



NVLSP

NATIONAL VETERANS LEGAL SERVICES PROGRAM

Springs v. Del Toro and Category II Contributing Conditions

Frequently Asked Questions

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Springs v. Del Toro and Category II Contributing Conditions

Frequently Asked Questions

What happened in *Springs v. Del Toro*?

For more than 15 years the Navy Physical Evaluation Board (PEB) unlawfully denied military medical retirement benefits to thousands of Navy and Marine Corps veterans by refusing to treat Category II conditions as unfitting by assigning them a disability rating. This policy unjustly deprived those veterans of critical military medical retirement benefits, including access to healthcare, essential for veterans injured during their service and their families' well-being.

The National Veterans Legal Services Program (NVLSP) and pro bono counsel at Dechert LLP filed the class action lawsuit [*Springs v. Del Toro*](#) against the Navy in United States District Court for the District of Columbia to seek relief for those veterans medically separated between November 10, 2014 and June 27, 2019 with at least one unrated Category II condition. On March 23, 2024, the Court entered a [landmark order](#), requiring the Navy to treat Category II decisions as unfitting by providing disability ratings to all Navy and Marine Corp veterans medically separated between November 10, 2014 and June 27, 2019 with at least one unrated Category II condition.

What are Category II Conditions?

Active duty and reserve Service members who have disabilities that interfere with their military service are referred to the Disability Evaluation System to determine whether they should be medically separated, medically retired, or retained in military service. As part of that process, a PEB determines whether each of the Service member's disabilities make them **unfit** to perform their duties. From April 30, 2002 to June 27, 2019, the PEB classified each disability into one of several categories, including:

- **Category I** conditions render a Service member **unfit** for service.
- **Category II** conditions **contribute** to the Service member being unfit, but are **not separately unfitting**.

Despite the fact that federal law required the Navy to rate conditions that were themselves unfitting and those that contributed to the unfitting condition, the Navy refused to rate any Category II contributing condition from April 30, 2002 through June 27, 2019.

How do I know if I am a member of the *Springs* class?

You are a *Springs* class member if you were:

1. Separated from the Navy or Marine Corps between November 10, 2014 and June 27, 2019;
2. Found unfit for continued military service by a PEB; and
3. Found by the PEB to have at least one Category II condition.

What if I was denied a rating for a Category II condition prior to November 10, 2014?

The Navy PEB's unlawful policy of refusing to rate Category II conditions began in 2002. But, due to the statute of limitations, the *Springs* class only covers veterans who were discharged within six years of the filing of the lawsuit. If you are a Navy and Marine Corps veteran discharged prior to November 10, 2014 and affected by the Navy PEB's unlawful refusal to rate Category II conditions, you must apply to the Board for Correction of Naval Records (BCNR) to obtain relief. You may contact NVLSP to see if you qualify for our free legal assistance with the BCNR process. You may apply online at <https://www.nvlsp.org/what-we-do/lawyers-serving-warriors/>.

What will happen now for members of the *Springs* class?

The Navy will automatically review the PEB findings of the members of the *Springs* class and apply disability ratings to their Category II conditions. The Navy will send a letter to the class member advising them that their case has been reviewed pursuant to *Springs v. Del Toro* and that the Navy has determined either:

1. The addition of ratings to their Category II conditions resulted in a change to their discharge status (i.e. from medical separation to medical retirement) and they have 60 days to opt-out of the relief.

OR

2. The Navy has determined that no relief is warranted, and no further action is required. Class members who disagree with this determination must seek relief with the Board for Correction of Naval Records.

What type of notice should I expect if I am a *Springs* class member?

The Navy will obtain the most recent address for each class member from the VA. Navy correspondence to class members will be sent via the United States Postal Service, First Class Mail. The Navy's notice to class members will include the name and contact information for class counsel at NVLSP and a proviso that neither the Department of Defense nor the Navy endorses any attorney, legal aid service, attorney referral, or veteran service organization.

Do I need to hire a lawyer?

You do not have to hire or find your own lawyer, but you have the right to retain independent counsel if you wish. You may reach out to NVLSP at lsw.classaction@nvlsp.org with any questions.

What are the benefits of a medical retirement?

A combined military disability rating of 30% or more entitles a Service member to medical retirement benefits, which include lifetime monthly disability retired pay; lifetime military health care for the veteran, spouse, and minor children; access to military commissaries and post exchanges; and other retirement benefits. If you are medically retired and the Navy finds that an unfitting condition is also combat-related, that may enable you to apply for Combat-Related Special Compensation (CRSC) for that condition. CRSC provides an additional tax-free payment to retired veterans with combat-related disabilities.

I received a disability severance payment. Will I have to pay it back if I am granted a medical retirement?

Possibly. If you received a disability severance payment that has not been fully recouped by the VA or that was not recoupable by the VA, you will need to pay the unrecouped portion back to the government in order to receive a medical retirement. However, the amount owed can be offset by CRSC if you are eligible. To apply for free legal assistance with a CRSC claim through NVLSP's Lawyers Serving Warriors® program, visit our website at <https://www.nvlsp.org/what-we-do/lawyers-serving-warriors/>.

About the National Veterans Legal Services Program (NVLSP)

The National Veterans Legal Services Program (NVLSP) is an independent, nonprofit veterans service organization that has served active duty military personnel and veterans since 1981. NVLSP strives to ensure that our nation honors its commitment to its 18 million veterans and active duty personnel by ensuring they have the benefits they have earned through their service to our country. NVLSP has represented veterans in lawsuits that compelled enforcement of the law where the VA or other military services denied benefits to veterans in violation of the law. NVLSP's success in these lawsuits has resulted in more than \$5.4 billion dollars being awarded in disability, death and medical benefits to hundreds of thousands of veterans and their survivors. NVLSP offers training for attorneys and other advocates; connects veterans and active duty personnel with pro bono legal help when seeking disability benefits; publishes the nation's definitive guide on veteran benefits; and represents and litigates for veterans and their families before the VA, military discharge review agencies and federal courts. For more information go to www.nvlsp.org.