

**IN THE UNITED STATES COURT OF APPEALS
FOR VETERANS CLAIMS**

DOUGLAS A. CONSTANTINE,
Appellant,

v.

ROBERT L. WILKIE,
Secretary of Veterans Affairs,
Appellee.

)
)
)
)
)
)
)
)
)
)

Vet.App. No. 18-7044

NOTICE TO THE COURT

Appellee, by his undersigned counsel, hereby notifies the Court of a significant development in this case, pursuant to *Solze v. Shinseki*, 26 Vet.App. 299, 301 (2013) (“In all cases before this Court, the parties are under a duty to notify the Court of developments that could deprive the Court of jurisdiction or otherwise affect its decision”).

On July 10, 2020, class counsel for the plaintiffs in *Nehmer et al v. U.S. Veterans Administration*, 3:86-cv-06160-WHA, filed a motion for enforcement of the final judgment in that case in the U.S. District Court for the Northern District of California. The substance of the motion, and of the defendant’s response thereto, concerns the geographical limitations of provisions of the Final Stipulation and Order (“consent decree”) agreed to by both parties and entered by the district court in May 1991. Specifically, whether the terms of the consent decree are limited to veterans who served on the ground and inland waterways of the Republic of Vietnam or whether the terms of the consent decree apply to

veterans who served in the territorial waters of the Republic of Vietnam without setting foot on the land mass. A hearing as to the enforcement motion was held on October 28, 2020.

As the Court, in its September 22, 2020 order, has identified the scope of the *Nehmer* class, the terms of the May 1991 consent decree, and the jurisdictional questions related thereto as issues for consideration, the Secretary hereby informs the Court of these proceedings in the U.S. District Court for the Northern District of California. See *Solze*, 26 Vet.App. at 301.

Respectfully submitted,

WILLIAM A. HUDSON, JR.
Principal Deputy General Counsel

MARY ANN FLYNN
Chief Counsel

/s/ Dustin P. Elias
DUSTIN P. ELIAS
Deputy Chief Counsel

/s/ Alexander M. Panio
ALEXANDER M. PANIO
Appellate Attorney
Office of General Counsel (027E)
U.S. Department of Veterans Affairs
810 Vermont Avenue, N.W.
Washington, D.C. 20420
202-632-5157

Counsel for the Secretary