



## Gordon P. Erspamer

As I left law school in 1978, I was predisposed to do pro bono work, but I had no burning cause to vindicate, as “empathetic” as I was. In my early years in practice I became involved in poverty law cases, drawing upon my work during law school at the Washtenaw County Legal Aid Society. In the early 1980’s, events occurred that led me down a different path. My father became seriously ill with leukemia, which he linked to radiation exposure in performing hydrographic surveys at Operation Crossroads in the Bikini Islands. He lacked the energy to pursue any claim or, as he explained to me, “I do not want to spend the last year of my life fighting the VA.” So, I began to attend meetings of a non-profit organization dedicated to the cause of “atomic veterans”.

I began to investigate our use of soldiers as guinea pigs in the open-air testing of atomic bombs. I learned that an “iron triangle” existed, insulating the government from any judicial scrutiny. First, a statute barred judicial review of VA claim decisions. Second, a veteran could pay an attorney no more than \$10 out of his own pocket for representation. Third, veterans were barred from suing the government for any torts. For the first time in my life, I could taste and feel injustice on a mass scale.

At about the same time, I received a call from my firm’s receptionist, who reported that an old man in a wheelchair and his wife were there to see me without an appointment. My decision to meet with them that day marked the beginning of my journey working for veterans. The story of Al and Jackie Maxwell was captivating: his service in the Army and eventual capture; his experiences in the Bataan Death March; his transport to Japan in one of the infamous “hellships,” which was sunk by an allied submarine; his rescue by a Japanese merchant vessel; his forced labor in Mukden and in Nagoya; his forced participation in the cleanup of Hiroshima; and the couple’s loss of four children to congenital heart and lung ailments. The mere telling would have made anyone weep.

Al Maxwell, together with five other atomic veterans or widows, became plaintiffs in a class action which asked the Court to rule that the fee limitation violated due process. After securing a preliminary injunction in the District Court, I argued the VA’s direct appeal in the Supreme Court in 1984. During the decade-long course of that case, I met and established friendships with veterans and attorneys serving veterans all across the country. I always drew inspiration from Bob Raven, a former ABA President, who instilled the values of public service in everyone he mentored.

In 1986, the VA was caught shredding millions of pages of documents, and lying in discovery responses in the NARS case. Three years later, in 1989, Congress passed a statute setting up the Court of Veterans Appeals. The first case it heard was that of my mother, *Erspamer v. Derwinski*, in which the court held that the VA’s delay of over 8 years in adjudicating claims arising out of my father’s death satisfied the requirements for mandamus under the All Writs Act.

For the next several decades, I represented individual veterans or widows seeking service-connected death or disability compensation. I noticed that the same issues continued to crop up repeatedly — prolonged administrative delay, pressure to reduce grant rates in certain types of cases, documents missing from files, irrational decisions, and, of course, the implications stemming from the absence of attorneys — dismissals based upon missed time deadlines, misconduct by VA adjudicators, and scores of abandoned claims.

Recently, I have led two new cases. The first focuses on the VA’s failures to provide mental health care to veterans returning from Iraq and Afghanistan, as well as systemic delays in the adjudication of their claims. The second is on behalf of soldiers used as guinea pigs in the testing of chemical and biological weapons from 1943-75.

I believe that it is a privilege to serve those who serve. It is one of the few areas which is almost as apolitical as it is on the point in the circle where left meets right. As a society, we must all pay more than lip service to our veterans and actively assist those who sacrificed the last measure of their devotion.

I am honored to accept the ABA’s award on behalf of the firm of Morrison & Foerster, my colleagues, and our veteran clients.