested fee award and awarded \$3,862,924.53 in fees and expenses for the attorneys who "ably represented" the veterans. The judge said the requested fees and expenses "were incurred for work that was reasonable and necessary for them to obtain relief."

Morgan Lewis has had a longstanding relationship with the National Veterans Legal Services Program.

"The story of this case is a long and complicated one, but ultimately, we got to the place where these 2,000 vets wanted to be," Fagg said.

While fee award is "nice," he added, "We're really most happy about the underlying results we got for the vets—correction of records and health benefits. I am very grateful to my firm which allowed us to take on this case on a pro bono basis. That's an important part of what we do."

During the litigation, Fagg was assisted by more than 15 firm attorneys and Stichman drew support from 11 attorneys and a law clerk at the National Veterans Legal Services Program.

Morgan Lewis lawyers reported normal billing rates between \$235 and \$825 an hour. The plaintiffs, however, sought reimbursement for the statutory rate of \$125 per hour, under the Equal Access to Justice Act, Sweeney wrote.

The legal teams for the class received pro bono help from the in-house legal departments of Pfizer Corp. and Hewlett-Packard Corp., each of which offered advice and counseling to individual class members.

Fagg said the firm's leadership is discussing what will be done with its share of the fee award in terms of donations. "We certainly won't be pocketing it," he said.

Fagg noted in a declaration that the firm "intends to donate the funds recovered ... to charitable and legal services organizations."

Although there is always the possibility of an appeal by the government, Fagg said, "We think Judge Sweeney got it correct on the law so we don't think there would be merit to any appeal."

Contact Marcia Coyle at mcoyle@alm.com. On Twitter: [@MarciaCoyle](https://twitter.com/MarciaCoyle)

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