

UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

Thomas Meissgeier,

Petitioner,

v.

NO. 16-2504

Robert A. McDonald,
Secretary of Veterans Affairs,

Respondent.

PETITIONER'S RESPONSE TO THE COURT'S OCTOBER 8, 2016 ORDER

On October 8, 2016, the Court ordered Petitioner, Lt. Col. Thomas Meissgeier, to provide specific facts justifying his request for extraordinary relief. The “extraordinary” facts of Lt. Col. Meissgeier’s case are detailed in the amended petition, including the Secretary’s own admission of a systemic delay affecting tens of thousands of veterans.

As discussed below, however, Lt. Col. Meissgeier has taken every step required by regulations to seek final agency review of his claim.¹ Unless this petition causes the VA to act more promptly, he will wait an average of 537 days for the VA to spend 2.6 hours to complete a two-page form and another 222 days for the Board of Veterans Appeals to receive his appeal. The Secretary’s only response is that he is too busy to complete a two-page form, a plea he has been making for decades that plainly does not pass

¹ Petitioner has been unable to find any regulations requiring that he contact the RO (assuming someone knowledgeable who would have authority to advance his claim would answer the phone), the Director of Compensation or the Under Secretary for Benefits. As explained below, there is no evidence in this record that any of those voluntary steps would resolve the Secretary’s unconstitutional delays. The evidence, in fact, is to the contrary.

constitutional scrutiny. Based *both* on the guaranteed delay described in his amended petition and on the specific facts of his case described below, the Court should either grant Lt. Col. Meissgeier’s petition or order the Secretary to respond and attempt to justify under the due process clause of the United States Constitution the guaranteed, years-long delay he admits to exist.

I. Lt. Col. Meissgeier is Entitled to Advance His Claim for Extraordinary Relief Based on the Facts Stated in His Amended Petition.

A. Mandamus Before This Court Is Effectively Lt. Col. Meissgeier’s Only Option.

Lt. Col. Meissgeier is one of 17 related petitioners who have sought relief from this Court regarding the unconstitutional delays they and other veterans face. Each of the 17 petitioners has in common four essential facts: 1) each is a veteran of the United States armed forces or the spouse of a veteran; 2) each has submitted a Notice of Disagreement regarding the VA’s denial of disability benefits; 3) each is before the stage of having his or her case docketed by the BVA; and 4) each faces what the VA admits to be a four-year delay (or more) in the processing of his or her appeal. Based on these facts, each has standing in this Court to challenge the prospective unconstitutional delay before exhausting administrative remedies that would take four or more years, after which time the harm would be complete and impossible to remedy. As this Court long ago noted, although reasonable delay “may encompass months, [or] occasionally a year or two,” it cannot stretch to “several years or a decade.” *Erspamer v. Derwinski*, 1 Vet. App. 3, 9 (1990) (internal quotation marks omitted); *see also Kraebel v. New York City Dep’t. of Hous. Preservation & Dev.*, 959 F.2d 395, 405 (2d Cir. 1992) (“[D]elay in processing can

become so unreasonable as to deny due process.”); *Coe v. Thurman*, 922 F.2d 528, 530 (9th Cir. 1990) (“[E]xcessive delay in the appellate process may also rise to the level of a due process violation.” (emphasis omitted)); *Talamantes-Penalver v. INS*, 51 F.3d 133, 135 (8th Cir. 1995) (“Once the right to appeal is created . . . the procedures employed on appeal must provide plaintiffs with due process of law.”).

On July 27, 2016, Petitioner sought to consolidate his case with the other 16 related cases, so that the Court could efficiently adjudicate the issue common to each of them: whether the delay in processing the appeal of their claims—which the Secretary admits will stretch to four years or more, Brief of Respondent-Appellee, *Monk v. McDonald*, No. 2015-7092, 2016 WL 265708, at *5 n.3 (Fed. Cir. Jan. 14, 2016)²—denies each petitioner’s constitutional right to due process. The Secretary’s admission means that this delay applies not only to the 17 related petitioners, but also to tens of thousands of other similarly situated veterans nationwide. The Secretary opposed the motion for consolidation and, on September 14, 2016, the Court denied it.

The related petitioners sought to join together in this manner because certain courts have ruled that this Court is the only forum available to adjudicate the constitutional delay issue, and this Court has denied petitioners the procedures to do so in a manner that would efficiently address this issue that is common to all. Article III

² In a recent report, the VA admitted that of the 440,000 pending veterans’ appeals, a shocking 80,000 (almost 20%) are more than five years old, and 5,000 are more than ten years old. Ex. A, U.S. Dep’t of Veterans Affairs Center for Innovation, *Veteran Appeals Experience*, at 1 (Jan. 2016). A typical appeal will take more than five years to complete. *Id.*

District Courts are, of course, empowered to consolidate cases by way of the class action mechanism or associational standing. *See* Fed. R. Civ. P. 23 (class actions); *Hunt v. Wash. State Apple Adver. Comm’n*, 432 U.S. 333, 343 (1977) (associational standing). Using such procedures, a similar suit brought on behalf of all veterans found initial success in the Ninth Circuit. *Veterans for Common Sense v. Shinseki*, 644 F.3d 845, 851 (9th Cir. 2011) (“We hold that the VA’s failure to provide adequate procedures for veterans facing prejudicial delays in the delivery of mental health care violates the Due Process Clause of the Fifth Amendment”), *vacated*, 678 F.3d 1013 (9th Cir. 2012) (en banc). But soon thereafter, the en banc Ninth Circuit reversed, joining the Sixth Circuit in holding that only this Court has jurisdiction to address the systemic delays that veterans face. *Veterans for Common Sense v. Shinseki*, 678 F.3d 1013, 1016 (9th Cir. 2012) (en banc); *see also Beamon v. Brown*, 125 F.3d 965, 974 (6th Cir. 1997).

But for its part, this Court—the *only* Court according to these two Article III courts that can be the first to hear petitioners’ delay claims—has ruled that it will not permit aggregation through a class action mechanism or associational standing. *See Lefkowitz v. Derwinski*, 1 Vet. App. 439, 440 (1991) (holding that it would not permit class actions because they are “unmanageable and unnecessary”); *Am. Legion v. Nicholson*, 21 Vet. App. 1, 8 (2007) (rejecting associational standing). This leaves the tens of thousands of veterans suffering under the VA’s delays with but one option to remedy that delay: a mandamus petition to this Court.

Lacking the ability to aggregate their claims and denied the ability to consolidate them by the Court, the related petitioners find themselves subject to the whims of the

Secretary, who will often attempt to moot or, essentially, buy off individual petitioners to avoid a ruling by this Court. At the expense of paying one individual's benefits, the Secretary thereby avoids ever facing a ruling that his admitted delays are illegal and unconstitutional. This recently occurred in *Monk v. McDonald*, No. 15-1280. In fact, not only did the Secretary avoid a ruling from this Court on the merits of that claim, but he then parleyed the mootness he created by arguing to the Federal Circuit that the underlying procedural question—whether this Court can use the class action mechanism to aggregate claims—was moot, as well.

This precise dynamic has played out in these related cases. Faced with the prospect of an adverse ruling from this Court, the Secretary suddenly has found the resources necessary to advance certain of these related cases, including providing complete relief in two. For example, in the Hall (16-2499) and Blakely (16-2496) cases, the Secretary abruptly granted all of the relief these petitioners sought, effectively mooting their petitions. Each has subsequently dismissed his Petition. In the Punt case (16-2510), the Secretary hastily granted petitioner a 70% rating, but otherwise ignored her voluminous evidence and denied her other claims. He approached Ms. Punt to see whether she would dismiss her petition based on this partial resolution; she did not. In numerous other cases, the Secretary asked for an extension of time to respond to the Court's orders based in part on his representation that the various Regional Offices were working to process the claims. *See, e.g.*, Aktepy (16-2495); Martin (16-2502); Scyphers (16-2493); Mote (16-2506).

In the Myers case (16-2507), the Secretary inexcusably allowed the claim of an 80-year-old decorated combat veteran to languish for years despite Mr. Myers making every effort to advance his claim, only to spring into action and provide Mr. Myers a Statement of the Case within *five days* of the filing of Mr. Myers's Amended Petition. The Secretary then filed a response never once denying the delays and, in fact, *admitting* that the Roanoke Regional office is only now "working" (a term the Secretary left undefined) claims from *three years ago*, essentially conceding the very delay he has previously admitted. *See* Secretary's Response, *Myers v. McDonald*, No. 16-2507, at 3 (Oct. 19, 2016). But the Secretary did not stop there, arguing that Mr. Myers's petition is now moot and, furthermore, that it fails because Mr. Myers did not explain chapter and verse in his 20-page petition how the Secretary should fix his own broken system. *Id.* at 5–9; *see also* Secretary's Response, *Keefe v. McDonald*, No. 16-2501, at 8–12 (Oct. 19, 2016) (same). In other words, before the Secretary even answers for the delay he has created, the Secretary suggests that a lone veteran should tell the Secretary in his 20-page petition how the Secretary should remedy his systemic violations of the United States Constitution. This notion reflects the Secretary's constant efforts to dodge the constitutional issue.

B. Mandamus Is an Appropriate Vehicle for Remediating Delay.

There is no question that this Court can issue a writ of mandamus to remedy delay in processing a claim. The Court made this clear during its very first term, in just its third reported decision. *See Erspamer*, 1 Vet. App. at 9 ("[C]laims of unreasonable delay fall within the narrow class of interlocutory appeals from agency action over which we

appropriately should exercise our jurisdiction. By definition, a claim of unreasonable delay cannot await final agency action before judicial review, since it is the very lack of agency action which gives rise to the complaint.” (internal quotation marks omitted)); *see also Lane v. West*, 11 Vet. App. 506, 507–08 (1998) (“Where VA fails or refuses to adjudicate a claim presented, the Court has the authority under the All Writs Act (AWA) to direct the Secretary to act on that claim.”). Indeed, this is apparent on the face of the very statute by which Congress granted this Court its powers. 38 U.S.C. § 7261(a)(2) (“[T]he Court of Veterans Appeals, to the extent necessary to its decision and when presented, shall . . . compel action of the Secretary unlawfully withheld or *unreasonably delayed*.” (emphasis added)). If this Court is mandated to deal with unreasonable delays, Congress surely directs it to require the Secretary to address unconstitutional systemic delays.

Moreover, the Court’s mandate to remedy delays is particularly strong when “human health and welfare are at stake.” *Erspamer*, 1 Vet. App. at 10 (internal quotation marks omitted). Veterans’ claims for disability benefits indisputably implicate such concerns. *Id.* Indeed, *thousands* of veterans die while their appeals are pending. *See Veterans for Common Sense*, 644 F.3d at 860. A shocking number commit suicide, at a rate of approximately 20 per day as of 2014, a third of whom are users of VA services. Ex. B, VA Suicide Prevention Program, *Facts About Veteran Suicide* (July 2016) (“In 2014, an average of 20 Veterans died from suicide each day. 6 of the 20 were users of VA services.”). Indeed, just among the 17 related petitions, *three* (almost one-fifth) involve widows who have had to advance their veteran-husbands’ claims after they died

because the VA failed to act in a timely manner. *See* Scyphers (16-2493); Mote (16-2506); Curry (16-2497); *see also* Ex. A, U.S. Dep’t of Veterans Affairs Center for Innovation, *Veteran Appeals Experience*, at 10 (Jan. 2016) (recounting veterans’ feelings that “They are just waiting for me to die[;] then they can close my case and forget about me,” and “My husband died while waiting”).

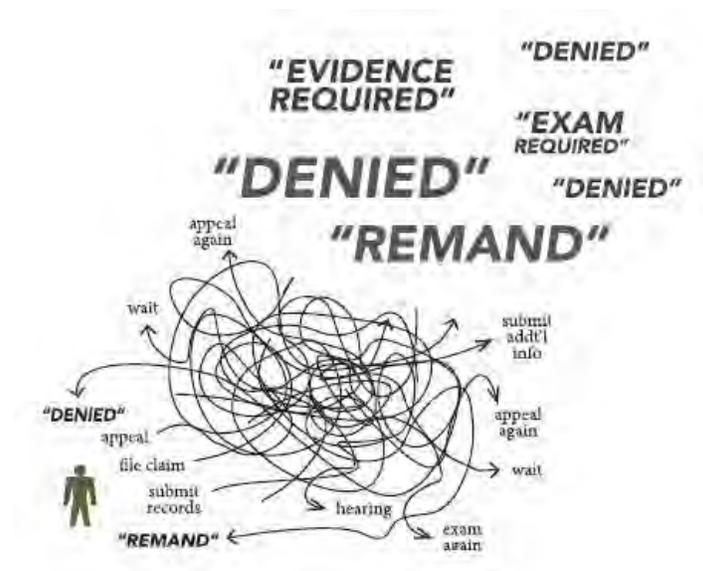
Small wonder that the general public and veterans themselves have lost confidence in this system: Veterans—and even VA officials themselves—call it the “hamster wheel,”³ but it is a deadly serious one. A recent VA study put the problem in stark relief:

When [veterans commence an appeal]—whether they know it or not—they will enter into a process that takes years, sometimes decades, to complete. It will stretch across the Veterans Benefits Administration into the Board of Veterans’ Appeals and likely back again, often without them realizing it, and perhaps dozens of times. It might even transcend VA and head to the U.S. Court of Appeals for Veterans Claims. Some will be satisfied, many will not. Everyone will have to jump through hoops, absorb dozens of letters, fill out confusing paperwork, and learn to live with waiting. They’ll have “to fight.”

Ex. A, U.S. Dep’t of Veterans Affairs Center for Innovation, *Veteran Appeals Experience*, at 1 (Jan. 2016); *see also id.* at 8 (referring to the “endless churn” veterans face). As the VA summarized, “There is no end in sight,” *id.* at 5, and, “The length and

³ *See, e.g.,* Alan Zarembo, *VA is buried in a backlog of never-ending veterans disability appeals*, L.A. Times (Nov. 23, 2015) (“Cases often remain in the system for years in a slow-motion volley between the appeals board and the regional offices, with occasional detours to federal court. Inside the VA, it has become known as ‘the churn’ and ‘the hamster wheel.’”), *available at* <http://www.latimes.com/nation/la-na-veterans-appeals-backlog-20151123-story.html>.

labor of the process takes a toll on Veterans' lives," *id.* at 11. The VA's graphical depiction of how veterans experience this system is startling:



Id. at 8.

This loss of public confidence in the system itself is a further factor counseling in favor of the Court addressing the merits of this epidemic problem. *See Erspamer*, 1 Vet. App. at 10 (“Moreover, the interests resulting from delay here transcend those just of the petitioner. Quite simply, excessive delay saps the public confidence in an agency’s ability to discharge its responsibilities and creates uncertainty for the parties, who must incorporate the potential effect of possible agency decisionmaking into future plans.” (internal quotation marks omitted)). This Court, too, should not have confidence in the Secretary’s assurances and must step in to remedy what the Secretary will not.

Despite this clear, long-standing mandate, the case law contains many instances of this Court refusing to intervene based on the Secretary’s say-so. Again, this dynamic began in one of the Court’s earliest reported decisions, 26 years ago, where the Court

withheld mandamus relief “based upon representations of counsel for [the Secretary]” that the issue was in the process of being resolved. *Id.* at 11; *see also Bullock v. Brown*, 7 Vet. App. 69, 69–70 (1994) (“Based upon the petition and the response, it appears that administrative remedies *may* secure the relief ultimately sought.” (emphasis added)); *Mathis v. Shinseki*, No. 09-3295, 2009 WL 3542529, at *1–2 (Vet. App. Nov. 2, 2009) (“The attachments to Secretary’s response reveal that the Secretary is moving forward to implement the Court’s decision.”); *Keith v. Brown*, No. 96-1584, 15 Vet. App. 314, at *1 (1997) (“The facts and circumstances, including the lengthy delay, in this case *are extreme* and present the type of situation which could, under other circumstances, warrant the granting of extraordinary relief. However, *based upon the written representations of respondent’s counsel that the situation is being closely monitored* and that the petitioner had a meeting scheduled on January 23, 1997, with the RO, the Court is constrained to find that a writ of mandamus is not warranted at this time.” (emphasis added)).

Twenty-six years later, the Secretary’s say-so should no longer suffice. At this point, it is not enough for the Secretary to claim the delays spring from a “burdened system” rather than “an arbitrary refusal to act,” *see Costanza v. West*, 12 Vet. App. 133, 134 (1999), as indeed he did in the recently-filed Myers (16-2507) and Keefe (16-2501) responses. He and his predecessors have been offering such excuses now for over a quarter of a century, even as Congress has repeatedly increased the agency’s resources.

Indeed, the Secretary’s actions in these related cases prove that the Secretary’s handling of these cases is entirely arbitrary: Suddenly and only now he finds these particular cases not part of the “burdened system” he has decried for decades, as he

hastily attempted to resolve them. Many of the earlier cases before this Court alleged that an unreasonable delay violated a statutory requirement. Lt. Col. Meissgeier presents the Court with a different question: Does the systemic, admitted, prospective four-year delay violate the Constitution of the United States, which counsel and courts have sworn to uphold? The Secretary's efforts to avoid a reckoning from this (or any other) Court declaring the admitted delay unconstitutional must come to an end.

Perhaps, having read the amended petition and this Response, the Court may conclude that under the facts and circumstances presented and the Secretary's public admissions of the delays alleged, the Court should grant the amended petition or, at the very least, permit further development and argument on the merits. Indeed, in nine other related cases the Court ordered the Secretary to respond, the first step in evaluating the constitutional issue. *See, e.g.*, Scyphers (16-2493); Aktepy (16-2495); Hall (16-2499); Jean (16-2500); Keefe (16-2501); Martin (16-2502); Mote (16-2506); Myers (16-2507); Punt (16-2510). And on the merits, none of the related petitioners is arguing that this Court should actually grant the benefits sought, though the Secretary's voluntary capitulation is always welcomed. Rather, this Court should address whether the admitted delay Lt. Col. Meissgeier (and, by the Secretary's admission, virtually every other veteran) faces amounts to an unconstitutional denial of due process. *See Matthews v. Eldridge*, 424 U.S. 319, 330 (1976) ("Eldridge's constitutional challenge is entirely collateral to his substantive claim of entitlement.").

II. Lt. Col. Meissgeier's Claim Is Well Documented, and He Has Sufficiently Exhausted His Administrative Remedies.

Notwithstanding the foregoing, to address the Court's specific concerns, Lt. Col. Meissgeier provides the following (1) documentation of his claim and (2) explanation regarding his efforts to exhaust the available administrative remedies.

A. Lt. Col. Meissgeier's Claim is Well Documented.

Lt. Col. Meissgeier entered the service in 1974 and served on active duty for seven years until 1981, when he entered the reserves. Ex. C, Meissgeier Form 21-526, *Veteran's Application for Compensation and/or Pension* (May 13, 2013) ("Meissgeier Application"). He served subsequent extended periods of active duty over the next 26 years, including during the conflicts overseas after 9/11. *Id.* He retired in August 2007 at the rank of Lieutenant Colonel. *Id.*

Lt. Col. Meissgeier and his wife first noticed symptoms of what would prove to be severe sleep apnea in approximately 1980, while he was on active duty.⁴ *Id.*; *see also* Ex. D, Spousal Statement in Support of Claim (May 13, 2013) (noting onset "since we were married in 1979"). He also submitted documentation demonstrating symptoms of severe sleep apnea during his active duty service in Iraq and Afghanistan. *See* Ex. E, Letter from K. Nordmeyer (Mar. 25, 2012) (noting severe sleep apnea symptoms from January

⁴ Sleep apnea is a potentially life-threatening condition. It can lead to heart attack, stroke, impotence, irregular heartbeat, high blood pressure, and heart disease. In addition, the daytime fatigue it causes can result in accidents, loss of productivity, and interference with personal relationships. *See* <https://web.stanford.edu/~dement/apnea.html>.

2005 to May 2006); Ex. F, Letter from R. Craddock (Mar. 5, 2013) (noting severe sleep apnea symptoms in January 2005 while in Afghanistan).

On the advice of his spouse and colleagues, Lt. Col. Meissgeier sought medical attention in 2012. Based on a sleep study, Dr. Barry Dicicco diagnosed him with severe sleep apnea, noting the “disorder has likely been present for many years,” and the “likely duration of the disease is approximately ten years” Ex. G, Letter from Dr. B. Dicicco (Feb. 11, 2013). Lt. Col. Meissgeier also submitted to the VA a second medical statement, from Dr. Anthony Bazzan, noting that he had observed snoring problems (a common symptom of sleep apnea) starting in 2001 and describing Lt. Col. Meissgeier’s diagnosis with sleep apnea. Ex. H, Letter from Dr. A. Bazzan (Apr. 29, 2013).

Lt. Col. Meissgeier submitted an application for disability benefits to the VA on May 13, 2013, including the two doctor letters, the statement from his spouse, the statements from his two colleagues, and his own attestation of his disability. Ex. C, Meissgeier Application. During the pendency of his claim before the Regional Office, Lt. Col. Meissgeier submitted multiple authorizations to the VA to permit them to obtain his medical records from Dr. Dicicco. *See, e.g.*, Ex. I, Meissgeier Records Authorization Form 21-4142 (May 16, 2013); Ex. J, Meissgeier Records Authorization Form 21-4142 (Apr. 25, 2014); Ex. K, Meissgeier Records Authorization Form 21-4142 (Oct. 3, 2014); *see also* Ex. L, Compensation and Pension Claim Status (Apr. 24, 2014). He likewise requested that the VA obtain his military service and medical records. *See* Ex. M, Meissgeier Notice of Disagreement (Dec. 31, 2014). And he specifically requested that the VA conduct a Compensation and Pension exam on him regarding sleep apnea; the

VA refused. Meissgeier Decl. ¶ 2 (Oct. 24, 2016); *see also* Ex. N, Meissgeier Form 21-4138 (Oct. 3, 2014) (“I will be happy to take any verification examinations or sleep studies that the VA requires to confirm my case.”). Having submitted medical and lay evidence demonstrating a service-connected disability and having provided the VA everything it needed to obtain whatever additional evidence it wanted, Lt. Col. Meissgeier’s claim should have been granted. *See* Ex. N, Meissgeier Form 21-4138 (Oct. 3, 2014). But the VA claimed it could not obtain the medical records (and as noted below, then based its denial in part on the absence of those records). Ex. O, VA Status of Claim Letter (Sept. 29, 2014).

Despite the evidence Lt. Col. Meissgeier provided and his numerous attempts to invoke the VA’s Duty to Assist, *see* 28 U.S.C. § 5103A, the VA denied his claim on November 13, 2014, claiming Lt. Col. Meissgeier had not submitted sufficient evidence to substantiate his claim (thereby ignoring the medical evidence Lt. Col. Meissgeier submitted) and also that it lacked his service medical records (thereby ignoring that it failed to obtain them). Ex. P, VA Decision Letter (Nov. 13, 2014). In an effort to comply with the VA’s confusing (and changing) regulations regarding claims appeals, Lt. Col. Meissgeier filed multiple Notices of Disagreement, all noting that the VA had not obtained his records despite the fact that he authorized the VA to obtain those records on multiple occasions and despite the fact that Lt. Col. Meissgeier himself was powerless to do so on his own. *See* Ex. M, Meissgeier Notice of Disagreement (Dec. 31, 2014); Ex. Q, Meissgeier Notice of Disagreement (Jan. 6, 2015); *see also* Ex. R, VA Response to Meissgeier Notice of Disagreement (Jan. 29, 2015) (referring to a NOD of November 13,

2014). In his NOD, Lt. Col. Meissgeier requested a Decision Review Officer hearing. Ex. Q, Meissgeier Notice of Disagreement (Jan. 6, 2015); *see also* Ex. S, Meissgeier Statement of the Case (Mar. 25, 2015) (noting Lt. Col. Meissgeier’s de novo review election).

When it comes to denying a claim, however, the VA has no trouble finding the resources to be efficient. On March 11 2015, Lt. Col. Meissgeier elected a medical opinion in lieu of DRO hearing, which the VA obtained just eight days later, on March 19, 2015. *See* Ex. S, Meissgeier Statement of the Case (Mar. 25, 2015). Six days later, the VA issued a Statement of the Case denying Lt. Col. Meissgeier’s claim, again ignoring his medical evidence and faulting him in part for its and the military’s failure to obtain his service treatment records. *Id.*

Lt. Col. Meissgeier has also written the VA at least twice in an attempt to prompt it to action. *See* Ex. T, Meissgeier Form 9 (Nov. 9, 2015) (describing his email to the VA); Meissgeier Decl. ¶¶ 3–4 (Oct. 24, 2016). He never received a reply to any of these attempts, demonstrating the futility of this step. *Id.* As a result, Lt. Col. Meissgeier filed a Form 9 notice of appeal on November 9, 2015. *Id.* He has heard nothing from the VA since that time.

B. Lt. Col. Meissgeier Exhausted All Non-Futile Alternative Remedies.

The Court questioned whether Lt. Col. Meissgeier “has made any attempt to exhaust his administrative remedies to resolve his claim, to include contacting the regional office (RO), Director of Compensation, or Under Secretary for Benefits.” Order at 1. Exhaustion of administrative remedies is generally a prerequisite to mandamus

relief. See *Cheney v. U.S. Dist. Court for D.C.*, 542 U.S. 367, 380–81 (2004); *Erspamer*, 1 Vet. App. at 11. But the exhaustion requirement is simply “a condition designed to ensure that the writ will not be used as a substitute for the regular appeals process.” *Cheney*, 542 U.S. at 380–81. As noted above, Lt. Col. Meissgeier asks only that this Court address the delay imposed on him, not the merits of his underlying benefit claim. Because that delay can *never* be appealed until after the harm is already complete, *Erspamer*, 1 Vet. App. at 10, there is no concern that the petition is being used as a substitute for the regular appeals process. In addition, this Court has been clear that the exhaustion requirement cannot be used to force a petitioner to engage in “a useless act.” *Erspamer*, 1 Vet. App. at 11.

Lt. Col. Meissgeier has exhausted his administrative remedies under this standard, and his Petition before this Court is therefore ripe. The Supreme Court said in *Matthews*:

[T]he power to determine when finality occurs ordinarily rests with the Secretary since ultimate responsibility for the integrity of the administrative program is his. *But cases may arise where a claimant’s interest in having a particular issue resolved promptly is so great that deference to the agency’s judgment is inappropriate. This is such a case.*

Matthews v. Eldridge, 424 U.S. 319, 330 (1976) (emphasis added).⁵ This is equally “such a case.”

⁵ Full analysis of the factors set forth in *Matthews* and its progeny would require knowledge of the VA’s defense against the claim. But as set forth above, to date in cases like *Myers* and *Keefe*, the VA has refused to even address the delay, other than to claim it is “moot” and then fault the petitioners for not themselves coming up with a way to solve the delay in their 20-page petitions.

First, Lt. Col. Meissgeier’s efforts to date are sufficient to exhaust administrative remedies within his power. As set forth above, Petitioner provided a fully supported claim to the VA. He invoked the Secretary’s duty to assist in obtaining his service and medical records, which the Secretary never accomplished. He further invoked the Secretary’s duty to assist in obtaining his private medical records, which the Secretary again failed to accomplish. He filed more than one Notice of Disagreement and sought DRO review. He has on multiple occasions written the VA to move his case forward, but to no avail. So Lt. Col. Meissgeier filed a Form 9 notice of appeal in an effort to move his case forward. The VA has never responded. Given the VA’s lack of response (other than to hastily deny his claim), there is *no* evidence that any further efforts on Lt. Col. Meissgeier’s part would advance his claim to the BVA. The only thing left for Lt. Col. Meissgeier to do is wait two to five years (or more) for the BVA to begin consideration of his claim.⁶

Second, the Court’s additional proposed exhaustion measures, such as contacting the Director of Compensation or the Under Secretary of Benefits, find no support in the law. Order at 1. Neither measure is required of a veteran in order to advance his claim in a timely fashion. *See Erspamer*, 1 Vet. App. at 11 (“The only avenue arguably still available to petitioner, *the procedures for which do not appear in any DVA regulation or rule*, would be a plea directly to the Secretary.” (emphasis added)).

⁶ “Certifying” the appeal to the BVA is hardly a solution—as the BVA states, certification is still 222 days away from the certified appeal actually making it to the BVA for docketing. Ex. Y, Fiscal Year 2015 Board of Veterans’ Appeals Annual Report at 21 (2016).

And it would be futile to require them here. The Roanoke Regional Office is handling Lt. Col. Meissgeier's case. In the related Rose case (16-2494), the undersigned counsel contacted the Roanoke RO and even the Secretary himself on a number of occasions in an attempt to advance Mr. Rose's case. Ex. U, Letter from L. Montgomery to Secretary McDonald (Dec. 17, 2015); Ex. V, Letter from L. Montgomery to Roanoke RO (Mar. 8, 2016); Ex. W, Letter from L. Montgomery to Roanoke RO (Apr. 7, 2016). The RO refused to act and candidly replied that it only now is processing Form 9 appeals from *2010 and early 2011*. See Ex. X, E-Mail from J. Lorenzani to L. Montgomery (Apr. 26, 2016) ("We are actively working F9s received in 2010 and early 2011."). Based on the VA's own admission regarding the same RO in which Lt. Col. Meissgeier's claim is pending, Lt. Col. Meissgeier can expect that his Form 9 filed in November 2015 will not even be "worked" until approximately five to six years from now, or approximately *2020 or 2021*, after which it will face a further indeterminate delay while the VA advances the file to the BVA, a ministerial act that today takes an average of *222 days*. Ex. Y, Fiscal Year 2015 Board of Veterans' Appeals Annual Report at 21 (2016).

Indeed, it would be more than futile to require these additional measures: It would be perverse. It would reward only the savvier and/or represented veterans who know such a measure—a measure absent from the VA's governing procedures—is possible and, conversely, would punish the tens of thousands of other veterans who do not.

Moreover, as explained above, there presently exists *no* aggregation method by which veterans can collectively remedy the delays guaranteed to be imposed upon them, delays demonstrated by the Secretary's admission and the admission of the Roanoke RO.

Instead, at present, a veteran's only option to remedy the delay is to file an individual petition like this one. Were the Court's additional requirements to be a pre-requisite for relief from delay, *every* one of the tens of thousands of veterans facing a delay would have to inundate the Director of Compensation, the Under Secretary for Benefits, or even the Secretary himself with individual requests in order to obtain relief. Such a requirement spread across the tens of thousands of veterans situated similarly to Lt. Col. Meissgeier would serve no one, as it would impose a futile requirement on veterans that would only further overburden the VA system.

Finally, Lt. Col. Meissgeier's petition to this Court itself exhausts his alternative remedies by bringing his situation sharply to light for the Secretary. The Secretary has previously admitted that petitions like this serve to exhaust. *See Erspamer*, 1 Vet. App. at 11 ("Moreover, counsel for the respondent agreed during oral argument that this petition for relief in and of itself is enough to bring this matter to the attention of the Secretary and effectively serves, in this case, to exhaust that administrative remedy."). With good reason: as explained above, in numerous of the related cases, the petitions have prompted action where the VA previously had ignored the petitioners' plight, sometimes for more than a decade. The Secretary can hardly deny that petitions like this one serve precisely the same purpose as would a call or a letter to the Secretary or his subordinates. Except with two important distinctions: the petitions, unlike letters and calls, actually have had some effect, and this Court has the power to consider the constitutional issue.

In summary, Lt. Col. Meissgeier's documentation more than adequately demonstrates that he has diligently advanced his claim and exhausted his alternative remedies. From the filing of his Form 9, VA statistics reveal that Lt. Col. Meissgeier faces yet another protracted delay of 537 days until the VA "certifies" his appeal to the VA—a purely ministerial act that takes approximately 2 ½ hours—and then another 222 days before his claim will be sent from the VA and docketed by the BVA. Ex. Y, Fiscal Year 2015 Board of Veterans' Appeals Annual Report at 21 (2016). In other words, despite his diligence at every step, Lt. Col. Meissgeier faces a further minimum delay of more than *two years* (759 days). But that is only the average. As shown above, the Roanoke RO admits the delay at this stage to be on the order of *five to six years*. Either way, Lt. Col. Meissgeier faces an unconscionable delay completely outside his control before he can have the opportunity to remedy the VA's mishandling of his claim, the result of which is likely to be a remand and another round on the "hamster wheel." This is the delay as to which Lt. Col. Meissgeier requests this Court's intervention.

III. Conclusion.

Although the Court would be within its rights to grant the amended petition or order further argument and development, the question before the Court at this juncture is simply whether the Secretary must "file an answer to the petition within a fixed time." Rule 21(d). The Court should enter such an order in this case, and thereby permit Lt. Col. Meissgeier to advance his claim on the merits, just as the Court has done for numerous of the related petitioners.

This 24th day of October, 2016.

/s/ John A. Chandler

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/s/ Stephen D. Raber

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lmcccloud@wc.com

Attorneys for Petitioner

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 24th day of October, 2016, the foregoing materials will be filed with the Court and sent to all counsel of record by operation of the Court's electronic filing system.

/s/ Liam J. Montgomery

Liam J. Montgomery

**Declaration of
Liam J. Montgomery**

UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

Thomas Meissgeier,

Petitioner,

v.

NO. 16-2504

Robert A. McDonald,
Secretary of Veterans Affairs,

Respondent.

**DECLARATION OF LIAM J. MONTGOMERY IN SUPPORT OF
PETITIONER'S RESPONSE TO THE COURT'S OCTOBER 8, 2016 ORDER**

I, Liam J. Montgomery, declare as follows:

1. I am over 18 years of age. I am an attorney at the law firm of Williams & Connolly LLP. I submit this declaration in support of Petitioner's Response to the Court's October 8, 2016 Order (the "Response").

2. Attached as Exhibit A to the Response is a true and correct copy of U.S. Dep't of Veterans Affairs Center for Innovation, *Veteran Appeals Experience* (Jan. 2016).

3. Attached as Exhibit B to the Response is a true and correct copy of VA Suicide Prevention Program, *Facts About Veteran Suicide* (July 2016).

4. Attached as Exhibit U to the Response is a true and correct copy of Letter from L. Montgomery to Secretary McDonald (Dec. 17, 2015).

5. Attached as Exhibit V to the Response is a true and correct copy of Letter from L. Montgomery to Roanoke RO (Mar. 8, 2016).

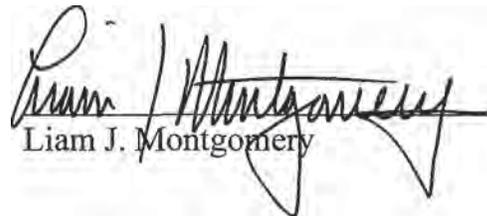
6. Attached as Exhibit W to the Response is a true and correct copy of Letter from L. Montgomery to Roanoke RO (Apr. 7, 2016).

7. Attached as Exhibit X to the Response is a true and correct copy of E-Mail from J. Lorenzani to L. Montgomery (Apr. 26, 2016).

8. Attached as Exhibit Y to the Response is a true and correct copy of Fiscal Year 2015 Board of Veterans' Appeals Annual Report (2016).

I declare under penalty of perjury that the foregoing is true and correct.

Executed on October 24, 2016


Liam J. Montgomery

Declaration of Thomas Meissgeier

UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

Thomas Meissgeier,

Petitioner,

v.

NO. 16-2504

Robert A. McDonald,
Secretary of Veterans Affairs,

Respondent.

**DECLARATION OF THOMAS MEISSGEIER IN SUPPORT OF
PETITIONER'S RESPONSE TO THE COURT'S OCTOBER 8, 2016 ORDER**

I, Thomas Meissgeier, declare as follows:

1. I am over 18 years of age. I submit this declaration in support of Petitioner's Response to the Court's October 8, 2016 Order (the "Response").
2. I requested that the VA conduct a Compensation and Pension exam for my sleep apnea. The VA never provided me such an exam.
3. On October 20, 2015, I sent the VA an electronic message requesting information on the status of my claim, which was assigned VA Confirmation Number 151021-000318. The VA never replied.
4. On November 6, 2015, I sent the VA an electronic message requesting information on the status of my claim, which was assigned VA Confirmation Number 151106-000265. The VA never replied.

5. Attached as Exhibit C to the Response is a true and correct copy of Meissgeier Form 21-526, *Veteran's Application for Compensation and/or Pension* (May 13, 2013).

6. Attached as Exhibit D to the Response is a true and correct copy of Spousal Statement in Support of Claim (May 13, 2013).

7. Attached as Exhibit E to the Response is a true and correct copy of Letter from K. Nordmeyer (Mar. 25, 2012).

8. Attached as Exhibit F to the Response is a true and correct copy of Letter from R. Craddock (Mar. 5, 2013).

9. Attached as Exhibit G to the Response is a true and correct copy of Letter from Dr. B. Diccico (Feb. 11, 2013).

10. Attached as Exhibit H to the Response is a true and correct copy of Letter from Dr. A. Bazzan (Apr. 29, 2013).

11. Attached as Exhibit I to the Response is a true and correct copy of Meissgeier Records Authorization Form 21-4142 (May 16, 2013).

12. Attached as Exhibit J to the Response is a true and correct copy of Meissgeier Records Authorization Form 21-4142 (Apr. 25, 2014).

13. Attached as Exhibit K to the Response is a true and correct copy of Meissgeier Records Authorization Form 21-4142 (Oct. 3, 2014).

14. Attached as Exhibit L to the Response is a true and correct copy of Compensation and Pension Claim Status (Apr. 24, 2014).

15. Attached as Exhibit M to the Response is a true and correct copy of Meissgeier Notice of Disagreement (Dec. 31, 2014).

16. Attached as Exhibit N to the Response is a true and correct copy of Meissgeier Form 21-4138 (Oct. 3, 2014).

17. Attached as Exhibit O to the Response is a true and correct copy of VA Status of Claim Letter (Sept. 29, 2014).

18. Attached as Exhibit P to the Response is a true and correct copy of VA Decision Letter (Nov. 13, 2014).

19. Attached as Exhibit Q to the Response is a true and correct copy of Meissgeier Notice of Disagreement (Jan. 6, 2015).

20. Attached as Exhibit R to the Response is a true and correct copy of VA Response to Meissgeier Notice of Disagreement (Jan. 29, 2015).

21. Attached as Exhibit S to the Response is a true and correct copy of Meissgeier Statement of the Case (Mar. 25, 2015).

22. Attached as Exhibit T to the Response is a true and correct copy of Meissgeier Form 9 (Nov. 9, 2015).

I declare under penalty of perjury that the foregoing is true and correct.

Executed on October 24, 2016

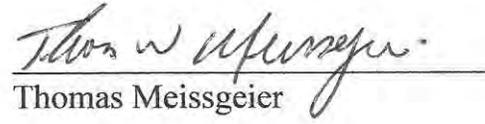
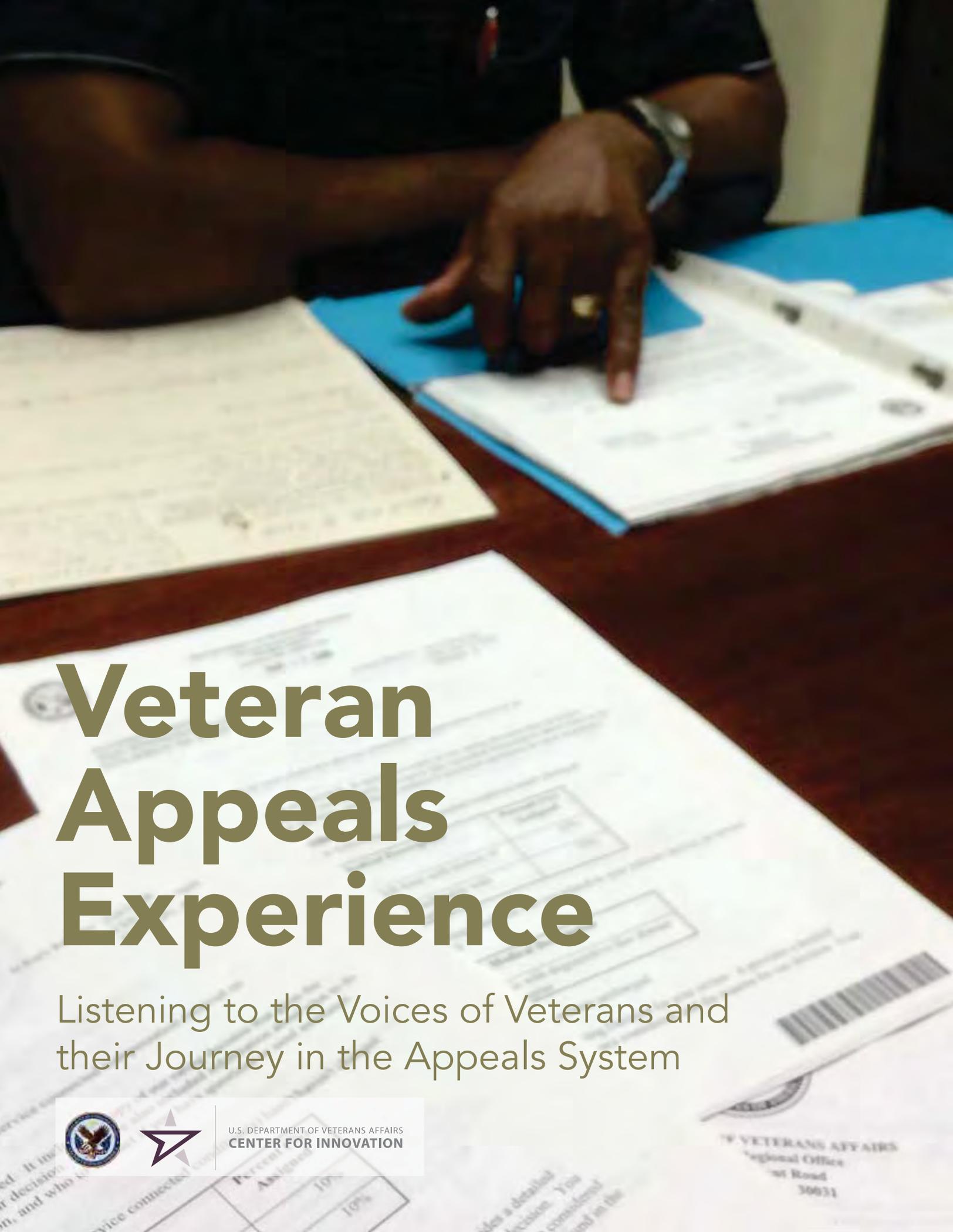

Thomas Meissgeier

EXHIBIT A



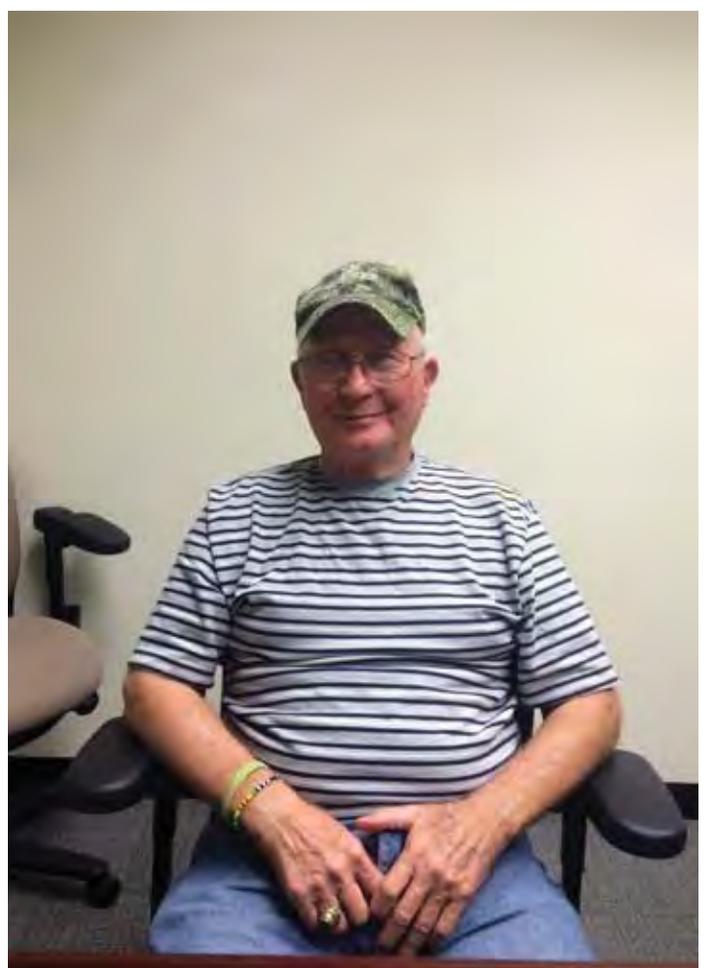
Veteran Appeals Experience

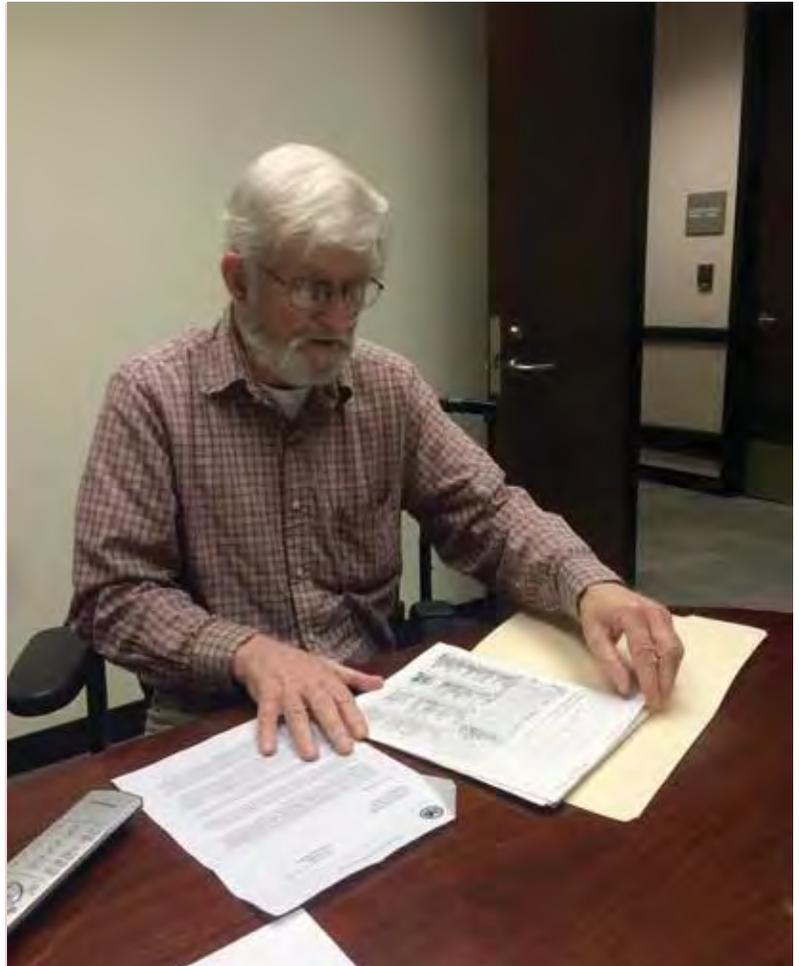
Listening to the Voices of Veterans and their Journey in the Appeals System



U.S. DEPARTMENT OF VETERANS AFFAIRS
CENTER FOR INNOVATION

U.S. DEPARTMENT OF VETERANS AFFAIRS
Regional Office
Post Road
30031





Veteran Appeals Experience

Listening to the Voices of Veterans and
their Journey in the Appeals System

Findings Report | January 2016



U.S. DEPARTMENT OF VETERANS AFFAIRS
CENTER FOR INNOVATION

VA Center for Innovation (VACI) is a team of innovators and doers within VA who are dedicated to driving innovation at the largest civilian agency in the United States Government. The team at VACI does not believe in innovation for its own sake, but rather, in innovation that provides a tangible value to VA and to Veterans. The work of VACI is driven by a strong commitment to a Veteran-centered approach to service delivery, a dedication to data-driven decision making, and a commitment to design thinking.

Since 2011, VACI has worked to identify, test, and evaluate new approaches to VA's most pressing challenges. Balancing the practical with the aspirational, VACI enables a steady influx of high value innovations into VA, moving them from concept to operational implementation.

This project was led by the Veteran-Centered Design Lab (VCD) and the Veterans Engineering Resource Center (VERC). The VCD Lab informs the design and development of innovative solutions to transform the Veteran experience utilizing principles of Human-Centered Design and Design Thinking. The VERC provides Operational Systems Engineering, Informatics, and Implementation Science to facilitate transformation within VA healthcare delivery systems.

PROJECT TEAM

Chris Hughes, Principal Design Strategist, Veterans Engineering Resource Center
Luke Hawbaker, Co-Lead & Storyteller
Andrew Carlstrom, Veteran-Centered Design Lab Program Manager, Veterans Engineering Resource Center
Crystal Lumby, Clinical Systems Integration Program Manager, Veterans Engineering Resource Center
Jessica Pierce, Program Analyst, Veterans Engineering Resource Center
Chris Hluchyi, Senior Program Analyst, Veterans Experience

THANK YOU

Patrick Littlefield, and the entire team at VA Center for Innovation
Amber Schleuning, Deputy Director, VA Center for Innovation
James Ridgway, Veterans Law Judge & Chief Counsel, Board Of Veterans' Appeals
Elisabeth Maher, Sr. Management & Program Analyst, Veterans Benefits Administration

WEBSITES

Location of this report
<http://www.blogs.va.gov/VAntage/25331/listening-to-the-voices-of-veterans-and-their-journey-in-the-appeals-system/>

Prior Human-Centered Design work
<http://www.innovation.va.gov/hcd.asp>

VA Center for Innovation sends a special thank you to the staff at BVA, VA, and RO facilities in St Petersburg, Atlanta, Las Vegas, Phoenix, Portland, Lincoln, and Washington, D.C. who were critical in making this research a reality. And to the Veterans and families who shared their stories and offered us a glimpse into their experience with the appeals process.

Respondents of this pilot participated willingly. Names have been changed to anonymize data.

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Key Themes

- 11 The length and labor of the process takes a toll on Veterans’ lives.
- 17 Like in the military, Veterans care deeply about the outcomes of other Veterans.
- 23 Veterans grow to feel alone in a process they barely understand.
- 27 The appeals process feels like a fight.
- 33 Veterans want to be heard.

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VETERAN APPEALS EXPERIENCE

Every year, over a million Veterans file claims with the Veterans Benefits Administration. They file for injuries ranging from the annoying to the life-altering, for increases in existing disability ratings, for benefits for family members. They come right after the military, young but prudent, or late in life, when their body has started to betray them. It could be their first claim or their fortieth.

The vast majority of Veterans, when they receive their decision, won't appeal. But over one hundred thousand will. They'll appeal because they disagree with their decision, because they don't understand their denial, or because it's their right. They'll appeal because they want to be heard.

When they do—whether they know it or not—they will enter into a process that takes years, sometimes decades, to complete. It will stretch across the Veterans Benefits Administration into the Board of Veterans' Appeals and likely back again, often without them realizing it, and perhaps dozens of times. It might even transcend VA and head to the U.S. Court of Appeals for Veterans

Claims. Some will be satisfied, many will not. Everyone will have to jump through hoops, absorb dozens of letters, fill out confusing paperwork, and learn to live with waiting. They'll have "to fight."

From the inception of the claims process until today, hundreds of cases and laws and tens of thousands of rules, well-intended in isolation, have piled on top of, underneath, and in between each other creating a staggering level of complexity. With permutations numbering in the millions, the process is barely comprehensible to experts and completely opaque to the Veterans who depend on its outcomes.

When the current appeals process was established in 1933, hospitals were few, most care was provided by house call, and medical records were virtually non-existent. Today, increases in medical knowledge, clinical practice, and the acceleration of the modern world have slowed the appeals system to a crawl as it struggles to keep up with expanding mandates, legal requirements, and documentation.

To better understand how Veterans experience the appeals process - how the process fits into the context of their lives - a group of six researchers spoke at length with more than 90 Veterans whose service spanned the periods from World War II, Korea, and Vietnam, to the current conflicts in Iraq and Afghanistan.

We spoke to Veterans at every stage in the process, from those receiving their initial decision to those with final, complete results from the Board of Veterans' Appeals. Some were new to the process. Others, such as those who had just had their hearings with the Board, were years into their appeals.

What we heard was not easy. The limits of a system designed in an earlier time for a different set of challenges are increasingly born by the Veterans whom the system was intended to serve.

Here's what we heard, told in the best way we know how - the Voices of Veterans themselves.

Our goal is to better understand how Veterans experience the appeals process and how the process fits into the context of their lives.

RESEARCH FINDINGS

In our conversations, we heard many stories, both of the appeals process and Veterans' lives. Five of these stories are highlighted in narratives in this document. These stories, coupled with this document's themes and insights, illuminate findings ubiquitous across Veterans' experiences, findings that should be considered in any conversation examining the appeals process.

NARRATIVES OF VETERANS

Nothing conveys the effects of the appeals process like hearing the stories of Veterans. We've included five narratives telling the stories of men and women we spoke with on the road:

Reggie – The Interplay of Injuries and Delays

Lawrence – The Wear on Those Who Need Help Most

Bill – The Frustrations of Compensation & Pension Exams

Lisa – The Compounding of Heartache

Diego – The Fervent Desire to be Heard

A JOURNEY IN THE APPEALS PROCESS

Journey maps take the reader along a customer's or user's journey interacting with a product or service. A journey map seeks to show the different stages of the journey as well as what a Veteran thinks, feels, and does in a given stage. Here we've outlined a typical journey through the VA appeals process in five stages of increasingly bleak emotions:

The Cautious Start

"The Fight" Begins

The Process Grinds

The Wear Takes its Toll

The Resignation

KEY THEMES AND INSIGHTS

Our research surfaced five key themes surrounding Veterans' needs, perceptions, and expectations in their experiences with the appeals process. These insights can serve as a guide across VA for redesign of appeals and related services that better meet the needs of Veterans and their families.

- 1. The length and labor of the process takes a toll on Veterans' lives.**
- 2. Like in the military, Veterans care deeply about the outcomes of other Veterans.**
- 3. Veterans feel alone in a process they don't understand.**
- 4. The appeals process feels like a fight.**
- 5. Veterans want to be heard.**

WHAT IS HUMAN-CENTERED DESIGN?

DEFINITION:

“An approach to systems design and development that aims to make interactive systems more usable by focusing on the use of the system and applying human factors/ergonomics and usability knowledge and techniques.”

INTERNATIONAL STANDARDS ORGANIZATION¹

WHY HCD:

“Rather than requiring users to adapt their attitudes and behaviors in order to learn and use a system, a system can be designed to support its intended users’ existing beliefs, attitudes, and behaviors as they relate to the tasks that the system is being designed to support.”

USABILITYFIRST.COM²

“A human-centered approach to innovation draws from the designer’s toolkit to integrate the needs of people, the possibilities of technology, and the requirements for business success.”

TIM BROWN, IDEO PRESIDENT & CEO³

Human-centered design (HCD) is a discipline in which the needs, behaviors and experiences of an organization’s customers (or users) drive product, service, or technology design processes. It is a practice used heavily across the private sector to build a strong understanding of

users, generate ideas for new products and services, test concepts with real people, and ultimately deliver easy-to-use products and positive customer experiences.

HCD is a multi-disciplinary methodology which draws from the practices of ethnography, cognitive psycholo-

gy, interaction and user experience design, service design, and design thinking. It is closely tied to “user-centered design,” which applies parallel processes to technology projects, and “service design” which address the service specific experiences.⁴

METHODS

CONTEXTUAL INQUIRY:

In-person individual conversation style interviews, in which our researchers met with Veterans in the context of the appeals hearing.

CUSTOMER JOURNEY MAP:

Translated the steps a user currently takes through a system or service, identifying the highs and lows of the experience from their perspective.

NARRATIVES:

Telling a compelling Veteran story that highlights a unifying aspect of the appeals experience.

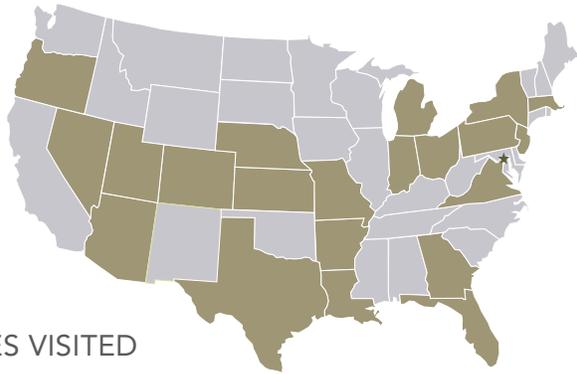


This report is often referred to as the ‘discovery’ phase of a user-driven design process – the initial research and analysis phase into the needs and behaviors of users and user experience of existing services.

Building on our conversations, we performed qualitative ethnographic and design activities, driven by a robust and evolving set of questions. Using design thinking and service design practices, we then mapped, visualized, and synthesized our findings, which are detailed in this report.

WHERE WE WENT AND WHO WE TALKED TO

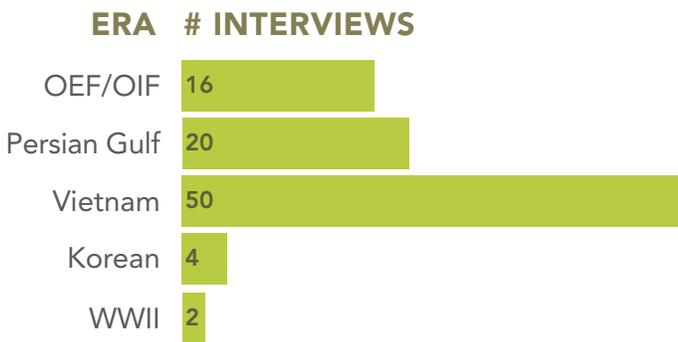
RESEARCH LOCATIONS



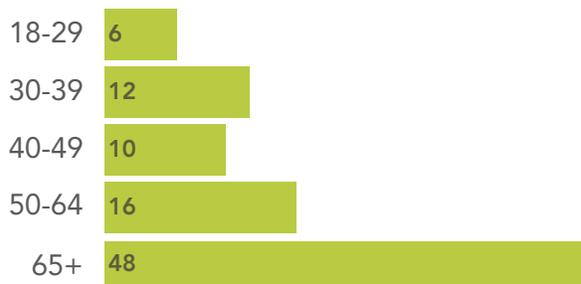
CITIES VISITED

- Atlanta, Georgia
- Las Vegas, Nevada
- Phoenix, Arizona
- Portland, Oregon
- St. Petersburg, Florida
- Washington, D.C.

INTERVIEW BREAKDOWN



AGE # INTERVIEWS



TOTAL INTERVIEWS: 92

HUMAN-CENTERED TOOLS:

UNCOVERING "THICK" DATA

Typically VA conducts surveys or focus groups to understand Veterans' opinions about our services. While this kind of data offers immense value, it does not provide deep insight into the qualitative characteristics of a service experience or the human motivations of our customers.

Design approaches to user research focus less on people's opinions, and more on understanding their lives and experiences. By doing ethnographic fieldwork with a range of Veterans—from different service eras, different geographic areas, etc—and visiting them in their homes and at their jobs, we were able to gather a complex and nuanced understanding of their everyday needs.

Jared Spool, a leading usability researcher, explains the value of research which facilitates the observation of human behavior:

"Users can't describe activities that they don't focus on. When you have an audience that is experienced at what they do, they often don't pay attention to the small steps involved. An outside observer will see these 'unspeakables' and can document them in ways that the participants can't. It's these details that will make the user experience feel natural and well considered."

Innovation happens when the designers get direct exposure to the users' entire context and its subtle variations and accidental similarities. Some of the most innovative designs in the last 5 years are the result of paying attention to the little details in the user's context.

*'Intuitive' interfaces are easier to build when designers have a deep understanding of the users' context, terminology, and processes. It's the combination of these three elements that make an interface seem intuitive, because the familiarity to users is already built in.'*²⁵

THE SYSTEM IS BROKEN

We are reaching a tipping point.

440,000 Veterans have appeals pending
80,000 Veterans have appeals older than 5 years
5,000 Veterans have appeals older than 10 years
5 years will be spent resolving a typical appeal⁶

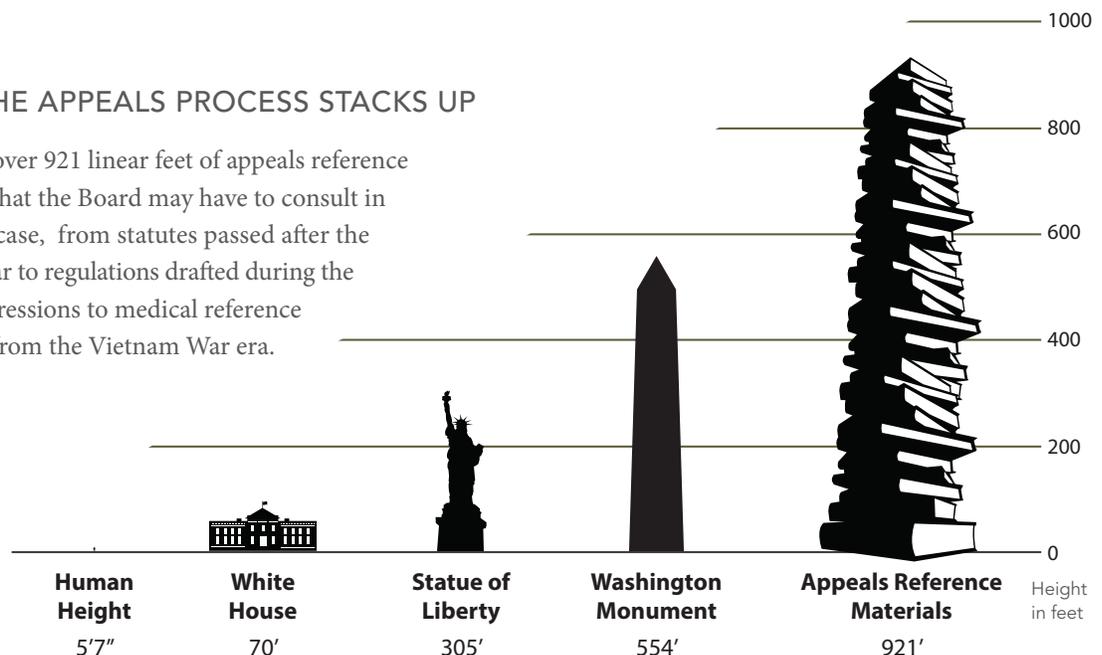
Veterans, VSOs, and VA employees are working
harder than ever and we are still losing ground.

There is no limit to the number of steps the process could require.
The process can restart an unlimited number of times.

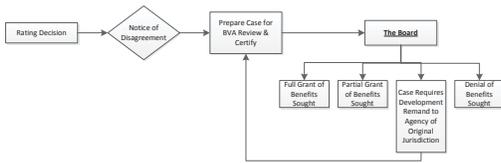
There is no end in sight.

HOW THE APPEALS PROCESS STACKS UP

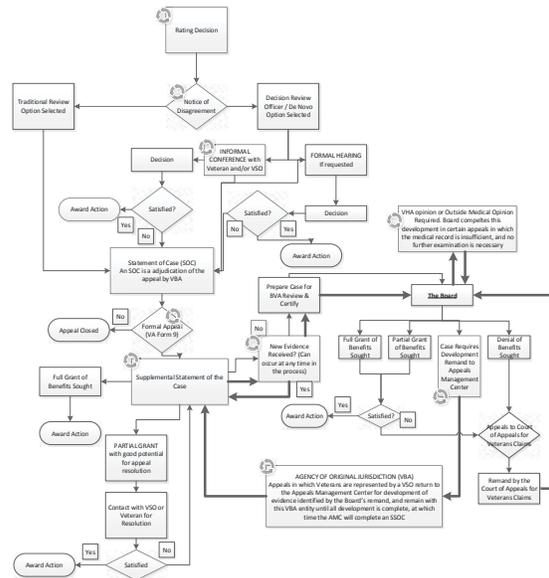
There are over 921 linear feet of appeals reference materials that the Board may have to consult in any given case, from statutes passed after the Korean War to regulations drafted during the Great Depressions to medical reference materials from the Vietnam War era.



AS NEW RULES HAVE INCREASED SYSTEM COMPLEXITY...

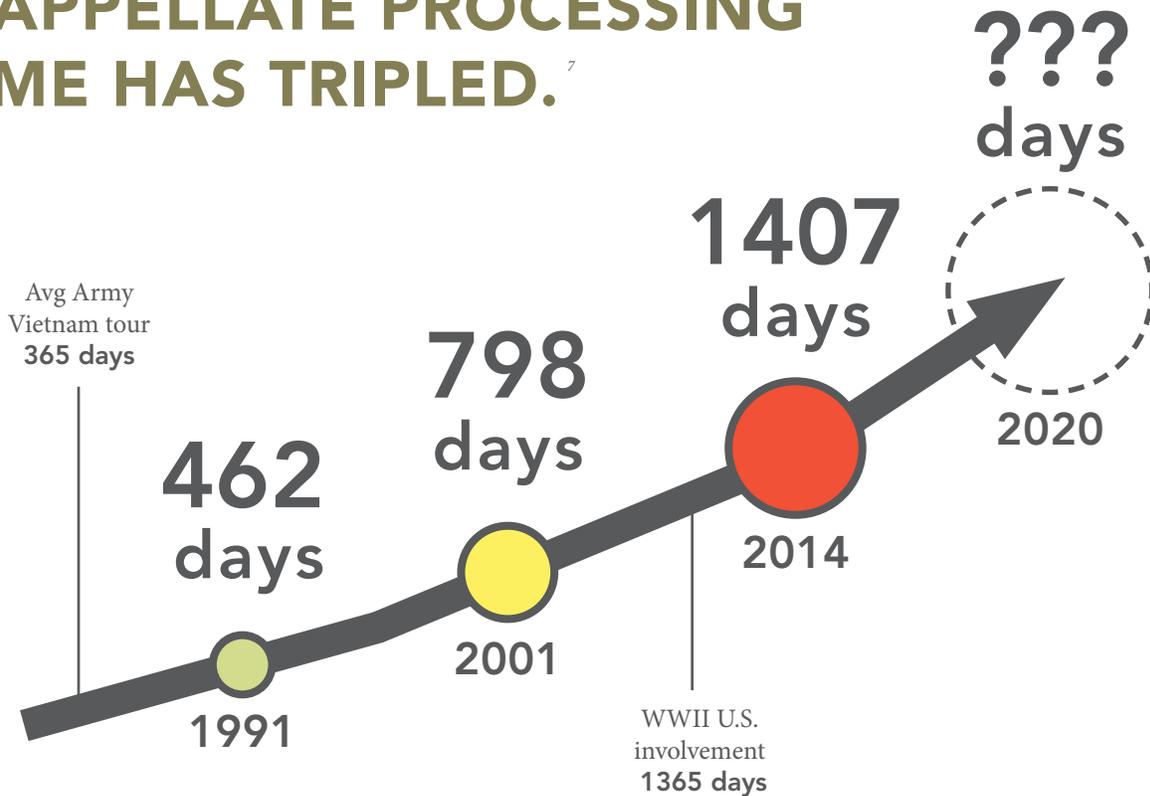


APPEALS PROCESS IN 1962



APPEALS PROCESS TODAY

...APPELLATE PROCESSING TIME HAS TRIPLED.⁷



WHAT VA EMPLOYEES SEE

VA employees (and VSO's) see the unique legal principles established by the appeals system that govern their actions. These principles—in theory—should create one of the most applicant-friendly systems:

NON-ADVERSARIAL

Non-Adversarial: No entity, VA or otherwise, opposes a Veteran's claim. Two sets of lawyers do not argue in front of a judge. There is no courtroom.

DUTY TO ASSIST

Duty to Assist: VA has a duty to assist Veterans in filing their claims, informing them of the necessary evidence to prove and bolster their case.

OPEN RECORD

Open Record: The "open record" enables Veterans to add evidence at any time in the process—unlike the traditional judicial process with which most people are familiar.

In the simplest explanation, most appeals begin as claims at the Veterans Benefits Administration (VBA). After one round or more rounds of appeal at VBA, an appeal moves to the Board of Veterans' Appeals (BVA) to be ruled on by a judge. Veterans Service Organizations (VSOs) provide representatives, to help Veterans. No one opposes Veterans' claims and a claim only needs to be granted once. No one will challenge a satisfactory grant once it's given.

In reality, VA employees know they wrestle with a jumbled process, limitless in its complexity and repetition. Through years of experience, they may have come to understand it and its varied paths. They may be able to explain it to you, slowly. But do not think that their view behind the curtain illuminates simple levers that can speed the process along. Instead, they see a complex, multi-stage, and non-linear monster. A monster they



EXAMPLE OF A LARGE CASE FILE

know fails to provide the results Veterans need in the time they need them.

They will shake their heads and explain how the process got that way. They'll explain the good intentions of Congress, the Court, or VA in making a change, but they will then detail how, in practice, those new rules combined to create today's dysfunctional process.

VBA officers will explain how nothing limits the number of records requests or doctor's orders they could be required to ask for—even if it's infuriating to both Veterans and them. The Board's judges will outline how the open record or required remands can make the process churn to infinity. They'll talk about combing through case files like the one at left.

You'll be hard-pressed to find someone who will defend the process.

WHAT VETERANS SEE

Veterans see and feel they have a different experience that contrasts the supposed “friendly” legal principles.

ADVERSARIAL

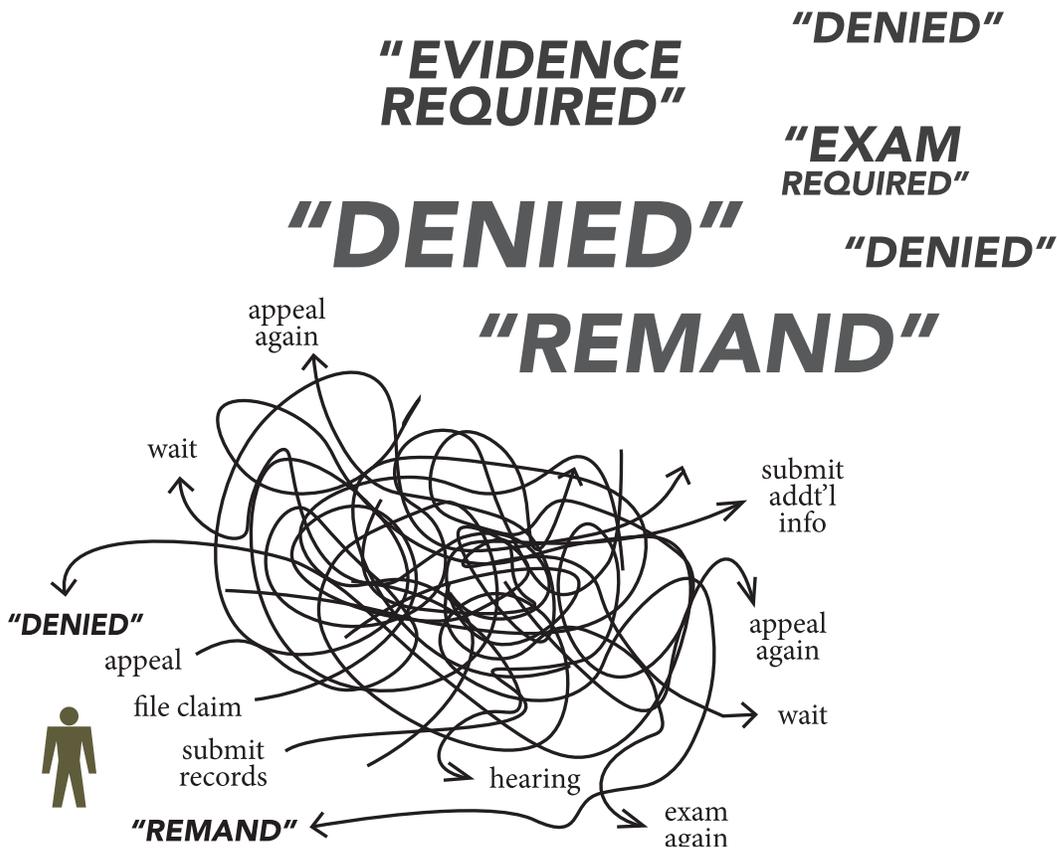
Adversarial: To most Veterans, the appeals process feels like a fight. It’s non-adversarial in theory only.

LABOR INTENSIVE

Labor Intensive: Poor communication and the relentless pursuit of records often feels like the opposite of assistance, adding more and more work for Veterans.

ENDLESS CHURN

Endless Churn: There’s a terrible hitch to the open record: if you submit new evidence, the claims review process starts all over again.



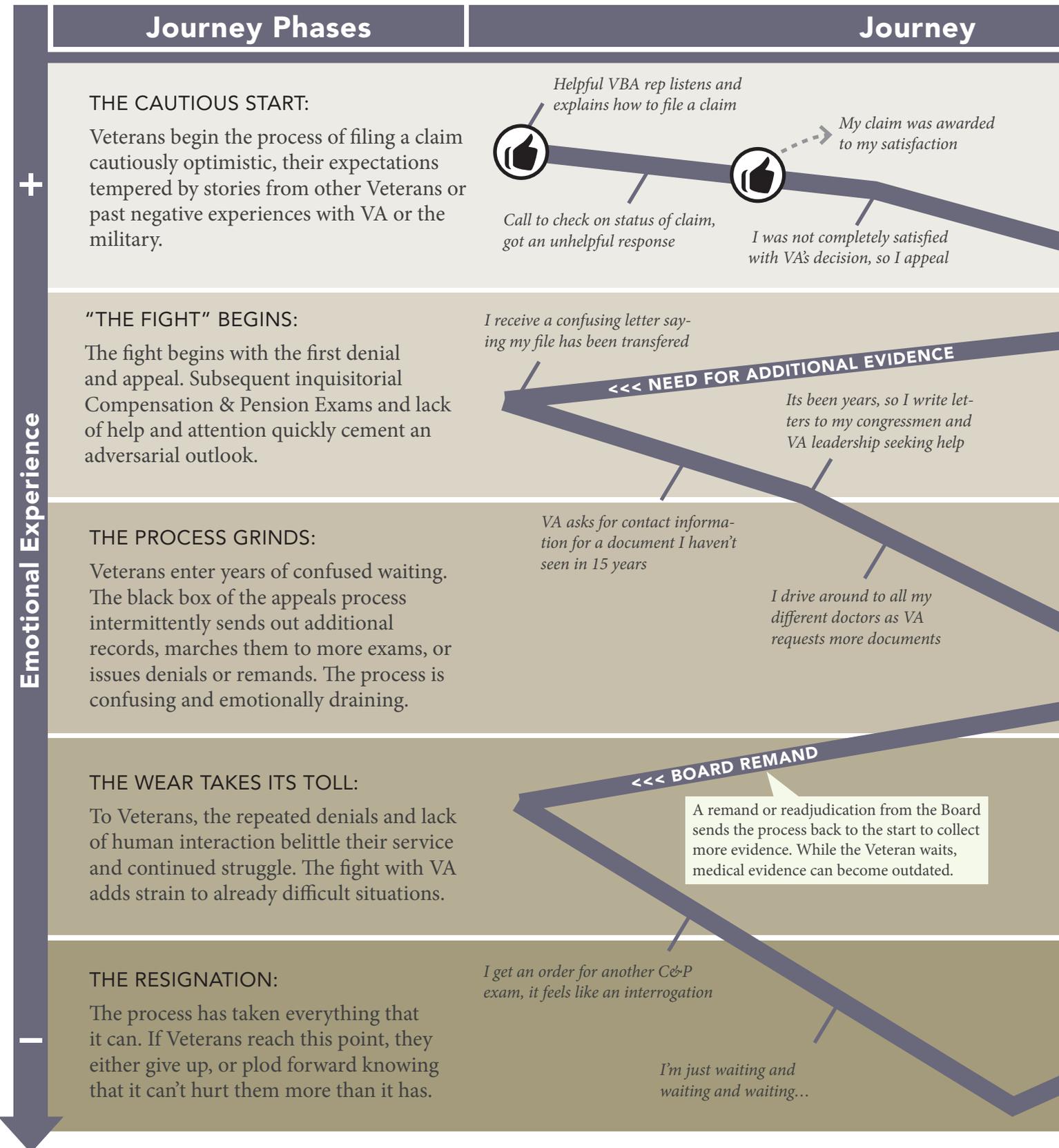
Veterans and their families struggle to understand the process or their place in it. They have little understanding of the relationship between steps in the process and sometimes don’t even realize when they’re making a decision—even if it might

delay their appeal for years. They don’t distinguish between VBA and Board; instead, they simply see VA. Even VSOs are occasionally viewed as a part of VA. As will be made clear in the coming pages, they do know it’s a monster, a broken system.

The non-adversarial nature of the system, VA’s duty to assist, and the consequences of the open record are lost on Veterans. In fact, they often experience the opposite.

// VETERAN JOURNEY MAP

Veterans follow several paths in the appeals process and many will exit the system before seeing a judge. They have different emotional lows, different highs, different moments that affect their experience. From our interviews a common emotional journey became clear. The beginning can have positive moments, however the general march is a decline.



The journey map below seeks to foster empathy and understanding by depicting the broad emotional stages Veterans will experience as their appeals drag on and on. It depicts their claim and subsequent appeals' movements in the process along the horizontal, X-axis while the cumulative emotional experience along the vertical, Y-axis.

	Time	Feeling	Thinking
 <p><i>I got a relatively quick decision with my appeal</i></p>	1-2 years		<ul style="list-style-type: none"> • This will probably take a couple of months, couldn't take more than a year. • I've heard horror stories but my claim is simple. • It's very vague online and if you call somebody they're very vague also.
 <p><i>No one's listened, so I write a letter explaining my story and in the process introduce new evidence which VA must now track down from a doctor</i></p>	2-3 years		<ul style="list-style-type: none"> • Made me feel about this big...tiny. • That comp and claims doctor, he's not listening to [me]. • I just want to tell my story. I just want them to hear me.
 <p><i>I'm expecting a ruling but instead the Board says I have to get another C&P exam, since my condition has gotten worse while waiting</i></p>	2-3 years		<ul style="list-style-type: none"> • I tried not to think about it. • They just keep making me submit the same documents over and over again. • I wrote a nasty letter to the VA Secretary telling him the challenges I am facing.
	3-5 years		<ul style="list-style-type: none"> • C&P Exam is a battle. • I've been fighting for five years. • They are just waiting for me to die, then they can close my case and forget about me.
 <p><i>I was nervous of my hearing, but the judge listened, cared, and helped</i></p>	5 years & beyond		<ul style="list-style-type: none"> • They can't hurt me anymore than they already have. • My husband died while waiting. • After talking to the judge, I feel some hope.

 = Positive moment

 = Trigger to go back in the process

**The length
and labor of
the process
takes a toll
on Veterans'
lives.**

Insights

- Instead of assisting Veterans, the current process increases the stress and uncertainty of already difficult situations.
- Delays have a palpable, debilitating effect on Veterans' health and quality of life.
- Veterans jump through hoops, working hard to try to meet the demands of the process.
- The required paperwork and records seem redundant, cumbersome, and confusing.
- The factors that take a toll on Veterans over the years clearly show themselves as symptoms even in the earliest stages of the process.

"After going through all these, I'm wore out. I'm 68 years old, by the time I got an answer [on a new appeal] I'd be dead.... There's a point in time when it's just not worth it."

"[At the start], I was more optimistic. I knew it wasn't going to be a two month ordeal, but then after all this time...my optimism flat left."

"I figured it'd only take a year [when I started], not five. Because it's been five years, one month. Isn't that a long time?"

"I've jumped through every hoop."

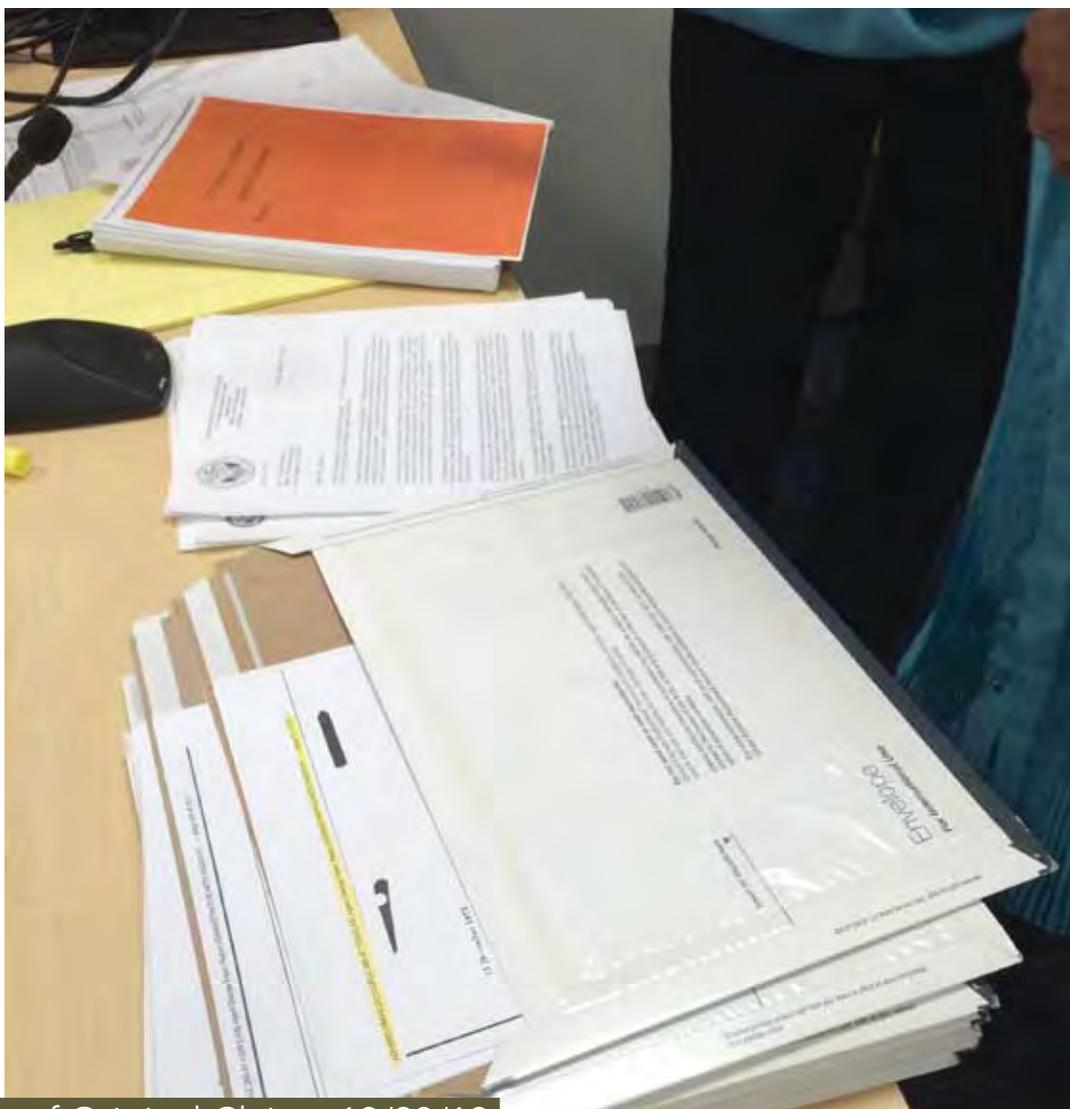
Design Considerations

- How might we design a faster and simpler process?
- How might we minimize the churn and delays created by the open record?
- How might we streamline or reduce records requirements?
- How might we prioritize Veterans with severe health or economic hardship earlier in the process?
- How might we create a system that can respond to Veterans' changing health and lives without pushing them back in the process?

"You know I have been disappointed for so long going through this situation, I don't think whatever decision they make is going to hurt me because I've been hurt already and I'm about to get teared up thinking about it."

"My wife however didn't want me to [appeal]. Because there's so much stress in waiting and waiting and waiting and waiting."

"The whole time, you're waiting, just like me, your ailments are growing, they're getting worse. And you can't go back and renew your claim now, and say it's getting worse because then you're pushing that first claim back and you're [basically] starting a whole new claim. It's a really stressful process."



Date of Original Claim: 12/20/12

Total time pending: 4 years, 9 months, 13 days

Total number of VA adjudications: 2 (1 Rating Decision, 1 SOC)

* SSOC = Supplemental Statement of the Case

“If I appeal this...I have to wait another two or three years. I’ve already waited two or three years. No one’s going to talk to me.”

Serious injuries rarely rest. They worsen. The leg injury creeps into back pain. Diabetes makes a foot useless. A heart exposed to Agent Orange deteriorates. Injuries don’t recognize their neat categorization at a 20% or 30% or 60% disability rating.

Say you’re Reggie, a young Veteran who injured his leg in Iraq during a train-up for a military exercise.

In the years after your initial claim, your leg injury worsens. It begins to damage your back. You file new claims to reflect their deterioration in 2009.

You wait. Your injuries, though, don’t. They don’t go on hold. Use of your right leg and back continue to decline severely. Doctors place a neurostimulator in your back and buttocks to provide relief. While you wait, you go under the knife, again and again, the doctor cutting through the scars of the last operation to make adjustments. You beg your doctor not to put you on morphine. You don’t like being strung out. But it’s the last resort; you take it twice a day. Three years later, VA denies your claim. VA says the pain in your back—never mind the morphine or the days bedridden—is moderate, not severe. You don’t even understand the legalese that denied the leg claim. You appeal.

More waiting. Your wife, Helen, becomes your caretaker. She helps you put on your shoes in the morning—you, a former soldier in your thirties. More surgeries. You can’t play with your kids. You gradually accept a cane. Pain, and the medication for it, keeps you from working. Depression sinks in. You attempt suicide. You survive. You’re still waiting. That appeal is still pending. The country you fought for still refuses to acknowledge the extent of your sacrifice. How can it care for or support you if it doesn’t do that?

Your claim is old, outdated. Filed years ago. In a logical world, you would update it—things have gotten worse. In fact, VA’s open record enables you to add evidence at any time, unique in the American judicial system. But if you did submit that new evidence, it’d send your claim back to the very start. Reggie explains:

“The whole time you’re waiting, just like me, your ailments are growing. They’re getting worse. And you can’t go back and renew your claim now, and say it’s getting worse because then you’re pushing that first claim back and you’re [basically] starting a whole new claim. It’s a really stressful process.”

Any new evidence punts the appeal back to the start. All that waiting you’ve done will only be repeated as it’s pushed back for a fresh review. It’s

rare that Reggie realizes this—most Veterans don’t. They send in new evidence to bolster their claim. They try to help the process along; instead, the process just sends them backwards. It perpetuates an endless churn. The waiting makes Veterans give up. Reggie continues:

“I think that’s happened to me three or four times where I could have appealed [a rating], but I didn’t because it was like, if I appeal this, I have to go file another claim. I have to wait another two or three years. I’ve already waited two or three years. No one’s going to talk to me. My condition’s going to grow even more and I’m still not going to be recognized for what’s going on.”

He’s not alone. The current process is incapable of responding to the changing medical conditions in the timely manner needed by Veterans.

The waiting isn’t easy. As Reggie tries to maintain a life, tries to restore his health and some semblance of normalcy, the process sends VA and Reggie hunting for more and more papers, breeding more and more delays. VA confronts him with a lack of communication, explanation, and personal contact. It infuriates him and Helen. Letters pile up saying, essentially, that nothing is happening. “It’s very vague online and if you call to talk to somebody they’re very vague also,” Helen explains. As Reggie’s wife, Helen has fought this

// NARRATIVES - REGGIE

just as much as he has. The process takes a toll on families. “If they have the technology,” she continues, “why can’t they put more detail about the process, or what the next step is, or where you are... They have the eBenefits portal already. What would it

“To know that the VA supports me. They’re not just treating me. They’re supporting me.”

take to just put more detail in there?” Perhaps speaking to a generational shift, Reggie and Helen practically implore VA to use eBenefits more.

They want to know where they are in the process, what’s coming next, and what evidence VA has—especially since they keep getting requests for documents they’ve already submitted. It’s a common sentiment, in a common, infuriating story. Reggie, exasperated, sums it up: “I don’t understand the whole claims process, appeals process. I don’t understand it at all. It makes no sense.” He and Helen want a process they can understand.

Reggie and Helen keep pushing through it. A grant of the benefits would mean a lot of things to them. Yes, it entails a larger disability payment. But it also means access to additional treatment in the VA medical system, including specialized care for spinal cord injuries. Most importantly, for Reggie and his wife Helen, it means that VA acknowledges his sacrifice and the extent of his injuries. It’s psychologically important for him and many other Veterans. It lightens his load, makes the

pain easier to bear, to know that the country he fought for recognizes the weight he and his family still carry from service.

That he has to fight for that acknowledgment—as he also fights to

maintain his quality of life—angers him. His piercing, ice blue eyes narrow. That the system doesn’t trust him angers him. When he appealed in 2012, he got a note out of the blue granting his PTSD claim. 100%. No explanation, nothing addressing his other claims. It felt like they were trying to shut him up:

“It seemed like it was a political thing: ‘He probably wants to be 100% anyways, just give him 100%.’ That’s how I felt, you know? And that wasn’t the point...The point was to get accurately rated for my mental disabilities...So you give me 100% for my mental disabilities. So what?”

He doesn’t want VA to just throw him 100% and think he is “just going to sit back and shut up.” That patronizes his intent, his injuries, and his sacrifice. It cheapens the suicide attempt, the pain, the cane he uses before forty. That’s not what he’s fighting for in this process.

What is a good outcome for him? He doesn’t hesitate:

“To know that the VA supports me. They’re not just treating me. They’re supporting me. It feels

good to know that you have that backup, but as long as they don’t acknowledge that you have these issues, they’re never going to support you correctly. I hate the fight of getting them to acknowledge that I have these issues.”

VA can’t provide a rating for not being able to play with his kids. It can’t capture the difficulty of having his wife become his caregiver. But it can support him by recognizing how the injuries he sustained in service weigh on his and his family’s life. It can show that VA and his country still care.

**Like in the
military,
Veterans care
deeply about
the outcomes
of other
Veterans.**

Insights

- Comradery continues beyond service and, in the appeals process, the process becomes the new enemy.
- Veterans are willing to sacrifice for their fellow Veterans in the system.
- Veterans want VA to support their brother and sister Veterans, especially those who are worse off.
- Veterans recognize that VA faces serious problems in the appeals process.
- Veterans rely upon each other, first and foremost, when determining how to interact with VA.

“I am happy to see the younger Vets have it easier.”

“There are some things that I would [appeal] if I thought that I wouldn’t be taking away care from somebody more urgent. There’s guilt... Maybe if things change, if things in the system changed, I might try to [appeal].”

“That’s all I want, is to be heard, to be treated with respect, to have other Veterans not be so scared to file a claim.”

“I’d go out of my way to help a Veteran. I think that we should help each other and do everything we can because people don’t realize some of the things that Veterans see and do over the years.”

Design Considerations

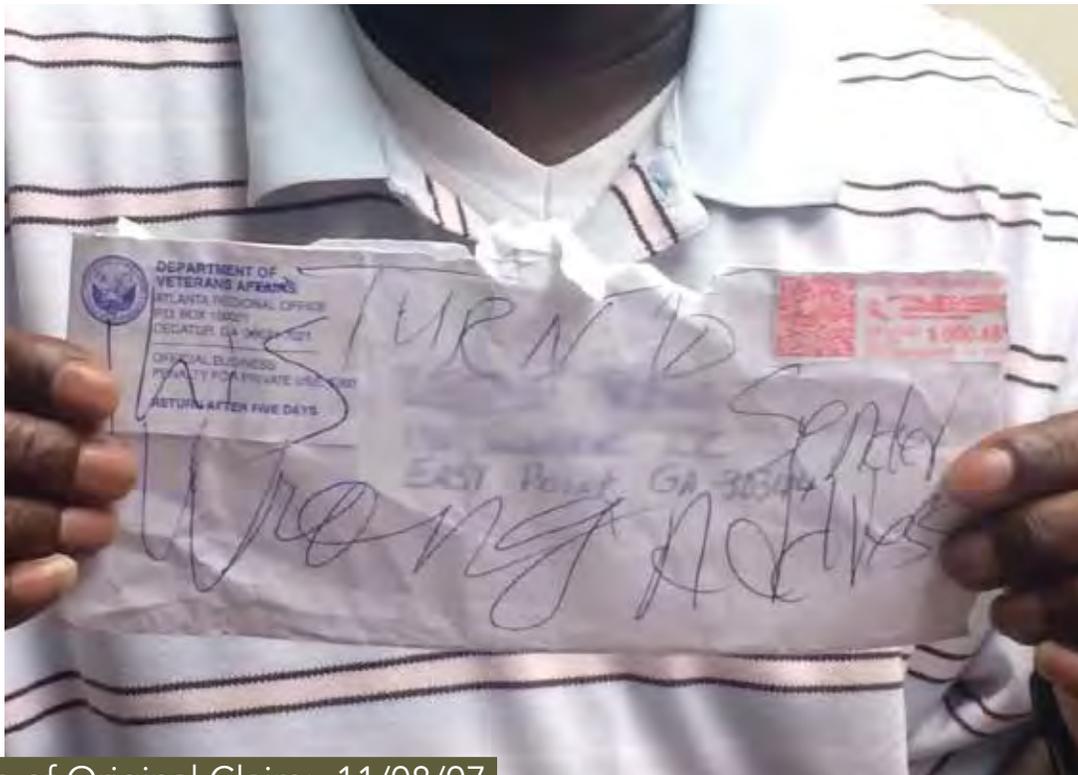
- How might we design a system that meets Veterans’ expectations of both individual and collective justice?
- How might we foster Veteran comradery and communication during the appeals experience?
- How might we redesign the system to help those Veterans struggling the most?
- How might we effectively communicate those steps Veterans can individually take to alleviate delays in the process?

“I get help from other Veterans who have been through the process before. It is confusing though when we have similar issues, but get different ratings.”

“It changes your life – it can cause you to be depressed, incapacitated, but I can’t let that stop me from helping others. I advise them: ‘Do you have the time and mental commitment to appeal?’ This is my first time going through an appeal and I wouldn’t wish that on anybody.”

“It’s horrible, I know of other Veterans who’ve just given up. I hear it all the time.”

“I didn’t go for a long time because I figured there were Veterans worse off than me that needed it.”



Date of Original Claim: 11/08/07

Total time pending: 7 years, 7 months, 8 days

Total number of VA adjudications:

5 (1 Rating Decision, 1 SOC, 1 SSOC, 2 Board Remands)

* SOC = Statement of the Case

* SSOC = Supplemental Statement of the Case

“It’s been a long road. Period. From the day I got out until today. That’s been twenty some years. That’s a big, big thing...I just want them to hear what I got to say.”

Lawrence got the letter from a friend he’d once lived with. It was crumpled by the time he got it, but it arrived in time. The hearing for his VA appeal was coming up, the letter told him, and soon. His friend had almost returned it to sender—had even written it out—but since it looked important he held on to it a little longer. And when Lawrence happened to call his friend about an unrelated matter, the letter, improbably, made it into his hands.

Lawrence had been homeless. It’s hard to get letters when you’re bouncing from apartment to apartment, street to street. He’d missed his last hearing for precisely that reason. Now, he was finally getting his feet under him, with VA’s help in fact. He’d forgotten about the appeal for years, but somehow here it was and he would go, for a claim made eight years earlier.

He had enlisted in the Army in the late 1970s. His mother had died when he was young and his dad had raised him alone in rural Georgia. Lawrence joined the Army to make him proud.

When he joined, his medical exam noted that he had an eye condition, but they brought him in anyway. It deteriorated after that. At intervals, it would turn red or stick shut. He’d get bad headaches and pain. The Army offered him a medical discharge—with a 10% benefits rating for the

eye. With no knowledge of what was to come, he fought to stay in. He wanted to prove himself. He didn’t want to fail. He changed his MOS (Military Occupational Specialty, his job), got support from a commanding officer, and stayed—but only a little longer. The Army discharged him a year later, without the benefits. He felt like a failure.

His eye problems continue to worsen. A few years after his discharge, he remembers, “I woke up blind.” The sight in his left eye, always the troublesome one, had stolen away in a night.

He didn’t tell anyone. For years.

“I woke up blind and I didn’t tell no one for a long time,” he explains. “My sister, my brother, my dad, my family members. I didn’t tell them. I made it work.”

He sunk into depression, drifting into homelessness and alcoholism.

He wanted to be strong. He didn’t want people to see him as weak. When he bumped into people or trees or walls, he played it off as clumsiness or drunkenness. When he missed seeing something he pretended he was absent-minded. The left side of his body grew scraped, bruised, and scarred from the collisions. People fought him when he

would accidentally bump into them or their girlfriends at bars.

Eventually he caved and told his family, but they didn’t believe him. He decided to keep playing it off.

“If I can fool them,” he thought. “I think I can make it. It’s really screwed up, but that’s what I did. I tried to make it because I had been let down so much, I just tried to make it.”

He stayed away from people, from his family. “I hung by myself,” he explains. “I didn’t get into any relationships, I didn’t let anyone get close to me...I know it sounds crazy, but that’s my life.” His relationships with his family still suffer from it. He didn’t pursue stable employment, believing he couldn’t be hired if he admitted his blindness and couldn’t keep the job if he got it on a lie.

He sunk into depression, drifting into homelessness and alcoholism. The useless left eye still hurt, sending him to the hospital multiple times. He kept trying to make it.

He approached VA for help at one point, filed a claim for his eye and for financial support. He was denied. “They wouldn’t talk to me. They said that’s unrelated. I got very upset, the

// NARRATIVES - LAWRENCE

heck,” he says. “I’ll just start trying to make it on the outside.” He did, file an appeal and continued to try to fight that appeal as he bounced from apartment to apartment.

The paperwork, the hoops that VA and Veterans must jump through in

“I wanted them to see me. I wanted to see them. I wanted to look at them the way they’re looking at me.”

the process, dogged him and drove him to exasperation: “I got fed up with everything that was going on. I said to hell with it. I didn’t have no place to go, I didn’t have no place to stay. I couldn’t keep up with all this stuff. I could barely keep up with myself.” He thinks he left the five or six pounds of paperwork he’d accumulated in a friend’s apartment somewhere.

Eventually, he gave VA another shot. This time, they helped him get back on his feet, placing him in a halfway house and starting to get him care. He now has his own permanent address.

The appeal, even if he’d given up on it, though, hadn’t died. He had requested a hearing in all that paperwork and so a hearing was still scheduled. That letter still got sent to that old address. And it ended up in his hands.

Waiting, he explains why he wanted a hearing: “I wanted them to see me. I wanted to see them. I wanted to look at them the way they’re looking

at me.” If he could have made one change to the process, he would have cut out all the paperwork and gone straight to that conversation:

“It’s been a long road. Period. From the day I got out until today. That’s been twenty some

years. That’s a big, big thing...I just want them to hear what I got to say because I tried to tell them years ago how simple it was: all I want is the medical discharge I was tried to be given...If I’d have knew that you were trying to give me a medical discharge because I was going to go blind...I’d have took it.”

Perhaps he ascribes too much foresight to the Army doctors, but his request was simple, especially since he, like many Veterans, sees the military and VA as being far more interconnected, if not synonymous, than in fact they are.

The hearing occurred. Lawrence told his story, explained why he thought the matter was simple.

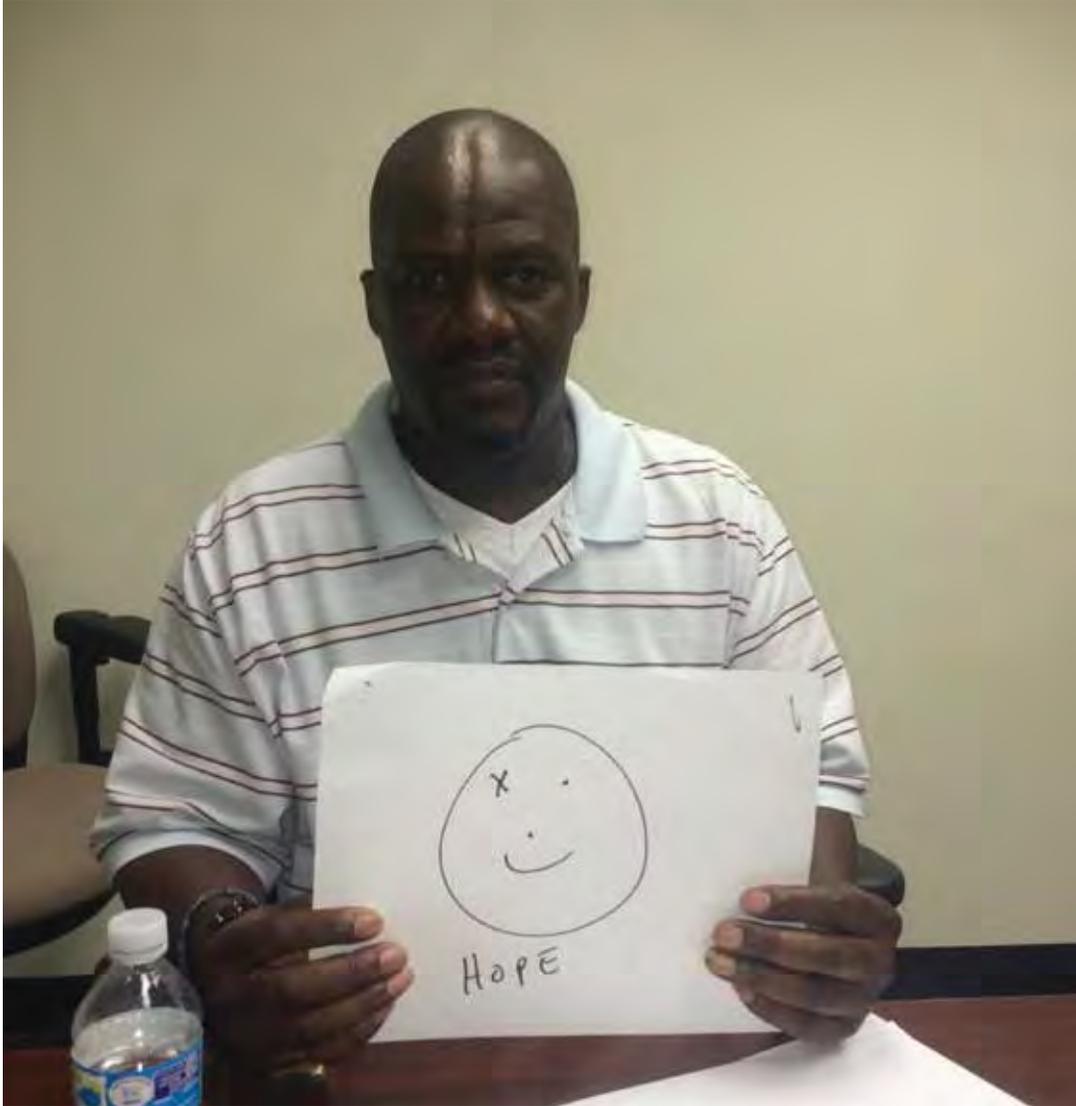
If he ends up denied again, though, he’s done with the process. “I’m done. I’m done,” he sighs. He’s tired: “If I keep doing this, I’ll be dead before I get any opinion. So if it don’t work this time, I’m just going to start living, living as best I can.” The process

takes too long.

Still, the hearing was a positive experience for Lawrence and things are moving in a better direction. He talks about how he now has his own place and makes plans for keeping up with his prescriptions and seeing a primary care physician for the first time in eight years. “I think things are going to be a lot better,” he muses. “[I] have some hope...I feel better now that somebody did listen. If it don’t get no further than where it’s at, I’m alright...I’m going to start living the best I can.” He’ll be trying to make it, like he always has.

Asked to draw how he felt, he drew a smiley face—an X where the left eye would be.

Underneath it he wrote one word: “Hope.”



**Veterans
grow to
feel alone
in a process
they barely
understand.**

Insights

- No matter how much they want or how hard they try, Veterans can't understand the current process beyond the most basic elements.
- Veterans go to lengths to find help, and the degree to which they find it determines a large part of their experience with the process.
- Veterans want an advocate who cares about them and their challenges.
- Veterans do not see their actions as contributing to the delay in any way.
- Experiences with VSO representatives—the current advocates in the system—vary widely.

“I’ve been doing this on my own, with zero help, nothing. I mean I think I’ve become an uncertified medical doctor and an uncertified lawyer.”

“Tell me where I’m at: ‘They’re at this stage. They just went over this evidence. This is where you’re standing now.’”

“Who denied [my claim]? If you’re not talking face to face with somebody how are you going to deny it. That’s another issue, you shouldn’t be denying people a claim unless you talk to them face to face.”

Design Considerations

- How might we redesign the claims and appeals process to make it intuitive?
- How might we remove the pitfalls of the process so that Veterans’ attempts to move their appeal along don’t set it back?
- How might VA connect a Veteran and their family with personalized support and a trusted advocate across all phases of the claims and appeals processes?
- How might we ensure that Veterans are fully prepared and educated on their options and prospects before they start the claims and appeals processes?

“I don’t understand the whole claims process, appeals process. I don’t understand it at all. It makes no sense.”

“I wouldn’t even know who to try to get a hold of [at VA].”

“No one talks to me...It says to call this number....Nobody, nobody is going to answer that phone when you call them.”

“I consider it to be all VA.”



Date of Original Claim: 10/05/10

Total time pending: 4 years, 8 months, 11 days

Total number of VA adjudications: 2 (1 Rating Decision, 1 SOC)

* SOC = Statement of the Case

“If you get us blown up, I’m going to come back and haunt your ass.”

Sitting in his position as a gunner, Bill turned to his buddy, the driver of his armored vehicle, and reminded him as they moved out of the base in Vietnam: “If you get us blown up, I’m going to come back and haunt your ass.”

“And wouldn’t you know it,” he recalls, “he got us damn blown up!”

Ninety days later, Bill, a Marine drafted in the late 1960s, and his buddy were back in Vietnam with a commanding officer incredulous to see them: “I’m putting you guys on the same truck again, and if you blow up again, I’m going to stick my foot

caused by Agent Orange exposure. He boasts a cane, a gregarious nature, and a sense of humor; as he sits down, he picks up his cane and hollers “I have PTSD, watch out my cane could go off at any moment!” before pretending to shoot at the room with his cane.

The self-deprecating humor’s easier in the day. At night, he dreams of Vietnam: nightmares of explosions and combat.

VA’s helped him. He’s seen therapists both at VA and privately. VA’s treated him for his diabetes, and quickly granted him service-connection

Or you could sit them in a room with someone who’s never met them and have that person decide in a couple of hours. That’s the Compensation and Pension Exam —almost always referred to by its initials “C&P Exam.”

Typically, when a Veteran files or appeals a claim, they must have a C&P Exam. A medical professional—perhaps not even a doctor—examines, tests, and probes to determine the validity of their claim. For some Veterans, it’s one of the most reviled parts of the VA process. Veterans liken it to an interrogation, a cross-examination, a hunt to find out the lies the examiner is convinced they’re telling.

Veterans and others struggle with why the doctors who know and treat them don’t suffice, why they aren’t more involved in disability determinations. “Let the real people, the VA doctors, nurses, the ones that care and do the work, take care of the process and the soldiers,” Bill inveighs. All of his mental health doctors, be they VA or private care, state his PTSD stems from Vietnam, specifically from being blown up twice. They’ve worked with him for years.

After a few hours, the C&P Examiner felt differently: His PTSD came from riding motorcycles.

Claim denied. Appeal begun.

How would you assess whether or not someone has PTSD? You could sit them in a room with someone who’s never met them and have that person decide in a few of hours. That’s the Compensation and Pension exam.

so far up your [you know what] they can’t send you back.” Two months later, an explosion threw Bill a hundred feet. This time injuries sent him home for good.

Today, he wears a “Vietnam Veteran” hat over long, gray hair a good six inches past his shoulders. “I married a Hemingway [a granddaughter of Ernest to be precise], I don’t have kids. I’m the only kid I’ll ever raise and I’m not sure I did a great job on that,” he regales. He uses a walking boot—complications from diabetes

based on Agent Orange. But when he put in a claim for PTSD, VA denied it. Angry, he appealed. He waited four years for a hearing.

How would you assess whether or not someone has PTSD? You could ask them, but maybe you want more concrete validation. You could ask their family—who live their struggle with them. Better yet, from an official perspective, you could ask their doctor or therapist—the person tasked with understanding their hurt and helping them work through it.

**The
appeals
process
feels like a
fight.**

Insights

- Veterans feel belittled and untrusted in the process.
- The appeals process is non-adversarial only in theory.
- Veterans think VA hunts for any reason to deny.
- The C&P Exam feels like an interrogation or an impersonal, insufficient checking of the box.
- Veterans will often reach out to the Secretary of VA, their congressmen, and other leaders for help.

“[The process] needs changing, no question. Veterans should be treated with respect and dignity. Veterans need to know VA is on their side.”

“I’ve been fighting for five years.”

“When I try to go and get help they say I had these problems before I went in the military. Yet they drafted me and sent me to Vietnam. Had me killing folks. And when I come back home I have to fight to get [benefits].”

“It just seems like you’re fighting a losing battle. And its like insurance, they just hope you give up.”

Design Considerations

- How might we deliver on our non-adversarial promise at all stages of the process?
- How might we create a Veteran-centric C&P Exam?
- How might we foster a mutual sense of trust between Veterans and VA employees?
- How might we make the appeals process a holistic fresh start in a Veteran’s interactions with the government?

“They are just waiting for me to die, then they can close my case and forget about me.”

“Twelve years, they deny, deny, deny [bangs table].”

“It seems like when we’re in the examinations for the claim like you’re being interrogated, like you’re doing something wrong for being there.”

“I felt I had to write a nasty letter to Secretary and Congressmen to tell them how bad the process is”

“Not until we got to the DRO [Decision Review Officer] process [did the system feel non-adversarial].”

DENTAL SERVICE

YOUR NAME _____ DATE _____

PLEASE ANSWER ALL QUESTIONS CIRCLE CORRECT ANSWER

1. Are you presently under a physician's care, or taking any medicines? YES NO
2. Have you ever had heart trouble or abnormal blood pressure? YES NO
3. Have you ever had Rheumatic Fever? YES NO
4. Have you ever been anemic? YES NO
5. Have you ever had severe bleeding or other complications following an extraction? YES NO
6. Are you allergic to any drugs, medicines, or injections? YES NO
7. Have you ever had vomiting spells or shortness of breath? YES NO
8. Have you ever had diabetes or sugar in the urine? YES NO
9. Have you ever had yellow jaundice or hepatitis? YES NO
10. Have you been hospitalized in the past five years - if so, for what reason? YES NO
11. Have you received any X-rays within the past four weeks? YES NO
12. For Females Only - Are you presently pregnant? YES NO
13. Please add any comment you would like to make.

DENTAL CORP COMMENTS

Fluoridation

Date of Original Claim: 01/13/11

Total time pending: 4 years, 5 months, 3 days

Total number of VA adjudications: 4 (3 Rating Decisions, 1 SOC)

* SOC = Statement of the Case

“It was so frustrating. I told you this, I sent you this. I did this. I’ve jumped through every hoop.”

The doctors gave Lisa’s husband two months to live. A searching series of tests to discover the source of Jim’s lung problems had ended with a cancer diagnosis. It hadn’t been COPD or allergies, asthma or the pneumonia. No, it was a tumor, developed from exposure to asbestos decades prior. Everything turned upside down for Lisa.

When had he been exposed to the asbestos, they had wondered together? Jim had worked as a salesman after the Navy: suits, insurance, cars. His brief stint as a building inspector had come with proper training and had occurred too recently for asbestos to hit him like it did. His time in the Navy provided a slew of explanations, and the timing made sense. He’d certainly been exposed when he had deployed to Alaska in the 1960s. There he had combed through and worked in the wrecked infrastructure of the largest earthquake to hit North America in the 20th century. Plus old vessels like his were known to have significant amounts of asbestos in their construction. The Navy seemed the only logical source of asbestos exposure.

They filed a claim: this dying man, his grieving wife, and a VSO repre-

sentative who worked against the clock to help them.

“My husband signed the first papers in December. I probably signed papers in February 2011. He died in January,” she explains quietly.

After his death, a letter came from VA. Denied. The first of many to come. She appealed. She knew the process would take longer than a few months, but she didn’t expect it to

take the years it in fact dragged out.

“After he died, everything was just in turmoil,” she remembers. “I’ve just been following through and I keep getting denial, denial, denial. I mean some of the denials

were pretty”—she pauses, looks around, whispers—“terrible.”

Take one of the first denials. She filled out a form after Jim’s death that asked, “Are you and your husband living together?” Understandably, she answered no. VA wrote back with a denial. You have to be living together, the letter explained, to receive benefits. So Lisa had to send in another document stating that they had lived together until his death.

She kept fighting, though, for the next four years. With occasional VSO help, she jumped through every

hoop VA presented, confident and certain she was correct.

“They [VA] treated me like I was nothing, like I was some kind of an idiot: ‘We’re not going to listen to anything you say because you don’t know anything,’” she remembers tiredly. But it wasn’t just her that was saying it was asbestos. His primary care physician in his last months and the doctor who performed his autopsy both agreed he died from cancer caused by asbestos. They said so in letters to VA.

VA, she’s convinced, just looked for any reason to deny: “It’s kind of like, ‘We will do anything, say anything, to deny. Nothing she says counts because we might have to give her benefits.’”

“I just felt very, very insignificant in this whole thing. Even his doctors [didn’t matter]. The only thing that counted was the VA: our goal is not to give you benefits.” So they denied.

They denied because she didn’t live with her dead husband, denied because he smoked three decades prior, denied because he once worked as an inspector. She estimated that she’s been denied in some manner eight different times.

“It was just one excuse after another. It was so frustrating,” she recalls. “I told you this, I sent you this. I did this. I’ve jumped through every hoop and then you come back with

‘We will do anything, say anything, to deny. Nothing she says counts because we might have to give her benefits.’

// NARRATIVES - LISA

something that doesn't fit the scenario." Like maintaining his cancer was caused by smoking when every medical professional who examined his living or dead body pointed to asbestos exposure.

Her frustration comes through when she talks about the process. She's got a fire in her. She manages a chuckle at some of the sillier denials she's received. But when she talks about Jim, one can see how this process has dragged out her experience of her husband's death, continuing for four years beyond his early death the turmoil and enervations of official

VA. She couldn't deal with it. A phone call from her VSO representative said simply, "You know, it's up to you, but I'll be here for you." A little over a year later, she walked into her hearing, belittled by a process that purports to support Veterans and their survivors, looking for recognition for one of two deaths she'd suffered in the last four years.

One can see how this process has dragged out her experience of her husband's death, continuing for four years beyond his early death the turmoil and enervations of official business. "I don't want benefits," she whispers, barely above a hush. "I want Jim back...."

business.

"I don't want benefits," she whispers, barely above a hush. "I want Jim back...." Her voice trails off and she's quiet for a few moments. "I guess closure would be for them to say yes, he was exposed to asbestos in service and if he hadn't been I'd probably have him today. I know I'd have him today."

She's lost a lot, and quickly. Last year a car bomb killed her son, who worked as a contractor in Afghanistan.

More appeals documents came from

**Veterans
want to be
heard.**

Insights

- Some Veterans see their VA rating as the country's formal acknowledgment—or lack thereof—of the true measure of their sacrifice. Recognition of service and sacrifice is key to the process.
- Repeated denials tear at the narrative of service that many Veterans use to make sense of continued pain and struggle.
- Veterans' satisfaction depends on feeling that their story has been acknowledged and understood.
- Rating decisions are often about much more than just money for many Veterans.
- Veterans trust decision makers who have met with them and listened to them.

“I just wanted to tell my story. I just want them to hear me.”

“Talking helps. That’s it.”

“I just want them to hear what I got to say because I tried to tell them years ago how simple it was.”

“I feel better now that somebody did listen. If it don’t get no further than where it’s at, I’m alright.”

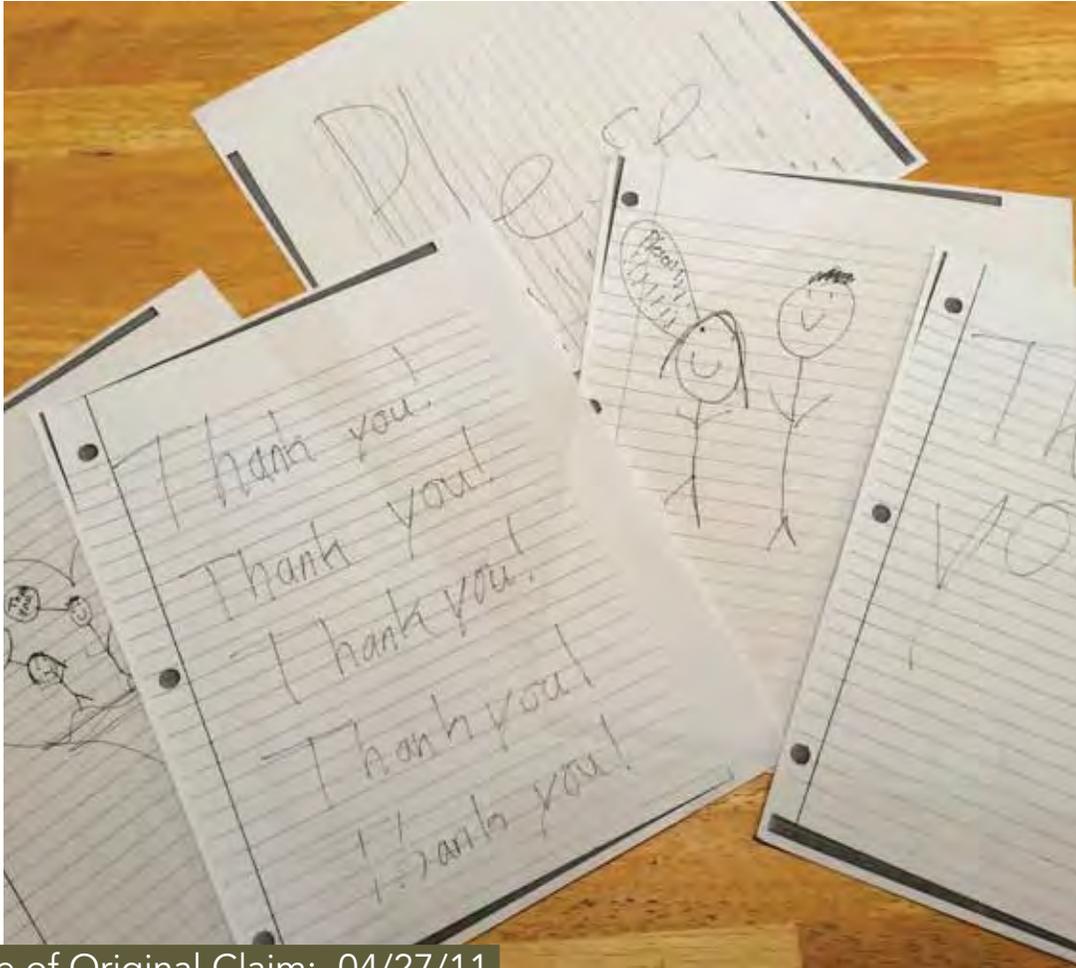
“I’m looking for acknowledgment and an apology.”

Design Considerations

- How might we foster listening and empathy in the appeals process?
- How might we communicate decisions to ensure Veterans and their families feel like they are heard, regardless of the outcome?
- How might we use hearings and conversations to shorten the process instead of adding to it?
- How might we fully acknowledge service even if we must deny a claim or appeal?

“Last night, we were talking about it, about today’s hearing and everything. And we were saying a prayer and in the prayer it wasn’t that we were praying that ‘Oh I pray you get the highest disability rating and you get that check and all that money.’ No, it was ‘I am praying that your voice is finally heard after all these years.’”

“Somebody needs to hear it even if it’s just that gentleman [the judge], somebody needs to hear it. Because it’s not nothing. It’s his life, it’s our life, it’s our kids’ lives.”



Date of Original Claim: 04/27/11

Total time pending: 4 years, 1 month, 20 days

Total number of VA adjudications: 3 (2 Rating Decisions, 1 SOC)

* SOC = Statement of the Case

“I am praying that your voice is finally heard after all these years.”

His wife took the pills out of his hand in October. His dad, speeding from his house nearby, had arrived in time to talk him down.

He'd come that close—a raise of the hand, a tilt of the head—to killing himself, to ending the pain that seemed to radiate unbearably from his toes to his brain. The same pain that no one at VA would acknowledge.

Diego joined the Navy after September 11th, serving as a personnelman on a newly commissioned battleship. The ship, after its commissioning, had made for its homeport in San Diego, passing through the Panama Canal and turning north. During that Pacific journey, in the midst of a storm, Diego injured his back. He was descending a ladder well when a massive wave struck the ship. He lost his grip, twisting and falling down the well. The ladder struck his back at every rung, the whole way down.

Then at twenty-four years old, he got up, went to Medical, and took some Motrin. “Let’s roll.”

The ladder, though, had jarred askew by ten millimeters one of his vertebrae. The injury, and the pain from it, would worsen over time.

Diego’s a big guy, a bear of a man, with a shining, shaved head, and a bearing older than his thirty some years. He immigrated to the United States as a kid and he’s dedicated his working life to his country, first in the Navy and now in work for the Federal Government. He met his wife Tara, a Veteran herself, in the Navy. “She couldn’t even pronounce my last name and now she carries it,” he jokes. Short, with the ramrod posture of an (uninjured) Veteran, Tara’s simultaneously a force of resolve and compassion.

After leaving the Navy in 2008, Diego, over the years, as the pain increased, mentioned the growing pain in his

back and the old injury to numerous VA doctors. None listened, until one VA doctor finally took note, in 2011. Upon examination, this doctor immediately ordered Diego into the hospital. A series of tests showed that Diego, without surgery, was a week, perhaps two, away from paralysis. This doctor assured Diego, however, that even after a successful initial surgery, more surgeries and pain lay in his future.

The news jarred him. It also prompted him to do something, seemingly mundane, that he’d been meaning to do for years—to file a claim to increase the disability rating for his injury with VA. He filed. Then they waited, he and Tara.

Two years later they heard back from VA. A woman from his VBA Regional Office called to question him about his claim. The questions became a kind of interrogation. “Oh,

it just happens to be a coincidence that you had back surgery and you submitted a claim? Really?” he remembers her snarling. Years later, her distrust and hostility still haunt the words in his retelling. “It made me feel about this big,” he said, gesturing with his thumb and index finger. “Tiny.”

“That’s all I want is to be heard. To be treated with respect. To have other Veterans not be so scared to file a claim.”

A few months later a decision came. He was given an increased rating, but the decision “didn’t address any of the issues” he felt he had raised. The entirety of his injury had been categorized under “degenerative arthritis.” VA didn’t recognize his thirteen other diagnoses. They ignored the fused spine and the numb legs; the four screws, the cage, and the metal plate welded into his body didn’t seem to matter. “I don’t only have arthritis. If I only had arthritis I’d be the happiest man in the world,” he said. “But that’s how VA codes it and I don’t think that’s right.”

To him, this simplistic rating ate at something deeper. It trivialized the true scope of his injury. He, along with

// NARRATIVES - DIEGO

many other Veterans, views his VA rating not simply as a response to a claim or a means to a payment check. The rating by VA demonstrates his country's formal acknowledgement of the true measure of his sacrifice. Official denials tear at the narrative that he and other Veterans like him use to make sense of their continued pain and struggle. It seems to belittle their service.

"Arthritis" isn't his reality. It's a few lines in a book he hasn't read. It doesn't reflect the guilt he feels in telling his kids he can't play with them, the calls for ambulances to his job because of blinding pain, the cane and the slow, painful rise from the bed at age 33.

He appealed the decision. The waiting started again. He'd call. He'd go online. VA would demand records, again. And again. The same records he'd already submitted, two maybe three times.

The law mandates that VA tell him what documents it needs. It's part of their "duty to assist" Veterans in the process. In theory, the duty to assist makes the VA appeals process one of the most applicant-friendly systems in government or the law. In practice, the law also mandates what records VA must collect. The number in a case can be daunting. Often compounded by poor communication, those records requests feel like the opposite of assistance, making the theory meaningless to affected Veterans.

To Diego, and thousands of Veterans like him, it looks like this: "I've sent these records to the VA. I've walked these records to the VA. I've mailed these records to the VA. [But it's still:] 'We need them again.'"

It seemed to Diego that those demands, formal, baffling, inexplicable, were the only times VA paid attention during the process. He called to check his status. He went online. He asked for help. No one listened. No one responded. No one seemed to hear him.

The pain increased, as the doctor said it would. It grew more intense, seized him more often, covered more of his body—flashed into his brain. With the deeper pain came deeper depression, deeper anxiety. And yet, no one at VA listened.

Then, in October 2014, something snapped. His wife remembers "a calm before the storm," a distant quiet in Diego, in the days leading up to his attempt at suicide.

Both Tara and Diego think how lucky they were. His dad, terminally ill with cancer, could talk him out of it. He still had the mental stability to think, in his words: "Okay, it's not worth it. I have my wife. I have my kids. I'll [go to the clinic] tomorrow." He survived. But both Tara and Diego—knowing the strain of service, injuries, and fighting the process—worry about those Veterans going through similar ordeals that "have nobody."

Diego got a new decision in early 2015, a few months after another out-of-the-blue and unpleasant conversation with someone from VBA who seemed intent on haggling with him over his disability rating. The decision still failed to acknowledge the extent of his injuries. And it contradicted itself—awarding him both 50% and 30% for mental health. He appealed.

What drives someone to keep going in all of this? Four years, increased pain, more trips to get records, months and months of waiting, belittling phone calls: why keep doing it? Diego wants to be heard: "That's all I want—is to be heard. To be treated with respect. To have other Veterans not be so scared to file a claim."

Tara agrees: "I pushed him to keep going for the simple fact that his back condition is listed as arthritis only. That really stuck with me. Somebody needs to hear what he's going through. I don't want to get all emotional again. [She starts tearing up]. But somebody needs to hear it even if it's just that gentleman [the judge], somebody needs to hear it. Because it's not nothing. It's his life, it's our life, it's our kids' lives."

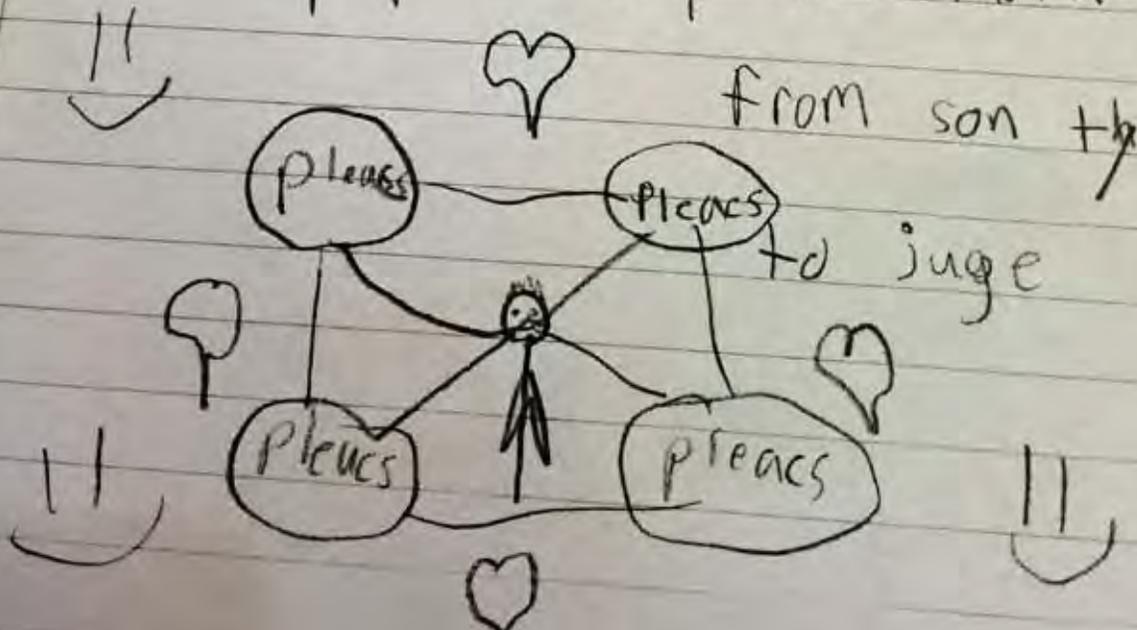
For Diego, and for many Veterans, a hearing presents the first opportunity to tell the story. They worked hard to prepare for it, though they didn't know what to expect. Most Veterans don't. They assumed it would be adversarial, even hostile, *A Few Good Men*-style. Preparation became a family affair, Diego explained:

"We had our entire dining room table full of papers. All of my medical records, bills from my surgery. Me

Dear Junge,
 about my baddy's back!
 me and my sister hate were
 we bon't like were my baddy can't play
 with us and were I trie to give him
 a huge I bon't like it were he
 says no no to me and I bon't
 like it were I hav to gied
 him to the ject room an
 were he styles going up an
 bown the stars and were
 he tries to get up and
 bown off the cace.

I like the old baddy
 ps pleas help him thank you

from son tyler



// NARRATIVES - DIEGO

and her were like: Okay, on your phone tell me what this means...We had my six-year-old daughter with us, my ten-year-old son. Okay, you highlight. You put tabs. So it was a family event, trying to figure it out to prepare for today. Seeing what I needed to say, what I needed to look at. Us Googling and reading it; my kids highlighting and tabbing. That's how we did it."

Their kids even drew pictures and wrote a letter for the judge.

The night before the hearing, Diego and Tara prayed. "Last night," Tara explains, "We were saying a prayer and in the prayer it wasn't that we were praying that 'Oh I pray you get the highest disability rating and you get that check and all that money.' No, it was 'I am praying that your voice is finally heard after all these years.'" Diego barely slept he was so nervous.

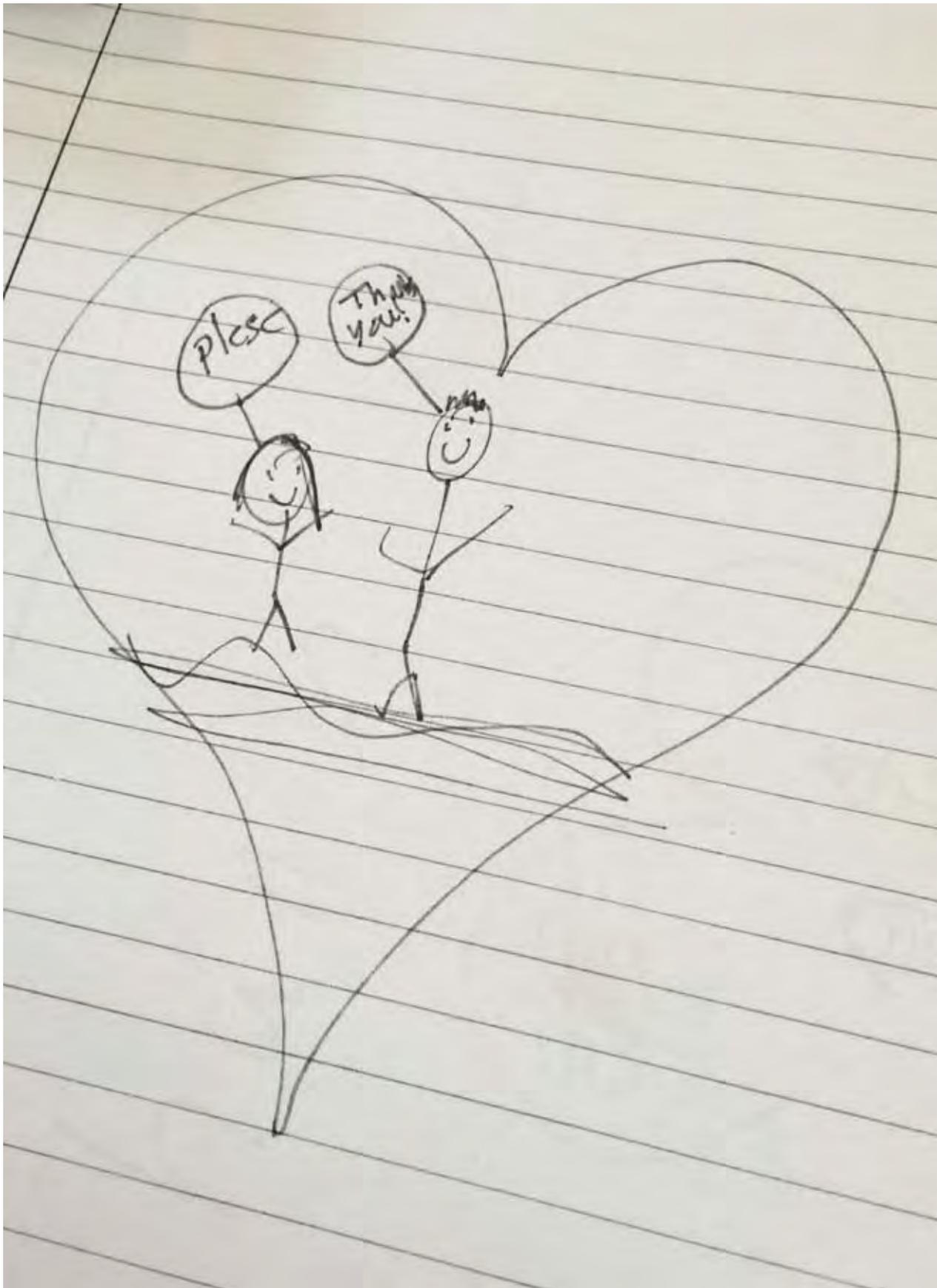
The hearing helped, as it often can. The judge listened. He cared. He acknowledged the sacrifice and service of both Diego and Tara. He heard their story, all while guiding their testimony with questions to make ruling on their appeal possible, easier.

Afterwards, they sat together. Drained from an emotional, momentous day, in some sense a culmination of trying years, they talked at length about their process, how they met, their pride in service, how they hope the process improves for other Veterans.

Under it all, though, that October night, when suicide could have been imminent, still lingers: the stark, dire example of years of tumult and exhaustion. It brings tears, and worry. When asked what the best outcome of this whole process with VA could be, Tara answers determinedly, "His back isn't miraculously going to get better. It's going to continue, like a domino effect, up the rest of his spine for the rest of his life. I know that. I've come to terms with that. I think he's coming to terms with that." She continues, tears starting to sneak out again: "But the best outcome for me would be to know that when he does need help, whether it's just a doctor's appointment, X-ray, MRI, or mental health appointment, that he will get it. Not that we'll be having a repeat of what happened

in October. There's no guarantee that something like that would never happen again, but there are things that could be put in place that could ensure that it's less likely to happen again." Sitting next to her, Diego stared back with the same quiet, tired tears.

A few seconds later, though, they both sallied forth on how to improve the process for Veterans. They're fighters, after all.



HOW MIGHT WE MEET OR EXCEED VETERAN EXPECTATIONS?

The appeals process should, in theory, be one of the most applicant-friendly systems in the world. Instead, it ranges from depersonalized and arduous, to hostile and belittling. Compounding these issues, accelerating changes in medical knowledge and clinical practice add both complexity and urgency to the process. In some areas, what made sense when a Veteran's medical profile rarely changed back when now fails in practice. Absent new approaches that permit appellate review to be conducted in a complete and timely way, even the best efforts of VA and VSO employees are unlikely to be able to meet the challenges of tomorrow. Simply adding new patches on top of the old ones risks cutting off one head of the hydra only to see two more sprout in its place.

If we started with a blank piece of paper and built a new appeals system for Veterans, what would it look like? If we erased the illogical accumulation of regulations and built a system designed to meet Veterans' expectations in the context of today's challenges, what would it look like? What would be expected from Veterans? What would be expected from VA? What would be the simplest way to accomplish that?

With challenges to the current model only increasing over time, we have an opportunity and an obligation to contemplate a future that meets Veterans' needs and expectations in a timely and customer friendly way. While none of us may have the answer on our own, we believe that together, we do.

“Somebody’s gotta wake up and smell the coffee, especially for us guys that are getting up in age. They ain’t got much time left.”

“[The Process] needs changing, no question. Veterans need to know VA is on their side.”

“Treat people the way you want to be treated.”

The themes and insights we heard point to seven overarching principles:

- 1. Veterans want a simple, timely system capable of responding to the changing needs of their lives.**
- 2. Veterans want change—for their own sake and for their fellow Veterans.**
- 3. Veterans want to understand the process and their position in it.**
- 4. Veterans want VA to talk to them and to communicate in a language they understand.**
- 5. Veterans want to be treated with respect and trust.**
- 6. Veterans want a personal touch and an advocate in the process, someone who understands their story and can help them.**
- 7. Veterans want acknowledgment and recognition of their service and sacrifice during the process.**

End Notes

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Photo Credits

All photos are images of real Veterans and their families. Photos of interviewees of this study were taken with permission of the interviewees.

Websites

Location of this report

<http://www.blogs.va.gov/VAntage/25331/listening-to-the-voices-of-veterans-and-their-journey-in-the-appeals-system/>

Prior Human-Centered Design work

<http://www.innovation.va.gov/hcd.asp>

EXHIBIT B

VA Suicide Prevention Program
Facts about Veteran Suicide
July 2016

Overview

VA believes every Veteran suicide is a tragic outcome. Regardless of the numbers or rates, one Veteran suicide is one too many. We continue to spread the word throughout VA that “Suicide Prevention is Everyone’s responsibility.” These new data about Veteran suicide will inform our Suicide Prevention programs and policies, especially for groups at elevated risk for suicide, including older and female Veterans. VA continues to address Veterans’ needs through strategic partnerships with community and federal partners and seeks to enhance these partnerships. Meanwhile, we continue to serve as a leader in evidence-based care for suicide prevention.

VA relies on multiple sources of information to identify deaths that are likely due to suicide and has undertaken the most comprehensive analyses of Veteran suicide rates in the U.S. We have examined over 50 million Veteran records from 1979 to 2014 from every state in the nation. This effort extends VA’s knowledge from the previous report issued in 2010, when over 3 million Veteran records from 20 states were available.

Veteran Suicide Statistics, 2014

- In 2014, an average of 20 Veterans died from suicide each day. 6 of the 20 were users of VA services.
- In 2014, Veterans accounted for 18% of all deaths from suicide among U.S. adults, while Veterans constituted 8.5% of the US population. In 2010, Veterans accounted for 22% of all deaths from suicide and 9.7% of the population.
- Approximately 66% of all Veteran deaths from suicide were the result of firearm injuries.
- There is continued evidence of high burden of suicide among middle-aged and older adult Veterans. In 2014, approximately 65% of all Veterans who died from suicide were aged 50 years or older.
- After adjusting for differences in age and gender, risk for suicide was 21% higher among Veterans when compared to U.S. civilian adults. (2014)
- After adjusting for differences in age, risk for suicide was 18% higher among male Veterans when compared to U.S. civilian adult males. (2014)
- After adjusting for differences in age, risk for suicide was 2.4 times higher among female Veterans when compared to U.S. civilian adult females. (2014)

Overview of data for the years between 2001-2014

- In 2014, there were 41,425 suicides among U.S. adults. Among all U.S. adult deaths from suicide, 18% (7,403) were identified as Veterans of U.S. military service.
- In 2014, the rate of suicide among U.S. civilian adults was 15.2 per 100,000.
 - Since 2001, the age-adjusted rate of suicide among U.S. civilian adults

- has increased by 23.0%.
- In 2014, the rate of suicide among all Veterans was 35.3 per 100,000.
 - Since 2001, the age-adjusted rate of suicide among U.S. Veterans has increased by 32.2%.
- In 2014, the rate of suicide among U.S. civilian adult males was 26.2 per 100,000.
 - Since 2001, the age-adjusted rate of suicide among U.S. civilian adult males has increased by 0.3%.
- In 2014, the rate of suicide among U.S. Veteran males was 37.0 per 100,000.
 - Since 2001, the age-adjusted rate of suicide among U.S. Veteran males has increased by 30.5%.
- In 2014, the rate of suicide among U.S. civilian adult females was 7.2 per 100,000.
 - Since 2001, the age-adjusted rate of suicide among U.S. civilian adult females has increased by 39.7%.
- In 2014, the rate of suicide among U.S. Veteran females was 18.9 per 100,000.
 - Since 2001, the age-adjusted rate of suicide among U.S. Veteran females has increased by 85.2%.

VA Aggressively Undertaking New Measures to Prevent Suicide

Veterans Crisis Line Expansion

- The 24/7 Veterans Crisis Line (VCL) provides immediate access to mental health crisis intervention and support. Veterans call the national suicide prevention hotline number, 1-800-273-TALK (8255) and then “Press 1” to reach highly skilled responders trained in suicide prevention and crisis intervention. VCL also includes a chat service and texting option. We are continuing to modify phone systems to allow for direct connection to the VCL by dialing “7” when calling the VA medical center.
 - We are hiring over 60 new suicide intervention responders/counselors for the VCL
 - Each responder receives intensive training on a wide variety of topics in crisis intervention, substance use disorders, screening, brief intervention, and referral to treatment.
- Since the establishment of the VCL through May 2016 the VCL:
 - Has answered over 2.3 million calls, made over 289,000 chat connections, and over 55,000 texts;
 - Has initiated the dispatch of emergency services to callers in imminent suicidal crisis over 61,000 times;
 - Has provided over 376,000 referrals to a VA Suicide Prevention Coordinator (SPC) thus ensuring Veterans are connected to local care;

Using Predictive Analytics to identify those at risk and intervene early

- Screening and assessment processes have been set up throughout the system to assist in the identification of patients at risk for suicide.
- The VA will use predictive modeling to determine which Veterans may be at

highest risk of suicide, so providers can intervene early.

- Veterans in the top 0.1% of risk (who have a 43-fold increased risk of death from suicide within a month) are identified before clinical signs of suicide are evident in order to save lives before a crisis occurs.
- Patients who have been identified as being at high risk receive an enhanced level of care, including missed appointment follow-ups, safety planning, follow-up visits and individualized care plans that directly address their suicidality.

Bolstering Mental Health Services for Women

Since 2005, VA has seen a 154 percent increase in the number of women Veterans accessing VHA mental health services. In FY 2015, 182,107 women Veterans received VA mental health care.

- VA has enhanced provision of care to women Veterans by focusing on training and hiring Designated Women's Health Providers (DWHP) at every site where women access VA, with 100% of VA Medical Centers and 90% of Community-Based Outpatient Clinics having Designated Women's Health Providers.
- VA has trained nearly 2,500 providers in women's health and continues to train additional providers to ensure that every woman Veteran has the opportunity to receive her primary care from a DWHP.
- VA now operates a Women Veterans Call Center (WVCC), created to contact women Veterans to inform them about eligible services. As of February 2016, the WVCC received 30,399 incoming calls and made about 522,038 outbound calls, successfully reaching 278,238 women Veterans.

Expanding TeleMental Health Services

- VA is leveraging telemental health care by establishing four regional telemental health hubs across the VA healthcare system.
- In FY 2015, 12% of all Veterans enrolled for VA care received telehealth-based care, totaling more than 2 million telehealth visits that touched 677,000 Veterans, including 380,000 telemental health encounters.
- Since FY 2003, VHA has provided more than 2 million telemental health encounters, expanding its role as a world leader in telehealth and telemental health services, including services provided directly into the Veteran's home.

Free Mobile Apps to Help Veterans and their Families

VA has deployed a suite of 13 award-winning mobile apps to support Veterans and their families with tools to help them manage emotional and behavioral concerns. These include:

- PTSD Coach (released 2011; 233,000 downloads in 95 countries) is a VA and DoD joint project and is widely acclaimed, winning numerous awards. It is a tool for self-management of PTSD, and includes: a self-assessment tool; educational materials about PTSD symptoms, treatment, related conditions, and forms of treatment; relaxation and focusing exercises designed to address symptoms; and

immediate access to crisis resources, personal support contacts, or professional mental healthcare.

- CBT-i Coach for insomnia (released 2013; 86,000 downloads in 87 countries) was a collaborative effort between the Department of Veterans Affairs' National Center for PTSD (NCPTSD), Stanford University Medical Center, and the Department of Defense's National Center for Telehealth and Technology (T2). CBT-i Coach is a mobile phone app designed for use by people who are having difficulty sleeping and are participating in Cognitive Behavioral Therapy for Insomnia guided by a healthcare professional.
- ACT Coach for depression (released 2014; 23,000 downloads in 93 countries) supports people currently participating in Acceptance and Commitment Therapy (ACT) who want to use an app in conjunction with their therapist to bring ACT practice into daily life.
- Mindfulness Coach, (released 2014; 39,000 downloads in 95 countries) provides tools to assist users in practicing mindfulness meditation.
- Moving Forward (released 2014; 5,400 downloads in 54 countries) teaches problem solving skills and can be used in a stand-alone fashion or while participating in Problem Solving training.

Leveraging VA Vet Centers and Readjustment Counselors

Vet Centers are community-based counseling centers that provide a wide range of social and psychological services including professional readjustment counseling to Veterans and active duty Service members, including members of the National Guard and Reserve components who served on active military duty in any combat theater or area of hostility.

- There are 300 community-based Vet Centers, and 80 mobile Vet Centers located across the 50 states, the District of Columbia, American Samoa, Guam, Puerto Rico, and the US Virgin Islands (www.vetcenter.va.gov).
- In FY 2015, the Vet Centers provided over 228,000 Veterans, Service members and families with over 1,664,000 visits.
- To use Vet Center services, Veterans or Service members:
 - Do not need to be enrolled with VA Medical Centers;
 - Do not need a disability rating or service connection for injuries from either the VA or the DOD, and;
 - Can access Vet Center services regardless of discharge character.
- The Vet Center Combat Call Center is an around-the-clock confidential call center where combat Veterans and their families can talk with staff comprised of fellow combat Veterans from several eras. In FY 2015, the Vet Center Combat Call Center took over 113,000 calls from Veterans, Service members, their families, and concerned citizens.

Telephone Coaching for Families of Veterans

Coaching Into Care (www.va.gov/coachingintocare) assists family members and friends in helping a Veteran seek care. *Coaching Into Care* provides a motivational “coaching” service for family and friends of Veterans who see that a Veteran in their life needs help.

Coaching involves helping the caller figure out how to motivate the Veteran to seek services. The service is free and provided by licensed clinical social workers and psychologists. Since the inception of the service in January 2010 through November 2014, *Coaching Into Care* has logged 18,088 total initial and follow-up calls.

Innovative Public-Private Partnerships to Reach Veterans

VA is working with public and private partners across the country with the goal of ensuring that wherever a Veteran lives, he/she can access quality, timely mental health care.

VA is working with universities, colleges and health professional training institutions across the country to expand their curricula to address the new science related to meeting the mental and behavioral health needs of our Nation's Veterans, servicemembers, and their families.

- VA has recently partnered with the University of Michigan Health System and its Military Support Programs and Networks (M-Span) to support student Veterans as they transition from military to student life. Their Peer Advisors for Veteran Education (PAVE) program which is expanding to 42 campuses across the country and VA's Veterans Integration to Academic Leadership (VITAL) and VA's Peer Support Program will coordinate referrals, share resources and collaboratively help student Veterans successfully navigate college life and provide support.

VA is also supporting community provider organizations through innovative partnerships:

- VA recently partnered with the Bristol Myers Squibb Foundation (BMS-F) to share subject matter expertise across a range of topics relevant to Veterans and their families including: Student Veteran Programs, Caregiver Training Programs, Faith/Chaplain/Spirituality-based mental health Programs and other mental health and well-being programs.
- VA has also recently partnered with Give an Hour (GAH) to share training resources on various mental health topics to be disseminated to GAH's provider network, so more Veterans have access to evidence-based mental health care and are competent in military culture. In addition, VA's Make the Connection Veteran focused outreach campaign is collaborating with GAH's Change Direction Campaign to reduce negative perceptions associated with seeking mental health care and promote mental health literacy among Veterans and the general public.
- VA has also partnered with Psych Armor Institute (PAI) to share subject matter expertise on a range of mental health and caregiving topics to help civilians better serve Veterans through training that PAI is delivering free of charge to the public and VA.
- VA Campus Toolkit (www.mentalhealth.va.gov/studentveteran) is a resource for faculty, staff, and administrators to find resources to support student Veterans and learn about their strengths, skills, and needs.

- VA is hosting annual Community Mental Health Summits at each VAMC. Each facility will focus on building new partnerships and strengthening existing partners to meet the needs of Veterans and Veteran families residing in their catchment area.
- Each VAMC has appointed a Community Mental Health Point of Contact to provide ready access to information about VA eligibility and available clinical services, ensure warm handoffs at critical points of transition between systems of care, and provide ongoing liaison between VA and Community Partners.

Maintaining the High Quality of VA Mental Health Care

The Altarum/RAND report, Veterans Health Administration Mental Health Program Evaluation (2011) concluded that, “Timeliness for mental/behavioral healthcare in VHA is as good as or better than in commercial and public plans.”

A recent publication comparing VA mental health care to private sector care examined medication treatment for mental disorders, finding:

- Across 7 performance indicators, VA “performance was superior to that of the private sector by more than 30%.”
- The authors conclude that: “Findings demonstrate the significant advantages that accrue from an organized, nationwide system of care. The much higher performance of the VA has important clinical and policy implications.”

<http://ps.psychiatryonline.org/doi/10.1176/appi.ps.201400537>

Proactive Outreach to Reach Veterans Needing Care

- VA works proactively to connect Veterans and their families with the resources they need. In addition to VA’s *Make the Connection* outreach campaign and extensive suicide prevention outreach, many specific mental health programs and services have outreach as part of their efforts. Suicide Prevention Coordinators are required to conduct at least five outreach activities per month in all of their local communities and are able to provide a Community version of Operation S.A.V.E. to Veterans and others.
- Partnering with community organizations has broadened VA’s outreach efforts and promotes more positive outcomes from community providers.
- *Make the Connection* is VA’s award-winning mental health public awareness campaign. Its primary objectives are to highlight Veterans’ true and inspiring stories of mental health recovery, reduce negative perceptions about mental health and seeking mental health care and to connect Veterans and their family members with local, mental health resources.
- Over the past four years, *Make the Connection* has seen tremendous engagement with Veterans, Veteran family members, and supporters. Via MakeTheConnection.net, the campaign’s outreach efforts, and social media properties including Facebook and YouTube pages, the following has been achieved (through May 2016):
 - 10.5 million website visits;
 - 333,000 resource locator uses (local VA and other community sources of support);
 - 14.4 million video views;

- 19,700 YouTube subscribers;
- 3.4 million likes on the MTC Facebook page, making it one of the largest government Facebook communities in the country;
- 39.8 million engagement actions on Facebook (likes, comments and/or shares);
- More than 2 billion impressions of the campaign's Public Service Announcements, earning more than \$27M in free, donated airplay;
- Outreach has resulted in over 190 organizations broadcasting campaign messaging through their communication platforms and
- More than 730,000 pieces of material distributed nationwide

For more information, Veterans currently enrolled in VA health care can speak with their VA mental health or health care provider. Other Veterans and interested parties can find a complete list of VA health care facilities, Vet Centers, their local Suicide Prevention Coordinators, and other resources under the resource section of www.veteranscrisisline.net or at www.va.gov.

For more information about this Fact Sheet, contact Dr. Caitlin Thompson, National Mental Health Director for Suicide Prevention and Community Engagement at 202-461-4173.

EXHIBIT C



Department of Veterans Affairs

VETERAN'S APPLICATION FOR COMPENSATION AND/OR PENSION

(DO NOT WRITE IN THIS SPACE)
(VA DATE STAMP)

IMPORTANT - Read information and instructions carefully before completing the form. Type, print, or write plainly.

PART I - VETERAN'S INFORMATION

1. FOR WHAT BENEFIT ARE YOU APPLYING?

COMPENSATION PENSION BOTH COMPENSATION AND PENSION

2. HAVE YOU PREVIOUSLY APPLIED FOR ANY VA BENEFIT(S)? (Check applicable box)

PENSION COMPENSATION OTHER (Specify)

3. FIRST, MIDDLE, LAST NAME OF VETERAN

Thomas Walter Meissgeier

4A. VETERAN'S SOCIAL SECURITY NO.

[REDACTED]

4B. VA FILE NUMBER (If applicable)

4C. SPOUSE'S SOCIAL SECURITY NO.

[REDACTED]

4D. IF YOU SERVED UNDER ANOTHER NAME, GIVE NAME AND PERIOD DURING WHICH YOU SERVED AND SERVICE NO.

5. MAILING ADDRESS (Number and street or rural route, city or P.O., State and ZIP Code)

[REDACTED] Alexandria, VA 22310

6. TELEPHONE NUMBER(S) (Include Area Code)

7. E-MAIL ADDRESS (If applicable)

A. DAYTIME

703-[REDACTED]

B. EVENING

703-[REDACTED]

C. CELL

703-[REDACTED]

[REDACTED]@gmail.com

8A. DATE OF BIRTH (Month, day, year)

[REDACTED]

8B. PLACE OF BIRTH

Martinsburg, WV

9. SEX

MALE FEMALE

10A. HAVE YOU EVER FILED A CLAIM FOR COMPENSATION FROM THE OFFICE OF WORKERS' COMPENSATION PROGRAMS? (Formerly the U.S. Bureau of Employees Compensation)

YES NO (If "Yes," complete Items 10B & 10C)

10B. WHEN WAS THE CLAIM FILED? (Mo., day, yr.)

10C. FOR WHAT DISABILITY ARE YOU RECEIVING BENEFITS?

PART II - NATURE AND HISTORY OF SERVICE-RELATED DISABILITY(IES) - If you need more space please use Item 45, "Remarks"

11. PLEASE PROVIDE NATURE OF SICKNESS, DISEASE, OR INJURIES FOR WHICH THIS CLAIM IS MADE; DATE EACH BEGAN; AND PLACE OF TREATMENT

A. LIST DISABILITY(IES)	B. DATE BEGAN	C. PLACE OF TREATMENT
Sleep Apnea/hypopnea syndrome	01/01/1980	Pulmonary and Critical Care Specialists
		8503, Arlington Boulevard Suite 330
		Fairfax, VA 22031-4603

12A. ARE YOU NOW OR HAVE YOU RECEIVED TREATMENT OR DOMICILIARY CARE AT A VA MEDICAL FACILITY?

YES NO (If "Yes," complete Items 12B & 12C)

12B. DATES OF TREATMENT/CARE

Month Day Year

[REDACTED]

12C. NAME AND ADDRESS OF VA MEDICAL FACILITY (If you need more space use Item 45, "Remarks")

13A. HAVE YOU EVER BEEN A PRISONER OF WAR?

YES NO (If "Yes," complete Items 13B and 13C)

13B. NAME OF COUNTRY

13C. DATES OF CONFINEMENT

FROM

TO

14. ARE YOU CLAIMING A DISABILITY RELATED TO AGENT ORANGE OR OTHER HERBICIDE EXPOSURE? (If "Yes," list disability(ies) below)

YES NO

15. ARE YOU CLAIMING A DISABILITY RELATED TO ASBESTOS EXPOSURE? (If "Yes," list disability(ies) below)

YES NO

16. ARE YOU CLAIMING A DISABILITY RELATED TO MUSTARD GAS EXPOSURE? (If "Yes," list disability(ies) below)

YES NO

17. ARE YOU CLAIMING A DISABILITY RELATED TO IONIZING RADIATION EXPOSURE? (If "Yes," list disability(ies) below)

YES NO

18. ARE YOU CLAIMING A DISABILITY RELATED TO AN ENVIRONMENTAL HAZARD EXPOSURE DURING THE GULF WAR? (If "Yes," list disability(ies) below)

YES NO

YOU MUST SIGN AND PRINT YOUR NAME AND DATE THIS FORM IN ITEMS 42A THRU 42C ON PAGE 10.

PART III - ACTIVE DUTY SERVICE INFORMATION

NOTE: Please complete the information for each period of active duty. Attach DD214 or other separation papers for all periods of active duty. If you do not have your DD214 form or other separation papers, check the box.

19A. ENTERED INTO SERVICE		19B. SERVICE NUMBER	19C. SEPARATED FROM SERVICE		19D. BRANCH OF SERVICE	19E. GRADE, RANK OR RATING, ORGANIZATION
DATE	PLACE		DATE	PLACE		
06/11/1974	Pennsylvania	[REDACTED]	03/07/1981	Ft Devens, MA	US Army	E-6
03/14/1991	New York	[REDACTED]	06/28/1991	Ft Sill, OK	US Army/ARNG	O-3
06/07/1999	Pennsylvania	[REDACTED]	08/17/2007	Ft Belvoir, V	US Army/USAR	O-5

PART IV - RESERVE AND NATIONAL GUARD SERVICE INFORMATION

NOTE: Enter complete information for each period of Reserves and National Guard service. Attach any separation papers you have.

20A. ENTERED INTO SERVICE		20B. SERVICE NUMBER	20C. SEPARATED FROM SERVICE		20D. SERVICE STATUS <i>(Reserve, National Guard)</i>	20E. GRADE, RANK OR RATING, ORGANIZATION
DATE	PLACE		DATE	PLACE		
03/31/1983	Pennsylvania	[REDACTED]	05/08/1982	Pennsylvania	Ntl Guard	O-1
12/10/1987	New York	[REDACTED]	04/10/1983	New York	Ntl Guard	O-3
07/24/1988	Pennsylvania	[REDACTED]	01/14/1987	Pennsylvania	Ntl Guard	O-3

21. IF DISABILITY OCCURRED DURING ACTIVE OR INACTIVE DUTY FOR TRAINING, GIVE BRANCH OF SERVICE AND DATE OF OCCURRENCE	22A. ARE YOU NOW A MEMBER OF THE RESERVES OR NATIONAL GUARD? IF SO, GIVE THE BRANCH OF SERVICE <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO BRANCH _____	22B. RESERVE STATUS <input type="checkbox"/> ACTIVE <input type="checkbox"/> RESERVE OBLIGATION <input checked="" type="checkbox"/> INACTIVE
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22C. NAME, ADDRESS AND PHONE NO. OF RESERVE OR NATIONAL GUARD UNIT *(If additional space is needed, use Item 45 "Remarks")*

PART V - MILITARY RETIRED/SEVERANCE PAY

IMPORTANT - Unless you check the box in Item 25 below, you are telling us that you are choosing to receive VA compensation instead of military retired pay, if it is determined you are entitled to both benefits. If you are awarded military retired pay prior to compensation, we will reduce your retired pay by the amount of any compensation that you are awarded. VA will notify the Military Retired Pay Center of all benefit changes. If you receive both military retired pay and VA compensation, some of the amount you receive may be recouped by VA, or, in the case of Voluntary Separation Incentive (VSI), by the Department of Defense.

23A. ARE YOU RECEIVING MILITARY RETIRED PAY? <i>(If "Yes," complete Items 23C & 23D)</i> <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	23B. WILL YOU RECEIVE MILITARY RETIRED PAY IN THE FUTURE? <i>(If "Yes," explain, i.e. Future Reserve/National Guard Retirement, Pending MEB/PEB)</i> <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <u>Future Reserve Retirement</u>	23C. BRANCH OF SERVICE USAR	23D. MONTHLY AMOUNT [REDACTED]
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24. RETIRED STATUS <input checked="" type="checkbox"/> RETIRED <input type="checkbox"/> TEMPORARY DISABILITY RETIRED LIST <input type="checkbox"/> DISABLED RETIRED LIST	25. NO, I DO NOT WANT VA COMPENSATION IN LIEU OF MILITARY RETIRED PAY <input type="checkbox"/> <i>(Check box, if applicable)</i>
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26. HAVE YOU EVER APPLIED FOR OR RECEIVED DISABILITY SEVERANCE/SEPARATION PAY, OR ANY OTHER LUMP SUM PAYMENT FROM THE ARMED FORCES?
(If "Yes," list type, amount, date it was received, and the branch of service below)
 YES NO

PART VI - MARITAL AND DEPENDENCY INFORMATION

27A. MARITAL STATUS <i>(If married, complete Items 27B thru 29D)</i> <input checked="" type="checkbox"/> MARRIED <input type="checkbox"/> WIDOWED <input type="checkbox"/> DIVORCED <input type="checkbox"/> NEVER MARRIED <i>(If never married, skip to Item 30)</i>	27B. SPOUSES'S BIRTHDATE <i>(Mo., day, yr.)</i> [REDACTED]
--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------

27C. NUMBER OF TIMES YOU HAVE BEEN MARRIED <i>(To include current marriage)</i> 1	27D. NUMBER OF TIMES YOUR PRESENT SPOUSE HAS BEEN MARRIED <i>(To include current marriage)</i> 1	27E. IS YOUR SPOUSE ALSO A VETERAN? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <i>(If "Yes," complete Item 27F)</i>	27F. SPOUSE'S VA FILE NUMBER <i>(If any)</i> C-
-----------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------

27G. DO YOU LIVE TOGETHER? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <i>(If "No," complete Items 27H thru 27J)</i>	27H. REASON FOR SEPARATION <i>(For example, marital problems, job requirements, health, etc.)</i>	27I. PRESENT ADDRESS OF SPOUSE [REDACTED] Alexandria, VA 22310
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27J. AMOUNT YOU CONTRIBUTE TO YOUR SPOUSE'S MONTHLY SUPPORT \$	27K. HOW WERE YOU MARRIED? <input checked="" type="checkbox"/> CLERGYMAN OR AUTHORIZED PUBLIC OFFICIAL <input type="checkbox"/> TRIBAL <input type="checkbox"/> OTHER <i>(Explain)</i> <input type="checkbox"/> COMMON-LAW <input type="checkbox"/> PROXY
-------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

YOU MUST SIGN AND PRINT YOUR NAME AND DATE THIS FORM IN ITEMS 42A THRU 42C ON PAGE 10.

PART VI - MARITAL AND DEPENDENCY INFORMATION - CONTINUED (If you need additional space, use Item 45 "Remarks")

FURNISH THE FOLLOWING INFORMATION ABOUT EACH OF YOUR MARRIAGES (IF NOT APPLICABLE, WRITE "N/A")

28A. DATE AND PLACE OF MARRIAGE		28B. TO WHOM MARRIED	28C. TERMINATED (Death, Divorce)	28D. DATE AND PLACE TERMINATED	
MONTH, YEAR	CITY, STATE			MONTH, YEAR	CITY, STATE

FURNISH THE FOLLOWING INFORMATION ABOUT EACH PREVIOUS MARRIAGE OF YOUR PRESENT SPOUSE (IF NOT APPLICABLE, WRITE "N/A")

29A. DATE AND PLACE OF MARRIAGE		29B. TO WHOM MARRIED	29C. TERMINATED (Death, Divorce)	29D. DATE AND PLACE TERMINATED	
MONTH, YEAR	CITY, STATE			MONTH, YEAR	CITY, STATE

DEPENDENCY - Dependent Children Information (If you need additional space, use Item 45 "Remarks")

FURNISH THE FOLLOWING INFORMATION FOR EACH OF YOUR DEPENDENT CHILDREN

30A. NAME OF CHILD (First, middle initial, last)	30B. DATE & PLACE OF BIRTH (City, state or country)	30C. SOCIAL SECURITY NUMBER	30D. CHECK EACH APPLICABLE CATEGORY					
			BIOLOGICAL	ADOPTED	STEPCHILD	18-23 YRS. OLD AND IN SCHOOL	SERIOUSLY DISABLED BEFORE AGE 18	CHILD PREVIOUSLY MARRIED
	_____ (Month, day, year) Place: _____		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	_____ (Month, day, year) Place: _____		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	_____ (Month, day, year) Place: _____		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

FURNISH THE FOLLOWING INFORMATION FOR EACH OF YOUR DEPENDENT CHILDREN WHO DO NOT LIVE WITH YOU

31A. NAME(S) OF ANY CHILD(REN) NOT IN YOUR CUSTODY	31B. NAME AND ADDRESS OF PERSON HAVING CUSTODY	31C. MONTHLY AMOUNT YOU CONTRIBUTE TO CHILD'S SUPPORT
		\$
		\$

PART VII - NON-SERVICE CONNECTED PENSION (If you need additional space use Item 45 "Remarks")

NOTE: You do not have to submit medical evidence or list disabilities if you are age 65 or older, unless you are housebound, or require the regular assistance of another person.

32. WHAT DISABILITIES PREVENT YOU FROM WORKING? (List below)	33. DO YOU NEED THE REGULAR ASSISTANCE OF ANOTHER PERSON OR ARE YOU GENERALLY CONFINED TO YOUR IMMEDIATE PREMISES? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
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NURSING HOME INFORMATION

NOTE: You may submit a statement by an official of the nursing home that tells us that you are a patient in the nursing home because of a physical or mental disability. The statement should include the monthly charge you are paying out-of-pocket for your care.

34A. ARE YOU NOW IN A NURSING HOME? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <i>(If "YES," complete Items 34B thru 34D)</i>	34B. NAME AND COMPLETE MAILING ADDRESS OF THE FACILITY	34C. HAVE YOU APPLIED FOR MEDICAID? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
34D. DOES MEDICAID COVER ALL OR PART OF YOUR NURSING HOME COSTS OR HAVE YOU APPLIED AND NOT RECEIVED A DECISION? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> APPLIED - NOT RECEIVED DECISION	34E. ARE YOU RECEIVING SUPPLEMENTAL SOCIAL SECURITY INCOME (SSI) OR HAVE YOU APPLIED FOR SSI BUT NO DECISION HAS BEEN MADE? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> APPLIED - NOT RECEIVED DECISION	

YOU MUST SIGN AND PRINT YOUR NAME AND DATE THIS FORM IN ITEMS 42A THRU 42C ON PAGE 10.

PART VIII - INCOME INFORMATION *(Provide the income you received from all sources)*

NOTE: Report the total income before deductions for taxes, insurance, etc. If you do not receive any payments from one of the sources that we list, write "0" or "None" in the space. If you are receiving monthly benefits, give us a copy of your most recent award letter. This will help us determine the amount of benefits you should be paid. Payments from any source will be counted, unless the law says that they don't need to be counted.

MONTHLY INCOME - Provide the income that you and your dependents receive every month. For items 35A -35F, if none, write "0" or "NONE." Do not leave blank spaces.

ITEM NO.	SOURCES OF RECURRING MONTHLY INCOME	VETERAN	SPOUSE	CHILD(REN) <i>(Provide the first, middle initial, and last name)</i>		
				NAME	NAME	NAME
35A.	Social Security					
35B.	U.S. Civil Service					
35C.	U.S. Railroad Retirement					
35D.	Military Retired Pay					
35E.	Black Lung Benefits					
35F.	Other <i>(Interest, dividends, or one-time payments)</i>					
36A. WILL YOU RECEIVE ANY INCOME FROM RENTAL PROPERTY OR FROM THE OPERATION OF A BUSINESS WITHIN 12 MONTHS OF THE DAY YOU SIGN THIS FORM?		36B. WILL YOU RECEIVE ANY INCOME FROM THE OPERATION OF A FARM WITHIN 12 MONTHS OF THE DAY YOU SIGN THIS FORM?		36C. DO YOU THINK YOUR INCOME WILL CHANGE IN THE NEXT 12 MONTHS? <i>(If "Yes," explain below)</i>		
<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO _____ _____		

PART IX - NET WORTH *(Provide specific information about the net worth of you and your dependents)*

NET WORTH is the market value of all interest and rights in any kind of property after subtracting any mortgages or other claims against the property. However, net worth does not include the house you live in or a reasonable area of land it sits on. Net worth also does not include the value of personal items such as your vehicle, clothing, and furniture.

NOTE: For Items 37A-37F provide amounts. If none, write "0" OR "NONE." Do not leave blank spaces.

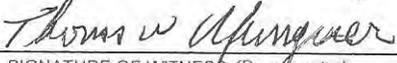
ITEM NO.	SOURCE	VETERAN	SPOUSE	CHILD(REN) <i>(Provide the first, middle initial, and last name)</i>		
				NAME	NAME	NAME
37A.	Cash, non-interest bearing bank accounts					
37B.	Interest bearing bank accounts, certificates of deposit <i>(CDs)</i>					
37C.	Retirement accounts <i>(IRAs, Keogh Plans, etc.)</i>					
37D.	Stocks, bonds, and mutual funds					
37E.	Value of business assets					
37F.	Real property <i>(not your home)</i>					

YOU MUST SIGN AND PRINT YOUR NAME AND DATE THIS FORM IN ITEMS 42A THRU 42C ON PAGE 10.

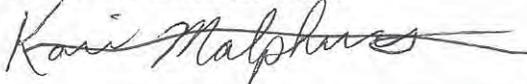
PART XII - CERTIFICATION, AUTHORIZATION, AND SIGNATURE(S)

I certify that the statements in this document are true and complete to the best of my knowledge and belief. I authorize any person or entity, including but not limited to any organization, service provider, employer or government agency, to give the Department of Veterans Affairs any information about me except protected health information, and I waive any privilege which makes the information confidential.

IMPORTANT - If you sign with an "X", then you must have 2 people witness your signature. They must then print their names and addresses and sign the form.

42A. VETERAN'S SIGNATURE (Do not print) (Please sign in ink) 	42B. VETERAN'S PRINTED NAME Thomas Walter Meissgeier	42C. DATE SIGNED 05/13/2013
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43A. SIGNATURE OF WITNESS (Do not print) 	43B. PRINTED NAME AND ADDRESS OF WITNESS Aron R. Hendricks [REDACTED] Alexandria, VA 22303
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44A. SIGNATURE OF WITNESS (Do not print) 	44B. PRINTED NAME AND ADDRESS OF WITNESS Kari Malphurs [REDACTED] Alexandria, VA 22315
-------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------

PART XIII - REMARKS (Use this space for any additional statements that you would like to make concerning your application for Compensation and/or Pension)

45. REMARKS (If you need more space you may attach a separate sheet of paper)

Due to difficulty in reaching some of the witnesses some of the statements are provided on documentation other than the VBA-21-4138 and are identified as follows:

Attachment 1, statement from COL Kyle Nordmeyer
Attachment 2, statement from Mr. Rob Craddock
Attachment 3, statement from Dr. Barry S. Dicicco, M.D.
Attachment 4, Statement from Dr. Anthony J. Bazzan, M.D.
Attachment 5, VA 21-4138 from Mrs. Barbara Meissgeier

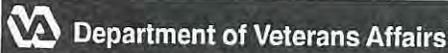
I LTC (ret) Thomas W. Meissgeier make the following statement regarding my claim for VA compensation for prior service related military ailments. I have unknowingly suffered from sleep disorder for a period in excess of 20 years. I was convinced by family and friends to have this condition checked and learned the severity of this problem. The attached statements clearly define my condition and history related to sleep apnea.

Dr. Barry S. Dicicco's, M.D., statement of February 11, 2013 indicates a diagnosis of approximately 10 years, I have experienced symptoms for a period of at least 20 years, which reaches well back to my active duty service time and military service while deployed to Afghanistan and Iraq. The attached statements clearly show this issue to be both historical and severe.

PENALTY - The law provides severe penalties which include fine or imprisonment, or both, for the willful submission of any statement or evidence of a material fact, knowing it to be false, or for the fraudulent acceptance of any payment to which you are not entitled.

YOU MUST SIGN AND PRINT YOUR NAME AND DATE THIS FORM IN ITEMS 42A THRU 42C ON THIS PAGE.

EXHIBIT D



STATEMENT IN SUPPORT OF CLAIM

PRIVACY ACT INFORMATION: The VA will not disclose information collected on this form to any source other than what has been authorized under the Privacy Act of 1974 or Title 38, Code of Federal Regulations 1.576 for routine uses (i.e., civil or criminal law enforcement, congressional communications, epidemiological or research studies, the collection of money owed to the United States, litigation in which the United States is a party or has an interest, the administration of VA Programs and delivery of VA benefits, verification of identity and status, and personnel administration) as identified in the VA system of records, 58VA21/22/28, Compensation, Pension, Education, and Vocational Rehabilitation and Employment Records - VA, published in the Federal Register. Your obligation to respond is required to obtain or retain benefits. VA uses your SSN to identify your claim file. Providing your SSN will help ensure that your records are properly associated with your claim file. Giving us your SSN account information is voluntary. Refusal to provide your SSN by itself will not result in the denial of benefits. The VA will not deny an individual benefits for refusing to provide his or her SSN unless the disclosure of the SSN is required by Federal Statute of law in effect prior to January 1, 1975, and still in effect. The requested information is considered relevant and necessary to determine maximum benefits under the law. The responses you submit are considered confidential (38 U.S.C. 5701). Information submitted is subject to verification through computer matching programs with other agencies.

RESPONDENT BURDEN: We need this information to obtain evidence in support of your claim for benefits (38 U.S.C. 501(a) and (b)). Title 38, United States Code, allows us to ask for this information. We estimate that you will need an average of 15 minutes to review the instructions, find the information, and complete this form. VA cannot conduct or sponsor a collection of information unless a valid OMB control number is displayed. You are not required to respond to a collection of information if this number is not displayed. Valid OMB control numbers can be located on the OMB Internet Page at www.reginfo.gov/public/do/PRAMain. If desired, you can call 1-800-827-1000 to get information on where to send comments or suggestions about this form.

FIRST NAME - MIDDLE NAME - LAST NAME OF VETERAN (<i>Type or print</i>)	SOCIAL SECURITY NO.	VA FILE NO.
Thomas Walter Meissgeier	██████████	C/CSS - ██████████

The following statement is made in connection with a claim for benefits in the case of the above-named veteran:

I Barbara J Meissgeier, spouse of LTC (ret) Thomas W. Meissgeier for the past 34 years make the following statement regarding my husband's health condition resulting from military connected service. I have been aware of his excessive snoring and lapses in breathing since we were married in 1979. This issue has persisted throughout our marriage and he finally took action to correct this problem after learning that sleep apnea/hypopnea syndrome can lead to death.

I CERTIFY THAT the statements on this form are true and correct to the best of my knowledge and belief.

SIGNATURE 	DATE SIGNED	
	05/13/2013	
ADDRESS ██████████ Alexandria, VA 22310	TELEPHONE NUMBERS (<i>Include Area Code</i>)	
	DAYTIME 703-██████████	EVENING 703-██████████

PENALTY: The law provides severe penalties which include fine or imprisonment, or both, for the willful submission of any statement or evidence of a material fact, knowing it to be false.

EXHIBIT E



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
U.S. ARMY 20TH SUPPORT COMMAND
2400 21ST STREET
ABERDEEN PROVING GROUND MD 21010

AFCB-DCO

MEMORANDUM FOR RECORD

SUBJECT: LTC (Ret) Meissgeier's Sleeping Disorder

1. I am writing on behalf of Lieutenant Colonel (Retired) Thomas W. Meissgeier, US Army. I served with Tom during multiple deployments to Iraq (OIF) and Afghanistan (OEF) beginning in approximately January 2005 through approximately May 2006. During this period members of our team were often billeted 3-5 Soldiers per single room space. LTC Meissgeier snored very loudly, often abruptly stopping only to start again shortly after. I woke him several times initially due to loudness of snoring, and later out of concern when he would go silent. I had suggested he should perhaps see someone (medical personnel) as I was concerned this may not be normal. During periods when we were stateside he was a part of our physical fitness training group and displayed the same tiredness in the morning and throughout the day as during our time overseas. Later, after having learned there is a sleep condition that appeared consistent with symptoms displayed by LTC Meissgeier over a significant period of time (snoring, apparent cessation of breathing, and tiredness throughout day) I again suggested he seek care.
2. Having had the opportunity to stay in contact with Tom since I was reassigned and having learned he was diagnosed with a sleep disorder I am relatively certain this condition was affecting him dating back to our earliest associations and affected him physically throughout this period of time. I can be contacted at 410-██████████ (work) or 301-██████████ (mobile).


KYLE P. NORDMEYER

COL, LG

Deputy Commanding Officer

25 MAR 12

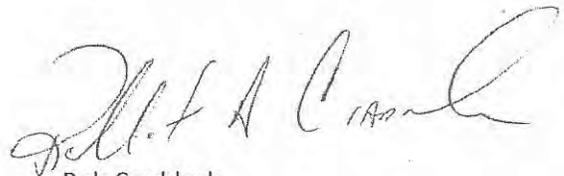
EXHIBIT F

05 March 5, 2013

To Whom It May Concern:

My name is Rob Craddock, Defense Intelligence Agency. I was deployed to Afghanistan in January 2005 with Lieutenant Colonel (Retired) Thomas W. Meissgeier. During this time period four of us lived in a single room hut. During this deployment I witnessed LTC Meissgeier snoring very loudly and on numerous occasions he would stop breathing. I awoke him on these occasions out of concern for his safety and informed him that his snoring was excessively loud and that he appeared to stop breathing on a regular basis. I have traveled with LTC Meissgeier on numerous occasions since and the sleep patterns described above have been consistent throughout our travels. I recommended that he have this condition professionally reviewed and a sleep study revealed that he suffers from severe sleep apnea. This condition clearly affected his performance as he was always tired from a lack of quality sleep. I can be reached for further comment if necessary. My contact information is below.

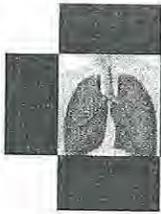
Rob Craddock - 618- [REDACTED]

A handwritten signature in cursive script, appearing to read 'Rob Craddock', written in dark ink.

Rob Craddock

Defense Intelligence Agency

EXHIBIT G



**PULMONARY AND
CRITICAL CARE SPECIALISTS**
of Northern Virginia, P.C.

GEORGE C. BAZACO, M.D.
JOHN B. CLEARY, M.D., F.C.C.P.
BARRY S. DICICCO, M.D., F.C.C.P.
DEPAK SONI, M.D., F.C.C.P.
THOMAS J. LO RUSSO, M.D., F.C.C.P.
MARLA L. SHUMAN, M.D., F.C.C.P.
RICHARD A. SWIFT, M.D., F.C.C.P.
MAURA P. FOLEY, M.D., F.C.C.P.
JANE J. WU, M.D.
KEVIN L. GLASS, M.D., F.C.C.P.

February 11, 2013

Thomas W. Meissgeier
[REDACTED]

Alexandria, Virginia 22310

To Whom This May Concern:

RE: **Thomas W. Meissgeier**

Mr. Thomas Meissgeier is a patient at our practice with severe sleep apnea/hypopnea syndrome. This is primarily obstructive sleep apnea/hypopnea, with an index of 53 events per hour and a desaturation nadir of 80%. This disorder has likely been present for many years. The treatment of choice is nasal CPAP, which is going to be set up today. The likely duration of this disease is approximately ten years, although there is no prior sleep data to document this.

Sincerely yours,

Barry S. Dicicco, M.D.

BSD:je

FAIR OAKS OFFICE

3650 Joseph Siewick Drive
Suite 307
Fairfax, VA 22033-1719
(703) 391-8804

FAIRFAX OFFICE

8503 Arlington Boulevard
Suite 330
Fairfax, VA 22031-4603
(703) 645-2234

RESTON OFFICE

1800 Town Center Drive
Suite 419
Reston, VA 20190-3237
(703) 620-3926

MANASSAS OFFICE

8650 Sudley Road
Suite 212
Manassas, VA 20110-4416
(703) 369-7788

FAUQUIER OFFICE

382 Hospital Drive
Warrenton, VA 20186-3006
(540) 349-8195

BUSINESS OFFICE

3650 Joseph Siewick Drive
Suite 307
Fairfax, VA 22033-1719
(703) 391-8833

EXHIBIT H

The Functional & Wellness Sciences Institute, PC
Anthony J Bazzan, MD
Medical Director

Diplomate, American Board of Internal Medicine and Geriatrics
Attending Physician, Division of Internal Medicine,
Thomas Jefferson University Hospital
Associate Clinical Member Jefferson Kimmel Cancer Center
Instructor in Medicine Thomas Jefferson Medical College

April 29, 2013

RE: Thomas W. Meissgeier

Thomas W. Meissgeier

Alexandria, Virginia 22310

To whom it may concern:

I have known LTC (R) Meissgeier for over 30 years. I began to observe that he was having snoring problems beginning around 2001. This became steadily and progressively more pronounced, as I have had numerous occasions to witness since then. In the last few years this problem has increased to the point that I advised him to seek sleep study for evaluation of Obstructive Sleep Apnea. He was eventually diagnosed with severe Obstructive Sleep Apnea with an index of 53 events per hour and an oxygen desaturation nadir of 80%. He has been fitted with CPAP. If any further information is needed please feel free to contact me.

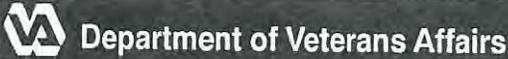
Sincerely,



Anthony J Bazzan, MD

2505 Boulevard of the Generals,
Valley Forge Business Center, Jeffersonville, PA 19403
Tel 610-630-8600, Fax 610-630-9599
email: jody@drbazzan.com
www.drbazzan.com

EXHIBIT I



AUTHORIZATION AND CONSENT TO RELEASE INFORMATION TO THE DEPARTMENT OF VETERANS AFFAIRS (VA)

RESPONDENT BURDEN: We need this information to obtain your treatment records. Title 38, United States Code, allows us to ask for this information. We estimate that you will need an average of 5 minutes to review the instructions, find the information and complete this form. VA cannot conduct or sponsor a collection of information unless a valid OMB control number is displayed. You are not required to respond to a collection of information if this number is not displayed. Valid OMB control numbers can be located on the OMB Internet Page at www.whitehouse.gov/omb/library/OMBINV.VA.EPA.html#VA. If desired, you can call 1-800-827-1000 to get information on where to send comments or suggestions about this form.

IF YOU HAVE ANY QUESTIONS ABOUT THIS FORM, CALL VA TOLL-FREE AT 1-800-827-1000
 (TDD 1-800-829-4833 FOR HEARING IMPAIRED).

SECTION I - VETERAN/CLAIMANT IDENTIFICATION

1. LAST NAME - FIRST NAME - MIDDLE NAME OF VETERAN <i>(Type or print)</i> Meissgeier, Thomas Walter	2. VETERAN'S VA FILE NUMBER [REDACTED]
3. CLAIMANT'S NAME <i>(If other than Veteran)</i> LAST NAME, FIRST, MIDDLE	4. VETERAN'S SOCIAL SECURITY NUMBER [REDACTED]
5. RELATIONSHIP OF CLAIMANT TO VETERAN Self	6. CLAIMANT'S SOCIAL SECURITY NUMBER

SECTION II - SOURCE OF INFORMATION

7A. LIST THE NAME AND ADDRESS OF THE SOURCE SUCH AS A PHYSICIAN, HOSPITAL, ETC. <i>(Include ZIP Codes, and also a telephone number, if available)</i>	7B. DATE(S) OF TREATMENT, HOSPITALIZATIONS, OFFICE VISITS, DISCHARGE FROM TREATMENT OR CARE, ETC. <i>(Include month and year)</i>	7C. CONDITION(S) <i>(List illness, injury, etc. pertinent to your claim)</i>
Dr. Barry S. Dicicco, M.D. 8503, Arlington Boulevard Suite 330, Fairfax, VA 22031-4603. (703) 645-2234	, 12/01/2012	sleep apnea

8. COMMENTS:

YOU MUST SIGN AND DATE THIS FORM ON PAGE 2 AND CHECK THE APPROPRIATE BLOCK IN ITEM 9C.

SECTION III - CONSENT TO RELEASE INFORMATION

READ ALL PARAGRAPHS CAREFULLY BEFORE SIGNING. YOU MUST CHECK THE APPROPRIATE STATEMENT UNDERLINED IN PARENTHESES IN PARAGRAPH 9C.

9A. Privacy Act Notice: The VA will not disclose information collected on this form to any source other than what has been authorized under the Privacy Act of 1974 or Title 38, Code of Federal Regulations 1.576 for routine uses (i.e., civil or criminal law enforcement, congressional communications, epidemiological or research studies, the collection of money owed to the United States, litigation in which the United States is a party or has an interest, the administration of VA programs and delivery of VA benefits, verification of identity and status, and personnel administration) as identified in the VA system of records, 58VA21/22/28 Compensation, Pension, Education, and Vocational Rehabilitation and Employment Records - VA, published in the Federal Register. Your obligation to respond is voluntary. However, if the information including your Social Security Number (SSN) is not furnished completely or accurately, the health care provider to which this authorization is addressed may not be able to identify and locate your records, and provided a copy to VA. VA uses your SSN to identify your claim file. Providing your SSN will help ensure that your records are properly associated with your claim file. Giving us your SSN account information is voluntary. Refusal to provide your SSN by itself will not result in the denial of benefits. The VA will not deny an individual benefits for refusing to provide his or her SSN unless the disclosure of the SSN is required by Federal Statute of law in effect prior to January 1, 1975, and still in effect.

9B. I, the undersigned, hereby authorize the hospital, physician or other health care provider or health plan shown in Item 7A to release any information that may have been obtained in connection with a physical, psychological or psychiatric examination or treatment, with the understanding that VA will use this information in determining my eligibility to veterans benefits I have claimed. I understand that the health care provider or health plan identified in Item 7A who is being asked to provide the Veterans Benefits Administration with records under this authorization may not require me to execute this authorization before it will, or will continue to, provide me with treatment, payment for health care, enrollment in a health plan, or eligibility for benefits provided by it. I understand that once my health care provider sends this information to VA under this authorization, the information will no longer be protected by the HIPAA Privacy Rule, but will be protected by the Federal Privacy Act, 5 USC 552a, and VA may disclose this information as authorized by law. I also understand that I may revoke this authorization, at anytime (except to the extent that the health care provider has already released information to VA under this authorization) by notifying the health care provider shown in Item 7A. Please contact the VA Regional Office handling your claim or the Board of Veterans' Appeals, if an appeal is pending, regarding such action. If you do not revoke this authorization, it will automatically end 180 days from the date you sign and date the form (Item 10C).

9C. I (AUTHORIZE) (DO NOT AUTHORIZE) the source shown in Item 7A to release or disclose any information or records relating to the diagnosis, treatment or other therapy for the condition(s) of drug abuse, alcoholism or alcohol abuse, infection with the human immunodeficiency virus (HIV), sickle cell anemia or psychotherapy notes. IF MY CONSENT TO THIS INFORMATION IS LIMITED, THE LIMITATION IS WRITTEN HERE:

10A. SIGNATURE OF VETERAN/CLAIMANT OR LEGAL REPRESENTATIVE 	10B. RELATIONSHIP TO VETERAN/CLAIMANT <i>(If other than self, please provide full name, title, organization, city, State and ZIP Code. All court appointments must include docket number, county and State)</i> Self	10C. DATE 05/13/2013
-------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------

10D. MAILING ADDRESS (Number and Street or rural route, city, or P.O. State and ZIP Code) [Redacted] Alexandria, VA 22310	10E. TELEPHONE NUMBER (Include Area Code) 703-[Redacted]
----------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------

The signature and address of a person who either knows the person signing this form or is satisfied as to that person's identity is requested below. This is not required by VA but may be required by the source of the information.

11A. SIGNATURE OF WITNESS 	11B. DATE 05/16/2013
----------------------------------------------------------------------------------------------------------------------	-----------------------------

11C. MAILING ADDRESS OF WITNESS [Redacted] Alexandria, VA 22303

THIS IS AN IMPORTANT RECORD
SAFEGUARD IT.

1. LAST NAME - FIRST NAME - MIDDLE NAME MEISSGEIER, THOMAS WALTER			2. SEX M	3. SOCIAL SECURITY NUMBER [REDACTED]	4. DATE OF BIRTH [REDACTED]	YEAR	MONTH	DAY	
5. DEPARTMENT, COMPONENT AND BRANCH OR CLASS ARMY RA			6a. GRADE, RATE OR RANK SP4	b. PAY GRADE E4	7. DATE OF RANK 76 01 01	YEAR	MONTH	DAY	
9a. SELECTIVE SERVICE NUMBER NA		b. SELECTIVE SERVICE LOCAL BOARD NUMBER, CITY, STATE AND ZIP CODE NA Philadelphia, PA 19154		c. HOME OF RECORD AT TIME OF ENTRY INTO ACTIVE SERVICE (Street, RFD, City, State and ZIP Code)					
9a. TYPE OF SEPARATION DISCHARGE			b. STATION OR INSTALLATION AT WHICH EFFECTED Caserma Ederle, Vicenza, Italy						
c. AUTHORITY AND REASON					d. EFFECTIVE DATE 77 03 07	YEAR	MONTH	DAY	
a. CHARACTER OF SERVICE HONORABLE				f. TYPE OF CERTIFICATE ISSUED DD FORM 256A		10. REENLISTMENT CODE			
11. LAST DUTY ASSIGNMENT AND MAJOR COMMAND CSC 1st Bn 509th Inf (ABCT), SETAF				12. COMMAND TO WHICH TRANSFERRED NA					
13. TERMINAL DATE OF RESERVE/MSR OBLIGATION YEAR MONTH DAY NA		14. PLACE OF ENTRY INTO CURRENT ACTIVE SERVICE (City, State and ZIP Code) AFEES, Philadelphia, PA				18. DATE ENTERED ACTIVE DUTY THIS PERIOD YEAR MONTH DAY 74 06 11			
16a. PRIMARY SPECIALTY NUMBER AND TITLE 11B1P Lt Wpns Inf 138/Nov 75		b. RELATED CIVILIAN OCCUPATION AND D.O.T. NUMBER NA		18. RECORD OF SERVICE			YEARS	MONTHS	DAYS
17a. SECONDARY SPECIALTY NUMBER AND TITLE None		b. RELATED CIVILIAN OCCUPATION AND D.O.T. NUMBER NA		(a) NET ACTIVE SERVICE THIS PERIOD			02	08	27
				(b) PRIOR ACTIVE SERVICE			00	05	01
				(c) TOTAL ACTIVE SERVICE (a + b)			03	02	28
				(d) PRIOR INACTIVE SERVICE			00	01	29
				(e) TOTAL SERVICE FOR PAY (c + d)			03	03	27
				(f) FOREIGN AND/OR SEA SERVICE THIS PERIOD			02	02	22
19. INDOCHINA OR KOREA SERVICE SINCE AUGUST 5, 1964 <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO				20. HIGHEST EDUCATION LEVEL SUCCESSFULLY COMPLETED (In Years) SECONDARY/HIGH SCHOOL 12 YRS (1-12 grades) COLLEGE 0 YRS					
21. TIME LOST (Preceding Two Yrs) None		22. DAYS ACCRUED LEAVE PAID Cr'd Fwd		23. SERVICEMEN'S GROUP LIFE INSURANCE COVERAGE <input type="checkbox"/> \$10,000 <input type="checkbox"/> NONE		24. DISABILITY SEVERANCE PAY <input type="checkbox"/> NO <input type="checkbox"/> YES NA		25. PERSONNEL SECURITY INVESTIGATION a. TYPE ENTNAC b. DATE COMPLETED 22Jul74	
26. DECORATIONS, MEDALS, BADGES, COMMENDATIONS, CITATIONS AND CAMPAIGN RIBBONS AWARDED OR AUTHORIZED Parachutist Badge Belgium Parachutist Badge National Defense Service Medal Expert Badge (M-16, .45 Cal)									
27. REMARKS BLOOD GROUP: B pos Reenl bonus paid to date: None Service Schools: Basic Airborne Course Light Weapons Infantry Belgium Parachutist School									
28. MAILING ADDRESS AFTER SEPARATION (Street, RFD, City, County, State and ZIP Code) Same as 8C									
30. TYPED NAME, GRADE AND TITLE OF AUTHORIZING OFFICER JESSE L. JOHNSON, Major, Infantry S-4 Officer, 1st Bn (Abn) 509th Inf (BCT)					29. SIGNATURE OF PERSON BEING SEPARATED <i>Thomas Walter Meissgeier</i>				
					31. SIGNATURE OF OFFICER AUTHORIZED TO SIGN <i>Jesse L. Johnson</i>				

DD FORM 214
1 NOV 72

PREVIOUS EDITIONS OF THIS FORM ARE OBSOLETE.

THIS IS AN IMPORTANT RECORD SAFEGUARD IT.

REPORT OF SEPARATION FROM ACTIVE DUTY

DD FORM 1 JUL 79 214 PREVIOUS EDITIONS OF THIS FORM ARE OBSOLETE. **CERTIFICATE OF RELEASE OR DISCHARGE FROM ACTIVE DUTY**

1. NAME (Last, first, middle) **MEISSCELEP, THOMAS WALTER** 2. DEPARTMENT, COMPONENT AND BRANCH **ARMY/A** 3. SOCIAL SECURITY NO. [REDACTED]

4a. GRADE, RATE OR RANK **SSG** 4b. PAY GRADE **E6** 5. DATE OF BIRTH [REDACTED] 6. PLACE OF ENTRY INTO ACTIVE DUTY **VICENZA, ITALY**

7. LAST DUTY ASSIGNMENT AND MAJOR COMMAND **CO B, 2ND BN, 10TH SFGA, FORSCOM FC** 8. STATION WHERE SEPARATED **FORT DEVENS, MA**

9. COMMAND TO WHICH TRANSFERRED **NA** 10. SGLI COVERAGE AMOUNT \$ **20,000** NONE

11. PRIMARY SPECIALTY NUMBER, TITLE AND YEARS AND MONTHS IN SPECIALTY (Additional specialty numbers and titles involving periods of one or more years)

11B3S, INFANTRYMAN, 3 YRS AND 4 MOS.

31V3P, TAC COMM SYS OP/MECH, 2 YRS AND 1 MO.

12. RECORD OF SERVICE	YEAR (s)	MON (s)	DAY (s)
a. Date Entered AD This Period	77	03	08
b. Separation Date This Period	81	03	07
c. Net Active Service This Period	04	00	00
d. Total Prior Active Service	02	08	27
e. Total Prior Inactive Service	00	06	29
f. Foreign Service	00	02	21
g. Sea Service	00	00	00
h. Effective Date of Pay Grade	79	11	27
i. Reserve Oblig. Term. Date	00	00	00

13. DECORATIONS, MEDALS, BADGES, CITATIONS AND CAMPAIGN RIBBONS AWARDED OR AUTHORIZED (All periods of service)
NATIONAL DEFENSE SERVICE MEDAL, GOOD CONDUCT MEDAL (2ND AWD), ARMY COMMENDATION MEDAL, MASTER PARACHUTE BADGE, EXPERT BADGE RIFLE M-16, EXPERT BADGE HAND GRENADE

14. MILITARY EDUCATION (Course Title, number weeks, and month and year completed)
BASIC NCO, 4 WEEKS (1979)

15. MEMBER CONTRIBUTED TO POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE PROGRAM YES NO

16. HIGH SCHOOL GRADUATE OR EQUIVALENT YES NO

17. DAYS ACCRUED LEAVE PAID **7**

18. REMARKS **NOTHING FOLLOWS**

19. MAILING ADDRESS AFTER SEPARATION **PEPPERELL, MA 01437**

20. MEMBER REQUESTS COPY 6 BE SENT TO MA DIR. OF VET AFFAIRS YES NO

21. SIGNATURE OF MEMBER BEING SEPARATED *Thomas Walter Meisscelep*

22. TYPED NAME, GRADE, TITLE AND SIGNATURE OF OFFICIAL AUTHORIZED TO SIGN **JIMMY L. JORDAN, 1 LT. AGC, CHIEF, TRANSFER POINT**

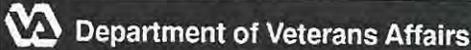
SPECIAL ADDITIONAL INFORMATION (For use by authorized agencies only)

23. TYPE OF SEPARATION DISCHARGE	24. CHARACTER OF SERVICE (Includes upgrades) HONORABLE
25. SEPARATION AUTHORITY CHAPTER 2 AR635-200	26. SEPARATION CODE JBK
27. REENLISTMENT CODE RE-1A	28. NARRATIVE REASON FOR SEPARATION COMPLETION OF REQUIRED SERVICE
29. DATES OF TIME LOST DURING THIS PERIOD NONE	30. MEMBER REQUESTS COPY 4 <i>[Signature]</i> INITIALS

CERTIFICATE OF RELEASE OR DISCHARGE FROM ACTIVE DUTY

1. NAME (Last, First, Middle) MEISSGEIER, THOMAS W		2. DEPARTMENT, COMPONENT AND BRANCH ARMY/USAR/MI		3. SOCIAL SECURITY NUMBER [REDACTED]		
4a. GRADE, RATE OR RANK LTC	b. PAY GRADE O05	5. DATE OF BIRTH (YYYYMMDD) [REDACTED]	6. RESERVE OBLIGATION TERMINATION DATE (YYYYMMDD) 00000000			
7a. PLACE OF ENTRY INTO ACTIVE DUTY WASHINGTON, DISTRICT OF COLUMBIA		b. HOME OF RECORD AT TIME OF ENTRY (City and state, or complete address if known) ALEXANDRIA VIRGINIA 22310				
8a. LAST DUTY ASSIGNMENT AND MAJOR COMMAND USA ELM DEF INT AGCY MW			b. STATION WHERE SEPARATED FORT BELVOIR, VA 22060-5224			
9. COMMAND TO WHICH TRANSFERRED USA CON GP (IMA) AHRC, 1 RESERVE WAY, ST LOUIS, MO 63431				10. SGLI COVERAGE <input type="checkbox"/> NONE AMOUNT: \$400,000.00		
11. PRIMARY SPECIALTY (List number, title and years and months in specialty. List additional specialty numbers and titles involving periods of one or more years.) 35B STRATEGIC INTELL - 1 YRS 1 MOS//NOTHING FOLLOWS		12. RECORD OF SERVICE		YEAR(S)	MONTH(S)	DAY(S)
		a. DATE ENTERED AD THIS PERIOD		2004	09	05
		b. SEPARATION DATE THIS PERIOD		2005	09	30
		c. NET ACTIVE SERVICE THIS PERIOD		0001	01	26
		d. TOTAL PRIOR ACTIVE SERVICE		0012	03	09
		e. TOTAL PRIOR INACTIVE SERVICE		0018	06	13
		f. FOREIGN SERVICE		0000	00	00
		g. SEA SERVICE		0000	00	00
h. EFFECTIVE DATE OF PAY GRADE		2000	04	12		
13. DECORATIONS, MEDALS, BADGES, CITATIONS AND CAMPAIGN RIBBONS AWARDED OR AUTHORIZED (All periods of service) MASTER PARACHUTIST BADGE//PARACHUTIST BADGE//SPECIAL FORCES TAB//DEFENSE MERITORIOUS SERVICE MEDAL (2ND AWARD)//MERITORIOUS SERVICE MEDAL//JOINT SERVICE COMMENDATION MEDAL//ARMY COMMENDATION MEDAL (3RD AWARD)//JOINT SERVICE ACHIEVEMENT MEDAL//ARMY GOOD CONDUCT//CONT IN BLOCK 18				14. MILITARY EDUCATION (Course title, number of weeks, and month and year completed) NONE//NOTHING FOLLOWS		
15a. MEMBER CONTRIBUTED TO POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE PROGRAM						
b. HIGH SCHOOL GRADUATE OR EQUIVALENT						
16. DAYS ACCRUED LEAVE PAID 0		17. MEMBER WAS PROVIDED COMPLETE DENTAL EXAMINATION AND ALL APPROPRIATE DENTAL SERVICES AND TREATMENT WITHIN 90 DAYS PRIOR TO SEPARATION				
18. REMARKS DATA HEREIN SUBJECT TO COMPUTER MATCHING WITHIN DOD OR WITH OTHER AGENCIES FOR VERIFICATION PURPOSES AND DETERMINING ELIGIBILITY OR COMPLIANCE FOR FEDERAL BENEFITS//DD FORM 215 WILL BE ISSUED TO PROVIDE MISSING INFORMATION//MEMBER HAS COMPLETED FIRST FULL TERM OF SERVICE//CONT FROM BLOCK 13: MEDAL (2ND AWARD)//NATIONAL DEFENSE SERVICE MEDAL (3RD AWARD)//ARMED FORCES EXPEDITIONARY MEDAL//NON COMMISSIONED OFFICER PROFESSIONAL DEVELOPMENT RIBBON (2ND AWARD)//ARMY SERVICE RIBBON//ARMED FORCES RESERVE MEDAL W/ M DEVICE//NATO MEDAL//JOINT CHIEF OF STAFF IDENTIFICATION BADGE//GLOBAL WAR ON TERRORISM SERVICE MEDAL//NOTHING FOLLOWS						
The information contained herein is subject to computer matching within the Department of Defense or with any other affected Federal or non-Federal agency for verification purposes and to determine eligibility for, and/or continued compliance with, the requirements of a Federal benefit program.						
19a. MAILING ADDRESS AFTER SEPARATION (Include ZIP Code) ALEXANDRIA VIRGINIA 22310			b. NEAREST RELATIVE (Name and address -- include ZIP Code) HANS MEISSGEIER PHILADELPHIA PENNSYLVANIA 19154			
20. MEMBER REQUESTS COPY 6 BE SENT TO <input checked="" type="checkbox"/> DIRECTOR OF VETERANS AFFAIRS <input type="checkbox"/> YES <input type="checkbox"/> NO						
21. SIGNATURE OF MEMBER BEING SEPARATED 			22. OFFICIAL AUTHORIZED TO SIGN (Typed name, grade, title and signature) S G WASIELEWSKI, SFC, RC TRANSITON NCOIC			

EXHIBIT J



AUTHORIZATION AND CONSENT TO RELEASE INFORMATION TO THE DEPARTMENT OF VETERANS AFFAIRS (VA)

RESPONDENT BURDEN: We need this information to obtain your treatment records. Title 38, United States Code, allows us to ask for this information. We estimate that you will need an average of 5 minutes to review the instructions, find the information and complete this form. VA cannot conduct or sponsor a collection of information unless a valid OMB control number is displayed. You are not required to respond to a collection of information if this number is not displayed. Valid OMB control numbers can be located on the OMB Internet Page at <http://reginfo.gov/public/do/PRAMain>. If desired, you can call 1-800-827-1000 to get information on where to send comments or suggestions about this form.

IF YOU HAVE ANY QUESTIONS ABOUT THIS FORM, CALL VA TOLL-FREE AT 1-800-827-1000
(TDD 1-800-829-4833 FOR HEARING IMPAIRED).

SECTION I - VETERAN/CLAIMANT IDENTIFICATION

1. LAST NAME - FIRST NAME - MIDDLE NAME OF VETERAN <i>(Type or print)</i> Meissgeier, Thomas Walter	2. DATE OF BIRTH (MM,DD,YYYY) [REDACTED]	3. VETERAN'S VA FILE NUMBER [REDACTED]
4. CLAIMANT'S NAME <i>(If other than veteran)</i> LAST NAME, FIRST, MIDDLE	5. VETERAN'S SOCIAL SECURITY NUMBER [REDACTED]	
6. RELATIONSHIP OF CLAIMANT TO VETERAN	7. CLAIMANT'S SOCIAL SECURITY NUMBER	

SECTION II - SOURCE OF PERTINENT INFORMATION *(Please use a separate form for each source)*

8A. LIST THE SOURCE OF INFORMATION OR PROVIDER OF MEDICAL TREATMENT FOR YOUR CLAIMED CONDITION(S) <i>(Include the first and last name, complete address, and telephone number)</i>	8B. DATE(S) OF TREATMENT: <i>(Include the time period (month and year) for which the provider in Item 8A treated you for your currently claimed condition(s))</i>	8C. LIST THE DISABILITY(IES) FOR WHICH YOU FILED YOUR CURRENT CLAIM AND THAT WERE TREATED BY THE PROVIDER IN ITEM 8A
NOTE - "Treatment" includes office visits, hospitalizations, telephone consultations, etc.		
Source of Information (other than medical treatment provider):		
First Name and Last Name of Medical Treatment Provider: Barry S. Dicicco, MD		
Complete Address and Telephone Number of Source of Information or Medical Treatment Provider:		

9. COMMENTS:

Pulmonary and Critical Care Specialists
8503 Arlington Blvd, Suite 330 Fairfax, VA 22031-4603.

Dr Dicicco is currently treating me for this condition.

YOU MUST SIGN AND DATE THIS FORM ON PAGE 2 AND CHECK THE APPROPRIATE BLOCK IN ITEM 10C.

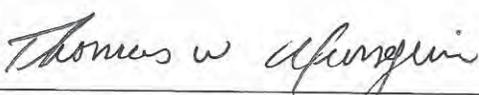
SECTION III - CONSENT TO RELEASE INFORMATION

READ ALL PARAGRAPHS CAREFULLY BEFORE SIGNING. YOU MUST CHECK THE APPROPRIATE STATEMENT UNDERLINED IN PARENTHESES IN PARAGRAPH 10C.

10A. **Privacy Act Notice:** The VA will not disclose information collected on this form to any source other than what has been authorized under the Privacy Act of 1974 or Title 38, Code of Federal Regulations 1.576 for routine uses (i.e., civil or criminal law enforcement, congressional communications, epidemiological or research studies, the collection of money owed to the United States, litigation in which the United States is a party or has an interest, the administration of VA programs and delivery of VA benefits, verification of identity and status, and personnel administration) as identified in the VA system of records, 58VA21/22/28 Compensation, Pension, Education, and Vocational Rehabilitation and Employment Records - VA, published in the Federal Register. Your obligation to respond is voluntary. However, if the information including your Social Security Number (SSN) is not furnished completely or accurately, the health care provider to which this authorization is addressed may not be able to identify and locate your records, and provide a copy to VA. VA uses your SSN to identify your claim file. Providing your SSN will help ensure that your records are properly associated with your claim file. Giving us your SSN account information is voluntary. Refusal to provide your SSN by itself will not result in the denial of benefits. The VA will not deny an individual benefits for refusing to provide his or her SSN unless the disclosure of the SSN is required by Federal Statute of law in effect prior to January 1, 1975, and still in effect.

10B. I, the undersigned, hereby authorize the hospital, physician or other health care provider or health plan shown in Item 8A to release any information that may have been obtained in connection with a physical, psychological or psychiatric examination or treatment, with the understanding that VA will use this information in determining my eligibility to veterans benefits I have claimed. I understand that the health care provider or health plan identified in Item 8A who is being asked to provide the Veterans Benefits Administration with records under this authorization may not require me to execute this authorization before it will, or will continue to, provide me with treatment, payment for health care, enrollment in a health plan, or eligibility for benefits provided by it. I understand that once my health care provider sends this information to VA under this authorization, the information will no longer be protected by the HIPAA Privacy Rule, but will be protected by the Federal Privacy Act, 5 USC 552a, and VA may disclose this information as authorized by law. I also understand that I may revoke this authorization, at anytime (except to the extent that the health care provider has already released information to VA under this authorization) by notifying the health care provider shown in Item 8A. Please contact the VA Regional Office handling your claim or the Board of Veterans' Appeals, if an appeal is pending, regarding such action. If you do not revoke this authorization, it will automatically end 180 days from the date you sign and date the form (Item 10C).

10C. I (AUTHORIZE) (DO NOT AUTHORIZE) the source shown in Item 8A to release or disclose any information or records relating to the diagnosis, treatment or other therapy for the condition(s) of drug abuse, alcoholism or alcohol abuse, infection with the human immunodeficiency virus (HIV), sickle cell anemia or psychotherapy notes. IF MY CONSENT TO THIS INFORMATION IS LIMITED, THE LIMITATION IS WRITTEN HERE:

11A. SIGNATURE OF VETERAN/CLAIMANT OR LEGAL REPRESENTATIVE 	11B. RELATIONSHIP TO VETERAN/CLAIMANT <i>(If other than self, please provide full name, title, organization, city, State and ZIP Code. All court appointments must include docket number, county and State)</i>	11C. DATE 04/25/2014
-------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------

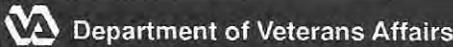
11D. MAILING ADDRESS (Number and Street or rural route, city, or P.O. State and ZIP Code) [Redacted] Alexandria, VA 22310	11E. TELEPHONE NUMBER (Include Area Code) (703) [Redacted]
------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------

The signature and address of a person who either knows the person signing this form or is satisfied as to that person's identity is requested below. This is not required by VA but may be required by the source of the information.

12A. SIGNATURE OF WITNESS	12B. DATE
---------------------------	-----------

12C. MAILING ADDRESS OF WITNESS

EXHIBIT K



AUTHORIZATION TO DISCLOSE INFORMATION TO THE DEPARTMENT OF VETERANS AFFAIRS (VA)

NOTE - PLEASE READ THE ENTIRE FORM (both pages) BEFORE SIGNING IN ITEM 11 BELOW.

SECTION I - RECORDS TO BE RELEASED TO THE DEPARTMENT OF VETERANS AFFAIRS (VA)

I voluntarily authorize and request disclosure (including paper, oral, and electronic interchange) of: **All my medical records; including information related to my ability to perform tasks of daily living. This includes specific permission to release:**

1. All records and other information regarding my treatment, hospitalization, and outpatient care for my impairment(s) *including*, but not limited to:
 - a. Psychological, psychiatric, or other mental impairment(s) excluding "psychotherapy notes" as defined in 45 C.F.R. §164.501,
 - b. Drug abuse, alcoholism, or other substance abuse,
 - c. Sickle cell anemia,
 - d. Records which may indicate the presence of a communicable or non-communicable disease; and tests for or records of HIV/AIDS,
 - e. Gene-related impairments (including genetic test results).
2. Information about how my impairment(s) affects my ability to complete tasks and activities of daily living, and affects my ability to work.
3. Information created within 12 months *after* the date this authorization is signed in Item 11, as well as past information.

YOU SHOULD NOT COMPLETE THIS FORM UNLESS YOU WANT THE VA TO OBTAIN PRIVATE TREATMENT RECORDS ON YOUR BEHALF. IF YOU HAVE ALREADY PROVIDED THESE RECORDS OR INTEND TO OBTAIN THEM YOURSELF, THERE IS NO NEED TO FILL OUT THIS FORM. DOING SO WILL LENGTHEN YOUR CLAIM PROCESSING TIME.

IMPORTANT - In accordance with 38 C.F.R. §3.159(c), "VA will not pay any fees charged by a custodian to provide records requested."

SECTION II - VETERAN IDENTIFICATION

1. LAST NAME - FIRST NAME - MIDDLE NAME (Type or print) Meissgeier Thomas Walter	2. DATE OF BIRTH (MM,DD,YYYY) [REDACTED]	3. SOCIAL SECURITY NUMBER/VA FILE NUMBER [REDACTED]
-------------------------------------------------------------------------------------	---------------------------------------------	--------------------------------------------------------

SECTION III - PATIENT IDENTIFICATION FOR RECORDS VA IS REQUESTING

4. LAST NAME - FIRST NAME - MIDDLE NAME (Type or print) Meissgeier Thomas Walter	5. DATE OF BIRTH (MM,DD,YYYY) [REDACTED]	6. SOCIAL SECURITY NUMBER [REDACTED]
7. STREET ADDRESS [REDACTED]	8. CITY, STATE, ZIP CODE Alexandria, VA 22310	9. TELEPHONE NUMBER (Include Area Code) 703-[REDACTED]

SECTION IV - INFORMATION REGARDING SOURCE OF RECORD(S)

SOURCE OF RECORD(S):

- ALL medical sources (hospitals, clinics, labs, physicians, psychologists, etc.) including mental health, correctional, addiction treatment, and VA health care facilities,
- Social workers/rehabilitation counselors,
- Consulting examiners used by VA,
- Employers, insurance companies, workers' compensation programs, and
- Others who may know about my condition (family, neighbors, friends, public officials).

SECTION V - AUTHORIZATION AND CONSENT TO RELEASE INFORMATION TO VA AND SIGNATURE

10. IF MY CONSENT TO THIS INFORMATION IS LIMITED, THE LIMITATION IS WRITTEN HERE (If this space is left blank, there is no limitation to records):

TO WHOM: The Department of Veterans Affairs (VA).
PURPOSE: Determining my eligibility for benefits, and whether I can manage such benefits.
EXPIRES: This authorization is good for 12 months from the date shown in Item 12.

- I authorize the use of a copy (including electronic copy) of this form for the disclosure of the information described above in Section I.
- I understand that there are some circumstances in which this information may be re-disclosed to other parties (See page 2 for details).
- I may write to VA and my source(s) to revoke this authorization at any time (See page 2 for details).
- VA will give me a copy of this form, if I ask; I may also ask the source(s) to allow me to inspect or get a copy of material to be disclosed.
- I have read both pages of this form and agree to the disclosures above from the types of sources listed. See Patient Acknowledgement on Page 2.

11. SIGNATURE OF PERSON AUTHORIZING DISCLOSURE (Required) 	12. DATE SIGNED (MM,DD,YYYY) (Required) 10/03/2014
13. PRINTED NAME OF PERSON SIGNING (First, Middle Initial, Last) Thomas W Meissgeier	14. TELEPHONE NUMBER (Include Area Code) 703-[REDACTED]
15. RELATIONSHIP TO VETERAN/CLAIMANT (If other than self, please provide full name, title, organization, city, State, and ZIP code. All court appointments must include docket number, county, and State)	

NOTE: This general and special authorization to disclose was developed to comply with the provisions regarding disclosure of medical and other information under P.L. 104-191 ("HIPAA"); 45 C.F.R. parts 160 and 164; 42 U.S.C. §290dd-2; 42 C.F.R. part 2, and State Law.

EXHIBIT L

Compensation and Pension Claim Status

Upload Documentation

Step 1 of 2: Add Your Documents

There are restrictions on the size and type.

The maximum document size is **5MB**.

Valid document file formats: **PDF (unlocked), GIF, TIFF, TIF, JPEG, JPG, BMP and TXT**.

For more information about the C&P Claims process, [ask IRIS](#), VA's Inquiry Routing & Information System. Enter search term "Claims" or [ask a question](#) to receive a prompt response from the IRIS Help Desk.

Where to send your documents if you are unable to upload them:

Department of Veterans Affairs
Regional Office
116 N Jefferson Street
Roanoke, VA 24016

Requested Item	Select Document
Any additional documentation that you think will support your claim.	<div style="text-align: right;"> <input type="button" value="Browse..."/> </div> Select a description (required) Submitted to VA: VA 21-4142 Med Release Consent.pdf 971.715 KB 04/25/2014 06:07:43 CDT Other Correspondence

Step 2 of 2: Submit Your Document



IMPORTANT:

- When you are finished submitting your document, [print this page](#) or save a screen capture for your records. You will not be able to see a list of the files you have submitted after leaving this page.
- Please be aware that DBQ forms may change over the course of your claim's life due to changes in law and policy. You will NOT be required to do anything or submit additional evidence. If additional medical evidence is required to rate your claim, VA will establish a DBQ exam for you free of charge.
- There will be a delay before documents are updated in your online status. Once your documents have been submitted, a claims representative must review them and confirm they contain the requested evidence. Once confirmed, the claims representative will enter an acknowledgement that appropriate documents have been received, and you will see that information in your claims status.

File Submitted Successfully

Submitting Documents...

Do not hit the back button or leave this page as it may interfere with your file uploads.

Compensation and Pension Claim Status

Upload Documentation

Step 1 of 2: Add Your Documents

There are restrictions on the size and type.

The maximum document size is **5MB**.

Valid document file formats: **PDF (unlocked), GIF, TIFF, TIF, JPEG, JPG, BMP and TXT**.

For more information about the C&P Claims process, [ask IRIS](#), VA's Inquiry Routing & Information System. Enter search term "Claims" or [ask a question](#) to receive a prompt response from the IRIS Help Desk.

Where to send your documents if you are unable to upload them:

Department of Veterans Affairs

Regional Office

116 N Jefferson Street

Roanoke, VA 24016

Requested Item	Select Document
Any additional documentation that you think will support your claim.	<div style="text-align: right;"> <input type="button" value="Browse..."/> </div> Select a description (required) <div style="border: 1px solid gray; padding: 5px; margin-top: 5px;"> Submitted to VA: VA 21-686c Dec of Dependnet Status.pdf 993.040 KB 04/25/2014 06:05:34 CDT Other Correspondence </div>

Step 2 of 2: Submit Your Document

 **IMPORTANT:**

- When you are finished submitting your document, [print this page](#) or save a screen capture for your records. You will not be able to see a list of the files you have submitted after leaving this page.
- Please be aware that DBQ forms may change over the course of your claim's life due to changes in law and policy. You will NOT be required to do anything or submit additional evidence. If additional medical evidence is required to rate your claim, VA will establish a DBQ exam for you free of charge.
- There will be a delay before documents are updated in your online status. Once your documents have been submitted, a claims representative must review them and confirm they contain the requested evidence. Once confirmed, the claims representative will enter an acknowledgement that appropriate documents have been received, and you will see that information in your claims status.

File Submitted Successfully

Submitting Documents...

Do not hit the back button or leave this page as it may interfere with your file uploads.

Compensation and Pension Claim Status

Upload Documentation

Step 1 of 2: Add Your Documents

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Where to send your documents if you are unable to upload them:

Department of Veterans Affairs

Regional Office

116 N Jefferson Street

Roanoke, VA 24016

Requested Item	Select Document
<p>You may be able to furnish documents that can substitute for service treatment records. Submit any original or certified copies of the following documents you have that relate to your disability during service: (If you only have photocopies, send them.)
* Statements from military medical personnel (nurses, medics, corpsmen, doctors)
* "Buddy" certificates or affidavits - (A "buddy" certificate or affidavit is a statement by a person who knew you when you were in service and knows of any disability you had while on active duty. The statement should state the dates and places they saw the condition(s) and should describe what they saw. If the person making the statement was on active duty at the time, they should show their service number and unit of assignment.)
* State or local accident and police reports
* Employment physical examinations
* Medical evidence from hospitals, clinics and private physicians by which or by whom you may have been treated after separation
* Letters written during service
* Photographs taken during service
* Pharmacy prescription records
* Insurance examinations</p>	<div style="text-align: right;"> <input type="button" value="Browse..."/> </div> <p>Select a description (required)</p> <p>Submitted to VA: VA 22 April 2014.pdf 1.361 MB 04/24/2014 06:56:09 CDT Other Correspondence</p>

Compensation and Pension Claim Status

Upload Documentation

Step 1 of 2: Add Your Documents

There are restrictions on the size and type.

The maximum document size is **5MB**.

Valid document file formats: **PDF (unlocked), GIF, TIFF, TIF, JPEG, JPG, BMP and TXT**.

For more information about the C&P Claims process, [ask IRIS](#), VA's Inquiry Routing & Information System. Enter search term "Claims" or [ask a question](#) to receive a prompt response from the IRIS Help Desk.

Where to send your documents if you are unable to upload them:

Department of Veterans Affairs

Regional Office

116 N Jefferson Street

Roanoke, VA 24016

Requested Item	Select Document
<p>You may be able to furnish documents that can substitute for service treatment records. Submit any original or certified copies of the following documents you have that relate to your disability during service: (If you only have photocopies, send them.)
* Statements from military medical personnel (nurses, medics, corpsmen, doctors)
* "Buddy" certificates or affidavits - (A "buddy" certificate or affidavit is a statement by a person who knew you when you were in service and knows of any disability you had while on active duty. The statement should state the dates and places they saw the condition(s) and should describe what they saw. If the person making the statement was on active duty at the time, they should show their service number and unit of assignment.)
* State or local accident and police reports
* Employment physical examinations
* Medical evidence from hospitals, clinics and private physicians by which or by whom you may have been treated after separation
* Letters written during service
* Photographs taken during service
* Pharmacy prescription records
* Insurance examinations</p>	<div style="text-align: right; margin-bottom: 5px;"> <input type="button" value="Browse..."/> </div> <p>Select a description (required)</p> <p>Submitted to VA: VA Follow-up letter 24 April.pdf 32.762 KB 04/24/2014 06:54:06 CDT Other Correspondence</p>

Compensation and Pension Claim Status

Upload Documentation

Step 1 of 2: Add Your Documents

There are restrictions on the size and type.

The maximum document size is **5MB**.

Valid document file formats: **PDF (unlocked), GIF, TIFF, TIF, JPEG, JPG, BMP and TXT**.

For more information about the C&P Claims process, [ask IRIS](#), VA's Inquiry Routing & Information System. Enter search term "Claims" or [ask a question](#) to receive a prompt response from the IRIS Help Desk.

Where to send your documents if you are unable to upload them:

Department of Veterans Affairs
Regional Office
116 N Jefferson Street
Roanoke, VA 24016

Requested Item	Select Document
<p>You may be able to furnish documents that can substitute for service treatment records. Submit any original or certified copies of the following documents you have that relate to your disability during service: (If you only have photocopies, send them.)
* Statements from military medical personnel (nurses, medics, corpsmen, doctors)
* "Buddy" certificates or affidavits - (A "buddy" certificate or affidavit is a statement by a person who knew you when you were in service and knows of any disability you had while on active duty. The statement should state the dates and places they saw the condition(s) and should describe what they saw. If the person making the statement was on active duty at the time, they should show their service number and unit of assignment.)
* State or local accident and police reports
* Employment physical examinations
* Medical evidence from hospitals, clinics and private physicians by which or by whom you may have been treated after separation
* Letters written during service
* Photographs taken during service
* Pharmacy prescription records
* Insurance examinations</p>	<div style="text-align: right; margin-bottom: 10px;"> <input type="button" value="Browse..."/> </div> <p>Other Correspondence</p> <p>Submitted to VA: Marrage Certificate.pdf 267.775 KB 04/24/2014 06:51:34 CDT Other Correspondence</p>

EXHIBIT M

Thomas W. Meissgeier
Notice of Disagreement
31 December, 2014

Sleep apnea was brought to my attention while deployed to Afghanistan in January 2005 by some of my team members. They provided statements outlining my condition while I was a deployed Lieutenant Colonel. I continued to be involved with a high operations tempo and deployed for several additional periods of short duration in support of both OPERATION IRAQI FREEDOM and OPERATION ENDURING FREEDOM and did not pursue the sleep apnea condition at the time. I did not understand the severity of this disease and ignored it due to the high operational tempo. My wife convinced me to meet with a specialist, Dr. Barry Diccio, MD and I was diagnosed with severe sleep apnea in February 2012.

Based on the above statement, I am submitting a Notice of Disagreement. I have discussed my case with an attorney who specializes in VA issues. In your rejection notice it appears that the lay evidence was discounted. The personal statements and those provided by medical professionals clearly outline the severity of my sleep apnea and the timeframe this condition has existed. Please provide the basis for rejecting my application.

As you are aware, service members do not have possession of their medical records. I cannot explain why you have not been able to obtain copies of my records despite my authorizing you to have access to them on several occasions. Pending the decision of the Decision Review Officer, it is my intent to continue this claim through the Veterans Board of Appeals. I am requesting a hearing with the Decision Review Officer to reach a legitimate conclusion to this request.

Warmest Regards,

Thomas W. Meissgeier

EXHIBIT N



STATEMENT IN SUPPORT OF CLAIM

PRIVACY ACT INFORMATION: The VA will not disclose information collected on this form to any source other than what has been authorized under the Privacy Act of 1974 or Title 38, Code of Federal Regulations 1.576 for routine uses (i.e., civil or criminal law enforcement, congressional communications, epidemiological or research studies, the collection of money owed to the United States, litigation in which the United States is a party or has an interest, the administration of VA Programs and delivery of VA benefits, verification of identity and status, and personnel administration) as identified in the VA system of records, 58VA21/22/28, Compensation, Pension, Education, and Vocational Rehabilitation and Employment Records - VA, published in the Federal Register. Your obligation to respond is required to obtain or retain benefits. VA uses your SSN to identify your claim file. Providing your SSN will help ensure that your records are properly associated with your claim file. Giving us your SSN account information is voluntary. Refusal to provide your SSN by itself will not result in the denial of benefits. The VA will not deny an individual benefits for refusing to provide his or her SSN unless the disclosure of the SSN is required by Federal Statute of law in effect prior to January 1, 1975, and still in effect. The requested information is considered relevant and necessary to determine maximum benefits under the law. The responses you submit are considered confidential (38 U.S.C. 5701). Information submitted is subject to verification through computer matching programs with other agencies.

RESPONDENT BURDEN: We need this information to obtain evidence in support of your claim for benefits (38 U.S.C. 501(a) and (b)), Title 38, United States Code, allows us to ask for this information. We estimate that you will need an average of 15 minutes to review the instructions, find the information, and complete this form. VA cannot conduct or sponsor a collection of information unless a valid OMB control number is displayed. You are not required to respond to a collection of information if this number is not displayed. Valid OMB control numbers can be located on the OMB Internet Page at www.reginfo.gov/public/do/PRAMain. If desired, you can call 1-800-827-1000 to get information on where to send comments or suggestions about this form.

FIRST NAME - MIDDLE NAME - LAST NAME OF VETERAN (<i>Type or print</i>)	SOCIAL SECURITY NO.	VA FILE NO.
Thomas Walter Meissgeier	[REDACTED]	C/CSS - [REDACTED]

The following statement is made in connection with a claim for benefits in the case of the above-named veteran:

I Thomas W. Meissgeier make the following statement in regards to my claim for VA file no. C/CSS [REDACTED]. I have provided all necessary documentation for the VA to access any medical records regarding this case. I have again attached VA form 21-4142 and VA form 21-4142a to assist in recovering all necessary medical documents.

I have provided the VA with substantial documentation to make a positive determination regarding my case. I have provided witness as well as supporting documentation from two physicians. I have no capability to recover medical records that the VA has not been able to recover.

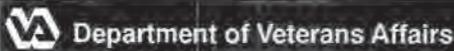
As my witness statements clearly indicate; I have lived with sleep apnea for a considerable time. This condition was identified and treated as outlined in the provided medical statements. All provided data clearly shows that this condition existed during my military service as witnessed by statements provided while I was serving in Afghanistan.

I will be happy to take any verification examinations or sleep studies that the VA requires to confirm my case. I have provided all necessary documentation to allow the VA to access any medical records necessary but I do not have a copy of my medical records.

Please advise as to anything I can do to expedite this case.

I CERTIFY THAT the statements on this form are true and correct to the best of my knowledge and belief		
SIGNATURE	DATE SIGNED	
	10/03/2014	
ADDRESS	TELEPHONE NUMBERS (<i>Include Area Code</i>)	
[REDACTED] Alexandria, VA 22310	DAYTIME	EVENING
	703-[REDACTED]	703-[REDACTED]

PENALTY: The law provides severe penalties which include fine or imprisonment, or both, for the willful submission of any statement or evidence of a material fact, knowing it to be false.



AUTHORIZATION TO DISCLOSE INFORMATION TO THE DEPARTMENT OF VETERANS AFFAIRS (VA)

NOTE - PLEASE READ THE ENTIRE FORM (both pages) BEFORE SIGNING IN ITEM 11 BELOW.

SECTION I - RECORDS TO BE RELEASED TO THE DEPARTMENT OF VETERANS AFFAIRS (VA)

I voluntarily authorize and request disclosure (including paper, oral, and electronic interchange) of: **All my medical records; including information related to my ability to perform tasks of daily living. This includes specific permission to release:**

1. All records and other information regarding my treatment, hospitalization, and outpatient care for my impairment(s) *including*, but *not limited to*:
 - a. Psychological, psychiatric, or other mental impairment(s) excluding "psychotherapy notes" as defined in 45 C.F.R. §164.501,
 - b. Drug abuse, alcoholism, or other substance abuse,
 - c. Sickle cell anemia,
 - d. Records which may indicate the presence of a communicable or non-communicable disease; and tests for or records of HIV/AIDS,
 - e. Gene-related impairments (including genetic test results).
2. Information about how my impairment(s) affects my ability to complete tasks and activities of daily living, and affects my ability to work.
3. Information created within 12 months *after* the date this authorization is signed in Item 11, as well as past information.

YOU SHOULD NOT COMPLETE THIS FORM UNLESS YOU WANT THE VA TO OBTAIN PRIVATE TREATMENT RECORDS ON YOUR BEHALF. IF YOU HAVE ALREADY PROVIDED THESE RECORDS OR INTEND TO OBTAIN THEM YOURSELF, THERE IS NO NEED TO FILL OUT THIS FORM. DOING SO WILL LENGTHEN YOUR CLAIM PROCESSING TIME.

IMPORTANT - In accordance with 38 C.F.R. §3.159(c), "VA will not pay any fees charged by a custodian to provide records requested."

SECTION II - VETERAN IDENTIFICATION

1. LAST NAME - FIRST NAME - MIDDLE NAME (Type or print) Meissgeier Thomas Walter	2. DATE OF BIRTH (MM,DD,YYYY) [REDACTED]	3. SOCIAL SECURITY NUMBER/VA FILE NUMBER [REDACTED]
-------------------------------------------------------------------------------------	---------------------------------------------	--------------------------------------------------------

SECTION III - PATIENT IDENTIFICATION FOR RECORDS VA IS REQUESTING

4. LAST NAME - FIRST NAME - MIDDLE NAME (Type or print) Meissgeier Thomas Walter	5. DATE OF BIRTH (MM,DD,YYYY) [REDACTED]	6. SOCIAL SECURITY NUMBER [REDACTED]
7. STREET ADDRESS [REDACTED]	8. CITY, STATE, ZIP CODE Alexandria, VA 22310	9. TELEPHONE NUMBER (Include Area Code) 703-[REDACTED]

SECTION IV - INFORMATION REGARDING SOURCE OF RECORD(S)

SOURCE OF RECORD(S):

- ALL medical sources (hospitals, clinics, labs, physicians, psychologists, etc.) including mental health, correctional, addiction treatment, and VA health care facilities,
- Social workers/rehabilitation counselors,
- Consulting examiners used by VA,
- Employers, insurance companies, workers' compensation programs, and
- Others who may know about my condition (family, neighbors, friends, public officials).

SECTION V - AUTHORIZATION AND CONSENT TO RELEASE INFORMATION TO VA AND SIGNATURE

10. IF MY CONSENT TO THIS INFORMATION IS LIMITED, THE LIMITATION IS WRITTEN HERE (if this space is left blank, there is no limitation to records):

TO WHOM: The Department of Veterans Affairs (VA).

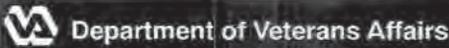
PURPOSE: Determining my eligibility for benefits, and whether I can manage such benefits.

EXPIRES: This authorization is good for 12 months from the date shown in Item 12.

- I authorize the use of a copy (including electronic copy) of this form for the disclosure of the information described above in Section I.
- I understand that there are some circumstances in which this information may be re-disclosed to other parties (See page 2 for details).
- I may write to VA and my source(s) to revoke this authorization at any time (See page 2 for details).
- VA will give me a copy of this form, if I ask; I may also ask the source(s) to allow me to inspect or get a copy of material to be disclosed.
- I have read both pages of this form and agree to the disclosures above from the types of sources listed. See Patient Acknowledgement on Page 2.

11. SIGNATURE OF PERSON AUTHORIZING DISCLOSURE (Required) 	12. DATE SIGNED (MM,DD,YYYY) (Required) 10/03/2014
13. PRINTED NAME OF PERSON SIGNING (First, Middle Initial, Last) Thomas W Meissgeier	14. TELEPHONE NUMBER (Include Area Code) 703-[REDACTED]
15. RELATIONSHIP TO VETERAN/CLAIMANT (If other than self, please provide full name, title, organization, city, State, and ZIP code. All court appointments must include docket number, county, and State)	

NOTE: This general and special authorization to disclose was developed to comply with the provisions regarding disclosure of medical and other information under P.L. 104-191 ("HIPAA"); 45 C.F.R. parts 160 and 164; 42 U.S.C. §290dd-2; 42 C.F.R. part 2, and State Law.



**GENERAL RELEASE FOR MEDICAL PROVIDER INFORMATION
 TO THE DEPARTMENT OF VETERANS AFFAIRS (VA)**

NOTE - PLEASE READ THE PRIVACY ACT AND RESPONDENT BURDEN INFORMATION BELOW BEFORE COMPLETING THIS FORM.

INSTRUCTIONS - COMPLETE AND ATTACH THIS FORM WITH A SIGNED VA FORM 21-4142, AUTHORIZATION TO DISCLOSE INFORMATION TO THE DEPARTMENT OF VETERANS AFFAIRS (VA). IF YOU HAVE MORE THAN THREE PROVIDERS, FILL OUT ADDITIONAL COPIES OF THIS FORM, AVAILABLE AT WWW.VA.GOV/VAFORMS.

SECTION I - PATIENT IDENTIFICATION FOR RECORDS VA IS REQUESTING

1. LAST NAME - FIRST NAME - MIDDLE NAME OF VETERAN (Type or print)	2. VETERAN'S SOCIAL SECURITY NUMBER	3. VA FILE NUMBER
Meissgeier Thomas Walter		

SECTION II - MEDICAL PROVIDER INFORMATION

4A. PROVIDER OR FACILITY NAME	4B. DATE(S) OF TREATMENT: (Include the time period (month/day/year) for the treatment by the provider listed in item 4A)
Military Records Management Center	From: 06/01/1974 To: 10/03/2014

4C. PROVIDER/FACILITY STREET ADDRESS (Number and street, P.O. or rural route)	From:	To:

4D. CITY	4E. STATE AND ZIP CODE	4F. PROVIDER OR FACILITY TELEPHONE NUMBER (Include Area Code)

5A. PROVIDER OR FACILITY NAME	5B. DATE(S) OF TREATMENT: (Include the time period (month/day/year) for the treatment by the provider listed in item 5A)
	From: To:

From:	To:
From:	To:

5C. PROVIDER/FACILITY STREET ADDRESS (Number and street, P.O. or rural route)

5D. CITY	5E. STATE AND ZIP CODE	5F. PROVIDER OR FACILITY TELEPHONE NUMBER (Include Area Code)

6A. PROVIDER OR FACILITY NAME	6B. DATE(S) OF TREATMENT: (Include the time period (month/day/year) for the treatment by the provider listed in item 6A)
	From: To:

From:	To:
From:	To:

6C. PROVIDER/FACILITY STREET ADDRESS (Number and street, P.O. or rural route)

6D. CITY	6E. STATE AND ZIP CODE	6F. PROVIDER OR FACILITY TELEPHONE NUMBER (Include Area Code)

PRIVACY ACT NOTICE: The VA will not disclose information collected on this form to any source other than what has been authorized under the Privacy Act of 1974 or Title 38, Code of Federal Regulations 1.576 for routine uses (i.e., civil or criminal law enforcement, congressional communications, epidemiological or research studies, the collection of money owed to the United States, litigation in which the United States is a party or has an interest, the administration of VA programs and delivery of VA benefits, verification of identity and status, and personnel administration) as identified in the VA system of records, 58VA21/22/28 Compensation, Pension, Education, and Vocational Rehabilitation and Employment Records - VA, and published in the Federal Register. Your obligation to respond is voluntary. However, if the information including your Social Security Number (SSN) is not furnished completely or accurately, the health care provider to which this authorization is addressed may not be able to identify and locate your records, and provide a copy to VA. VA uses your SSN to identify your claim file. Providing your SSN will help ensure that your records are properly associated with your claim file. Giving us your SSN account information is voluntary. Refusal to provide your SSN by itself will not result in the denial of benefits. The VA will not deny an individual benefits for refusing to provide his or her SSN unless the disclosure of the SSN is required by Federal Statute of law in effect prior to January 1, 1975 and still in effect.

RESPONDENT BURDEN: We need this information to obtain your treatment records. Title 38, United States Code, allows us to ask for this information. We estimate that you will need an average of 5 minutes to review the instructions, find the information and complete this form. VA cannot conduct or sponsor a collection of information unless a valid OMB control number is displayed. Valid OMB control numbers can be located on the OMB Internet Page at www.reginfo.gov/public/do/PRAMain. If desired, you may call 1-800-827-1000 to get information on where to send comments or suggestions about this form.

EXHIBIT O

DEPARTMENT OF VETERANS AFFAIRS



September 29, 2014

THOMAS W MEISSGEIER

[REDACTED]
ALEXANDRIA VA 22310-2231

In reply, refer to:
314/CORE3/JDE269
File Number: [REDACTED]
Thomas W. Meissgeier

IMPORTANT -- reply needed

Dear Mr. Meissgeier:

What is The Current Status Of Your Claim?

As previously advised in our letter dated August 7, 2013, we requested your service treatment records from the service department.

We have determined that your service treatment records cannot be located and therefore are unavailable for review. All efforts to obtain the needed information have been exhausted, and based on these facts, we have determined that further attempts to obtain the records would be unsuccessful.

We have taken the following actions in an effort to obtain these records:

- May 20, 2013 - We received VA Form 21-526, "Veteran's Application for Compensation and/or Pension".
- August 7, 2013 - We sent you a notice telling you we are requesting your service treatment records from the service department. An email was sent to Records Management Center requesting a search be conducted for your service treatment records for the following periods of service: June 11, 1974 through March 7, 1977; March 8, 1977 through March 7, 1981; March 14, 1991 through June 28, 1991; June 7, 1999 through September 4, 2004; October 21, 2005 through August 17, 2007.
- June 4, 2014 – A second follow up email was sent to Records Management Center requesting a search be conducted for your service treatment records for the period of service described in the above paragraph.
- June 5, 2014 - A PIES O50 request was generated to request your service treatment records for the periods of service beginning June 11, 1974 through March 7, 1981.
- June 6, 2014 - We received the PIES O50 response and your personnel and service treatment records for the period of service beginning June 11, 1974 through March 7, 1981 were uploaded into VBMS.
- August 26, 2014 – A third follow up email was sent to Records Management Center requesting a search be conducted for your service treatment records for the period of service: June 11, 1974 through March 7, 1977; March 8, 1977 through March 7, 1981;

File Number: 159 46 7850

Thomas W. Meissgeier

March 14, 1991 through June 28, 1991; June 7, 1999 through September 4, 2004;
October 21, 2005 through August 17, 2007

- September 10, 2014 - An email was received from the Records Management Center stating they have conducted several searches of their files area and was unable to locate your service treatment records. They have flagged their filing system in the event the service treatment records are located in the future.

What Do We Still Need from You?

Please submit any relevant documents in your possession including:

- Any available copies of service treatment records as listed above.
- Any other relevant evidence or information that you think will support your claim, to include such things as buddy statements.

If you are unable to submit records, you may also advise us of possible location(s) of these records.

How Soon Should You Send What We Need?

We encourage you to send any information or evidence as soon as you can. However, if we do not hear from you within 10 days, we will make a determination on the evidence of record.

How Should You Submit What We Need?

Please note that the quickest, easiest, and most secure way to submit any documents to us is via the eBenefits website. Just visit www.eBenefits.va.gov to register. Please also refer to the 'What is eBenefits?' section of this letter for more information.

You can also send what we need to the appropriate address listed on the attached Where to Send Your Written Correspondence chart.

What is eBenefits?

eBenefits provides electronic resources in a self-service environment to Servicemembers, Veterans, and their families. Use of these resources often helps us serve you faster! Through the eBenefits website you can:

- Submit claims for benefits and/or upload documents directly to the VA
- Request to add or change your dependents
- Update your contact and direct deposit information and view payment history
- Request a Veterans Service Officer to represent you

File Number: 159 46 7850

Thomas W. Meissgeier

- Track the status of your claim or appeal
- Obtain verification of military service, civil service preference, or VA benefits
- And much more!

Enrolling in eBenefits is easy. Just visit www.eBenefits.va.gov for more information. If you submit a claim in the future, consider filing through eBenefits. Filing electronically, especially if you participate in our fully developed claim program, may result in a faster decision than if you submit your claim through the mail.

How Can You Contact Us?

If you are looking for general information about benefits and eligibility, you should visit our web site at <http://www.va.gov>. Otherwise, you can contact us in several ways. Please give us your VA file number, [REDACTED] when you do contact us.

- Call us at 1-800-827-1000. If you use a Telecommunications Device for the Deaf (TDD), the Federal number is 711 (international number is 1-800-829-4833).
- Send us an inquiry using the Internet at <https://iris.va.gov>.
- Please mail or fax all responses to the appropriate address listed on the attached *Where to Send Your Written Correspondence* chart.

We look forward to resolving your claim in a fair and timely manner.

Sincerely yours,

Regional Office Director

VA Regional Office

Enclosures: VA Form 21-4138
VA Form 21-4142
Where to Send Your Written Correspondence

cc: AMERICAN LEGION

EXHIBIT P



DEPARTMENT OF VETERANS AFFAIRS

November 13, 2014

THOMAS W MEISSGEIER

██████████
ALEXANDRIA VA 22310

In reply, refer to:

314/AW

File Number: ██████████

Thomas Meissgeier

Dear Thomas Meissgeier:

We made a decision on your claim for benefits.

This letter tells you what we decided. It gives the evidence used and reasons for our decision. We have also included information about what to do if you disagree with our decision and who to contact if you have questions or need assistance.

Your current benefit payment will continue unchanged.

What We Decided

We made the following decision(s) regarding your claimed issue(s):

Issue/Contention
sleep apnea / hypopnea syndrome
Explanation
<ul style="list-style-type: none">• Service connection for sleep apnea / hypopnea syndrome is denied since this condition neither occurred in nor was caused by service.• The evidence does not show an event, disease or injury in service. Efforts to obtain your service medical records from all potential sources were unsuccessful. If these records are located at a later date, this decision will be reconsidered. You submitted a lay statement to support your claim. A credible lay statement may establish what was seen, heard, and directly experienced. The lay evidence was found not to be competent and sufficient in this case to establish a link or nexus between your medical condition and military service or to establish that such a link has been found by a medical professional.

File Number: [REDACTED]
MEISSGEIER, THOMAS W

Are You Entitled to Additional Benefits?

Did you know you may be eligible for a VA guaranteed mortgage with no down payment (potentially exempt from a funding fee depending on your rating)? For more information about this benefit, or to determine and print your Loan Guaranty Certificate of Eligibility, please visit the eBenefits website at <http://www.ebenefits.va.gov>.

If you served overseas in support of a combat operation you may be eligible for mental health counseling at no cost to you at the Veteran's Resource Center. For more information on this benefit please visit <https://www.myhealth.va.gov/mhv-portal-web/>.

The VA provides Blind Rehabilitation services to eligible blind, low vision, or visually impaired Veterans to help them regain their independence and quality of life. The veteran's blindness, low vision, or vision impairment does NOT have to be related or caused by military service. If you need help with your vision loss, please contact your nearest Visual Impairment Services Team Coordinator (VIST) at the eye clinic at your nearest VA Medical Center. For more information, go to www.va.gov/blindrehab/.

Evidence Considered

In making our decision, we considered:

- VA letter concerning your claim, dated September 29, 2014
- Service treatment records were unavailable for review, from March 14, 1991 through August 17, 2007
- VA Form 21-4138, Statement in Support of Claim, received October 3, 2014
- Rating Decision, and all evidence contained therein, dated August 26, 2014

What You Should Do If You Disagree With Our Decision

If you do not agree with our decision, please download and complete VA Form 21-0958, *Notice of Disagreement*. You can download the form at <http://www.va.gov/vaforms> or you can call us at 1-800-827-1000. You have *one year from the date of this letter to appeal the decision*. The enclosed VA Form 4107, "*Your Rights to Appeal Our Decision*," explains your right to appeal.

What is eBenefits?

eBenefits provides electronic resources in a self-service environment to Servicemembers, Veterans, and their families. Use of these resources often helps us serve you faster! Through the eBenefits website you can:

- Submit claims for benefits and/or upload documents directly to the VA
- Request to add or change your dependents
- Update your contact and direct deposit information and view payment history
- Request a Veterans Service Officer to represent you

EXHIBIT Q

Thomas W. Meissgeier

6 January 2015

**CERTIFIED MAIL NUMBER:
7014 0150 0001 7545 9838**

SUBJECT: Notice of Disagreement Request for Hearing with Decision Review Officer

Sleep apnea was brought to my attention while deployed to Afghanistan in January 2005 by some of my team members. They provided statements outlining my condition while I was a deployed Lieutenant Colonel. I continued to be involved with a high operations tempo and deployed for several additional periods of short duration in support of both OPERATION IRAQI FREEDOM and OPERATION ENDURING FREEDOM and did not pursue the sleep apnea condition at the time. I did not understand the severity of this disease and ignored it due to the high operational tempo. My wife convinced me to meet with a specialist, Dr. Barry Diccio, MD and I was diagnosed with severe sleep apnea in February 2012.

Based on the above statement, I am submitting a **Notice of Disagreement and am requesting a hearing with a DRO**. I have discussed my case with an attorney who specializes in VA issues. It appears that the VA incorrectly and without a legitimate basis dismissed the evidence, that the evidence was sufficient for establishing in-service sleep apnea, that other cases have accepted lay evidence for apnea, and that the VA should reverse its decision. The personal statements and those provided by medical professionals clearly outline the severity of my sleep apnea and the timeframe this condition has existed.

As you are aware, service members do not have possession of their medical records. I cannot explain why you have not been able to obtain copies of my records despite my authorizing you to have access to them on several occasions. Pending an unfavorable decision by the DRO, it is my intent to continue this claim through the Veterans Board of Appeals. It is my hope that the DRO, upon review of the evidence will reach a favorable conclusion to this request. I am submitting this letter via certified mail, return receipt with a certified mail number.

Warmest Regards,

Thomas W. Meissgeier

EXHIBIT R



DEPARTMENT OF VETERANS AFFAIRS

January 29, 2015

THOMAS W MEISSGEIER

████████████████████
ALEXANDRIA, VA 22310

In Reply Refer To: 314/211A/vlf/265

C ██████████
MEISSGEIER, Thomas W

Dear Mr. Meissgeier:

Our records show that you filed a notice of disagreement with the Department of Veterans Affairs (VA) decision of November 13, 2014. This letter describes what happens next.

How Will VA Try To Resolve The Disagreement?

The Regional Office will try to resolve your disagreement through the Post-Decision Review process. As part of this process, you have elected to have a Decision Review Officer (DRO) assigned to your case.

How Does The Decision Review Officer Process Work?

Complete review: The DRO will check your file for completeness. Then a review will be made of your evidence and arguments, statements from your representative and any other information available in your claims folder. This may lead to a request for additional evidence. You may be asked to participate in an informal conference by the DRO to clarify questions about your disagreement.

New decision: The DRO will then make a new decision, granting the benefit you seek if possible, and you will be notified. If you still do not agree with that decision, you will need to submit a substantive appeal so that your case can be sent to the Board of Veterans Appeals. Instructions on how to file a substantive appeal will be provided in our letter notifying you of the decision by the DRO.

Note: You are still entitled to a formal hearing if your request one to present evidence or testimony at any time during this process.

Please note that we have also received your request for a personal hearing with a DRO.



EXHIBIT S



DEPARTMENT OF VETERANS AFFAIRS

March 25, 2015

THOMAS W. MEISSGEIER
[REDACTED]
ALEXANDRIA, VA 22310

In Reply Refer To:
Appeals
[REDACTED]
MEISSGEIER, Thomas W.

Dear Mr. Meissgeier:

You have filed a Notice of Disagreement with our action. This is the first step in appealing to the Board of Veterans' Appeals (BVA). This letter and enclosures contain very important information concerning your appeal.

Statement of the Case

We have enclosed a Statement of the Case, a summary of the law and evidence concerning your claim. This summary will help you to make the best argument to the BVA on why you think our decision should be changed.

What You Need To Do

To complete your appeal, you must file a formal appeal. We have enclosed VA Form 9, Appeal to the Board of Veterans' Appeals, which you may use to complete your appeal. We will gladly explain the form if you have questions. Your appeal should address:

- the benefit you want
- the facts in the Statement of the Case with which you disagree; and
- the errors that you believe we made in applying the law.

When You Need To Do It

You must file your appeal with this office within 60 days from the date of this letter or within the remainder, if any, of the one-year period from the date of the letter notifying you of the action that you have appealed. **If we do not hear from you within this period, we will close your case.** If you need more time to file your appeal, you should request more time before the time limit for filing your appeal expires. See item 5 of the instructions in VA Form 9, Appeal to Board of Veterans' Appeals.

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ISSUE:

Service connection for sleep apnea/hypopnea syndrome.

EVIDENCE:

- VA Form 21-526, Veteran's Application for Compensation and/or Pension, received May 20, 2013
- Statements from Rob Craddock, Kyle Nordmeyer and Barbara Meissgeier, received May 20, 2013
- Statement from Dr. Barry Diccico, received May 20, 2013
- Statement from Dr. Anthony Bazzan, received May 20, 2013
- Private Treatment Records, Dr. Barry Diccico, from December 20, 2012 through September 30, 2013
- Duty to assist letter, Dated August 7, 2013
- VCAA Notice Response, received September 3, 2013
- VA Form 21-4138, Statement in Support of Claim, received April 24, 2014
- VA Examinations, dated August 12, 2014 and August 14, 2014
- Service Treatment Records, for the period of service from June 11, 1974 through March 7, 1981
- Rating Decisions, and all evidence contained therein, dated August 26, 2014 and November 12, 2014
- VA letter concerning your claim, dated September 29, 2014
- VA Form 21-4138, Statement in Support of Claim, received October 3, 2014
- Service treatment records were unavailable for review, from March 14, 1991 through August 17, 2007
- Your letter dated January 6, 2015 received January 8, 2015 (Notice of Disagreement and request for Decision Review Officer review and hearing)
- VA letter dated January 29, 2015 acknowledging receipt of your Notice of Disagreement
- VA Form 21-4138, Statement In Support Of Claim, received March 11, 2015 (request for medical opinion in lieu of DRO hearing)
- Medical opinion dated March 19, 2015, VA Medical Center, Salem, VA

ADJUDICATIVE ACTIONS:

Military Service: 06-11-74 to 03-07-81; 03-14-91 to 06-28-91; 06-07-99 to 09-30-05; 10-31-05 to 08-17-07; Army

05-20-2013 Claim received.

11-12-2014 Claim considered based on all the evidence of record.

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11-13-2014 Claimant notified of decision.

01-08-2015 Notice of Disagreement received.

01-08-2015 De Novo Review election received from appellant.

01-29-2015 Appeal Election Letter sent to the appellant.

03-11-2015 Request for medical opinion in lieu of hearing

03-19-2015 Medical opinion, VA Medical Center, Salem, VA

03-24-2015 De Novo Review performed based on all the evidence of record.

PERTINENT LAWS; REGULATIONS; RATING SCHEDULE PROVISIONS:

Unless otherwise indicated, the symbol “§” denotes a section from title 38 of the Code of Federal Regulations, Pensions, Bonuses and Veterans’ Relief. Title 38 contains the regulations of the Department of Veterans Affairs which govern entitlement to all veteran benefits.

§3.2600 Review of benefit claims decisions.

(a) A claimant who has filed a timely Notice of Disagreement with a decision of an agency of original jurisdiction on a benefit claim has a right to a review of that decision under this section. The review will be conducted by an Adjudication Officer, Veterans Service Center Manager, or Decision Review Officer, at VA’s discretion. An individual who did not participate in the decision being reviewed will conduct this review. Only a decision that has not yet become final (by appellate decision or failure to timely appeal) may be reviewed. Review under this section will encompass only decisions with which the claimant has expressed disagreement in the Notice of Disagreement. The reviewer will consider all evidence of record and applicable law, and will give no deference to the decision being reviewed.

(b) Unless the claimant has requested review under this section with his or her Notice of Disagreement, VA will, upon receipt of the Notice of Disagreement, notify the claimant in writing of his or her right to a review under this section. To obtain such a review, the claimant must request it not later than 60 days after the date VA mails the notice. This 60-day time limit may not be extended. If the claimant fails to request review under this section not later than 60 days after the date VA mails the notice, VA will proceed with the traditional appellate process by issuing a Statement of the Case. A claimant may not have more than one review under this section of the same decision.

(c) The reviewer may conduct whatever development he or she considers necessary to resolve any disagreements in the Notice of Disagreement, consistent with applicable law. This may include an

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attempt to obtain additional evidence or the holding of an informal conference with the claimant. Upon the request of the claimant, the reviewer will conduct a hearing under §3.103(c).

(d) The reviewer may grant a benefit sought in the claim notwithstanding §3.105(b), but, except as provided in paragraph (e) of this section, may not revise the decision in a manner that is less advantageous to the claimant than the decision under review. A review decision made under this section will include a summary of the evidence, a citation to pertinent laws, a discussion of how those laws affect the decision, and a summary of the reasons for the decision.

(e) Notwithstanding any other provisions of this section, the reviewer may reverse or revise (even if disadvantageous to the claimant) prior decisions of an agency of original jurisdiction (including the decision being reviewed or any prior decision that has become final due to failure to timely appeal) on the grounds of clear and unmistakable error (see §3.105(a)).

(f) Review under this section does not limit the appeal rights of a claimant. Unless a claimant withdraws his or her Notice of Disagreement as a result of this review process, VA will proceed with the traditional appellate process by issuing a Statement of the Case.

(g) This section applies to all claims in which a Notice of Disagreement is filed on or after June 1, 2001. (Authority: 38 U.S.C. 5109A and 7105(d))

38 USC Section 5107 (03/02) Claimant responsibility; benefit of the doubt

(a) CLAIMANT RESPONSIBILITY- Except as otherwise provided by law, a claimant has the responsibility to present and support a claim for benefits under laws administered by the Secretary.

(b) BENEFIT OF THE DOUBT- The Secretary shall consider all information and lay and medical evidence of record in a case before the Secretary with respect to benefits under laws administered by the Secretary. When there is an approximate balance of positive and negative evidence regarding any issue material to the determination of a matter, the Secretary shall give the benefit of the doubt to the claimant.

§3.102 (New) Reasonable doubt.

It is the defined and consistently applied policy of the Department of Veterans Affairs to administer the law under a broad interpretation, consistent, however, with the facts shown in every case. When, after careful consideration of all procurable and assembled data, a reasonable doubt arises regarding service origin, the degree of disability, or any other point, such doubt will be resolved in favor of the claimant. By reasonable doubt is meant one which exists because of an approximate balance of positive and negative evidence which does not satisfactorily prove or disprove the claim. It is a substantial doubt and one within the range of probability as

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distinguished from pure speculation or remote possibility. It is not a means of reconciling actual conflict or a contradiction in the evidence. Mere suspicion or doubt as to the truth of any statements submitted, as distinguished from impeachment or contradiction by evidence or known facts, is not justifiable basis for denying the application of the reasonable doubt doctrine if the entire complete record otherwise warrants invoking this doctrine. The reasonable doubt doctrine is also applicable even in the absence of official records, particularly if the basic incident allegedly arose under combat, or similarly strenuous conditions, and is consistent with the probable results of such known hardships. (Authority: 38 U.S.C. 501(a))

§3.103 Procedural due process and appellate rights.

(a) Statement of policy. Every claimant has the right to written notice of the decision made on his or her claim, the right to a hearing, and the right of representation. Proceedings before VA are ex parte in nature, and it is the obligation of VA to assist a claimant in developing the facts pertinent to the claim and to render a decision which grants every benefit that can be supported in law while protecting the interests of the Government. The provisions of this section apply to all claims for benefits and relief, and decisions thereon, within the purview of this part 3.

(b) The right to notice:

(1) General. Claimants and their representatives are entitled to notice of any decision made by VA affecting the payment of benefits or the granting of relief. Such notice shall clearly set forth the decision made, any applicable effective date, the reason(s) for the decision, the right to a hearing on any issue involved in the claim, the right of representation and the right, as well as the necessary procedures and time limits, to initiate an appeal of the decision.

(2) Advance notice and opportunity for hearing. Except as otherwise provided in paragraph (b)(3) of this section, no award of compensation, pension or dependency and indemnity compensation shall be terminated, reduced or otherwise adversely affected unless the beneficiary has been notified of such adverse action and has been provided a period of 60 days in which to submit evidence for the purpose of showing that the adverse action should not be taken.

(3) Exceptions. In lieu of advance notice and opportunity for a hearing, VA will send a written notice to the beneficiary or his or her fiduciary at the same time it takes an adverse action under the following circumstances:

(i) An adverse action based solely on factual and unambiguous information or statements as to income, net worth, or dependency or marital status that the beneficiary or his or her fiduciary provided to VA in writing or orally (under the procedures set forth in Sec. 3.217(b)), with knowledge or notice that such information would be used to calculate benefit amounts.

(ii) An adverse action based upon the beneficiary's or fiduciary's failure to return a required eligibility verification report.

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(iii) Evidence reasonably indicates that a beneficiary is deceased. However, in the event that VA has received a death certificate, a terminal hospital report verifying the death of a beneficiary or a claim for VA burial benefits, no notice of termination (contemporaneous or otherwise) will be required.

(iv) An adverse action based upon a written and signed statement provided by the beneficiary to VA renouncing VA benefits (see §3.106 on renouncement).

(v) An adverse action based upon a written statement provided to VA by a veteran indicating that he or she has returned to active service, the nature of that service, and the date of reentry into service, with the knowledge or notice that receipt of active service pay precludes concurrent receipt of VA compensation or pension (see §3.654 regarding active service pay).

(vi) An adverse action based upon a garnishment order issued under 42 U.S.C. 659(a). (Authority: 38 U.S.C. 501(a))

(4) Restoration of benefits. VA will restore retroactively benefits that were reduced, terminated, or otherwise adversely affected based on oral information or statements if within 30 days of the date on which VA issues the notification of adverse action the beneficiary or his or her fiduciary asserts that the adverse action was based upon information or statements that were inaccurate or upon information that was not provided by the beneficiary or his or her fiduciary. This will not preclude VA from taking subsequent action that adversely affects benefits.

(c) The right to a hearing.

(1) Upon request, a claimant is entitled to a hearing at any time on any issue involved in a claim within the purview of part 3 of this chapter, subject to the limitations described in §20.1304 of this chapter with respect to hearings in claims which have been certified to the Board of Veterans Appeals for appellate review. VA will provide the place of hearing in the VA office having original jurisdiction over the claim or at the VA office nearest the claimant's home having adjudicative functions or, subject to available resources and solely at the option of VA, at any other VA facility or federal building at which suitable hearing facilities are available. VA will provide one or more employees who have original determinative authority of such issues to conduct the hearing and be responsible for establishment and preservation of the hearing record. Hearings in connection with proposed adverse actions and appeals shall be held before one or more VA employees having original determinative authority who did not participate in the proposed action or the decision being appealed. All expenses incurred by the claimant in connection with the hearing are the responsibility of the claimant.

(2) The purpose of a hearing is to permit the claimant to introduce into the record, in person, any available evidence which he or she considers material and any arguments or contentions with respect to the facts and applicable law which he or she may consider pertinent. All testimony will be under oath or affirmation. The claimant is entitled to produce witnesses, but the claimant and witnesses are expected to be present. The Veterans Benefits Administration will not normally

NAME OF VETERAN

MEISSGEIER, Thomas W.

VA FILE NUMBER

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schedule a hearing for the sole purpose of receiving argument from a representative. It is the responsibility of the VA employee or employees conducting the hearings to explain fully the issues and suggest the submission of evidence which the claimant may have overlooked and which would be of advantage to the claimant's position. To assure clarity and completeness of the hearing record, questions which are directed to the claimant and to witnesses are to be framed to explore fully the basis for claimed entitlement rather than with an intent to refute evidence or to discredit testimony. In cases in which the nature, origin, or degree of disability is in issue, the claimant may request visual examination by a physician designated by VA and the physician's observations will be read into the record. (Authority: 38 U.S.C. 501(a))

(d) Submission of evidence. Any evidence whether documentary, testimonial, or in other form, offered by the claimant in support of a claim and any issue a claimant may raise and any contention or argument a claimant may offer with respect thereto are to be included in the records.

(e) The right to representation. Subject to the provisions of §§14.626 through 14.637 of this title, claimants are entitled to representation of their choice at every stage in the prosecution of a claim.

(f) Notification of decisions. The claimant or beneficiary and his or her representative will be notified in writing of decisions affecting the payment of benefits or granting relief. All notifications will advise the claimant of the reason for the decision; the date the decision will be effective; the right to a hearing subject to paragraph (c) of this section; the right to initiate an appeal by filing a Notice of Disagreement which will entitle the individual to a Statement of the Case for assistance in perfecting an appeal; and the periods in which an appeal must be initiated and perfected (See part 20 of this chapter, on appeals). Further, any notice that VA has denied a benefit sought will include a summary of the evidence considered. (Authority: 38 U.S.C. 501, 1115, 1506, 5104.)

§3.104 (05/2001) Finality of decisions.

(a) A decision of a duly constituted rating agency or other agency of original jurisdiction shall be final and binding on all field offices of the Department of Veterans Affairs as to conclusions based on the evidence on file at the time VA issues written notification in accordance with 38 U.S.C. 5104. A final and binding agency decision shall not be subject to revision on the same factual basis except by duly constituted appellate authorities or except as provided in §3.105 and §3.2600 of this part.

(b) Current determinations of line of duty, character of discharge, relationship, dependency, domestic relations questions, homicide, and findings of fact of death or presumptions of death made in accordance with existing instructions, and by application of the same criteria and based on the same facts, by either an Adjudication activity or an Insurance activity are binding one upon the other in the absence of clear and unmistakable error.

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[29 FR 1462, Jan. 29, 1964, as amended at 29 FR 7547, June 12, 1964; 56 FR 65846, Dec. 19, 1991; 66 FR 21874, May 2, 2001]

§3.109 Time limit.

(a) Notice of time limit for filing evidence.

(1) If a claimant's application is incomplete, the claimant will be notified of the evidence necessary to complete the application. If the evidence is not received within 1 year from the date of such notification, pension, compensation, or dependency and indemnity compensation may not be paid by reason of that application (38 U.S.C. 5103(a)). Information concerning the whereabouts of a person who has filed claim is not considered evidence.

(2) The provisions of this paragraph are applicable to original applications, formal or informal, and to applications for increased benefits by reason of increased disability, age, or the existence of a dependent and to applications for reopening or resumption of payments. If substantiating evidence is required with respect to the veracity of a witness or the authenticity of documentary evidence timely filed, there will be allowed for the submission of such evidence 1 year from the date of the request therefor. However, any evidence to enlarge the proofs and evidence originally submitted is not so included.

(b) Extension of time limit. Time limits within which claimants or beneficiaries are required to act to perfect a claim or challenge an adverse VA decision may be extended for good cause shown. Where an extension is requested after expiration of a time limit, the action required of the claimant or beneficiary must be taken concurrent with or prior to the filing of a request for extension of the time limit, and good cause must be shown as to why the required action could not have been taken during the original time period and could not have been taken sooner than it was. Denials of time limit extensions are separately appealable issues. (Authority: 38 U.S.C. 501(a))

§3.110 Computation of time limit.

(a) In computing the time limit for any action required of a claimant or beneficiary, including the filing of claims or evidence requested by VA, the first day of the specified period will be excluded and the last day included. This rule is applicable in cases in which the time limit expires on a workday. Where the time limit would expire on a Saturday, Sunday, or holiday, the next succeeding workday will be included in the computation.

(b) "The first day of the specified period" referred to in paragraph (a) of this section shall be the date of mailing of notification to the claimant or beneficiary of the action required and the time limit therefor. The date of the letter of notification shall be considered the date of mailing for purposes of computing time limits. As to appeals, see §§20.302 and 20.305 of this chapter. (Authority: 38 U.S.C. 501(a))

§3.159 (05/08) Department of Veterans Affairs assistance in developing claims.

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(a) Definitions. For purposes of this section, the following definitions apply:

(1) Competent medical evidence means evidence provided by a person who is qualified through education, training, or experience to offer medical diagnoses, statements, or opinions. Competent medical evidence may also mean statements conveying sound medical principles found in medical treatises. It would also include statements contained in authoritative writings such as medical and scientific articles and research reports or analyses.

(2) Competent lay evidence means any evidence not requiring that the proponent have specialized education, training, or experience. Lay evidence is competent if it is provided by a person who has knowledge of facts or circumstances and conveys matters that can be observed and described by a lay person.

(3) Substantially complete application means an application containing the claimant's name; his or her relationship to the veteran, if applicable; sufficient service information for VA to verify the claimed service, if applicable; the benefit claimed and any medical condition(s) on which it is based; the claimant's signature; and in claims for nonservice-connected disability or death pension and parents' dependency and indemnity compensation, a statement of income.

(4) For purposes of paragraph (c)(4)(i) of this section, event means one or more incidents associated with places, types, and circumstances of service giving rise to disability.

(5) Information means non-evidentiary facts, such as the claimant's Social Security number or address; the name and military unit of a person who served with the veteran; or the name and address of a medical care provider who may have evidence pertinent to the claim.

(b) VA's duty to notify claimants of necessary information or evidence. (1) When VA receives a complete or substantially complete application for benefits, it will notify the claimant of any information and medical or lay evidence that is necessary to substantiate the claim (hereafter in this paragraph referred to as the "notice"). In the notice VA will inform the claimant which information and evidence, if any, that the claimant is to provide to VA and which information and evidence, if any, that VA will attempt to obtain on behalf of the claimant. The information and evidence that the claimant is informed that the claimant is to provide must be provided within one year of the date of the notice. If the claimant has not responded to the notice within 30 days, VA may decide the claim prior to the expiration of the one-year period based on all the information and evidence contained in the file, including information and evidence it has obtained on behalf of the claimant and any VA medical examinations or medical opinions. If VA does so, however, and the claimant subsequently provides the information and evidence within one year of the date of the notice, VA must readjudicate the claim.

(Authority: 38 U.S.C. 5103)

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(2) If VA receives an incomplete application for benefits, it will notify the claimant of the information necessary to complete the application and will defer assistance until the claimant submits this information.

(Authority: 38 U.S.C. 5102(b), 5103A(3))

(3) No duty to provide the notice described in paragraph (b)(1) of this section arises:

(i) Upon receipt of a Notice of Disagreement; or

(ii) When, as a matter of law, entitlement to the benefit claimed cannot be established.

(Authority: 38 U.S.C. 5103(a), 5103A(a)(2))

(c) VA's duty to assist claimants in obtaining evidence. Upon receipt of a substantially complete application for benefits, VA will make reasonable efforts to help a claimant obtain evidence necessary to substantiate the claim. In addition, VA will give the assistance described in paragraphs (c)(1), (c)(2), and (c)(3) to an individual attempting to reopen a finally decided claim. VA will not pay any fees charged by a custodian to provide records requested.

(1) Obtaining records not in the custody of a Federal department or agency. VA will make reasonable efforts to obtain relevant records not in the custody of a Federal department or agency, to include records from State or local governments, private medical care providers, current or former employers, and other non-Federal governmental sources. Such reasonable efforts will generally consist of an initial request for the records and, if the records are not received, at least one follow-up request. A follow-up request is not required if a response to the initial request indicates that the records sought do not exist or that a follow-up request for the records would be futile. If VA receives information showing that subsequent requests to this or another custodian could result in obtaining the records sought, then reasonable efforts will include an initial request and, if the records are not received, at least one follow-up request to the new source or an additional request to the original source.

(i) The claimant must cooperate fully with VA's reasonable efforts to obtain relevant records from non-Federal agency or department custodians. The claimant must provide enough information to identify and locate the existing records, including the person, company, agency, or other custodian holding the records; the approximate time frame covered by the records; and, in the case of medical treatment records, the condition for which treatment was provided.

(ii) If necessary, the claimant must authorize the release of existing records in a form acceptable to the person, company, agency, or other custodian holding the records.

(Authority: 38 U.S.C. 5103A(b))

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(2) Obtaining records in the custody of a Federal department or agency. VA will make as many requests as are necessary to obtain relevant records from a Federal department or agency. These records include but are not limited to military records, including service medical records; medical and other records from VA medical facilities; records from non-VA facilities providing examination or treatment at VA expense; and records from other Federal agencies, such as the Social Security Administration. VA will end its efforts to obtain records from a Federal department or agency only if VA concludes that the records sought do not exist or that further efforts to obtain those records would be futile. Cases in which VA may conclude that no further efforts are required include those in which the Federal department or agency advises VA that the requested records do not exist or the custodian does not have them.

(i) The claimant must cooperate fully with VA's reasonable efforts to obtain relevant records from Federal agency or department custodians. If requested by VA, the claimant must provide enough information to identify and locate the existing records, including the custodian or agency holding the records; the approximate time frame covered by the records; and, in the case of medical treatment records, the condition for which treatment was provided. In the case of records requested to corroborate a claimed stressful event in service, the claimant must provide information sufficient for the records custodian to conduct a search of the corroborative records.

(ii) If necessary, the claimant must authorize the release of existing records in a form acceptable to the custodian or agency holding the records.

(Authority: 38 U.S.C. 5103A(b))

(3) Obtaining records in compensation claims. In a claim for disability compensation, VA will make efforts to obtain the claimant's service medical records, if relevant to the claim; other relevant records pertaining to the claimant's active military, naval or air service that are held or maintained by a governmental entity; VA medical records or records of examination or treatment at non-VA facilities authorized by VA; and any other relevant records held by any Federal department or agency. The claimant must provide enough information to identify and locate the existing records including the custodian or agency holding the records; the approximate time frame covered by the records; and, in the case of medical treatment records, the condition for which treatment was provided.

(Authority: 38 U.S.C. 5103A(c))

(4) Providing medical examinations or obtaining medical opinions. (i) In a claim for disability compensation, VA will provide a medical examination or obtain a medical opinion based upon a review of the evidence of record if VA determines it is necessary to decide the claim. A medical examination or medical opinion is necessary if the information and evidence of record does not contain sufficient competent medical evidence to decide the claim, but:

(A) Contains competent lay or medical evidence of a current diagnosed disability or persistent or recurrent symptoms of disability;

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(B) Establishes that the veteran suffered an event, injury or disease in service, or has a disease or symptoms of a disease listed in §3.309, §3.313, §3.316, and §3.317 manifesting during an applicable presumptive period provided the claimant has the required service or triggering event to qualify for that presumption; and

(C) Indicates that the claimed disability or symptoms may be associated with the established event, injury, or disease in service or with another service-connected disability.

(ii) Paragraph (4)(i)(C) could be satisfied by competent evidence showing post-service treatment for a condition, or other possible association with military service.

(iii) Paragraph (c)(4) applies to a claim to reopen a finally adjudicated claim only if new and material evidence is presented or secured.

(Authority: 38 U.S.C. 5103A(d))

(d) Circumstances where VA will refrain from or discontinue providing assistance. VA will refrain from providing assistance in obtaining evidence for a claim if the substantially complete application for benefits indicates that there is no reasonable possibility that any assistance VA would provide to the claimant would substantiate the claim. VA will discontinue providing assistance in obtaining evidence for a claim if the evidence obtained indicates that there is no reasonable possibility that further assistance would substantiate the claim. Circumstances in which VA will refrain from or discontinue providing assistance in obtaining evidence include, but are not limited to:

(1) The claimant's ineligibility for the benefit sought because of lack of qualifying service, lack of veteran status, or other lack of legal eligibility;

(2) Claims that are inherently incredible or clearly lack merit; and

(3) An application requesting a benefit to which the claimant is not entitled as a matter of law.

(Authority: 38 U.S.C. 5103A(a)(2))

(e) Duty to notify claimant of inability to obtain records. (1) If VA makes reasonable efforts to obtain relevant non-Federal records but is unable to obtain them, or after continued efforts to obtain Federal records concludes that it is reasonably certain they do not exist or further efforts to obtain them would be futile, VA will provide the claimant with oral or written notice of that fact. VA will make a record of any oral notice conveyed to the claimant. For non-Federal records requests, VA may provide the notice at the same time it makes its final attempt to obtain the relevant records. In either case, the notice must contain the following information:

(i) The identity of the records VA was unable to obtain;

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(ii) An explanation of the efforts VA made to obtain the records;

(iii) A description of any further action VA will take regarding the claim, including, but not limited to, notice that VA will decide the claim based on the evidence of record unless the claimant submits the records VA was unable to obtain; and

(iv) A notice that the claimant is ultimately responsible for providing the evidence.

(2) If VA becomes aware of the existence of relevant records before deciding the claim, VA will notify the claimant of the records and request that the claimant provide a release for the records. If the claimant does not provide any necessary release of the relevant records that VA is unable to obtain, VA will request that the claimant obtain the records and provide them to VA.

(Authority: 38 U.S.C. 5103A(b)(2))

(f) For the purpose of the notice requirements in paragraphs (b) and (e) of this section, notice to the claimant means notice to the claimant or his or her fiduciary, if any, as well as to his or her representative, if any.

(Authority: 38 U.S.C. 5102(b), 5103(a))

(g) The authority recognized in subsection (g) of 38 U.S.C. 5103A is reserved to the sole discretion of the Secretary and will be implemented, when deemed appropriate by the Secretary, through the promulgation of regulations.

(Authority: 38 U.S.C. 5103A(g))

§19.32 Closing of appeal for failure to respond to Statement of the Case.

The agency of original jurisdiction may close the appeal without notice to an appellant or his or her representative for failure to respond to a Statement of the Case within the period allowed. However, if a Substantive Appeal is subsequently received within the 1-year appeal period (60-day appeal period for simultaneously contested claims), the appeal will be considered to be reactivated. (Authority: 38 U.S.C. 7105(d)(3))

§20.302 Rule 302. (07/08) Time limit for filing...

(a) Notice of Disagreement. Except in the case of simultaneously contested claims, a claimant, or his or her representative, must file a Notice of Disagreement with a determination by the agency of original jurisdiction within one year from the date that that agency mails notice of the determination to him or her. Otherwise, that determination will become final. The date of mailing the letter of notification of the determination will be presumed to be the same as the date of that

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letter for purposes of determining whether an appeal has been timely filed. (Authority: 38 U.S.C. 7105(b)(1))

(b) Substantive Appeal.

(1) General. Except in the case of simultaneously contested claims, a Substantive Appeal must be filed within 60 days from the date that the agency of original jurisdiction mails the Statement of the Case to the appellant, or within the remainder of the 1-year period from the date of mailing of the notification of the determination being appealed, whichever period ends later. The date of mailing of the Statement of the Case will be presumed to be the same as the date of the Statement of the Case and the date of mailing the letter of notification of the determination will be presumed to be the same as the date of that letter for purposes of determining whether an appeal has been timely filed.

(2) Special rule in certain cases where additional evidence is submitted. Except in the case of simultaneously contested claims, if (i) a claimant submits additional evidence within 1 year of the date of mailing of the notification of the determination being appealed, and (ii) that evidence requires, in accordance with §19.31 of this title, that the claimant be furnished a Supplemental Statement of the Case, then the time to submit a Substantive Appeal shall end not sooner than 60 days after such Supplemental Statement of the Case is mailed to the appellant, even if the 60-day period extends beyond the expiration of the 1-year appeal period. (Authority: 38 U.S.C. 7105 (b)(1), (d)(3).)

(c) Response to Supplemental Statement of the Case. Where a Supplemental Statement of the Case is furnished, a period of 30 days from the date of mailing of the Supplemental Statement of the Case will be allowed for response. The date of mailing of the Supplemental Statement of the Case will be presumed to be the same as the date of the Supplemental Statement of the Case for purposes of determining whether a response has been timely filed. Provided a Substantive Appeal has been timely filed in accordance with paragraph (b) of this section, the response to a Supplemental Statement of the Case is optional and is not required for the perfection of an appeal. (Authority: 38 U.S.C. 7105(d)(3))

§3.303 Principles relating to service connection

(a) General. Service connection connotes many factors but basically it means that the facts, shown by evidence, establish that a particular injury or disease resulting in disability was incurred coincident with service in the Armed Forces, or if preexisting such service, was aggravated therein. This may be accomplished by affirmatively showing inception or aggravation during service or through the application of statutory presumptions. Each disabling condition shown by a veteran's service records, or for which he seeks a service connection must be considered on the basis of the places, types and circumstances of his service as shown by service records, the official history of each organization in which he served, his medical records and all pertinent medical and lay evidence. Determinations as to service connection will be based on review of the entire evidence of record, with due consideration to the policy of the Department of Veterans

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Affairs to administer the law under a broad and liberal interpretation consistent with the facts in each individual case.

(b) Chronicity and continuity. With chronic disease shown as such in service (or within the presumptive period under §3.307) so as to permit a finding of service connection, subsequent manifestations of the same chronic disease at any later date, however remote, are service connected, unless clearly attributable to intercurrent causes. This rule does not mean that any manifestation of joint pain, any abnormality of heart action or heart sounds, any urinary findings of casts, or any cough, in service will permit service connection of arthritis, disease of the heart, nephritis, or pulmonary disease, first shown as a clearcut clinical entity, at some later date. For the showing of chronic disease in service there is required a combination of manifestations sufficient to identify the disease entity, and sufficient observation to establish chronicity at the time, as distinguished from merely isolated findings or a diagnosis including the word "Chronic." When the disease identity is established (leprosy, tuberculosis, multiple sclerosis, etc.), there is no requirement of evidentiary showing of continuity. Continuity of symptomatology is required only where the condition noted during service (or in the presumptive period) is not, in fact, shown to be chronic or where the diagnosis of chronicity may be legitimately questioned. When the fact of chronicity in service is not adequately supported, then a showing of continuity after discharge is required to support the claim.

(c) Preservice disabilities noted in service. There are medical principles so universally recognized as to constitute fact (clear and unmistakable proof), and when in accordance with these principles existence of a disability prior to service is established, no additional or confirmatory evidence is necessary. Consequently with notation or discovery during service of such residual conditions (scars; fibrosis of the lungs; atrophies following disease of the central or peripheral nervous system; healed fractures; absent, displaced or resected parts of organs; supernumerary parts; congenital malformations or hemorrhoidal tags or tabs, etc.) with no evidence of the pertinent antecedent active disease or injury during service the conclusion must be that they preexisted service. Similarly, manifestation of lesions or symptoms of chronic disease from date of enlistment, or so close thereto that the disease could not have originated in so short a period will establish preservice existence thereof. Conditions of an infectious nature are to be considered with regard to the circumstances of the infection and if manifested in less than the respective incubation periods after reporting for duty, they will be held to have preexisted service. In the field of mental disorders, personality disorders which are characterized by developmental defects or pathological trends in the personality structure manifested by a lifelong pattern of action or behavior, chronic psychoneurosis of long duration or other psychiatric symptomatology shown to have existed prior to service with the same manifestations during service, which were the basis of the service diagnosis will be accepted as showing preservice origin. Congenital or developmental defects, refractive error of the eye, personality disorders and mental deficiency as such are not diseases or injuries within the meaning of applicable legislation.

(d) Postservice initial diagnosis of disease. Service connection may be granted for any disease diagnosed after discharge, when all the evidence, including that pertinent to service, establishes that the disease was incurred in service. Presumptive periods are not intended to limit

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service connection to diseases so diagnosed when the evidence warrants direct service connection. The presumptive provisions of the statute and Department of Veterans Affairs regulations implementing them are intended as liberalizations applicable when the evidence would not warrant service connection without their aid.

§3.304(a), (b), and (c) Direct service connection; wartime and peacetime.

(a) General. The basic considerations relating to service connection are stated in §3.303. The criteria in this section apply only to disabilities which may have resulted from service in a period of war or service rendered on or after January 1, 1947.

(b) Presumption of soundness. The veteran will be considered to have been in sound condition when examined, accepted and enrolled for service, except as to defects, infirmities, or disorders noted at entrance into service, or where clear and unmistakable (obvious or manifest) evidence demonstrates that an injury or disease existed prior thereto and was not aggravated by such service. Only such conditions as are recorded in examination reports are to be considered as noted. (Authority: 38 U.S.C. 1111)

(1) History of preservice existence of conditions recorded at the time of examination does not constitute a notation of such conditions but will be considered together with all other material evidence in determinations as to inception. Determinations should not be based on medical judgment alone as distinguished from accepted medical principles, or on history alone without regard to clinical factors pertinent to the basic character, origin and development of such injury or disease. They should be based on thorough analysis of the evidentiary showing and careful correlation of all material facts, with due regard to accepted medical principles pertaining to the history, manifestations, clinical course, and character of the particular injury or disease or residuals thereof.

(2) History conforming to accepted medical principles should be given due consideration, in conjunction with basic clinical data, and be accorded probative value consistent with accepted medical and evidentiary principles in relation to value consistent with accepted medical evidence relating to incurrence, symptoms and course of the injury or disease, including official and other records made prior to, during or subsequent to service, together with all other lay and medical evidence concerning the inception, development and manifestations of the particular condition will be taken into full account.

(3) Signed statements of veterans relating to the origin, or incurrence of any disease or injury made in service if against his or her own interest is of no force and effect if other data do not establish the fact. Other evidence will be considered as though such statement were not of record. (Authority: 10 U.S.C. 1219)

(c) Development. The development of evidence in connection with claims for service connection will be accomplished when deemed necessary but it should not be undertaken when evidence present is sufficient for this determination. In initially rating disability of record at the time of

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discharge, the records of the service department, including the reports of examination at enlistment and the clinical records during service, will ordinarily suffice. Rating of combat injuries or other conditions which obviously had their inception in service may be accomplished pending receipt of copy of the examination at enlistment and all other service records.

§3.326 (New) Examinations.

For purposes of this section, the term examination includes periods of hospital observation when required by VA.

(a) Where there is a claim for disability compensation or pension but medical evidence accompanying the claim is not adequate for rating purposes, a Department of Veterans Affairs examination will be authorized. This paragraph applies to original and reopened claims as well as claims for increase submitted by a veteran, surviving spouse, parent, or child. Individuals for whom an examination has been scheduled are required to report for the examination.

(b) Provided that it is otherwise adequate for rating purposes, any hospital report, or any examination report, from any government or private institution may be accepted for rating a claim without further examination. However, monetary benefits to a former prisoner of war will not be denied unless the claimant has been offered a complete physical examination conducted at a Department of Veterans Affairs hospital or outpatient clinic.

(c) Provided that it is otherwise adequate for rating purposes, a statement from a private physician may be accepted for rating a claim without further examination. (Authority: 38 U.S.C. 5107(a))

38 USC Section 1110 Basic entitlement

For disability resulting from personal injury suffered or disease contracted in line of duty, or for aggravation of a preexisting injury suffered or disease contracted in line of duty, in the active military, naval, or air service, during a period of war, the United States will pay to any veteran thus disabled and who was discharged or released under conditions other than dishonorable from the period of service in which said injury or disease was incurred, or preexisting injury or disease was aggravated, compensation as provided in this subchapter, but no compensation shall be paid if the disability is a result of the person's own willful misconduct or abuse of alcohol or drugs.

38 USC Section 1131 Basic entitlement

For disability resulting from personal injury suffered or disease contracted in line of duty, or for aggravation of a preexisting injury suffered or disease contracted in line of duty, in the active military, naval, or air service, during other than a period of war, the United States will pay to any veteran thus disabled and who was discharged or released under conditions other than dishonorable from the period of service in which said injury or disease was incurred, or

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preexisting injury or disease was aggravated, compensation as provided in this subchapter, but no compensation shall be paid if the disability is a result of the person's own willful misconduct or abuse of alcohol or drugs.

38 USC Section 1154 Consideration to be accorded time, place, and circumstances of service

(a) The Secretary shall include in the regulations pertaining to service-connection of disabilities (1) additional provisions in effect requiring that in each case where a veteran is seeking service-connection for any disability due consideration shall be given to the places, types, and circumstances of such veteran's service as shown by such veteran's service record, the official history of each organization in which such veteran served, such veteran's medical records, and all pertinent medical and lay evidence, and (2) the provisions required by section 5 of the Veterans' Dioxin and Radiation Exposure Compensation Standards Act (Public Law 98-542; 98 Stat. 2727).

(b) In the case of any veteran who engaged in combat with the enemy in active service with a military, naval, or air organization of the United States during a period of war, campaign, or expedition, the Secretary shall accept as sufficient proof of service-connection of any disease or injury alleged to have been incurred in or aggravated by such service satisfactory lay or other evidence of service incurrence or aggravation of such injury or disease, if consistent with the circumstances, conditions, or hardships of such service, notwithstanding the fact that there is no official record of such incurrence or aggravation in such service, and, to that end, shall resolve every reasonable doubt in favor of the veteran. Service-connection of such injury or disease may be rebutted by clear and convincing evidence to the contrary. The reasons for granting or denying service-connection in each case shall be recorded in full.

VA, in determining all claims for benefits that have been reasonably raised by the filings and evidence, has applied the benefit-of-the-doubt and liberally and sympathetically reviewed all submissions in writing from the Veteran as well as all evidence of record.

DECISION:

Service connection for sleep apnea/hypopnea syndrome is denied.

REASONS AND BASES:

We received your Notice of Disagreement on January 8, 2015. You timely elected to have your claim reviewed by a Decision Review Officer. This decision constitutes that de novo review, and is based on all evidence of record and applicable law, without deference to the decision being reviewed. You are not entitled to more than one de novo review. Unless you withdraw your Notice of Disagreement as a result of this review process, the appellate process will begin with issuance of a Statement of the Case.

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Service connection may be granted for a disability which began in military service or was caused by some event or experience in service.

The evidence does not show an event, disease or injury in service. Efforts to obtain your service treatment records for periods of service from March 14, 1991 through August 17, 2007 from all potential sources were unsuccessful. If these records are located at a later date, this decision will be reconsidered.

You submitted lay statements to support your claim. A credible lay statement may establish what was seen, heard, and directly experienced. The lay evidence was found not to be competent and sufficient in this case to establish a link or nexus between your medical condition and military service or to establish that such a link has been found by a medical professional.

We received your request for a medical examiner to review the evidence of record and provide a medical opinion in lieu of having a hearing.

VA medical opinion from VA Medical Center Salem, VA dated March 19, 2015 shows the medical examiner reviewed your claims file and evidence of record and opined your sleep apnea/hypopnea syndrome is less likely as not incurred in or caused by service. The examiner provided the following rationale: Review of the veteran's military medical records reveals no diagnostic evidence of obstructive sleep apnea present during military service. The veteran's witness statements from his spouse and fellow service members are not diagnostic of sleep apnea present during military service. Additionally, the claims file reveals no event in military service causing a relaxation of the neck structures to limit air flow eventually diagnosed as obstructive sleep apnea in the post-service era.

Based on a review of the evidence of record, service connection for sleep apnea/hypopnea syndrome is denied since the evidence fails to show this condition was incurred in or caused by service.

Hearings

You may have a hearing before we send your case to the BVA. If you tell us that you want a hearing, we will arrange a time and a place for the hearing. VA will provide the hearing room, the hearing official, and a transcript of the hearing for the record. VA cannot pay any other expenses of the hearing. You may **also** have a hearing before the BVA, as noted on the enclosed VA Form 9, Appeal to the Board of Veterans' Appeals. **Do not delay filing your appeal if you request a hearing. Your request for a hearing does not extend the time to file your appeal.**

Representation

If you do not have a representative, it is not too late to choose one. An accredited representative of a recognized service organization may represent you in your claim for VA benefits without charge. An accredited attorney or an accredited agent may also represent you before VA, and may charge you a fee for services performed after the filing of a notice of disagreement. In certain cases, VA will pay your accredited agent or attorney directly from your past due benefits. For more information on the accreditation process and fee agreements (including filing requirements), you and/or your representative should review 38 U.S.C. § 5904 and 38 C.F.R. § 14.636 and VA's website at <http://www.va.gov/ogc/accreditation.asp>. You can find the necessary power of attorney forms on this website, or if you ask us, we can send you the forms. You can also find the names of accredited attorneys, agents and service organization representatives on this website.

What We Will Do

After we receive your appeal, we will send your case to the BVA in Washington, DC for a decision. The BVA will base its decision on an independent review of the entire record, including the transcript of the hearing, if you have a hearing.

Sincerely yours,

RO Director
VA Regional Office

Enclosure(s): VA Form 9
Centralized Mail Address Enclosure

CC: AMERICAN LEGION

EXHIBIT T



Department of Veterans Affairs

APPEAL TO BOARD OF VETERANS' APPEALS

IMPORTANT: Read the attached instructions before you fill out this form. VA also encourages you to get assistance from your representative in filling out this form.

1. NAME OF VETERAN (Last Name, First Name, Middle Initial) Meissgeier, Thomas W.	2. CLAIM FILE NO. (Include prefix) [REDACTED]	3. INSURANCE FILE NO., OR LOAN NO.
--------------------------------------------------------------------------------------------	--------------------------------------------------	------------------------------------

4. I AM THE:
 VETERAN VETERAN'S WIDOW/ER VETERAN'S CHILD VETERAN'S PARENT
 OTHER (Specify)

5. TELEPHONE NUMBERS		6. MY ADDRESS IS: (Number & Street or Post Office Box, City, State & ZIP Code) Alexandria, VA 22310
A. HOME (Include Area Code) 703-[REDACTED]	B. WORK (Include Area Code) 202-[REDACTED]	

7. IF I AM NOT THE VETERAN, MY NAME IS:
(Last Name, First Name, Middle Initial)

8. THESE ARE THE ISSUES I WANT TO APPEAL TO THE BOARD: (Be sure to read the information about this block in paragraph 6 of the attached instructions.)

A. I HAVE READ THE STATEMENT OF THE CASE AND ANY SUPPLEMENTAL STATEMENT OF THE CASE I RECEIVED. I AM **ONLY** APPEALING THESE ISSUES:
(List below.) **I have filed a Notice of Disagreement on two occasions, the most recent being signed for by the VA on 2 October, 2015. I have contacted the VA for status on my case on 20 October via email and received a confirmation number of 151021-000318 with no response. My appeal is in regard for obstructive sleep apnea originally filed in August 2013.**

B. I WANT TO APPEAL **ALL** OF THE ISSUES LISTED ON THE STATEMENT OF THE CASE AND ANY SUPPLEMENTAL STATEMENT OF THE CASE THAT MY LOCAL VA OFFICE SENT TO ME.

9. HERE IS WHY I THINK THAT VA DECIDED MY CASE INCORRECTLY: (Be sure to read the information about this block in paragraph 6 of the attached instructions.)

I have had no sleep study performed by a VA appointed sleep study center. I have had no response to either of the NODs I have submitted or any other correspondence I have made with you. It is my understanding that I should have received a Statement of the Case in response to my NOD submission. This has not happened in either of my NOD submissions. I request a board hearing to resolve this issue.

(Continue on the back, or attach sheets of paper, if you need more space.)

10. OPTIONAL BOARD HEARING

IMPORTANT: Read the information about this block in paragraph 6 of the attached instructions. This block is used to request an optional Board of Veterans' Appeals (Board) hearing. **DO NOT USE THIS FORM TO REQUEST A HEARING BEFORE VA REGIONAL OFFICE PERSONNEL.**
 Check one (and only one) of the following boxes:

A. I DO NOT WANT AN OPTIONAL BOARD HEARING. (Choosing this option often results in the Board issuing its decision most quickly. If you choose, you may write down what you would say at a hearing and submit it directly to the Board.)

I WANT AN OPTIONAL BOARD HEARING:

B. BY LIVE VIDEOCONFERENCE AT A LOCAL VA OFFICE. (Choosing this option will add delay to issuance of a Board decision.)

C. IN WASHINGTON, DC. (Choosing this option will add delay to issuance of a Board decision.) **XXX**

D. AT A LOCAL VA OFFICE.* (Choosing this option will add **significant** delay to issuance of a Board decision.)
 *This option is not available at the Washington, DC, or Baltimore, MD, Regional Offices.

11. SIGNATURE OF PERSON MAKING THIS APPEAL	12. DATE (MM/DD/YYYY) 11/09/2015	13. SIGNATURE OF APPOINTED REPRESENTATIVE, IF ANY (Not required if signed by appellant. See paragraph 6 of the instructions.)	14. DATE (MM/DD/YYYY)
--------------------------------------------	--------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------	-----------------------

Obstructive sleep apnea was brought to my attention while deployed to Afghanistan in January 2005 by some of my team members. They provided statements outlining my condition while I was a deployed Lieutenant Colonel. I continued to be involved with a high operations tempo and deployed for several additional periods of short duration in support of both OPERATION IRAQI FREEDOM and OPERATION ENDURING FREEDOM and did not pursue the sleep apnea condition at the time. I did not understand the severity of this disease and ignored it due to the high operational tempo. My wife convinced me to meet with a specialist, Dr. Barry Diccico, MD and I was diagnosed with severe sleep apnea in February 2012.

I have statements provided by individuals who witnessed my sleep apnea and its severity. I have provided these statements to the VA along with documentation from Dr. Diccico. My case was denied because the VA could not find my medical records. I do not, nor does any service member have access to their service records. This should not determine my eligibility for VA benefits. The evidence submitted and a sleep study initiated by the VA will provide ample evidence of my case.

(Attach additional sheets, if necessary)

We are required by law to give you the information in this box. Instructions for filling out the form follow the box.

RESPONDENT BURDEN: VA may not conduct or sponsor, and the respondent is not required to respond to, this collection of information unless it displays a valid Office of Management and Budget (OMB) Control Number. The information requested is approved under OMB Control Number (2900-0085). Public reporting burden for this collection of information is estimated to average one hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspects of this collection, including suggestions for reducing this burden to: VA Clearance Officer (005R1B), 810 Vermont Ave., NW, Washington, DC 20420. **DO NOT** send requests for benefits to this address.

PRIVACY ACT STATEMENT: Our authority for asking for the information you give to us when you fill out this form is 38 U.S.C. 7105(d)(3), a Federal statute that sets out the requirement for you to file a formal appeal to complete your appeal on a VA benefits determination. You use this form to present your appeal to the Board of Veterans' Appeals (Board). It is used by VA in processing your appeal and it is used by the Board in deciding your appeal. Providing this information to VA is voluntary, but if you fail to furnish this information VA will close your appeal and you may lose your right to appeal the benefit determinations you told us you disagreed with. The Privacy Act of 1974 (5 U.S.C. 552a) and VA's confidentiality statute (38 U.S.C. 5701), as implemented by 38 C.F.R. 1.526(a) and 1.576(b), require individuals to provide written consent before documents or information can be disclosed to third parties not allowed to receive records or information under any other provision of law. However, the law permits VA to disclose the information you include on this form to people outside of VA in some circumstances. Information about that is given in notices about VA's "systems of records" that are periodically published in the *Federal Register* as required by the Privacy Act of 1974. Examples of situations in which the information included in this form might be released to individuals outside of VA include release to the United States Court of Appeals for Veterans Claims, if you later appeal the Board's decision in your case to that court; disclosure to a medical expert outside of VA, should VA exercise its statutory authority under 38 U.S.C. 5109 or 7109, to ask for an expert medical opinion to help decide your case; disclosure to law enforcement personnel and security guards in order to alert them to the presence of a dangerous person; disclosure to law enforcement agencies should the information indicate that there has been a violation of law; disclosure to a congressional office in order to answer an inquiry from the congressional office made at your request; and disclosure to Federal government personnel who have the duty of inspecting VA's records to make sure that they are being properly maintained. See the *Federal Register* notices described above for further details.

INSTRUCTIONS

1. CONSIDER GETTING ASSISTANCE: We have tried to give you the general information most people need to complete this form in these instructions, but the law about veterans' benefits can be complicated. If you have a representative, we encourage you to work with your representative in completing this form. If you do not have a representative, we urge you to consider getting one. Most people who appeal to the Board of Veterans' Appeals (Board) do get a representative. Veterans Service Organizations (VSOs) will represent you at no charge and most people (more than 80 percent) are represented by VSOs. You can find a listing of VSOs on the Internet at: <http://www.va.gov/vso>. Under certain circumstances, you may pay a lawyer or "agent" to represent you. Your local VA office can further assist you with questions regarding how to appoint a VSO, attorney, or agent to represent you. You can reach your local VA office toll-free at 1-800-827-1000. Your local bar association may be able to provide you with the names of attorneys who specialize in veterans' law.

2. WHAT IS THIS FORM FOR? You told your local VA office that you disagreed with some decision it made on your claim for VA benefits, called filing a "Notice of Disagreement." That office then mailed you a "Statement of the Case" (SOC) that told you why and how it came to the decision that it did. After you have read the SOC, you must decide if you want to go ahead and complete your appeal so that the Board will review your case. If you do, you or your representative must fill out this form and file it with VA. "Filing" means delivering the completed form to VA in person or by mailing it based on the instructions you received with your SOC. Paragraph 4 tells you how much time you have to file this form and paragraph 7 tells you where you file it.

When we refer to "your local VA office" in these instructions, we mean the VA Regional Office that sent you the SOC or, if you have moved out of the area served by that office, the VA Regional Office that now has your VA records.

3. DO I HAVE TO FILL OUT THIS FORM AND FILE IT? Fill out this form and file it with VA *if* you want to complete your appeal. If you do not, VA will close your appeal without sending it to the Board for a decision. If you decide that you no longer want to appeal after you have read the SOC, you don't have to do anything.

4. HOW LONG DO I HAVE TO COMPLETE THIS FORM AND FILE IT? Under current law, there are three different ways to calculate how much time you have to complete and file this form. The one that applies to you is the one that gives you the *most* time:

(a) You have one year from the day your local VA office mailed you the notice of the decision you are appealing.

(b) You have 60 days from the day that your local VA office mailed you the SOC.

(c) Your local VA office may have sent you an update to the SOC, called a "Supplemental Statement of the Case" (SSOC).

If that SSOC was provided to you in response to evidence you or your representative submitted within the one-year period described in paragraph 4(a) of these instructions, above, and if you have not already filed this form, then you have at least 60 days from the time your local VA office mailed you the SSOC to file it even though the one-year period has already expired. See 38 C.F.R. 20.302(b)(2).

There is one special kind of case, called a "simultaneously contested claim," where you have 30 days to file this form instead of the longer time periods described above. A "simultaneously contested claim" is a case where two different people are asking for the same kind of VA benefit and one will either lose, or get less, if the other wins. If you are not sure whether this special exception applies, ask your representative or call your local VA office.

If you have *any* questions about the filing deadline in your case, ask your representative or your local VA office. **Filing on time is very important. Failing to file on time could result in you losing your right to appeal.**

5. WHAT IF I NEED MORE TIME? If you need more time to complete this form and file it, write to the address included on your SOC, explaining why you need more time. *You must file your request for more time before the normal time for filing this form runs out.* If you file by mail, VA will use the postmark date to decide whether you filed the form, or the request for more time to file it, on time.

6. WHAT KIND OF INFORMATION DO I NEED TO INCLUDE WHEN I FILL OUT THE FORM? While most of the form is easy to understand, please refer to the sections below for additional information regarding each block.

Block 3. If your appeal involves an insurance claim or some issue related to a VA home loan, enter your VA insurance or VA loan number here. For most kinds of cases, you will leave this block blank.

Blocks 4-7. These blocks are for information about the person who is filing this appeal. If you are a representative filling out this form for the person filing the appeal, fill in the information about that person, not yourself. Block 7 can be left blank if the person filing the appeal is the Veteran.

Block 8. This is the block where you tell us exactly *what* you are appealing. You do this by identifying the "issues" you are appealing. Your local VA office has tried to accurately identify the issues and has listed them on the SOC and any SSOC it sent you. Save what you want to tell us about *why* you are appealing for the next block (Block 9).

Check the first check box in Block 8 if you only want to continue your appeal on some of the issues listed on the SOC and any SSOC you received. List the specific issues you want to appeal in the space under the first box. While you should not use this form to file a new claim or to appeal new issues for the first time, you can also use this space to call the Board's attention to issues, if any, you told your local VA office in your Notice of Disagreement you wanted to appeal that are not included in the SOC or any SSOC. If you want to file a new claim, or appeal new issues (file a new Notice of Disagreement), do that in separate correspondence. *Do not check the second box if you check this box.*

If you think that your local VA office has correctly identified the issues you are appealing and, after reading the SOC and any SSOC you received, you still want to appeal its decisions on *all* those issues, check the second box in Block 8. *Do not check the first box if you check this box.*

Block 9. Use this block to tell us why you disagree with the decision made by your local VA office. Tie your arguments to the issues you identified in Block 8. Tell us what facts you think VA got wrong and/or how you think VA misapplied the law in your case. Try to be specific. If you are appealing a rating percentage your local VA office assigned for one or more of your service-connected disabilities, tell us *for each service-connected disability rating you have appealed* what rating would satisfy your appeal (The SOC, or SSOC, includes information about what disability percentages can be assigned for each disability under VA's "Rating Schedule.") You may want to refer to the specific items of evidence that you feel support your appeal, but you do not have to describe all of the evidence you have submitted. The Board will have your complete file when it considers your case. You should not attach copies of evidence you have already sent to VA.

In completing this block, please also let us know if there is any additional evidence that you feel needs to be obtained to support your appeal. You may either submit this evidence along with this response, or at a minimum notify VA of its existence so that the evidence can be obtained on your behalf.

If you need more space to complete Block 9, you can continue it on the back of the form and/or you can attach sheets of paper to the form. If you want to complete this part of the form using a computer word-processor, you may do so. Just attach the sheets from your printer to the form and write "see attachment" in Block 9.

Block 10. It is very important for you to check one, *and only one*, of the boxes in Block 10. This lets us know whether or not you want to appear at a Board hearing and, if so, where you want to appear. **Please keep in mind that a Board hearing is entirely optional, and it is not necessary for you to have a hearing for the Board to decide your appeal. Hearings often increase wait time for a Board decision.** *If you do not check any of the boxes, the Board will assume that you DO NOT want a Board hearing and your case will be decided taking into consideration the arguments already made, including your explanation on this form as to why you think VA decided your case incorrectly.*

If you ask for a Board hearing, you and your representative (if you have one) can tell us why you think the Board should act favorably on your appeal (present argument). You can also tell us about the facts behind your claim and you can bring others (witnesses) to the hearing who have information to give the Board about your case. At your option, you can submit more evidence at a Board hearing. If you do ask for a Board hearing, it can be very helpful to have a representative assist you at the hearing. Please note that VA *cannot* pay any expenses that you (or your representative or witnesses) incur in connection with attending any Board hearing.

The purpose of a hearing is to receive argument and testimony relevant and material to the issue or issues in your case that are on appeal. Hearings conducted by the Board are nonadversarial in nature. Parties to a hearing are permitted to ask questions, including follow-up questions, but cross-examination is not allowed. While the types of questions that may be asked are not limited by the legal rules of evidence that typically apply in an adversarial trial setting, reasonable bounds of relevancy and materiality still must be maintained.

Here is specific information about each of the check boxes in Block 10:

Box A: Check Box A if you decide that you *do not* want a Board hearing. It is *not* necessary for you to have a hearing for the Board to decide your appeal, and this is often the fastest option to issuance of a Board decision. If you feel that you have already sent VA everything that the Board will need to decide your case, including making all desired arguments in support of your appeal, then there is no need for a hearing to be held. In addition, a hearing is not needed if the only thing you would like to do is submit additional evidence in support of your appeal. Instead, you may submit such additional evidence, or at a minimum notify VA of its existence and request that it be obtained, without a hearing being held. If you choose, you may also write down what you would say at a hearing and submit it directly to the Board. *If you check this box, do not check any of the other boxes in Block 10.*

Box B: Check Box B if you want to appear at a live Board videoconference hearing. This option allows you to have a hearing by way of videoconferencing where you will be at the local VA office and the Veterans Law Judge hearing your case will be at the Board's offices in Washington, DC. Videoconferencing allows the Veterans Law Judge holding the hearing to see and hear you, your representative, and witnesses (if any). You will also be able to see and hear the Veterans Law Judge. *Please note that choosing a live videoconference hearing will delay issuance of a Board decision in your appeal due to scheduling demands. This type of hearing, however, can often be scheduled more quickly than a Board hearing where all participants (including the Veterans Law Judge) are physically present together at the local VA office.*

Box C: Check Box C if you want to appear for a hearing at the Board's offices in Washington, DC. Having your Board hearing by live videoconference (Box B) is usually less expensive for you, because you will not incur expenses associated with travel to Washington, DC. *Please note that choosing a Board hearing in Washington, DC, will delay issuance of a Board decision in your appeal due to scheduling demands.*

Box D: Check Box D if you want a Board hearing at your local VA office. If you select this option, both you and the Veterans Law Judge assigned to hear your case will be physically present together at the local VA office. *Please note that this option will significantly delay issuance of a Board decision in your appeal due to travel requirements and scheduling demands for Board personnel.* You can check with your local VA office for an estimate of how long it may take before your case could be scheduled for a Board hearing at that local VA office.

HEARINGS BEFORE VA REGIONAL OFFICE PERSONNEL: A hearing before VA regional office personnel, instead of before a Veterans Law Judge, is not a Board hearing. You can request a hearing before VA regional office personnel by writing directly to the regional office. **DO NOT** use this form to request that kind of hearing. If you do, it will delay your appeal. You should also know that requesting a hearing before VA regional office personnel does not extend the time for filing this form.

Blocks 11 and 12. This form can be signed and filed by *either* the person appealing the local VA decision, or by his or her representative. Sign the form in Block 11 if you are the person appealing, or if you are a guardian or other properly appointed fiduciary filing this appeal for someone else. In cases where an incompetent person has no fiduciary, or the fiduciary has not acted, that person's "next friend," such as a family member, can sign and file this form. If the representative is filing this form, Block 11 can be left blank. Regardless of who signs the form, we encourage you to have your representative check it over before it is filed. Place the date you sign in Block 12.

Blocks 13 and 14. If you are a representative filing this form for the appellant, sign in Block 13. Otherwise, leave Block 13 blank. If you are an accredited representative of a VSO, also insert the name of the VSO in Block 13. Note that signing this form will not serve to appoint you as the appellant's representative. Contact your local VA office if you need information on appointment. Place the date you sign in Block 14.

7. WHERE DO I FILE THE FORM ONCE I HAVE COMPLETED IT? When you have completed the form, signed and dated it, follow the instructions you received with your SOC of where to send the form.

8. OTHER SOURCES OF INFORMATION: You can find a "plain language" pamphlet that describes the VA appeals process called "How Do I Appeal" on the Internet at: [http://www.bva.va.gov/How Do I Appeal.asp](http://www.bva.va.gov/How_Do_I_Appeal.asp). You can also find the formal rules for the VA appeals process in title 38, Code of Federal Regulations, Part 20. A complete copy of the Code of Federal Regulations is available on the Internet at: <http://www.gpoaccess.gov/cfr/index.html>. A printed copy of the Code of Federal Regulations may also be available at your local law library. More general information about VA benefit programs and eligibility can be found on the Internet at: <http://www.va.gov>.

9. SPECIAL NOTE FOR ATTORNEYS AND VA ACCREDITED AGENTS. There are statutory and regulatory restrictions on the payment of your fees and expenses and requirements for filing copies of your fee agreement with your client with VA. See 38 U.S.C. 5904 and 38 C.F.R. 14.636-637.

NOTE: Please separate these instructions from the form before you file it with VA. We suggest that you keep these instructions with your other papers about your appeal for future reference.

EXHIBIT U

LAW OFFICES
WILLIAMS & CONNOLLY LLP

725 TWELFTH STREET, N.W.

WASHINGTON, D. C. 20005-5901

(202) 434-5000

FAX (202) 434-5029

LIAM MONTGOMERY
(202) 434-5030
lmontgomery@wc.com

EDWARD BENNETT WILLIAMS (1920-1988)
PAUL R. CONNOLLY (1922-1978)

December 17, 2015

Via Electronic Mail to robert.a.mcdonald@va.gov

Secretary Robert McDonald
United States Department of Veterans Affairs
810 Vermont Avenue, NW
Washington, DC 20420

Re: Edward Thomas Rose, File Number [REDACTED]

Dear Secretary McDonald:

I write to follow up from my letter of December 9, 2015, in which I asked your help in resolving specific problems Mr. Rose had encountered in his appeal. About a week after sending my letter, I received a call from John Moranzoni at the Roanoke Regional Office. Mr. Moranzoni assured me he had fixed the issues I raised, and was quite responsive in doing so. I take Mr. Moranzoni at his word and trust that Mr. Rose's file will finally now move through the system unhindered.

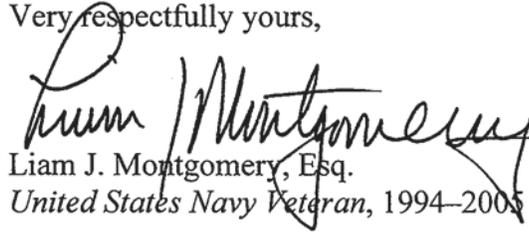
But I also want to underscore the unacceptability of the systemic delays he and every other veteran face. It should not take a personal appeal to your office by an attorney to cause an efficient response to inexcusable, persistent errors like Mr. Rose faced. And during the course of our discussions, Mr. Moranzoni informed me that Roanoke is currently processing Notices of Disagreement from 2013–14 and Form 9 appeals from 2010–11. This means that Mr. Rose (who has both a pending NOD and a pending Form 9) is likely facing four to six years of additional delay before his appeal *even reaches the BVA*, let alone gets finally adjudicated. That is on top of the four years since Mr. Rose first submitted his claim.

These delays ill serve our veterans, like Mr. Rose, who gave of themselves so willingly. They ill serve your Administration by virtue of the costs and reputational harm they impose. No one wins. I implore you to take all measures necessary to alleviate these delays in a fair and efficient manner, not just for Mr. Rose, but for all veterans like him.

Department of Veterans Affairs
December 17, 2015
Page 2

Again, I thank you for your time and attention. I am more than willing to answer any questions you might have.

Very respectfully yours,

A handwritten signature in black ink, appearing to read "Liam J. Montgomery". The signature is written in a cursive style with a large initial "L" and "M".

Liam J. Montgomery, Esq.
United States Navy Veteran, 1994-2005

Copy to: Mr. and Mrs. Edward and Heather Rose (by electronic mail only)

EXHIBIT V

LAW OFFICES
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EDWARD BENNETT WILLIAMS (1920-1988)
PAUL R. CONNOLLY (1922-1978)

March 8, 2016

Via Certified Mail, Return Receipt Requested

Manager, Veterans Service Center
Department of Veterans Affairs
Roanoke VA Regional Office
116 North Jefferson Street
Roanoke, Virginia 24016

Re: Edward Thomas Rose, File Number [REDACTED]

Dear Sir or Madam:

I am writing to respectfully request that you explain the delay in the VA's adjudication of my client, Edward Thomas Rose's claim and provide a date certain by which Mr. Rose can expect his file to be certified to the BVA for his appeal. The following briefly sets forth some of the actions Mr. Rose has taken to advance his case, and the delay (up to today's date) since he took each of those steps:

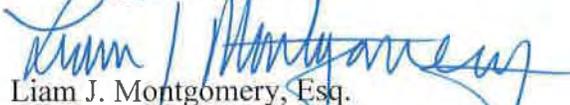
Date	Action	Delay to Today's Date
Nov. 22, 2011	Initial Claim Submission.	1568 days (4 years, 3 months, 15 days)
Feb. 26, 2014	Notice of Disagreement (re VA decisions of 3/14/2013, 7/24/2013 & 11/13/2013), with accompanying request for de novo review.	746 days
Feb. 3, 2015	DRO Hearing at Roanoke Regional Office.	399 days
Apr. 28, 2015	Statement of the Case.	315 days
May 8, 2015	Notices of Disagreement (re VA decisions of 11/19/2014 & 5/4/2015).	305 days
June 18, 2015	Form 9 Initiating BVA Appeal.	264 days
Sept. 16, 2015	Notice of Disagreement (re VA decision of 8/28/2015).	174 days

Department of Veterans Affairs
March 8, 2016
Page 2

At your earliest convenience but by no later than **April 7, 2016** (30 days from the date of this letter), please (1) explain the reasons behind these delays in issuing the paperwork necessary to perfect Mr. Rose's appeal to the BVA, and (2) provide a date certain by which the VA will act to provide such paperwork.

I thank you very much on behalf of Mr. and Mrs. Rose for your time and attention to this matter. Please feel free to contact me by telephone, email, or mail should you have any questions.

Very respectfully yours,


Liam J. Montgomery, Esq.
United States Navy Veteran, 1994-2005

Copy to: Mr. and Mrs. Edward and Heather Rose (by electronic mail only)

EXHIBIT W

LAW OFFICES
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EDWARD BENNETT WILLIAMS (1920-1988)
PAUL R. CONNOLLY (1922-1978)

April 7, 2016

Via Certified Mail, Return Receipt Requested

Manager, Veterans Service Center
Department of Veterans Affairs
Roanoke VA Regional Office
116 North Jefferson Street
Roanoke, Virginia 24016

Re: Edward Thomas Rose, File Number [REDACTED]

Dear Sir or Madam:

I write to follow up on my letter of March 8, 2016 requesting that you explain the delay in the VA's adjudication of my client, Edward Thomas Rose's claim and provide a date certain by which Mr. Rose can expect his file to be certified to the BVA for his appeal. In that letter, I set forth a chart describing just a few of the actions Mr. Rose has taken to advance his case, and the delay (up to that date) since he took each of those steps. In this additional request, I provide updated timeframes regarding the delays he faces:

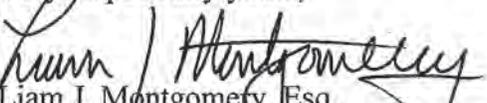
Date	Action	Delay to Today's Date
Nov. 22, 2011	Initial Claim Submission.	1598 days (4 years, 4 months, 16 days)
Feb. 26, 2014	Notice of Disagreement (re VA decisions of 3/14/2013, 7/24/2013 & 11/13/2013), with accompanying request for de novo review.	776 days
Feb. 3, 2015	DRO Hearing at Roanoke Regional Office.	429 days
Apr. 28, 2015	Statement of the Case.	345 days
May 8, 2015	Notices of Disagreement (re VA decisions of 11/19/2014 & 5/4/2015).	335 days
June 18, 2015	Form 9 Initiating BVA Appeal.	294 days
Sept. 16, 2015	Notice of Disagreement (re VA decision of 8/28/2015).	204 days

Department of Veterans Affairs
April 7, 2016
Page 2

At this point, we are left to consider court action in order to prompt the agency to action. But as we would prefer to resolve it without such action, I again request that, at your earliest convenience but by no later than **May 6, 2016** (29 days from the date of this letter), you please (1) explain the reasons behind these delays in issuing the paperwork necessary to perfect Mr. Rose's appeal to the BVA, and (2) provide a date certain by which the VA will act to provide such paperwork.

I thank you very much on behalf of Mr. and Mrs. Rose for your time and attention to this matter. Please feel free to contact me by telephone, email, or mail should you have any questions.

Very respectfully yours,


Liam J. Montgomery, Esq.
United States Navy Veteran, 1994-2005

Copy to: Mr. and Mrs. Edward and Heather Rose (by electronic mail only)

EXHIBIT X

Montgomery, Liam

From: Lorenzani, John D., VBAROAN <John.Lorenzani@va.gov>
Sent: Tuesday, April 26, 2016 11:06 AM
To: Montgomery, Liam
Cc: Heid, Tom, VBAROAN
Subject: rose case

Morning Mr. Montgomery-

We received your correspondence of April 7, 2016 requesting immediate action for the veteran Edward Rose 9917 appeals.

Thank you for inquiring on behalf of Mr. Rose's case. We are working hard to decrease our backlog of VA Form 9 (Appeal to the Board of Veterans' Appeal). We are actively working F9s received in 2010 and early 2011. Mr. Rose filed a VA Form 9 (Appeal to the Board of Veterans' Appeal) on June 22, 2015 and it is posted in our system. As we work forward to Mr. Rose's VA Form 9 date, we will work his case. We are also actively working NODs received in 2013. Mr. Rose filed a Notice of Disagreement (NOD) on February 3, 2015 and it is posted in our system. As we work forward to Mr. Rose's NOD date, we will work his case. We are working the oldest cases first in date order and priority one cases (Terminal cases, Homeless cases and Financial hardships, Prisoner of War cases).

We appreciate your inquiry and your patience as we work forward to reduce the appeals backlog and reach your client's VA Form 9 (Appeal to the Board of Veterans' Appeal).

Let me know if you have further questions on the case.

John Lorenzani
Quality Review Specialists/Attorney Fee Coordinator
211 Appeals
540-597-1401

EXHIBIT Y

VA



U.S. Department
of Veterans Affairs

Board of Veterans' Appeals Annual Report



Fiscal Year 2015

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Department of Veterans Affairs

Board of Veterans' Appeals

**Annual Report
Fiscal Year 2015**

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MEMBERS OF THE BOARD¹

Chairman

Executive in Charge: Laura H. Eskenazi

Vice Chairman

Laura H. Eskenazi

Principal Deputy Vice Chairman

Bruce P. Gipe

Deputy Vice Chairmen

Joaquin Aguayo-Pereles

David C. Spickler

Director, Office of Management, Planning and Analysis

Barbara C. Morton

Chief Counsel for Operations

Donnie R. Hachey

Chief Counsel for Policy

James D. Ridgway

Chief Veterans Law Judges

Keith Allen

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Kimberly E. Osborne

Theresa M. Catino

James March

Claudia Trueba

Dennis F. Chiappetta

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VETERANS LAW JUDGES¹

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Matthew Blackwelder
Kathy A. Banfield
Wayne M. Braeuer
Derek R. Brown
Bethany L. Buck
Sonnet Bush
Vito A. Clementi
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Kathleen Gallagher
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Brad Hennings
Milo H. Hawley

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Michelle Kane
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Michael E. Kilcoyne
Jonathan B. Kramer
Michael S. Lane
Mary Ellen Larkin
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Michael D. Lyon
James A. Markey
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Joy A. McDonald
Kerri M. Millikan
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Michael A. Pappas
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Jeffrey D. Parker
Ursula R. Powell
Steven D. Reiss
Harvey P. Roberts
Robert C. Scharnberger
Howard N. Schwartz
Holly L. Seesel
George R. Senyk
Deborah W. Singleton
Tanya Smith
Gayle E. Strommen
Matthew Tenner
Susan S. Toth
David L. Wight
Jessica Zissimos

¹ Pursuant to 38 CFR § 19.2(b), a member of the Board may also be known as a Veterans Law Judge.

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INTRODUCTION

The Board of Veterans' Appeals' (Board) mission is to conduct hearings and decide appeals properly before the Board in a timely manner. 38 United States Code (U.S.C.) § 7101(a). The Board's jurisdiction extends to all questions in matters involving a decision by the Secretary under a law that affects a provision of benefits by the Secretary to Veterans, their dependents, or their Survivors. 38 U.S.C. §§ 511(a); 7104(a). Final decisions on such appeals are made by the Board based on the entire record in the proceeding and upon consideration of all evidence and applicable provisions of law and regulation. 38 U.S.C. § 7104(a).

After the end of each fiscal year (FY), the Chairman is required to prepare a report on the activities of the Board during that fiscal year and the projected activities of the Board for the current and subsequent fiscal years. 38 U.S.C. § 7101(d)(1). This Annual Report includes two parts: Part I provides a discussion of Board activities during FY 2015 and projected activities for FYs 2016 and 2017; Part II provides statistical information related to the Board's activities during FY 2015 and projected activities for FYs 2016 and 2017.

The appeals process in the Department of Veterans Affairs (VA or the Department) is a complex, non-linear process, which is set in law and is unique from other standard appeals processes across Federal and judicial systems. A feature of the current VA appeals process is a continuous open record that allows a Veteran, Survivor, or other appellant to submit new evidence and/or make new arguments at any point from the beginning to the end of the appeals process. Additionally, the duty to assist throughout the appeals process requires VA to develop further evidence on the Veteran's behalf and pursue new arguments and theories of entitlement. Each time new arguments are presented and evidence is added/obtained, VA generally must issue another decision considering that evidence, which protracts the timeline for appellate resolution.

The appeals process consists of multiple steps, most of which occur at the Agency of Original Jurisdiction (AOJ), which includes the Veterans Benefits Administration (VBA), Veterans Health Administration (VHA), the National Cemetery Administration (NCA), and the Office of General Counsel (OGC). While the vast majority (98 percent) of appeals considered by the Board involve claims for disability compensation, the Board also reviews appeals involving other types of Veterans benefits, to include insurance benefits, educational benefits, home loan guaranties, vocational rehabilitation, dependency and indemnity compensation, health care delivery, burial benefits, pension benefits, and fiduciary matters. If an appeal is not resolved at the AOJ level to the Veteran's (or Appellant's) satisfaction, he or she may formally continue that appeal to the Board for a *de novo* review (*i.e.*, new look) and the issuance of a decision on behalf of the Secretary.



**U.S. Department of Veterans Affairs
Fiscal Year 2015
Veterans Law Judges**

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PART I

ACTIVITIES OF THE BOARD OF VETERANS' APPEALS FY 2015

The Board was established in 1933 and operates by authority of, and functions pursuant to, Chapter 71 of title 38, U.S.C. The Board consists of a Chairman, a Vice Chairman, and such number of members as may be found necessary to conduct hearings and dispose of appeals properly before the Board in a timely manner. 38 U.S.C. § 7101(a). “Members of the Board,” also known as “Veterans Law Judges” (VLJ), are supported by a large staff of attorneys and administrative personnel. 38 Code of Federal Regulations (CFR) § 19.2(b).

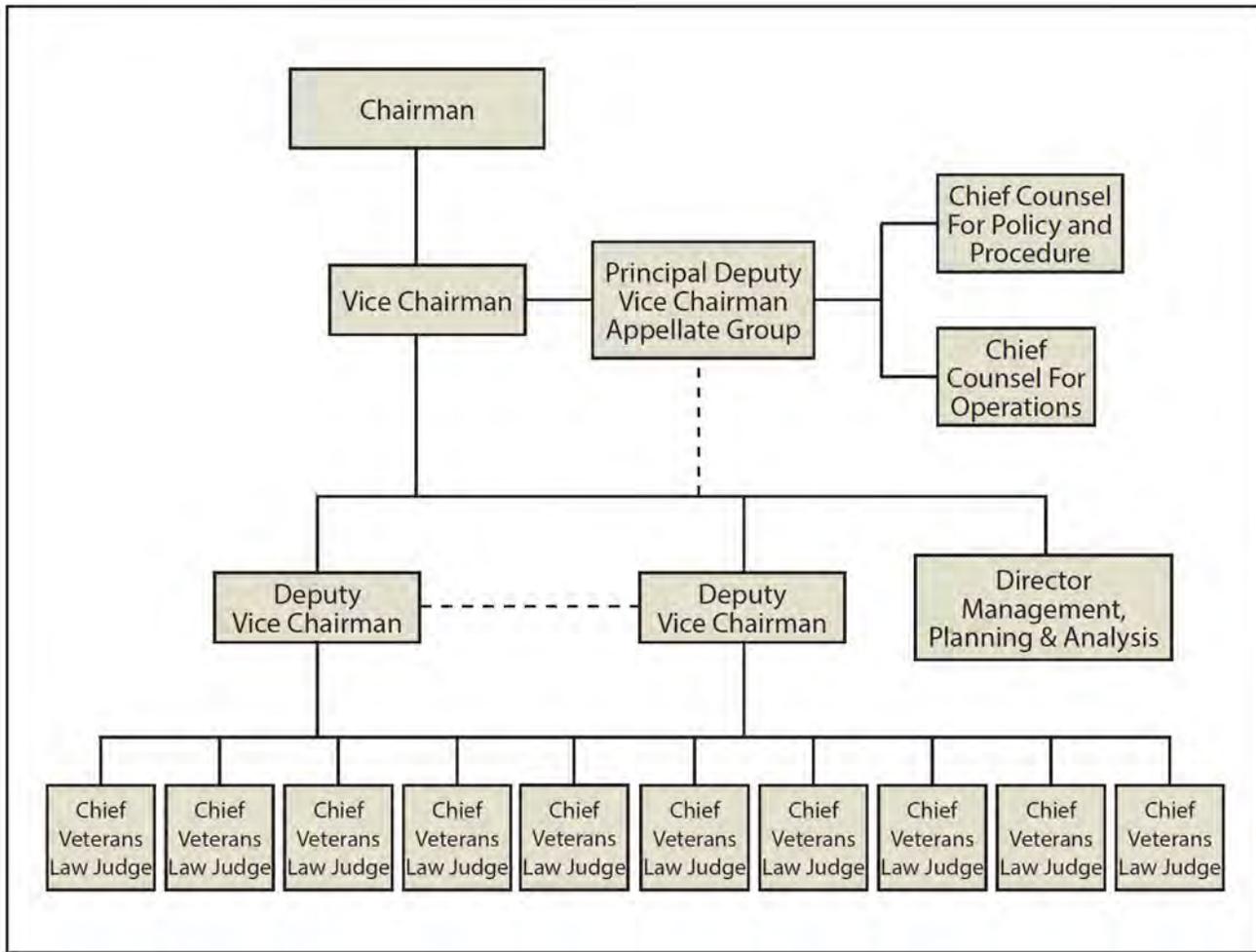
The Board is currently structured with four main components: the Office of the Chairman; the Appellate Group; the Office of Management, Planning and Analysis (MPA); and the Office of Veterans Law Judges (OVLJ). The Office of the Chairman consists of a Chairman (EX) and a Vice Chairman (Senior Executive Service (SES)/VLJ). The Chairman is appointed by the President, by and with the advice and consent of the Senate, for a term of 6 years, and is directly responsible to the Secretary. The Vice Chairman is a Member of the Board who is designated by the Secretary.

The Board's Appellate Group consists of a Principal Deputy Vice Chairman (SES/VLJ), a Chief Counsel for Operations (Senior Level (SL)/VLJ), and a Chief Counsel for Policy and Procedure (SL/VLJ). The Appellate Group provides legal advice and policy guidance to the Board and other VA business lines, and includes the following offices: Litigation Support, Quality Review, the Office of Learning and Knowledge Management (OLKM), Labor and Employee Relations, Human Resources, Regulations Office, Research Center, and a Medical Advisor.

MPA is the administrative directorate of the Board, consisting of the Director (SES), the Deputy Director, the Financial Management Division, the Administrative Support Division, which includes the Hearing Branch, and the OVLJ Support Division.

The OVLJ consists of two Deputy Vice Chairmen (DVC) (SES/VLJ), 10 Chief VLJs, up to 78 VLJs, and approximately 450 attorneys who prepare tentative written decisions for review and signature by a VLJ. VLJs are appointed by the Secretary, with the approval of the President, based upon recommendations of the Chairman. 38 U.S.C. § 7101A(a)(1).

Board Structure



Successes

FY 2015 was a year of many successes for the Board. In addition to continuing to provide outstanding service to Veterans by issuing high quality decisions and conducting hearings in appeals before the Board, the Board also continued to seek and implement innovative ways to improve business processes through technological advancements and other efficiencies.

Service to Veterans

In FY 2015, the Board issued 55,713 decisions for Veterans and their families – the highest number of decisions issued by the Board since the 1988 enactment of the Veterans’ Judicial Review Act (VJRA), which established the United States Court of Appeals for Veterans Claims (CAVC). Additionally, the Board’s VLJs and Acting VLJs personally interacted with Veterans and Appellants by holding 12,738 hearings, either conducted face-to-face at a VA facility, in-person at the Board’s location in Washington, DC (known as “Central Office” hearings), or through video teleconference (VTC) between the Board and a VA facility. Most VLJs traveled to at least two regional offices (RO) to conduct one week of hearings at each site (known as “Travel Board” hearings), in addition to holding a large number of VTC hearings and Central Office hearings.

The Board's cycle time, which measures the average time from the date an appeal is certified to the Board (VA Form 8) until a decision is dispatched (excluding the time the case is with a Veterans Service Organization (VSO) representative for review and preparation of written argument) was 160 days in FY 2015. The Board's total time, which measures the average time from the date an appeal is certified to the Board (VA Form 8) until a decision is dispatched including the time the case is with a VSO representative for review and preparation of written argument, was 270 days in FY 2015.

The Board received 52,509 appeals in FY 2015. As VBA has become more efficient at processing claims through its transformation efforts, the Board is receiving an increase in appeals proportionate to VBA's higher output in claims decisions. Based on trends in case receipts developed jointly by the Board and VA's Office of Management (OM), the Board anticipates receiving 88,183 appeals in FY 2016, which includes original appeals from VBA; returned remands from VBA's Appeals Management Center (AMC); appeals from other elements of VA, including VHA, OGC, and NCA; and cases returned by the CAVC. This is consistent with the historical rate of appeals received by the Board as a percentage of the claims decided by VBA.

In addition to dispatching 55,713 decisions in FY 2015, the Board's administrative support staff reviewed and processed 62,121 pieces of mail. Additionally, the administrative staff, including the Board's call center in Wilkes-Barre, Pennsylvania, answered 91,184 inquiries from Veterans or their representatives by phone, email, or written correspondence. The Board's Correspondence Unit issued 1,813 responses to Congressional inquiries and provided 1,691 appeal status updates to Veterans and Appellants. Furthermore, the Board requested 58 independent medical examination opinions and 670 VHA medical opinions on Appellant's cases.

Hearings

The Board is proud to have met and exceeded its FY 2015 goal of conducting at least 55 percent of hearings by VTC, holding a record 60 percent of hearings by VTC. The Board continued to encourage more widespread use of VTC hearings to reach Veterans and other Appellants at ROs and some VA medical centers. The Board held 12,738 total hearings, which represented a 17 percent increase in the number of hearings held in FY 2014 with the same number of VLJs. Moreover, the Board continued to survey hearing participants, with an impressive 95 percent of Veterans and Appellants reporting that they were either satisfied or very satisfied with their hearing and their interaction with the VLJ.

Technology

The Board continues to leverage technology where possible in order to gain efficiencies in appeals processing. In FY 2015, the Board increased focused efforts on modernizing appeals through a people, process, and technology strategic approach. The Board also continued to maintain its presence on eBenefits – a joint venture between VA and the Department of Defense, which provides Veterans the opportunity to check the status of their claims and appeals securely online or from their mobile device.

Hiring

The Board was able to hire staff to continue supporting its mission to serve more Veterans and their families. Specifically, in order to both maintain staffing levels and increase capacity where possible,

the Board hired 82 staff (including new positions and backfills for attrition), the majority of which were attorneys (68). Additionally, there is an ongoing recruitment of VLJs to reach the authorized level of 78 VLJs.

Training

In FY 2015, the Board continued to focus on methods to increase the quality of the decisions rendered while maintaining a high level of decision output. OLKM created targeted training for all employees based, in part, on trends gleaned from the Board's quality review process, as well as outcomes in cases heard before CAVC and the United States Court of Appeals for the Federal Circuit (Federal Circuit). Specifically, OLKM coordinated comprehensive training for Board counsel and VLJs, including courses on topics such as: 38 U.S.C. § 1151 claims, contested claims, claims involving herbicide agents, and state marriage laws, as well as continuous training for new hires. OLKM also designed and presented training targeted at reducing the number of cases remanded by the CAVC by focusing on how to properly apply precedential case law that most frequently serves as a basis for remand.

Additionally, the Board continued to offer medical training for its legal staff to address the increasing complexity of disability compensation appeals. The Board also conducted training for all staff regarding the Veterans Benefits Management System (VBMS), VA's electronic claims processing system, and provided training on the topics of psychological safety and effective communication skills. In addition, OLKM ensured that Board staff completed all VA-required on-line training courses, which are designed to support a strong management workforce.

Quality

In FY 2015, the Board continued to challenge employees to maintain high levels of quality, and through these efforts, achieved an accuracy rating of 93.98 percent in the decisions issued. The Board's accuracy rate (*i.e.*, the Board's deficiency-free rate) quantifies substantive factual and legal deficiencies in all decisions, whether an allowance, a remand, or a denial. To determine its accuracy rate, the Board uses a weighted formula that was created in collaboration with the Government Accountability Office (GAO) in 2002 and 2005. Specifically, 5 percent (1 out of 20) of all original appeals and 10 percent (1 out of 10) of all cases returning from remand by the CAVC are selected at random by the Veterans Appeals Control and Locator System (VACOLS) for an accuracy review by the Board's Quality Review Staff. Any quality deficiencies identified during the quality review process are addressed through appropriate follow-up training for VLJs and attorneys.

Efficiencies

The Board continued to leverage opportunities to enhance efficiencies in its operations in order to provide better service to Veterans. The Board actively pursued several business process improvements aimed at streamlining the complex appeals adjudication process in order to improve service to Veterans and their families. Such initiatives included: engaging internal and external stakeholders in streamlining the appeals adjudication process; maximizing available hearing resources for Veterans; clarifying internal procedures to optimize efficient caseflow; and leveraging technology to better modernize appeals processing.

The Board also clarified the procedures for assigning cases for decision to ensure adherence to the statutory requirement of deciding appeals "in regular order according to its place on the docket." 38 U.S.C. § 7107(a). Notably, effective October 1, 2008, when an appealed case is received at the Board, the appeal is activated (or reactivated if a returned remand) and formally docketed using

a priority order commensurate with the date that the substantive appeal was received at a VBA RO. *See* Chairman’s Annual Report to Congress, Fiscal Year 2010, at 16. The Board’s docket is comprised of all activated appeals in its inventory; the docket changes constantly because new appeals are docketed and other appeals are dispatched on a daily basis. Because the Board’s active inventory of docketed appeals is fluid, since October 2014, the Board has managed docket order workflow by taking a weekly “point-in-time” snapshot of the oldest docketed appeals, and using that snapshot as a blueprint for distributing the appeals in docket order for adjudication that coming week. Once cases are distributed from Central Case Storage by oldest docket, docket date is not the controlling factor – time then controls.

In FY 2015, the Board continued to implement various technological and process improvements to meet the anticipated rise in the incoming workload, particularly in light of the transition to a fully paperless appeals system. To this end, the Board is leading “Appeals Modernization” to better serve Veterans and their families and provide timely and quality appeals decisions. As a part of this broad effort, information technology funds have been requested to develop robust paperless functionality in the VA appeals process. This is part of the Board’s multi-pronged approach to leverage technology, people, process improvements, and long-needed legislative reform to most effectively serve Veterans and their families in the processing of appeals. Initial key appeals-specific functionalities in the paperless environment will focus on seamless integration of systems, and key accountability and workability features.

Employee Engagement

The Board continued to make strides in improving its organizational culture and climate through several initiatives in 2015. Specifically, the Board continued its ICARE recognition program, which was first deployed at the end of FY 2014. This program provides a forum for peer-to-peer recognition of accomplishments, achievements, and behaviors that reflect VA’s Core Values of Integrity, Commitment, Advocacy, Respect, and Excellence. Through this forum, a number of Board employees were nominated by their peers and recognized in a Board-wide newsletter for demonstrating one of these Core Values.

Additionally, in FY 2015, the Board rolled out a special edition Board newsletter titled “Hear Ye, Hear Ye!” that provides follow up information to all staff regarding ideas, questions, and concerns raised via the Board’s Suggestion Boxes. With the support of management, this staff-led initiative informs all Board employees of those suggestions that were put to action (You’ve Been Served), those that are under review (What’s On the Docket), and those that cannot be acted upon for various reasons (We Are Estopped).

Further, in FY 2015, the Board’s staff-led Survey Results Task Force (Task Force), which was formed in FY 2014 to discuss and analyze the Board’s 2013 survey results (including the VA All Employee Survey (AES), the American Federation of Government Employees (AFGE) Local 17 survey, and the Federal Employee Viewpoint Survey) continued to meet to form suggestions to present to senior leadership with the goal of improving organizational culture.

The Task Force, which met on a weekly basis throughout the year, presented a number of proposed action plans for improving communication at the Board to the senior leadership team in FY 2014. The ideas centered around increasing the transparency, consistency, and availability of information, and enhancing trust relationships and psychological safety. All 13 of the Task Force’s proposals were implemented in FY 2015, including distributing meeting minutes to all staff from the Board’s weekly senior manager meeting; publishing news reports regarding projects in the Board’s Appellate

Group in the Board's weekly newsletter; sharing Board policies, procedures, and information regarding commonly addressed issues via a "Chairman's Corner" SharePoint Web site; providing a regular visual reminder for staff of the annual decision goal and the number of Veterans already served; providing another forum for OVLJ (VLJs and attorneys) and MPA staff to hear about recent events, the reasoning behind OVLJ/MPA policy decision making, and other issues that affect daily work within their respective workgroups by conducting regularly held, interactive OVLJ/MPA Town Halls; continuing to conduct regularly held, interactive Board-wide meetings for staff to hear about recent events, the reasoning behind Board policy decision making, and other issues that affect the daily work of the Board; providing training for all staff on tactful, effective communication; and providing an anonymous forum (*i.e.*, the Board's Suggestion Boxes) for staff to ask questions of leadership on items of interest prior to Town Hall/Board-wide meetings. Together, these measures have improved communication at the Board and will continue to be tracked in future years.

In FY 2015, the Task Force continued to meet on a regular basis to review the progress made with regard to improving communication throughout the organization and to analyze the Board's 2014 survey results, with the aim of identifying additional areas for possible organizational improvement. Board leadership continues to actively encourage and support the work of this group, as well as other focus groups, such as the Organizational Climate and VLJ focus groups.

The Board is also very proud to report that, through the grassroots efforts of an employee-led campaign, the Board had its third record-breaking year with regard to AES employee participation, with 96.6 percent of the Board's 680-person staff (year-end on-board) participating in the 2015 AES – the highest response rate in the Department. The Board looks forward to analyzing these results and using them at all levels to continue improving workplace culture.

MyVA Initiatives

In the fall of 2014, Secretary McDonald announced the transformational movement, MyVA, with an emphasis on executing and cascading the principles embedded in the Department's 2014-2020 Strategic Plan throughout the organization. The movement toward MyVA will cultivate a high performing organization required to serve Veterans. In support of VA's vision to provide a seamless, unified Veteran experience across the entire organization, focus is centered on five priorities: improving the Veteran experience, improving the employee experience, achieving support services excellence, establishing a culture of continuous performance improvement, and enhancing strategic partnerships.

The Board continued existing programs as well as implementing new initiatives that improve the Board's relationships with Veterans. For example, the Board seeks to improve the Veteran experience by leveraging information gathered in a new Veteran satisfaction survey that measures the customer experience with the Board's call center, hearings with VLJs, and the overall appeals process. The Board also implemented a number of employee and leadership driven initiatives to improve the employee experience through various forms of feedback opportunities, mentoring programs, and career development opportunities. The Board continued to promote performance enhancement via recognition programs, and various types of training programs for all employees, including participation on VA's Performance Improvement Support Council. The Board partnered with the MyVA Shared Services Team on enterprise improvements, such as integrating the Board's call center with existing call centers, and with the United States Digital Service (USDS) Team to assist in the Appeals Modernization initiative. Lastly, the Board developed internal and external strategic partnerships to engage on improving the Veteran experience through internal efficiencies and to explore potential legislative changes in the appeals process.

Legislative Proposals

Board leadership continued to strongly promote discussion of a variety of legislative proposals aimed at implementing systemic changes that seek to increase efficiency in the appeals process in a way that is both fair and beneficial to Veterans, thereby improving the Veteran experience with this process. Close engagement with VA stakeholders, including VSOs, will be necessary to further these efforts.

Coordination with Administrations and Other Staff Offices

During the past year, the Board continued to actively partner with VA stakeholders across the corporate enterprise, including VBA, VHA, OGC, NCA, the Office of Information Technology (OIT), OM, Human Resources and Administration (HRA), and other staff offices in order to better serve Veterans and their families. In particular, the Board continued its efforts to conduct as many hearings as possible within full-time equivalent (FTE) employee levels in order to reduce the number of cases on appeal awaiting Board hearings. To this end, in FY 2015, the Board worked with VBA leadership to track the Travel Board and VTC hearing no-show rates in an effort to ensure that each hearing docket was fully maximized to serve as many Veterans and other Appellants as possible.

Additionally, as noted above, in FY 2015, the Board continued to lead “Appeals Modernization,” working closely with appeals representatives from VBA, VHA, OGC, NCA, and OIT. By focusing on VA appeals processing throughout the entire Department, Appeals Modernization leverages technology, people, process improvements, and long-needed legislative reform to most effectively serve Veterans and their families in the processing of appeals. As part of this effort, the Board, in partnership with VA’s Chief Technology Officer, leveraged a Presidential Innovation Fellow and the USDS Team, which is a small team of digital experts in the Executive Office of the President that is working to build the capacity of the Federal government to deliver world-class services to the American people, to lead the technical approach of the Appeals Modernization effort. The USDS Team that has been assigned to VA consists of seasoned engineers, designers, and product managers from some of the best-known companies in the private sector. To learn more about USDS, please visit: www.whitehouse.gov/digital/united-states-digital-service.

The Board also continued to work with VHA to improve training for clinicians on the legal adequacy for compensation adjudications.

During FY 2015, the Board continued to send counsel on Travel Board trips to provide VBA adjudicators with a training presentation that was jointly prepared by the Board and VBA. This presentation targets current changes in the law and seeks to ensure that full development of an appeal is completed by VBA prior to that appeal reaching the Board.

The Board also played an integral role in many intra-Departmental working groups during FY 2015. Consistent with the Department’s move to paperless claims and appeals processing, and in an effort to increase efficiency of mail processing, the Board worked with VBA’s Office of Business Process Integration to transition to centralized mail. The Board also coordinated with VBA’s Veterans Relationship Management Program Office to ensure that Veterans receive accurate, meaningful information through eBenefits concerning the status of appeals pending within the Department.

Veterans Service Organization Forums and Training

The Board continues to invite VSOs and attorneys who represent Appellants before the Board to VSO Forums, which are held periodically throughout the year to collaborate and update VSOs on activities and matters of general interest. These meetings address appeals issues raised by representatives and also facilitate the exchange of ideas and information. VSOs are also invited to participate in any in-house training that is provided to Board staff.

Volunteer Activities

The Board proudly supports Veterans and their families. In FY 2015, the Board continued to facilitate the collection and donation of comfort items for distribution to Veterans at the Washington, DC, VA Medical Center (VAMC), the Fisher House, and the United States Armed Forces Retirement Home (USAFRH). Staff members also participated in the Toys for Tots campaign organized by the United States Marine Corps Reserve, and collected calendars and valentines for Veterans to distribute at the USAFRH. The Board's Leadership Initiative (LI) organized groups of Board employees and family members to welcome WWII and Korean War Veterans to Washington, DC, arriving at Reagan National Airport as part of the Honor Flight Network, a 501(c) (3) organization that transports Veterans, free of charge, to our Nation's capital to visit those memorials dedicated to honoring their service and sacrifices. Members of LI also volunteer at the USAFRH's Spring Fling to assist with activities organized for Veterans and their families. Numerous Board employees participated in the Winterhaven Homeless Veterans Stand Down; the Veterans Day Ceremony at Arlington National Cemetery; and other outreach events at the VAMC in Washington, DC. The Board also actively participated in the Combined Federal Campaign and the Feds Feed Families food drive.

Significant Judicial Precedent and Its Effect on the Board

Throughout FY 2015, the CAVC and the Federal Circuit issued many significant decisions that impacted the way VA adjudicates appeals, including the following:

- ▶ ***Scott v. McDonald*, 789 F.3d 1375 (Fed. Cir. 2015):** In this case, the incarcerated Appellant requested a Board hearing and noted that his next potential opportunity for parole was over a year later. The RO scheduled the hearing in the interim and the Appellant did not attend. The Appellant requested a rescheduled hearing, but the Board denied the Appellant's request and denied the appeal on the merits. The claim was appealed to the CAVC, where the Appellant was represented by counsel. The hearing issue was not raised to the CAVC, but the case was remanded on other grounds. The Board then remanded the case to the RO for additional development while noting that the Appellant "has not renewed his request" for a hearing. The Board eventually denied the claim again. During the second appeal to the CAVC, the Appellant argued that the Board erred by denying him his right to a hearing. The CAVC refused to consider the argument because it had not been raised either in the prior CAVC appeal or to the Board during the intervening proceedings.

The Federal Circuit affirmed the CAVC. In doing so, it acknowledged that the doctrine of issue exhaustion was appropriate both before the Board and the CAVC in certain circumstances. However, the Federal Circuit also noted that the Board has a special obligation to read filings liberally, whether submitted by counsel or pro se appellant. The Federal Circuit then analyzed what constituted a liberal construction for these purposes,

stating: “There is a significant difference between considering closely-related theories and evidence that could support [an Appellant’s] claim for disability benefits and considering procedural issues that are collateral to the merits.” The Federal Circuit stated that, for procedural issues, an Appellant’s interest “may be better served by resolution of his claims” rather than by a remand that may not change the final outcome. As a result, the Federal Circuit stated: “Having initially failed to raise the procedural issue, the [Appellant] should not be able to resurrect it months or even years later when, based on new circumstances, the [Appellant] decides that raising the issue is now advantageous.” Accordingly, the Federal Circuit held: “[t]he Board’s obligation to read filings in a liberal manner does not require the Board or the [CAVC] to search the record and address procedural arguments when the [Appellant] fails to raise them before the Board.”

This case is significant as it relieves the Board from searching the record to address procedural arguments not raised by the Appellant.

- ▶ ***Nohr v. McDonald*, 27 Vet. App. 124 (2015):** In this case, the Board denied disability compensation benefits for a dysthymic disorder based on a finding that clear and unmistakable evidence demonstrated that the dysthymic disorder preexisted active duty service and was not aggravated by service, relying in part on a VHA specialist’s opinion. Prior to issuing its decision, the Board provided the Appellant and his representative with a copy of the VHA specialist’s opinion. In response, the Appellant submitted questions and requests for documents described as “interrogatories” for the specialist to answer concerning her opinion. In the alternative, the Appellant requested that the Board subpoena the specialist to appear at a personal hearing. In its decision denying disability compensation benefits for a dysthymic disorder, the Board denied the Appellant’s requests to have the specialist answer interrogatories or to issue a subpoena.

On appeal to the CAVC, the Appellant contended, in relevant part, that the Board violated his Fifth Amendment procedural due process rights when it declined to either require the specialist to respond to the set of interrogatories or issue a subpoena ordering the specialist to appear for a hearing. VA countered that the Appellant had no constitutional right to submit interrogatories to doctors who provide VA medical opinions, or to otherwise confront doctors at a hearing.

The CAVC determined that the submission of interrogatories to the Board reasonably raised issues concerning the competence of the VHA expert, the adequacy of her opinion, and VA’s duty to assist. With respect to the expert, the CAVC found a reasonable basis for the Appellant’s request for the expert’s curriculum vitae, especially in light of the examiner’s identification of a “personal limitation” in providing the opinion. Concerning the duty to obtain records, the CAVC found that the Board did not adequately address why the Appellant’s specific requests in the interrogatories for documents “potentially held by [the expert], a VHA employee” did not obligate VA to make a reasonable effort to assist him in obtaining those records. The CAVC stressed that the Board “reflexively reacted” to the term “interrogatories,” and as a result, failed to consider the requests in light of the duty to assist. The CAVC ultimately declined to discuss some of the Appellant’s arguments, including his Fifth Amendment due process claims, finding that addressing those arguments was unnecessary in light of the holding that VA had not complied with the statutory and regulatory duty to assist.

This case is significant because it clarified that VA's duty to assist may include efforts to respond to issues reasonably raised by the Appellant via submissions (to possibly include interrogatories) to the Board.

- ▶ ***Wages v. McDonald*, 27 Vet. App. 233 (2015):** The Board found that the Appellant met the schedular requirements for a total disability rating based on individual unemployability (TDIU) under 38 CFR § 4.16(a) as of December 11, 2009, and further found that he had been unable to secure or follow a substantially gainful occupation since that time; accordingly, he was awarded a TDIU, effective December 11, 2009. The Board also found that “medical and lay evidence suggests that the [Appellant] was unable to work prior to December 11, 2009[,] due to service-connected disabilities,” but the Board concluded that it lacked the authority to award TDIU for this period, because the Appellant did not meet the schedular criteria for TDIU in 38 CFR § 4.16(a) and remanded the matter to the Director of Compensation Service (Director) for extra-schedular consideration. The Director denied extra-schedular TDIU under 38 CFR § 4.16(b) and the RO implemented the Director's denial in a supplemental statement of the case. The Board then denied extra-schedular TDIU relying, in part, on the Director's opinion.

At the CAVC, the Appellant argued that the Board erred in relying on the Director's decision as evidence against his appeal for extra-schedular TDIU and that the Board owed no deference to the Director's opinion and must review this decision *de novo*. The Secretary argued that the Director's decision is not evidence and that the Board may only review the factual basis of the Director's decision for accuracy and completeness, leaving the Board without authority to overturn the Director's policy decision.

The CAVC rejected the Secretary's argument, and held that the issue of entitlement to extra-schedular TDIU was not a policy question, but was a question of law and fact that fell within 38 U.S.C. § 511(a). The CAVC held that “the policy decision was made when the Secretary promulgated a regulation mandating that all Veterans who are unemployable due to service-connected disabilities will be rated totally disabled, regardless of the schedular ratings assigned.” The CAVC also found that the Board erred as a matter of law in assigning weight to the Director's decision. The CAVC stated that the Director's decision is the *de facto* decision of the RO and is not evidence that can be weighed.

This case is significant because it establishes that the Board has jurisdiction to review *de novo* appeals concerning the matter of entitlement to extra-schedular TDIU after the Director has made a decision.

- ▶ ***Fountain v. McDonald*, 27 Vet. App. 258 (2015):** In this case, the Appellant appealed a decision of the Board that denied entitlement to service connection for tinnitus. The Board rejected the Appellant's statements concerning the continuity of his symptoms after service based on the absence of complaints of tinnitus symptoms during service and for many years after service. It was also noted that he had not filed a claim for VA benefits for tinnitus during the 29 years that had elapsed since his separation from service, despite filing other claims for compensation during that time period.

In addressing whether tinnitus was an “organic disease of the nervous system” and therefore entitled to the presumptions of service connection contained in 38 U.S.C. § 1101(3) and 38 CFR § 3.309(a), the CAVC held that the phrase “organic disease of the nervous system”

is ambiguous. After finding the Secretary's position "not persuasive," the CAVC held that tinnitus is a disease, not a symptom, consistent with the Secretary's recognition of tinnitus as a disability in VA's Schedule of Rating Disabilities, and, at a minimum, is an organic disease of the nervous system where there is evidence of acoustic trauma. As a result, the CAVC determined that the appellant may establish entitlement to VA benefits based on chronicity or the continuity of his symptoms.

In addition, the CAVC reaffirmed that the Board may weigh a claimant's lay statements against the absence of contemporary medical evidence, but must first establish a proper foundation for drawing inferences against a claimant from an absence of documentation.

The CAVC also held that, based on guidance provided to VA examiners in VA Training Letter 10-02 and VA Fast Letter 08-10, the Board erred when it failed to consider whether the Appellant's tinnitus was secondary to his service-connected hearing loss.

This case is significant because the CAVC held that service connection for tinnitus may be established under 38 U.S.C. § 1101(3) and 38 CFR § 3.309(a).

- ▶ ***Gray v. McDonald*, 27 Vet. App. 313 (2015):** In this case, the Board denied entitlement to service connection for several disabilities claimed as due to in-service exposure to herbicides. The Board concluded that it was VA's policy that service on board a ship that anchored in Da Nang Harbor, in and of itself, does not constitute service in the inland waters of Vietnam for the purposes of applying the presumptive provisions of 38 CFR §§ 3.307, 3.309(e). In making this conclusion, the Board relied on a December 2008 Compensation and Pension Service (C&P) Bulletin, a September 2010 VBA Training Letter (Training Letter 10-06), the VA Adjudication Procedures Manual 21-1 Rewrite (M21-1MR), and the Federal Circuit's decision in *Haas v. Peake*, 525 F.3d 1168 (2008).

The CAVC vacated and remanded in part, holding that VA's interpretation of 38 CFR § 3.307(a)(6)(iii) designating Da Nang Harbor as an offshore, rather than an inland, waterway is inconsistent with the purpose of the regulation and does not reflect the Agency's fair and considered judgment. The CAVC pointed out that, although the herbicide exposure presumption is purportedly applied where there is evidence of spraying, the documents the Board relied upon are devoid of any indication that VA made a fact-based assessment of the probability of exposure in Da Nang Harbor from aerial spraying. Instead, Training Letter 10-06, the M21-1MR, and the December 2008 C&P Bulletin reflect that VA based its designation of Da Nang Harbor on geographical characteristics – depth and ease of entry – and not on spraying.

Although the CAVC found VA's definition of inland waterways irrational and not entitled to deference, it noted that VA retains discretionary authority to define the scope of the presumption. As such, the CAVC vacated the Board decision, and remanded the matter for VA to reevaluate its definition of inland waterways – particularly as it applies to Da Nang Harbor – and to define inland waterways in a manner consistent with the regulation's emphasis on the probability of exposure.

The Board's Goals for Fiscal Years 2016 and 2017

The Board is prepared to meet the challenge of transforming into a 21st century organization that will increase the number of Veterans served, increase efficiency in the appeals system, and leverage intra-Departmental partnerships to improve both the Veteran experience and the employee experience. These goals will be achieved through the coordinated efforts of all employees, each of whom is expected to maintain the core values of integrity, commitment, advocacy, respect, and excellence in all actions.

1. Increase the Number of Veterans Served and Optimize Accuracy

In the coming year, the Board will continue to focus on maximizing the number of Veterans and family members served through issuance of appeals dispositions by using a multi-pronged strategic approach. Specifically, the Board will leverage existing resources by concentrating on the following:

- ▶ **Internal training:** Continued training efforts in the new fiscal year will provide the Board's VLJs and attorneys with the latest information on a variety of legal and medical topics, and will enable the Board to maintain its high quality/accuracy rating, which was an impressive 93.98 percent in FY 2015.
- ▶ **Targeted intra-Departmental training:** As in FY 2015, in FY 2016, the Board will continue coordinating with VBA on joint training efforts. In FY 2015, the Board provided jointly approved training to RO staff on topics of interest identified by the Board's OLKM and Office of Quality Review, and by VBA. The Board will also continue to work closely with VBA to assist with the shared goal of resolving appeals at the earliest stages of the appeals process, including the period of time when an appeal is still pending at VBA. Additionally, OLKM and the Quality Review staffs of both the Board and VBA will continue to work together to identify trends and target training to common issues, and will continue to assist VHA with training efforts focused on training clinicians who provide examinations in conjunction with compensation claims on the legal requirements of such exams. These efforts will help ensure that claims are developed properly at the local level in the first instance, ultimately decreasing wait times for final decisions.

The Board will also continue to closely track the reasons for remand in those cases that must be remanded for further development, and make that data available to all VA components in the adjudication system for management and training purposes. In addition, the Board's OLKM and Office of Quality Review will continue to engage in extensive liaison efforts with VBA's AMC in FY 2016.

- ▶ **Utilizing a robust Flexiplace Program for employees:** Since 2005, the Board has served as a telecommuting model for other offices within the Department with its "Flexiplace" program. This program enables the Board to attract and retain attorneys as an employer of choice. In connection with this program, the Board has successfully implemented a number of data security safeguards, such as encryption software for Board laptops used by Flexiplace Program participants and locked cabinets at the primary residence for the laptop and claims folders. Each Flexiplace participant agrees to abide by the rules of the program, which include strict safeguards to protect sensitive data. In FY 2015, over 240 (approximately 35 percent) of the Board's employees telecommuted in some capacity.

- ▶ **Strengthening partnerships across the VA enterprise:** As in previous years, the Board will continue to meet with representatives from VBA, VHA, and OGC on a monthly basis to discuss ways to improve the quality of services provided to Veterans. The Board will continue to contribute to these partnerships and play an active role in the VA community.

All these measures combined will work to increase the Board's decision output and improve accuracy, and will sustain fruitful, collaborative partnerships across the VA enterprise to better serve Veterans and their families.

2. Employee Engagement

FY 2015 marked a renewed focus to improve organizational climate and morale through grass roots initiatives such as the Survey Results Task Force and other focus groups. The Board will continue to build on these efforts and looks to expand on new ideas in the upcoming fiscal years.

3. Advocate for Legislative Initiatives

As discussed above, in FY 2015, the Secretary submitted a number of legislative proposals advanced by the Board to Congress, which seek to streamline and improve timeliness in the processing of Veterans' benefits appeals. The Board intends to advance a variety of additional proposals in FY 2016 and FY 2017, and collectively, these proposals, if passed into law, will result in improved timeliness and efficiency of VA's adjudication of appeals, both at the local and Board levels.

4. Appeals Modernization

FY 2015 marked a significant transition to paperless appeals processing at the Board. The Board received a steady increase in paperless appeals over the course of the year, with paperless appeals constituting a majority of its active workload at the end of the fiscal year. The Paperless Appeals Office, established in February 2014, will continue to have a prominent role in training, troubleshooting, and addressing intra-Departmental issues arising from the shift to a paperless appeals workload.

Additionally, as noted above, the Board is pursuing enterprise-wide "Appeals Modernization" to better serve Veterans and their families and provide timely and quality appeals decisions. As a part of Appeals Modernization, information technology funds are being requested to develop and optimize paperless functionality in VA appeals processing. This effort is part of the Board's multi-pronged approach to leverage technology, people, and process improvements to most effectively process appeals. With FY 2016 IT funding enacted, the Department will be able to begin a multi-phase process of enhancing appeals functionality in the paperless environment.

These enhancements are necessary to keep pace with the transformation of benefits processing that has occurred on the front end (*i.e.*, claims) of the VA benefits system. Initial key appeals-specific functionalities in the paperless environment will focus on seamless integration of systems, and key accountability and workability features. This investment will allow the Department to contain and ultimately reduce the VA appeals inventory, which currently stands at over 427,000 appeals, and will also pay dividends in the out-years, as VA will be able to efficiently process future appeals workload.

Workforce Planning

As previously noted, the Board successfully hired and on-boarded approximately 82 new FTE in FY 2015, the majority of which were attorneys. The Board remains able to attract high-caliber attorneys and administrative personnel because the mission to serve Veterans is one that is particularly desirable to those seeking a career in public service.

The Board is dedicated to achieving the goal of making VA an employer of choice for its employees. To this end, in FY 2015 the Board undertook an aggressive campaign to increase participation in the 2015 VA AES – a survey that collects information on employee perceptions of the workplace and satisfaction at work. This campaign was a success, resulting in an unprecedented response rate of 96.6 percent, the highest in the Department. All levels of Board management will work together to analyze the Board’s 2015 VA AES results and implement improvements as needed in FY 2016.

Additionally, the Board has established itself as a workplace where diversity and inclusion is valued, and employees are motivated to contribute the full extent of their knowledge, skills, and experience to the benefit of our organization. Moreover, in matters of recruitment and retention, the Board continues to maintain an in-house program for all employees regarding issues of diversity and inclusion that illuminates the goals in place for sustaining a diverse workforce. Further, one of the Board’s SES serves as a standing member on the VA Diversity Committee and the Subcommittee on Emerging Issues.

Finally, in FY 2015, the Board continued to offer its internal leadership program known as the “Shadow Program,” which aims to develop the leadership skills of junior attorneys and administrative staff by providing a more global view of the Board and its role within the Department. A week-long session is offered to staff that are selected to participate, and each selectee gains exposure to the daily management and operations of the Board. Many components of the Board are involved in the program, including the Chairman’s Office, MPA, and the Appellate Group. The Board also continues to send high performing attorneys, VLJs, and administrative professionals to leadership seminars and programs, such as Leadership VA, and programs offered through the Office of Personnel Management’s Federal Executive Institute and its Management Development Centers. These robust training courses are an integral part of the Board’s commitment to developing its future leaders.

PART II

STATISTICAL DATA

Fiscal Year 2015 Information

The following information is required by 38 U.S.C. § 7101(d)(2):

38 U.S.C. § 7101(d)(2)(A)

Number of cases formally appealed to the Board (Substantive Appeal (VA Form 9) filed), but not yet certified and docketed at the Board):	52,509
Number of appeals certified to the Board during FY 2015:	69,957*

38 U.S.C. § 7101(d)(2)(B)

Cases pending (certified) before the Board at the start of FY 2015:	66,778*
Cases pending (certified) before the Board at the end of FY 2015:	81,022*

*Includes certified appeals pending in the field awaiting hearings, as well as cases docketed and actually pending at Board. Beginning in FY 2015, the Board reported case receipts beginning with certification (Form 8) in the field. In prior years, case receipts only included physical receipt of cases at the Board. Case receipts include original appeals, remands, non-VBA receipts, and cases returned by the CAVC.

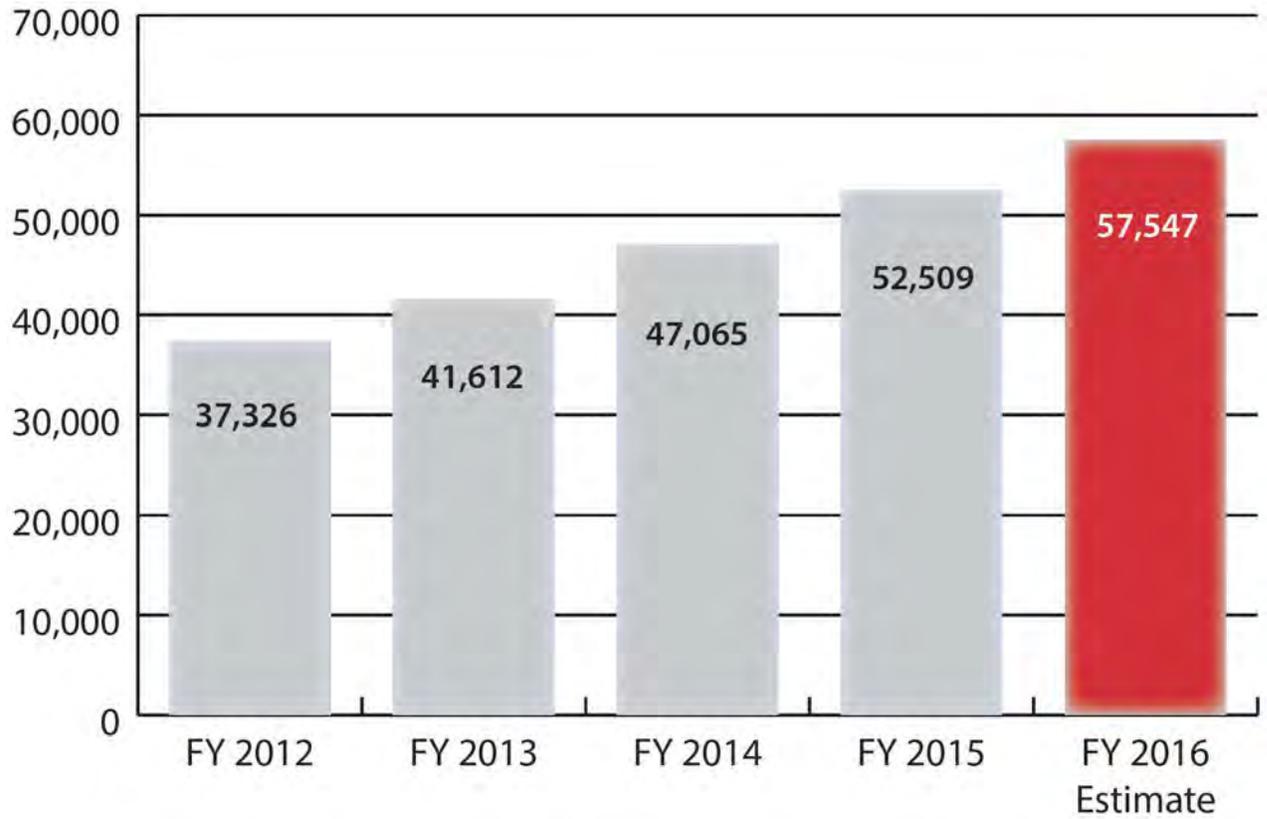
38 U.S.C. § 7101(d)(2)(C)

Number of Substantive Appeals (VA Form 9) filed at the AOJ and cases received at the Board during each of the 36 months preceding FY 2015.

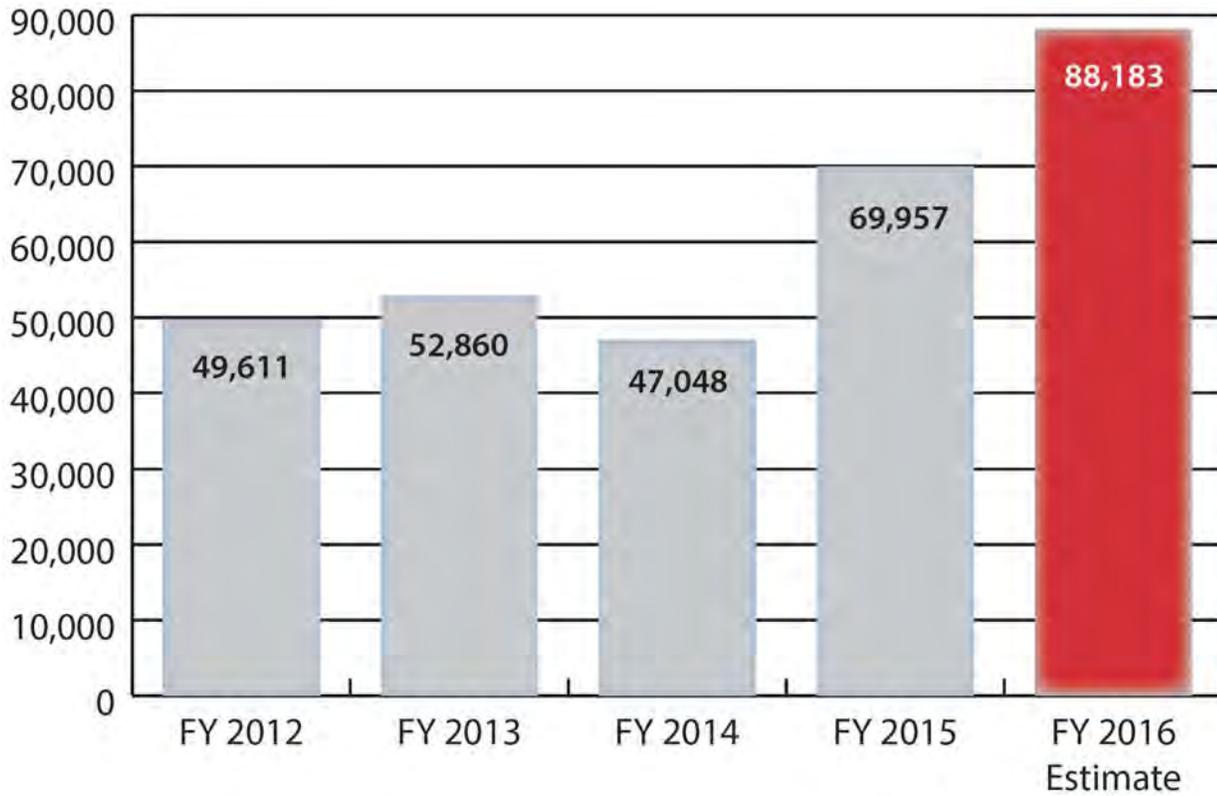
Substantive Appeals (VA Form 9) Filed					Cases Received at the Board*			
Month	FY 2012	FY 2013	FY 2014	FY 2015	FY 2012	FY 2013	FY 2014	FY 2015
October	2,804	3,900	3,133	4,724	2,917	4,864	3,234	8,089
November	3,033	3,057	3,109	3,564	2,891	4,922	3,544	4,365
December	2,936	3,053	3,257	4,327	3,280	3,454	3,787	4,577
January	2,617	3,730	3,909	4,271	5,648	4,386	3,230	4,971
February	2,460	3,340	3,861	3,262	3,378	4,467	3,011	4,914
March	3,371	3,254	4,217	4,455	4,198	4,975	3,926	6,376
April	3,138	3,588	4,796	4,674	4,774	5,256	3,934	5,960
May	3,545	4,030	4,688	4,622	5,000	4,667	4,265	5,396
June	3,311	3,072	4,618	4,893	4,228	4,309	4,250	6,595
July	3,361	3,611	4,135	4,749	4,478	4,183	3,943	5,823
August	3,483	3,478	3,539	4,389	4,466	3,907	4,658	6,527
September	3,267	3,499	3,803	4,579	4,353	3,470	5,266	6,364
FY Total	37,326	41,612	47,065	52,509	49,611	52,860	47,048	69,957

*Case receipts include original appeals, remands, non-VBA receipts, and cases returned by the CAVC. Beginning in FY 2015, the Board reported case receipts beginning with certification (Form 8) in the field. In prior years, case receipts only included physical receipt of cases at the Board.

Substantive Appeals Filed at AOJ (VA Form 9) FY 2012 - FY 2015



Cases Received at Board* FY 2012 - FY 2016



*Case receipts include original appeals, remands, non-VBA receipts, and cases returned by the CAVC. Beginning in FY 2015, the Board reported case receipts beginning with certification (Form 8) in the field. In prior years, case receipts only included physical receipt of cases at the Board.

38 U.S.C. § 7101(d)(2)(D)

The average length of time between the filing of an appeal (*i.e.*, Substantive Appeal (VA Form 9)) at the AOJ and the Board’s disposition of the appeal was 1,029 days in FY 2015. As reflected in the chart below, the average time between an appeal that was actually received and docketed at the Board to disposition was 270 days. The chart also provides the average processing time between other distinct steps within the multi-step appeals process that take place at the AOJ or VBA level.

Time Interval	Responsible Party	Average Elapsed Processing Time	
Notice of Disagreement Receipt to Statement of the Case	VBA	419 days	} AOJ
Statement of the Case Issuance to Substantive Appeal (VA Form 9) Receipt	Appellant	39 days	
Substantive Appeal Receipt to Certification of Appeal	VBA	537 days	
Certification of Appeal to Board Receipt of Certified Appeal	Board	222 days	} Board
Receipt of Certified Appeal to Issuance of Board Decision*	Board	270 days	
Average Remand Time Factor	VBA	255 days	} AOJ

***This includes the Board’s cycle time of 160 days.** Cycle time measures the time from when an appeal is actually received at the Board until a decision is reached, excluding the time the case is with a VSO representative for preparation of written argument.

38 U.S.C. § 7101(d)(2)(E)

The number of members of the Board at the end of FY 2015: **63 members**

The number of professional, administrative, clerical and other personnel employed by the Board at the end of FY 2015: **617 employees**
(not including 63 members above)

38 U.S.C. § 7101(d)(2)(F)

Number of acting members of the Board during FY 2015: **38**

Number of cases in which acting members participated*: **5,349**

38 U.S.C. § 7101(c)(2)

Number of acting members of the Board in terms of full-time equivalent employees: **16**

*For this report, the number of cases in which acting members participated is defined as the number of dispositions issued by the acting members.

Projections for Fiscal Years 2016 and 2017

The following information is required by 38 U.S.C. § 7101(d)(3):

38 U.S.C. § 7101(d)(3)(A)

Estimated number of cases that will be appealed to Board

Fiscal Year 2016:	VA Form 9s filed at the AOJ:	57,547
	Cases certified to the Board:	88,183
Fiscal Year 2017:	VA Form 9s filed at the AOJ:	120,003
	Cases certified to the Board:	359,807

Note: Appeal receipts are contingent upon the rate of certification and transfer of cases by VBA and other AOJs to the Board. Case receipts include original appeals, remands, non-VBA receipts, and cases returned by the CAVC.

38 U.S.C. § 7101(d)(3)(B)

Evaluation of the ability of the Board (based on existing and projected personnel levels) to ensure timely disposition of such appeals as required by 38 U.S.C. § 7101(a):

The indicator used by the Board to forecast its future timeliness of service delivery is the Board's "response time" on appeals. By taking into account the Board's most recent appeals processing rate and the number of appeals that are currently pending before the Board, the Board response time projects the average time that will be required to render decisions on that group of pending appeals. For response time computation, the term "appeals pending before the Board" includes appeals at the Board and those that have been certified for Board review, but are held in the field pending Travel Board or VTC hearings.

The following categories are calculated as follows:

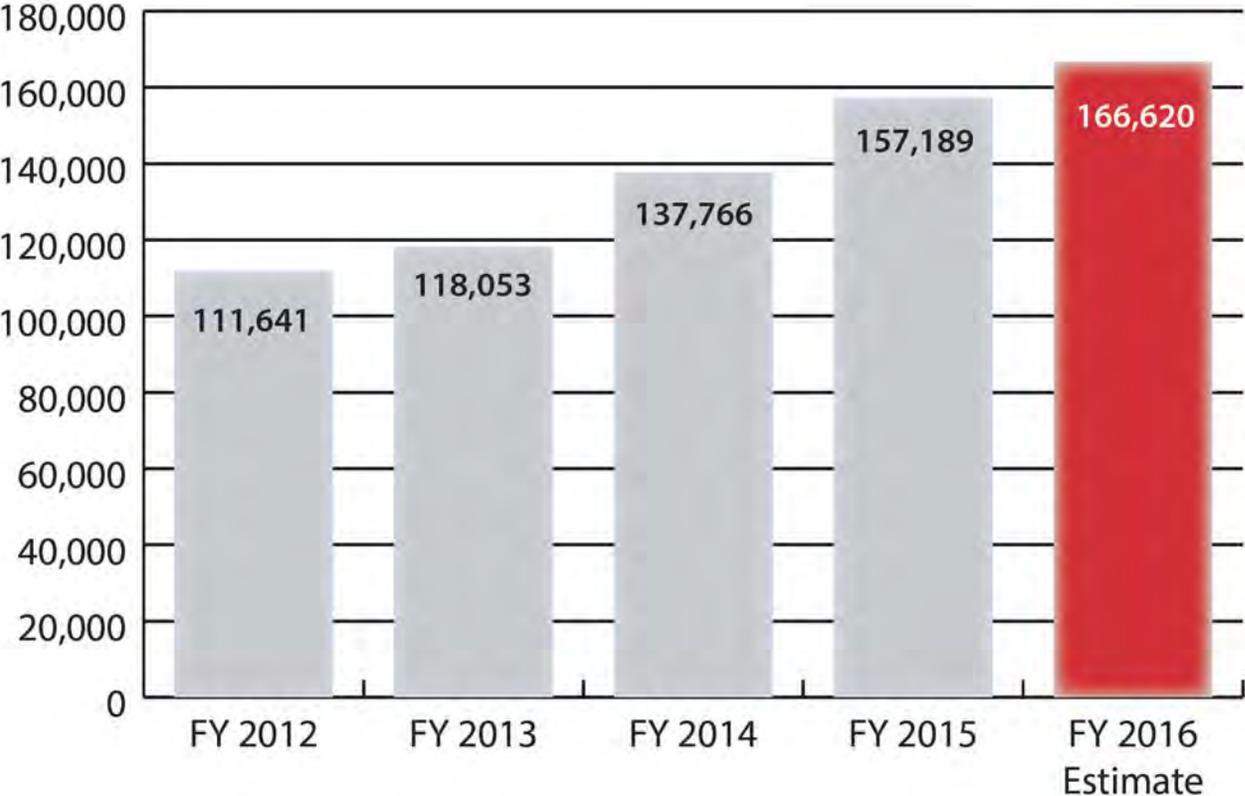
<u>FY 2015 decisions (55,713) (divided by)</u> 251 Work Days	= 222.0 Decisions per Work Day
Cases Pending at end of FY 2015 (81,022) <u>+ New Cases expected in FY 2016 (88,183)</u>	= 169,205 Total Workload in FY 2016
<u>Total Workload (169,205) (divided by)</u> Decisions per Work Day (222.0)	= 762 Work Days
<u>Work Days (762) (divided by)</u> 251 Work Days	= 3.0 Years
Work Years (3.0) x 12 (months)	= 36 Months

ADDITIONAL INFORMATION

Potential Board Workload at VBA

Number of Notices of Disagreement Received in the Field				
Month	FY 2012	FY 2013	FY 2014	FY 2015
October	9,678	10,909	12,763	13,023
November	8,563	9,006	10,782	10,182
December	8,450	8,053	10,058	10,763
January	9,490	9,468	11,295	10,939
February	9,094	8,883	10,574	11,122
March	10,208	9,743	12,336	13,709
April	9,847	10,056	12,346	14,064
May	10,101	10,130	12,783	13,872
June	9,303	10,498	13,303	15,318
July	9,131	11,093	12,375	15,328
August	10,065	11,232	10,828	15,032
September	7,711	8,982	8,323	13,837
FY Total	111,641	118,053	137,766	157,189

Notices of Disagreement Received FY 2012 - FY 2015



**Board of Veterans' Appeals
Board Dispositions by VA Program FY 2015**

APPEAL PROGRAM	ALLOWED		REMANDED		DENIED		OTHER		TOTAL	
	No.	Percent	No.	Percent	No.	Percent	No.	Percent	No.	Percent
Burial Benefits	8	8.08%	23	23.23%	68	68.69%	0	0.00%	99	0.18%
Compensation	16,633	31.80%	24,619	47.07%	9,299	17.78%	1,753	3.35%	52,304	93.88%
Education	101	16.92%	155	25.96%	324	54.27%	17	2.85%	597	1.07%
Insurance	1	4.76%	6	28.57%	14	66.67%	0	0.00%	21	0.04%
Loan Guaranty	7	15.22%	18	39.13%	19	41.30%	2	4.35%	46	0.08%
Medical	179	23.46%	284	37.22%	259	33.94%	41	5.37%	763	1.37%
Pension	119	13.92%	295	34.50%	399	46.67%	42	4.91%	855	1.53%
VR&E	4	5.97%	37	55.22%	19	28.36%	7	10.45%	67	0.12%
Other Programs	9	16.67%	19	35.19%	20	37.04%	6	11.11%	54	0.10%
BVA Original Jurisdiction	10	8.85%	1	0.88%	69	61.06%	33	29.20%	113	0.20%
NCA Burial Benefits	3	6.98%	8	18.60%	31	72.09%	1	2.33%	43	0.08%
Fiduciary	0	0.00%	0	0.00%	0	0.00%	1	0.00%	1	0.00%
Multiple Program Areas	205	27.33%	416	55.47%	107	14.27%	22	2.93%	750	1.35%
GRAND TOTAL	17,279	31.01%	25,881	46.5%	10,628	19.08%	1,925	3.46%	55,713	100%

**Board of Veterans' Appeals
Board Dispositions by Representation FY 2015**

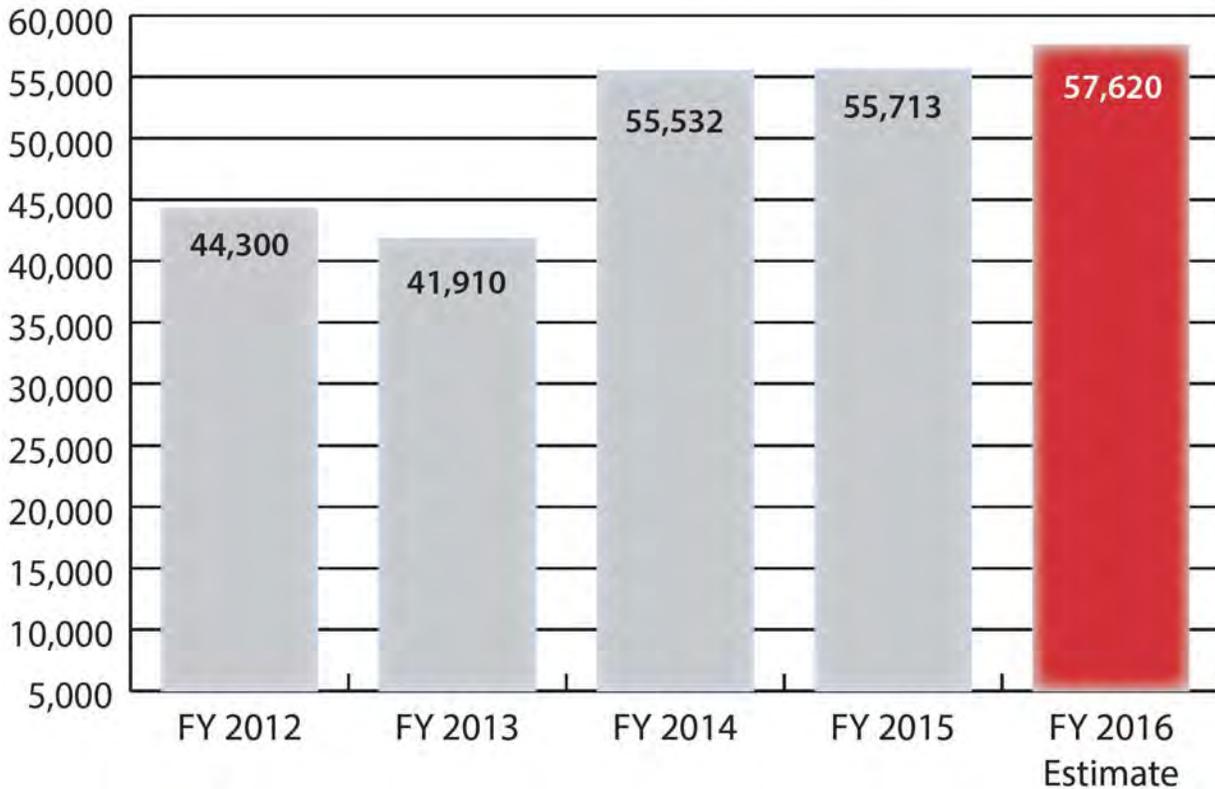
REPRESENTATION	ALLOWED		REMANDED		DENIED		OTHER		TOTAL	
	No.	Percent	No.	Percent	No.	Percent	No.	Percent	No.	Percent
American Legion	2,537	30.3%	3,988	47.6%	1,527	18.2%	331	3.9%	8,383	15.0%
AMVETS	63	39.6%	67	42.1%	21	13.2%	8	5.0%	159	0.3%
Disabled American Veterans	4,782	30.6%	7,526	48.1%	2,759	17.6%	567	3.6%	15,634	28.1%
Military Order of the Purple Heart	149	33.0%	219	48.6%	74	16.4%	9	2.0%	451	0.8%
Paralyzed Veterans of America	91	28.5%	150	47.0%	58	18.2%	20	6.3%	319	0.6%
Veterans of Foreign Wars	1,842	32.5%	2,479	43.7%	1,173	20.7%	173	3.1%	5,667	10.2%
Vietnam Veterans of America	254	29.0%	446	50.9%	141	16.1%	35	4.0%	876	1.6%
State Service Organizations	2,739	29.7%	4,112	44.6%	2,074	22.5%	286	3.1%	9,211	16.5%
Attorney	2,902	39.1%	3,500	47.2%	752	10.1%	267	3.6%	7,421	13.3%
Agent	317	35.5%	441	49.4%	112	12.6%	22	2.5%	892	1.6%
Other	260	27.2%	461	48.3%	205	21.5%	29	3.0%	955	1.7%
Wounded Warrior Project	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
No Representation	1,343	23.4%	2,492	43.4%	1,732	30.1%	178	3.1%	5,745	10.3%
GRAND TOTAL	17,279	31.0%	25,881	46.5%	10,628	19.1%	1,925	3.5%	55,713	100.0%

Board Decisions

Fiscal Year	Decisions	Allowed	Remanded	Denied	Other
2012	44,300	28.4%	45.8%	22.5%	3.3%
2013	41,910	26.2%	45.6%	24.2%	4.0%
2014	55,532	29.2%	45.5%	21.5%	3.8%
2015	55,713	31.0%	46.4%	19.1%	3.5%

The historical reporting system for Board decisions with multiple issues identifies the disposition of an appeal based on the following hierarchy: allowance, remand, denial, or other (*i.e.*, dismissals). When there is more than one disposition involved in a multiple issue appeal the “reported disposition” for Board Statistical Reports will be categorized based on the disposition hierarchy noted above.

Board Decisions FY 2012 - FY 2015



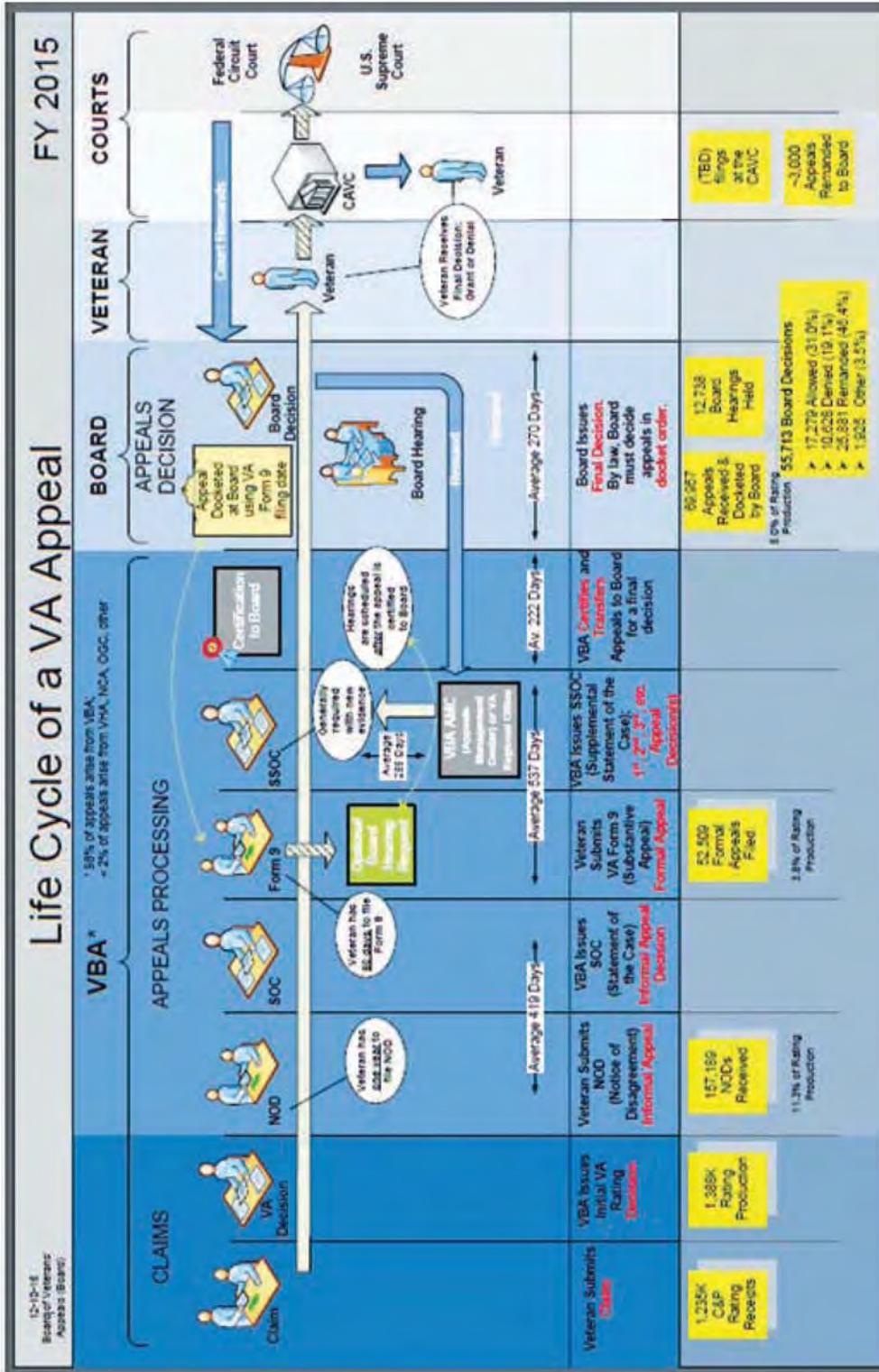
Board Operating Statistics

	FY 2012	FY 2013	FY 2014	FY 2015
Decisions	44,300	41,910	55,532	55,713
Appealed but not yet Certified or Docketed	37,326	41,612	47,065	52,509
Received at Board/Certified to the Board*	49,611	52,860	47,048	69,957
Cases Pending**	45,959	60,365	66,778	81,022
Hearings				
VACO	494	436	529	563
Video	4,868	5,778	5,881	7,609
Field	6,972	5,217	4,469	4,566
TOTAL	12,334	11,431	10,879	12,738
Decisions per FTE	87.0	78.8	88.1	86.3
Board FTE	510	532	631	645
Board Cycle Time***	117	135	202	295
Cost per Case	\$1,671	\$1,848	\$1,607	\$1,851

*Case receipts include original appeals, remands, CAVC, and non-VBA receipts. Beginning in FY 2015, the Board reported case receipts beginning with certification (Form 8) in the field. In prior years, case receipts only included physical receipt of cases at the Board.

**Pending figures include certified appeals pending in the field awaiting Board hearings, as well as cases pending before the Board.

***Beginning in FY 2015, the Board reported Board Cycle Time beginning with certification (Form 8) in the field. In prior years, Cycle Time only included time beginning with physical case receipt.



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U.S. Department of Veterans Affairs
Board of Veterans' Appeals
Report of the Chairman
Fiscal Year 2015