

Annual Report
United States Court of Appeals for Veterans Claims
October 1, 2016 to September 30, 2017 (Fiscal Year 2017)

Pursuant to 38 U.S.C. § 7288, the United States Court of Appeals for Veterans Claims (Court) submits the following report summarizing the workload of the Court for Fiscal Year (FY) 2017.

- 1. The number of appeals filed with the Court:** 4,040 (26% pro se at time of filing)
- 2. The number of petitions filed with the Court:** 256 (28% pro se at time of filing)
- 3. The number of applications filed with the Court under the Equal Access to Justice Act (EAJA) section 2412 of title 28:** 2,949
- 4. The total number of dispositions¹ by each of the following for FY 2017:**
 - (A) The Court as a whole:** 7,472
Appeals: 4,095 (12% pro se at time of disposition)
Petitions: 286 (28% pro se at time of disposition)
EAJA: 2,896
Requests for Reconsideration/Panel Decision:²
 - (B) The Clerk of the Court:³ 5,273**
Appeals: 2,388
Petitions: 5
EAJA: 2,880
There were no Requests for Reconsideration of the Clerk's orders.
 - (C) A single judge of the Court:** 2,091
Appeals: 1,685
Petitions: 279
EAJA: 15
Requests for Reconsideration of a Single Judge Decision: 78 appeals, 34 petitions
 - (D) A multi-judge panel of the Court:** 92
Appeals: 21
Petitions: 2
EAJA: 1
Requests for Panel Decision following a Single Judge Decision/Reconsideration: 47 appeals, 21 petitions

¹ "Dispositions" include each resolution of a matter, including decisions on appeals, petitions, EAJA applications, and requests for reconsideration/panel decision.

² The number of requests for reconsideration by the Court as a whole, a single judge of the Court, a multi-judge panel of the Court, and the full Court.

³ This number generally includes matters resolved through agreement of the parties, often with the aid of staff conferencing.

(E) **The full Court:** 16

Appeals: 1

Petitions: 0

EAJA: 0

Requests for Full Court Decision following a Panel Decision/Reconsideration: 13
appeals/2 petitions

5. The number of each type of disposition by the Court, including settlement, affirmation, remand, vacation, dismissal, reversal, grant, and denial:

	Total	Clerk⁴	Single Judge	3 Judge Panel	En Banc
APPEALS					
Affirmed	499	0	490	8	1
Affirmed or dismissed in part, reversed/vacated and remanded in part	1,511	1,355	155	1	0
Reversed or vacated and remanded in whole or in part	872	0	860	12	0
Remanded	737	724	13	0	0
Dismissed for lack of jurisdiction/timeliness	160	0	160	0	0
Dismissed for default	101	101	0	0	0
Dismissed voluntarily	215	208	7	0	0
Total	4,095	2,388	1,685	21	1
PETITIONS					
Extraordinary relief granted	1	0	0	1	0
Extraordinary relief denied	102	0	102	0	0
Extraordinary relief dismissed	69	0	69	0	0
Dismissed for default	1	1	0	0	0
Dismissed voluntarily	113	4	108	1	0
Total	286	5	279	2	0
EAJA on Appeals					
Grant	2,882	2874	8	0	0
Denied	3	0	3	0	0
Dismissed	8	4	3	1	0
EAJA on Petitions					
Grant	2	2	0	0	0
Denied	1	0	1	0	0
Dismissed	0	0	0	0	0
Total	2,896	2,880	15	1	0

⁴ Please see footnote 3.

6. The median time from filing an appeal to disposition (i.e., time from the veteran filing an appeal until initial dispositive action of the Court) by each of the following:

(A) The Court as a whole: The median time from filing an appeal to disposition of the case by the Court, as a whole, is 301 days (10 months). This involves pre-chambers procedural activity, which includes record dispute resolution, staff conferencing, briefing, screening, time for pro se appellants to seek counsel, and requests for additional time from the parties.

(B) The Clerk of the Court: The median time from filing an appeal to disposition of the case by the Clerk is 208 days (6.9 months). This involves pre-chambers procedural activity, which includes record dispute resolution, staff conferencing, briefing, screening, time for pro se appellants to seek counsel, and requests for additional time from the parties.

(C) A single judge of the Court: The median time for disposition of a single judge decision once it has been assigned to chambers is 85 days (2.8 months). The median time from filing an appeal to disposition by a single judge, which includes pre-chambers procedural activity, is 448 days (14.9 months). Pre-chambers procedural activity includes record dispute resolution, staff conferencing, briefing, screening, time for pro se appellants to seek counsel, and requests for additional time from the parties.

(D) Multiple judges of the Court (including a multi-judge panel of the Court or the full Court): The median time for disposition of a multi-judge panel decision once it has been assigned to panel is 180 days (6 months). The median time from filing an appeal to disposition by a multi-judge panel, which includes pre-chambers procedural activity, is 642 days (21.4 months). Pre-chambers procedural activity includes record dispute resolution, staff conferencing, briefing, screening, time for pro se appellants to seek counsel, and requests for additional time from the parties. In addition, scheduling a case for oral argument, which adds a minimum of 45 days, and additional time for supplemental briefing contribute to the time for panel case disposition.

7. The median time from filing a petition to disposition by the Court: 43 days (1.4 months).

8. The median time from filing an application under section 2412 of title 28 to disposition by the Court: 34 days (1.1 months).

9. The median time from the completion of briefing requirements by the parties to disposition by the Court: 123 days (4.1 months). Note: This time includes approximately two weeks to raise issues relating to finalizing the Record of Proceedings (a compilation of all documents relevant to the appeal) in every case. If an objection to the Record of Proceedings is filed, resolution can take several more weeks. This fiscal year, very few cases were screened by the Court's Central Legal Staff before assignment to chambers. When a case was screened, screening took less than 30 days.

10: The number of oral arguments before the Court: 14 held (17 scheduled, 0 settled, 3 cancelled)

11: The number of cases appealed to the United States Court of Appeals for the Federal Circuit: 127

Appeals: 90
Petitions: 33
EAJA: 4

12: The approximate number and status of appeals and petitions and EAJA applications pending with the Court as of the end of the fiscal year:

Appeals and Petitions:	4,522	
Pre-chambers procedural activity: ⁵	3,197	
Pending decision by a Judge or Panel:	355	
Post decision: ⁶	990	
EAJA procedural activity		429
EAJA pending decision by a Judge or Panel:		6
On appeal before the Federal Circuit:		98

13. The number of cases pending with the Court more than 18 months as of the end of the fiscal year: Appeals: 334, Petitions: 1

Pre-chambers procedural activity:⁷ 25
Pending decision by a Judge or Panel: 35
Post decision: 275

14. A summary of any service performed for the Court by a recalled retired judge of the Court: Recall retired (Senior) judges issued 220 single judge decisions. In addition, Senior judges participated on 3 three-judge panels; 1 en banc; and 7 panels for reconsideration of single judge decisions; and decided several motions. One Senior judge was also involved in committee work for the Court.

⁵ Pre-chambers procedural activity, which occurs during the period of time from filing an appeal to assignment of the appeal to chambers, includes record dispute resolution, staff conferencing, briefing, screening, time for pro se appellants to seek counsel, and requests for additional time from the parties.

⁶ This number reflects cases pending during the time required for judgment, mandate, and EAJA (if applicable) as well as cases on appeal to the Federal Circuit.

⁷ Delays associated with these cases are due primarily to parties' requests for stays, requests for additional time from the parties, or complexity of the case.

- 15. An assessment of the workload of each judge of the Court, including consideration of the following:**
- (A) The time required of each judge for disposition of each type of case.**
 - (B) The number of cases reviewed by the Court.**
 - (C) The average workload of other Federal appellate judges.**

As reflected in the responses to questions 1-13 above, each active judge⁸ on the Court carries a substantial workload. The judges' primary responsibilities are rendering decisions on appeals, petitions, and related motions (e.g., procedural motions and motions for reconsideration or for panel review), and applications filed pursuant to 28 U.S.C. § 2412 (EAJA). The judges, through the Board of Judges, are also responsible for the general direction and oversight of the operations of the Court and serve on various committees in furtherance of those obligations.

In FY 2017, the Court averaged 236 cases (appeals and petitions) decided on the merits per active judge. For that same time period, the average number of merits decisions decided per active judge in the 13 Circuit Courts of Appeals ranged from 38 to 288. The Court had 859 filings per active judge, based on the 4,296 cases (4040 appeals and 256 petitions) filed in FY 2017. The number of filings per active judge for the circuit courts of appeals ranged from 95 to 554.

Of note, a marked increase in filings has been evident with the start of FY 2018, as 579 new appeals, the highest to date, were filed in October 2017. Between August 2017 and December 2017, the Court has averaged 515 appeals per month, not including petitions, an increase of more than 50 percent above the FY 2017 average monthly filings. Historically, when the number of claims processed by the Board of Veterans' Appeals (Board) increases or decreases, the number of appeals filed with the Court will also increase or decrease. The Board has continued to expand its staff with the goal of accelerating the rate and number of claims it decides. As a result, and with recent months a clear indication, the Court expects to receive a considerable increase in the number of appeals being filed over the course of FY 2018.

⁸ Consistent with calculations of data performed by the Administrative Office of the United States Courts, active judge refers only to a judge who has been active for the entire fiscal year.