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Contact: Frances Cosico, Public Relations
Phone: 415.268.6063 | Email: FCosico@mof.com

Morrison & Foerster Secures Victory for Troops Exposed to Chemical and Biological Weapons Testing in Case Against the U.S. Government

SAN FRANCISCO (January 20, 2010) – **Morrison & Foerster** yesterday won the right to proceed with a case against the **CIA**, the **Department of Defense**, and the **U.S. Army**, filed on behalf of veterans rights organizations **Vietnam Veterans of America** and **Swords to Plowshares**, along with six veterans with multiple diseases and ailments, tied to a secret testing program in which U.S. military personnel were deliberately exposed to chemical and biological weapons and other toxins without informed consent. Plaintiffs seek declaratory and injunctive relief that would free them from their secrecy oaths and grant them healthcare that they were promised.

On January 19, 2010, Judge Claudia Wilken of the U.S. District Court, Northern District of California, issued an order that overruled the government’s main arguments to dismiss the case, which were based upon lack of jurisdiction, failure to state a claim for relief, statute of limitations, sovereign immunity, and standing.

“The victory obtained for us by our attorneys at Morrison & Foerster finally gives us a chance to redress one of the unfortunate decisions that has made veterans second class citizens,” said **Paul Cox**, Board of Directors Member at Swords to Plowshares.

The court also dismissed a direct challenge to the *Feres* doctrine, which is an exception to the waiver of sovereign immunity that was created by the Supreme Court during the Cold War. According to **Rick Weidman**, Executive Director for Policy and Government Affairs at Vietnam Veterans of America, “the government became immune to damages suits by military veterans after *Feres* so the use of soldiers became cheaper than using guinea pigs.”

The human experimentation program launched in the early 1950s and continued through at least 1976 when it was suspended in response to hearings conducted by Congress. Thousands of experiments took place at the Edgewood Arsenal and Fort Detrick, as well as several universities and hospitals across America contracted by the Defendants. “Volunteers” were exposed to thousands of toxins under code names such as MKULTRA, including drugs such as LSD, mescaline, and cannabis; biological substances such as plague and anthrax; and noxious gases such as sarin, tabun, and nerve gases.

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“The government has long reconciled its war prosecutions and reliance on international treaties with secret actions on its part. As the case moves forward, perhaps we will finally learn an answer to why our vets were made victims at Edgewood,” said **Michael Blecker**, Executive Director at Swords to Plowshares.

Morrison & Foerster Senior Counsel **Gordon Erspamer** is the lead attorney representing the veterans, along with partner **Timothy Blakely** and associates **Stacey Sprenkel, Adriano Hrvatin, Tim Reed, and Jonathan McFarland**. The case came on the heels of an earlier case the firm filed on behalf of veterans afflicted with Post-Traumatic Distress Disorder, which is now pending in the Ninth Circuit Court of Appeals. The firm is handling both cases *pro bono*.

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