



**Fiscal Year 2018 Annual Report
October 1, 2017, to September 30, 2018
United States Court of Appeals for Veterans Claims**

1. *The number of appeals filed with the Court:*¹ **6,802 appeals** (26% pro se at the time of filing)

2. *The number of petitions filed with the Court:* **265 petitions** (44% pro se at the 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:* **3,663 EAJA applications**

4. *The total number of dispositions*² *by each of the following for FY 2018:*
 - (A) **The Court as a whole**
 - 4,842 appeals (11% pro se at time of disposition)
 - 222 petitions (41% pro se at time of disposition)
 - 3,297 EAJA applications
 - 167 requests for reconsideration/panel decision³
 - 144 appeals*
 - 23 petitions*
 - 8,528 total dispositions**

¹ Under 38 U.S.C. § 7288, the United States Court of Appeals for Veterans Claims (Court) is required to submit an annual report to the U.S. Senate Committee on Veterans' Affairs and the U.S. House of Representatives Committee on Veterans' Affairs that includes the elements enumerated in this report.

² "Dispositions" include each resolution of a matter, including decisions on appeals, petitions, EAJA applications, and requests for reconsideration/panel decision.

³ The number of requests for reconsideration by the Court as a whole, including a single judge of the Court, a multi-judge panel of the Court, and the full Court.

4. *The total number of dispositions by each of the following for FY 2018 (continued):*

(B) The Clerk of the Court⁴

3,441 appeals

7 petitions (41% pro se at time of disposition)

3,267 EAJA applications

There were no requests for reconsideration of the Clerk's orders

6,715 total dispositions

(C) A single judge of the Court

1,359 appeals

213 petitions

27 EAJA applications

109 requests for reconsideration

95 appeals

14 petitions

1,708 total dispositions

(D) A multi-judge panel of the Court

42 appeals

2 petitions

3 EAJA applications

52 requests for panel decision following a single judge decision/panel reconsideration

45 appeals

7 petitions

99 total dispositions

(E) The full Court

0 appeals

0 petitions

0 EAJA applications

6 requests for a full court decision following a panel decision

4 appeals

2 petitions

6 total dispositions

⁴ This number generally includes matters resolved through agreement of the parties, often with the aid of staff conferencing.

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

APPEALS

TYPE OF DISPOSITION	CLERK ⁵	SINGLE JUDGE	THREE-JUDGE PANEL	FULL COURT	TOTAL
<i>Affirmed</i>	0	371	11	0	382
<i>Affirmed or dismissed in part, reversed or vacated and remanded in part</i>	1,822	136	7	0	1,965
<i>Reversed or vacated and remanded in whole or in part</i>	0	701	17	0	718
<i>Remanded</i>	1,218	3	0	0	1,221
<i>Dismissed for lack of jurisdiction or timeliness</i>	1	140	5	0	146
<i>Dismissed for default</i>	142	2	0	0	144
<i>Dismissed voluntarily</i>	258	6	2	0	266
TOTAL	3,441	1,359	42	0	4,842

PETITIONS

TYPE OF DISPOSITION	CLERK	SINGLE JUDGE	THREE-JUDGE PANEL	FULL COURT	TOTAL
<i>Extraordinary relief granted</i>	0	0	0	0	0
<i>Extraordinary relief denied</i>	0	85	0	0	85
<i>Extraordinary relief dismissed</i>	0	68	2	0	70
<i>Dismissed for default</i>	4	1	0	0	5
<i>Dismissed voluntarily</i>	3	59	0	0	62
TOTAL	7	213	2	0	222

⁵ Please see footnote 4.

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

EAJA

TYPE OF DISPOSITION	CLERK	SINGLE JUDGE	THREE-JUDGE PANEL	FULL COURT	TOTAL
<i>Applications after decisions in appeals</i>	3,267	27	3	0	3,297
<i>Granted</i>	3,264	18	1	0	3,283
<i>Denied</i>	0	2	1	0	3
<i>Dismissed</i>	3	7	1	0	11
<i>Applications after decisions in petitions⁶</i>	0	0	0	0	0
<i>Granted</i>	0	0	0	0	0
<i>Denied</i>	0	0	0	0	0
<i>Dismissed</i>	0	0	0	0	0
TOTAL	3,267	27	3	0	3,297

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 **233 days (7.8 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, and then disposition by a judge, a panel of judges, or the Clerk of the Court.
- (B) **The Clerk of the Court:** The median time from filing an appeal to disposition of the case by the Clerk is **205 days (6.8 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, and then disposition by the Clerk.
- (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 **64 days (2 months)**. Activity once a matter is assigned to chambers includes judges and law clerks collaborating to draft a decision and

⁶ Because the Court did not grant any petitions for extraordinary relief in FY 2018, there were no EAJA applications for petitions in FY 2018.

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 (continued):*
- circulating all draft decisions to all judges for a one-week comment period. The median time from filing an appeal to disposition by a single judge, which includes pre-chambers procedural activity, is **420 days (14 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 **176 days (5.9 months)**. Activity once a matter is assigned to a panel includes judges collaborating with each other to determine the disposition and assign writing responsibilities; possible orders for additional briefing; drafting the decision; circulating it to the panel for concurrence or the opportunity to write separately, and circulating all draft decisions to all judges for a one-week comment period. If oral argument is held, scheduling the argument adds a minimum of 45 days to the case processing time. The median time from filing an appeal to disposition by a multi-judge panel, which includes pre-chambers procedural activity, is **642.5 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, contributes to the time for panel case disposition.
7. *The median time from filing a petition to disposition by the Court:* **54 days** (1.8 months)
8. *The median time from filing an EAJA application under section 2412 of title 28 to disposition by the Court:* **41 days** (1.4 months)
9. *The median time from the completion of briefing requirements by the parties to disposition by the Court:* **106 days** (3.5 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.
10. *The number of oral arguments before the Court:* **36 held** (42 scheduled, 5 settled, 1 cancelled)

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

78 total cases
65 appeals
11 petitions
2 EAJA applications

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 & PETITIONS	EAJA APPLICATIONS	TOTAL
<i>Pre-chambers procedural activity</i> ⁷	5,246	790	6,036
<i>Pending decision by a judge or panel</i>	320	8	328
<i>Post decision</i> ⁸	632	10	642
<i>Pending a motion for reconsideration or panel</i>	14	0	14
<i>Pending entry of judgment</i>	149	2	151
<i>Pending entry of mandate</i>	388	8	396
<i>On appeal before the Federal Circuit</i> ⁹	81	0	81
TOTAL	6,198	808	7,006

13. *The number of cases pending with the Court more than 18 months as of the end of the fiscal year:*

387 total cases
375 appeals
12 petitions

*Pre-chambers procedural activity*¹⁰ 82
Pending decision by a judge or panel 39
Post decision 266

14. *A summary of any service performed for the Court by a recalled retired judge of the Court:*

Recalled retired (Senior) judges issued 81 single judge decisions. In addition, Senior judges participated on 4 three-judge panels for reconsideration of single judge decisions; and decided several motions. One Senior judge was also involved in committee work for the Court.

⁷ 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.

⁸ 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.

⁹ This represents the number of cases that were pending on appeal to the Federal Circuit at the end of FY 2018, which is different than the number of notices of appeal filed during FY 2018 reported in element 11.

¹⁰ 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 elements 1-13 above, each active judge¹¹ 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), applications filed pursuant to 28 U.S.C. § 2412 (EAJA), and a new and growing class action caseload. 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. As reflected in element 6 above, once a matter is assigned to a judge, on average it takes 2 months for the disposition of a single-judge matter and 5.8 months for disposition by a panel.

In FY 2018, the Court averaged 149 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 44 to 283. The Court received 883 filings per active judge, based on the 7067 cases (6802 appeals and 265 petitions) filed in FY 2018. The number of filings per active judge for the circuit courts of appeals ranged from 103 to 589.

Consistent with the substantial increase in final decisions issued by the Board of Veterans' Appeals in FY 2018—the Board increased production of final decisions from 55 thousand to 85 thousand—the filings of new cases at the Court increased dramatically during the same period. Specifically, over the course of FY 2018, the Court averaged 567 appeals filed per month, and reached a high of 695 appeals filed in August 2018. As the Board further increases production, the Court expects to receive an even greater number of appeals in the future, with the average monthly case filings for the first quarter of FY 2019 already up to 649 new appeals. The Court has kept pace with this historic increase in the number of appeals in large part due to a significant increase in the percentage of cases that are resolved through the mandatory pre-briefing conferences conducted by Court staff attorneys.

In FY 2016 legislation, Public Law 114-315 which became effective December 16, 2016, Congress renewed the Court's temporary authority for nine active judges at a time when appeals were being filed at the Court in numbers well below those experienced in FY 2018. Two judges will retire from the Court in 2019 and, although the impact of the recently enacted Veterans Appeals Improvement and Modernization Act of 2017 is not known, the Court faces a real possibility of experiencing caseload demands beyond its judicial capacity.

¹¹ 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.