

Annual Report
United States Court of Appeals for Veterans Claims
October 1, 2009 to September 30, 2010 (Fiscal Year 2010)

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) 2010.

- 1. The number of appeals filed with the Court: 4,153**
- 2. The number of petitions filed with the Court: 188**
- 3. The number of applications filed with the Court under the Equal Access to Justice Act (EAJA) section 2412 of title 28: 2,625**
- 4. The total number of dispositions by each of the following for FY 2010:¹**
 - (A) The Court as a whole: 8,001²**
 - Appeals: 4,959
 - Petitions: 179
 - EAJA: 2,653
 - Requests for Reconsideration/Panel Decision:³ 184 appeals, 26 petitions
 - (B) The Clerk of the Court:⁴ 5,547**
 - Appeals: 2,962
 - Petitions: 10
 - EAJA: 2,575
 - There were no Requests for Reconsideration of the Clerk's orders.
 - (C) A single judge of the Court: 2,301**
 - Appeals: 1,955
 - Petitions: 168
 - EAJA: 74
 - Requests for Reconsideration of a Single Judge Decision: 88 appeals, 16 petitions

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

² This number reflects additional workload associated with requests for reconsideration and panel decision, which has not been reported in the past.

³ 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 do not include reconsideration of EAJA decisions by the Court.

⁴ These actions generally include matters resolved through agreement of the parties, often with the aid of staff conferencing.

(D) A multi-judge panel of the Court: 136

Appeals: 38

Petitions: 1

EAJA: 4

Requests for Panel Decision following a Single Judge Decision/Reconsideration:

85 appeals; 8 petitions

(E) The full Court: 17

Appeals: 4

Petitions: 0

EAJA: 0

Requests for Full Court Decision following a Panel Decision/Reconsideration:

11 appeals, 2 petitions

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

	Total	Clerk⁵	Single Judge	3 Judge Panel	En Banc
APPEALS					
Affirmed	741	0	727	13	1
Affirmed or dismissed in part, reversed/vacated and remanded in part	832	628	201	2	1
Reversed or vacated and remanded in whole or in part	560	0	546	12	2
Remanded	1670	1662	6	2	0
Dismissed for lack of jurisdiction	456	0	452	4	0
Dismissed for default	378	360	18	0	0
Dismissed voluntarily	322	312	5	5	0
	<hr/> 4,959	<hr/> 2,962	<hr/> 1,955	<hr/> 38	<hr/> 4
PETITIONS					
Extraordinary Relief granted	0	0	0	0	0
Extraordinary Relief denied	95	0	95	0	0
Extraordinary Relief dismissed	35	0	34	1	0
Dismissed for default	4	2	2	0	0
Dismissed voluntarily	45	8	37	0	0
	<hr/> 179	<hr/> 10	<hr/> 168	<hr/> 1	<hr/> 0

⁵ Please see footnote 4.

	Total	Clerk⁶	Single Judge	3 Judge Panel	En Banc
EAJA on Appeals					
Grant	2,627	2,570	55	2	0
Denied	15	0	14	1	0
Dismissed	10	5	4	1	0
EAJA on Petitions					
Grant	0	0	0	0	0
Denied	1	0	1	0	0
Dismissed	0	0	0	0	0
	<u>2,653</u>	<u>2,575</u>	<u>74</u>	<u>4</u>	<u>0</u>

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:** 282 days (9.4 months)

(B) **The Clerk of the Court:** 221 days (7.4 months)

(C) **A single judge of the Court:** 572 days (19.0 months). Note: The time a case is in chambers generally accounts for about a third of this time given that required pre-chambers processing of a new case, (which involves conferencing, briefing, and record dispute resolution), takes about a year.

(D) **Multiple judges of the Court (including a multi-judge panel of the Court or the full Court):** 836 days (27.9 months). Note: In addition to pre-chambers processing of a new case noted above, scheduling a case for oral argument adds an additional 45 days. If requested, additional time may be granted for supplemental briefing and for pro se appellants to seek counsel which would further extend the case processing time.

7. **The median time from filing a petition to disposition by the Court:** 57 days (1.9 months)

8. **The median time from filing an application under section 2412 of title 28 to disposition by the Court:** 33 days (1.1 months)

9. **The median time from the completion of briefing requirements by the parties to disposition by the Court:** 231 days (7.7 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 and, if an objection to the Record of Proceedings is filed, resolution can take several more weeks. Also, due

⁶ The Clerk generally takes action on uncontested applications for attorney fees and expenses (EAJA).

to the heavy caseload it takes approximately 3.5 months for cases to be fully screened by the Court's Central Legal Staff.

10. **The number of oral arguments before the Court:** 23 (46 scheduled, 23 settled)

11. **The number of cases appealed to the United States Court of Appeals for the Federal Circuit:** 150
 - Appeals: 133
 - Petitions: 12
 - EAJA: 5

12. **The approximate number and status of appeals and petitions and EAJA applications pending with the Court as of the end of such fiscal year:**
 - Appeals and Petitions: 4,868
 - Procedural processing:⁷ 3,398
 - Pending decision by a Judge or Panel: 709
 - Post decision:⁸ 761
 - EAJA procedural processing: 394
 - EAJA pending decision by a Judge or Panel: 14
 - On appeal before the Federal Circuit: 111

13. **The number of cases pending with the Court more than 18 months as of the end of such fiscal year:** 1,238 appeals
 - Procedural processing:⁹ 144
 - Pending decision by a Judge or Panel: 438
 - Post decision: 656

14. **A summary of any service performed for the Court by a recalled retired judge of the Court.** Our recall retired (Senior) judges decided 286 appeals. In addition, our Senior judges decided hundreds of motions, permitting the regular active judges to devote their time to appeals, including those that raise more complex issues.

⁷ Procedural processing includes case activity that occurs during the period of time from filing an appeal to assignment of the appeal to chambers (e.g., conferencing, briefing, record dispute resolution).

⁸ Cases pending during completion of time required for judgment, mandate, and EAJA (if applicable) as well as cases on appeal to the Federal Circuit and the Supreme Court.

⁹ Procedural processing delays are due primarily to parties' requests for stays or extensions of time.

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 1-14 above, each judge on the Court, regular active and Senior Judge, carries a substantial workload. In addition to rendering decisions on appeals, petitions and related motions (e.g., procedural motions and motions for reconsideration or for panel review of single-judge decisions), and applications filed pursuant to 28 U.S. § 2412 (EAJA), the Board of Judges provides general direction and oversight of the operations of the Court, and works on judicial conference and outreach and education issues.

In FY 2010, the Court averaged 214 appeals decided on the merits per active judge. This is the third highest average when comparing the Court to 13 other federal courts of appeals,¹⁰ with the average for all of those courts being 148 merits decisions per active judge. Based on the 4,341 filings (i.e., appeals and petitions) in FY 2010, the Court averaged 620 filings per active judge. The FY 2010 average for the courts of appeals was approximately 349 filings per active judge.

¹⁰ The U.S. Court of Appeals for the Federal Circuit, the U.S. Court of Appeals for the District of Columbia, and the 11 circuit courts of appeals compose this group.