

Annual Report
United States Court of Appeals for Veterans Claims
October 1, 2012 to September 30, 2013 (Fiscal Year 2013)

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) 2013.

- 1. The number of appeals filed with the Court:** 3,531 (38% pro se at time of filing)
- 2. The number of petitions filed with the Court:** 193 (46% 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:** 2,163
- 4. The total number of dispositions¹ by each of the following for FY 2013:**
 - (A) The Court as a whole:** 6,183
 - Appeals: 3,673 (21% pro se at time of disposition)
 - Petitions: 179 (54% pro se at time of disposition)
 - EAJA: 2,179
 - Requests for Reconsideration/Panel Decision²: 124 appeals, 28 petitions
 - (B) The Clerk of the Court³:** 4,106
 - Appeals: 1,973
 - Petitions: 6
 - EAJA: 2,127
 - There were no Requests for Reconsideration of the Clerk's orders.
 - (C) A single judge of the Court:** 1,960
 - Appeals: 1,672
 - Petitions: 171
 - EAJA: 50
 - Requests for Reconsideration of a Single Judge Decision: 55 appeals, 12 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, includes reconsideration of EAJA decisions by the Court.

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

(D) A multi-judge panel of the Court: 116

Appeals: 27

Petitions: 2

EAJA: 2

Requests for Panel Decision following a Single Judge Decision/Reconsideration:
69 appeals, 16 petitions

(E) The full Court: 1

Appeals: 1

Petitions: 0

EAJA: 0

Requests for Full Court Decision following a Panel Decision/Reconsideration:
0 appeals, 0 petitions

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

	Total	Clerk ⁴	Single Judge	3 Judge Panel	En Banc
APPEALS					
Affirmed	714	0	703	10	1
Affirmed or dismissed in part, reversed/vacated and remanded in part	890	727	162	1	0
Reversed or vacated and remanded in whole or in part	593	0	584	9	0
Remanded	879	871	6	2	0
Dismissed for lack of jurisdiction	200	2	197	1	0
Dismissed for default	160	151	9	0	0
Dismissed voluntarily	237	222	11	4	0
TOTAL	3,673	1,973	1,672	27	1
PETITIONS					
Extraordinary relief granted	0	0	0	0	0
Extraordinary relief denied	106	0	104	2	0
Extraordinary relief dismissed	51	2	49	0	0
Dismissed for default	5	2	3	0	0
Dismissed voluntarily	17	2	15	0	0
TOTAL	179	6	171	2	0

⁴ Please see footnote 3.

	Total	Clerk	Single Judge	3 Judge Panel	En Banc
EAJA on Appeals					
Grant	2,152	2,120	31	1	0
Denied	11	0	10	1	0
Dismissed	12	7	5	0	0
EAJA on Petitions					
Grant	0	0	0	0	0
Denied	3	0	3	0	0
Dismissed	1	0	1	0	0
TOTAL	2,179	2,127	50	2	0

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 304 days (10.1 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 189 days (6.3 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 90 days (3.0 months). The median time from filing an appeal to disposition by a single judge, which includes pre-chambers procedural activity, is 452 days (15.1 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 139 days (4.7 months). The median time from filing an appeal to disposition by a multi-judge panel, which includes pre-chambers procedural activity, is 621 days (20.7 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: 44 days (1.5 months)

8. The median time from filing an application under section 2412 of title 28 to disposition by the Court: 29 days (1 month)

9. **The median time from the completion of briefing requirements by the parties to disposition by the Court:** 140 days (4.6 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. Also, it takes 30 to 60 days for cases to be screened by the Court's Central Legal Staff.

10. **The number of oral arguments before the Court:** 19 held (36 scheduled, 17 settled)

11. **The number of cases appealed to the United States Court of Appeals for the Federal Circuit:** 154
 - Appeals: 138
 - Petitions: 13
 - EAJA: 3

12. **The approximate number and status of appeals and petitions and EAJA applications pending with the Court as of the end of such fiscal year⁵:**
 - Appeals and Petitions: 3,874
 - Pre-chambers procedural activity: 2,555
 - Pending decision by a Judge or Panel: 350
 - Post decision⁶: 969
 - EAJA procedural activity: 300
 - EAJA pending decision by a Judge or Panel: 1
 - On appeal before the Federal Circuit: 128

13. **The number of cases pending with the Court more than 18 months as of the end of such fiscal year:** 421 appeals
 - Pre-chambers procedural activity⁷: 31
 - Pending decision by a Judge or Panel: 46
 - Post decision: 344

14. **A summary of any service performed for the Court by a recalled retired judge of the Court:** Our recall retired (Senior) judges decided 36 appeals, and took action on 4 EAJA applications. In addition, our Senior judges decided a number of motions, permitting the active judges to devote their time to appeals, including those that raise more complex issues.

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 1-14 above, each active judge⁸ on the Court 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), and applications filed pursuant to 28 U.S.C. §2412 (EAJA), the judges, through the Board of Judges, provide general direction and oversight of the operations of the Court, and work on judicial conference and outreach and education issues.

In FY 2013, the Court averaged 194 appeals decided on the merits per active judge. For purposes of comparison using currently available data, from September 30, 2012, through September 30, 2013, for the 13 circuit courts of appeals, this was the fourth highest number of merits decisions per active judge. The number of merits decisions per active judge for those courts ranged from 52 (DC Circuit) to 320 (11th Circuit). As to the number of filings, the Court had 466 filings per active judge, based on the 3,724 appeals and petitions filed in FY 2013. The number of filings per active judge for the circuit courts of appeals ranged from 158 (DC Circuit) to 637 (11th Circuit).

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.