

TOMMY



Published by the Veterans Law Section of the FBA | **SPRING 2010**

MESSAGE FROM THE CHAIR

by Carol Wild Scott

In preparation for this message I reviewed last year's letter. Some of what was set out as goals has been accomplished. The resurrection is about 1/4 accomplished. It is a work in progress. Some of you responded to the survey we sent out. We are hoping to begin to hear from all of you this year.

We do now have three Board members: Jim Richardson, past national president of the Federal Bar Association, and who has done yeoman's work for us during the last year; Doug Rosinski, who practices Energy and Veterans Law with Ogletree, Deakins, Nash, Smoak & Stewart in Columbia, SC; and Linda Murnane, Col., USAF ret., who is with the International Court at the Hague. We will acquire more Board members during the next several months.

Chairs have been established for all but three of the five committees: Jeff Bunton, who practices veterans and social security law in St. Louis, is chair of the Membership Committee. The Publications Committee is chaired by Bob Goss, who practices veterans law in Houston. The Military Law Committee is chaired by Alan Goldsmith, recently retired from the Navy Board of Correction of Military Records in Wash-

ington, D.C. We still need chairs for the Programs Committee and the Legislation and Regulatory Committee. Until the latter is filled, I am functioning in that capacity, working with the Board members to formulate programs until we find a chair.

We need active membership for each committee. There is an enormous amount of work to be done, but shared by many it places a minimal burden on all. Active membership in the committees allows us to provide increasing support for the veterans of the Global War on Terror who now number in the many thousands—of which over 97,000 are casualties of OIF/OEF alone.

We provided a panel on veterans' issues in Indian Country at the FBA Annual Meeting and Convention in Oklahoma City last September. This year, we will have a program on Veterans' Treatment Courts at the convention in New Orleans. We have been asked to do a webinar on veterans' law for the Indian Law Section; a date has not been set. Doug Rosinski and I attended the FBA Indian Law Section's annual conference in Santa Fe, N.M., on April 8-9 and provided information and resources to the attendees. A copy of our proposal for Traditional Tribal Veterans

Centers is included in the materials for the panel on Indian health.

With Bruce Moyer's incredible guidance and support, we have accomplished a few things with the congressional committees. The Senate Committee on Veterans' Affairs held a hearing on the interface between Indian Health Service and Veterans' Affairs, for which we were able to supply a written submission addressing a number of the needs of veterans in Indian Country.

An invitation was extended to us to participate in the "Claims Summit" in March, for which we submitted written materials and offered testimony regarding the options for repairing the broken claims system at the VA. A copy of the written submission will be made available to whoever is interested by e-mail. The consensus was, among the 49 (!) attendees—including eight employees from the VA, representatives from nearly every veterans' service organization (VSO), and a large number of vendors—that the system is totally broken and the only future salvation is in a paperless, virtual system of benefits claims. How to deal with the million case (!!) backlog while a "new" system is constructed is the very real dilemma, as the numbers grow exponentially at this point. Approximately 75% of the backlog

CHAIR continued on page 3

IN THIS ISSUE

<i>Spotlight on New Veterans Law Section Board Members.....</i>	<i>page 2</i>
<i>The Veterans Treatment Court: What Does It Mean for Veterans Today?.....</i>	<i>page 4</i>
<i>Claims Summit Report—March 18, 2010.....</i>	<i>page 5</i>

SPOTLIGHT ON NEW VETERANS LAW SECTION BOARD MEMBERS

Colonel Linda Strite Murnane United States Air Force, Retired

Colonel Linda Strite Murnane (U.S. Air Force, Retired) currently serves as the chief, court management and support services, International Criminal Tribunal for the Former Yugoslavia, in The Hague, Netherlands. In that role, she is responsible for the day-to-day operations of the tribunal's three courtrooms, the filing and dissemination of the evidence and maintenance of those records using state of the art system. She supervises a team of approximately 40 court officers, ushers, records assistants, and transcript, language, and archives specialists to manage the extensive evidence databases of the tribunal.

Col. Murnane previously served as the senior international attorney for the Defense Institute of International Legal Studies (DIILS). Based in Newport, R.I., the organization is the DoD's lead agency providing seminars and programs to military personnel and civilian government officials throughout the world dealing with the legal complications of the strategic, operational, and tactical decisions faced by military personnel and civilian professionals as they work to accomplish their missions.

Col. Murnane spent two years as one of the four senior legal officers assigned to trial chambers in the International Criminal Tribunal for the Former Yugoslavia in The Hague, Netherlands, from 2006–2008. In this United Nations position, Col. Murnane was responsible for preparation of orders, decisions, judgments and support for the international judiciary. She specifically had responsibility for the cases of Milutinovic, et al. (six accused charged with war crimes and crimes against humanity in Kosovo), Prlic, et al. (six accused charged with war crimes and crimes against humanity involving the Herceg-Bosna leadership), Vojislav Seselj, Radovan Karadzic, and Vlastimir Djordjevic. She was also responsible in the pre-trial phase for the cases of Rasim Delic, Stanistic and Simatovic, and

Momcilo Perisic.

Col. Murnane served as the executive director for the Kentucky Commission on Human Rights in the United States, a gubernatorial executive cabinet commission, from February 2005 until July 2007. Prior to that, she served for nearly 30 years on active duty with the United States Air Force. In her Air Force career, Col. Murnane served in a variety of positions, including ten years as a chief circuit military judge, or military judge. She was the chief circuit judge for Europe and the Eastern Judicial Circuit, Bolling AFB, Washington, D.C. She presided at the first criminal trials for the U.S. Air Force during Operations Iraqi and Enduring Freedom in the war zone, deploying five times in support of those operations between 2001 and 2003.

Col. Murnane served as the chief, international, operations and civil law while assigned at U.S. Forces Japan/Fifth Air Force from 1988–1991. She was the deputy staff judge advocate at Ramstein Air Base, Germany, from 1991–1993, and the staff judge advocate at Bitburg Air Base, Germany from 1993–1994. In each of these positions, she served as an advisor to commanders making decisions employing Rules of Engagement in the European and Pacific Theaters for U.S. and Joint Forces.

Col. Murnane has participated in training programs as an adjunct faculty member for the Defense Institute of International Legal Studies, training judges, lawyers and civilian leaders in Rwanda, Zambia, Argentina, Latvia, and Papua New Guinea on a wide range of legal topics.

Col. Murnane began her career as an airman basic, the lowest enlisted grade in the U.S. Air Force, and retired as a colonel in 2004. Her military decorations include the Legion of Merit, and the Meritorious Service Medal with bronze and silver oak leaf cluster. She is the Immediate Past Chair of the National Conference of Specialized Jurisdiction Court Judges for the Judicial Division of the American Bar Association, and currently serves as the Chair of the

Judicial Division's Judicial Outreach Network. She is a member of the American Bar Association's Standing Committee on Armed Forces Law, the American Judges Association, the National Association of Women Judges, and the Federal Bar Association. She is admitted to the practice of law before the U.S. Supreme Court, the Ohio and Kentucky Supreme Courts, the U.S. Court of Appeals for the Armed Forces, and the Army and Air Force Courts of Criminal Appeals. In August 2008, she received the Margaret Brent Women of Achievement Award, one of the most prestigious awards presented by the American Bar Association.

Colonel Murnane is married to Lieutenant Colonel Kevin Murnane, U.S. Air Force, Retired, who, at the time of his retirement was the Deputy Chief of Strategic Plans for Personnel for the United States Air Force, The Pentagon. They have two children, Christina Veillon and Rachel Lyn Veillon Manuel, and three grandchildren.

James S. Richardson, Jr.

Jim Richardson is a retired federal employee and former national president of the Federal Bar Association. Prior to becoming president, he was a chapter president (Pentagon) a circuit Vice President (4th Circuit) a section chair, and a division chair. He also served as section coordinator for three different national presidents. During his work as section coordinator of the FBA, Richardson was twice honored with President's Award for Distinguished Service, the only person to have received this award from two different presidents.

After graduating from Frostburg State University, Richardson was commissioned a second lieutenant in the U.S. Marine Corps and became a field artillery officer. Following a combat tour in Viet-Nam and service in Hawaii, he was accepted into the Excess Leave for Law Program and received his law degree from the University of Maryland School of Law. He then served five years at the MCRD San Diego

where he finished his services as a military judge. In June 1978 he was discharged and assumed a job as a litigation attorney with a private law firm in Maryland.

Richardson returned to federal service in March 1979 as the head of the Discharge Review Section of the Board for Correction of Naval Records. During his three and one half years in that billet, he reduced the delay in review of discharges at the board from about 5 years with a 5,000 case backlog to about 90 days with a case load of approximately 300 pending petitions. In August 1982 he joined the central legal staff of the (then) U.S. Court of Military Appeals (now the Court of Appeals for the Armed Forces). He remained with the court until retirement in September 2008. For his service at the court, Richardson was honored with the SecDef Medal for Meritorious Civilian Service.

Since his retirement, Richardson has become a court certified mediator and corporate secretary of Mid Shore Pro Bono, an affiliate agency of the Legal Service Corporation. He devotes his time to representing folks who lack the financial means to retain counsel for their legal issues. In this capacity, he represents veterans free of charge and insures that

they, along with others who could not otherwise afford counsel, do not become victims of the system. As a disabled veteran himself, this is a particularly important issue to him, as he has personally experienced the good and bad of the VA disability system.

Jim Richardson and his wife, Kathy, reside near the Wye River on Maryland's Eastern Shore. Along with Jim's pro bono activities, Kathy has become a court appointed special advocate for children placed in foster homes by the Maryland court system. They enjoy the water, fish, ride bikes, play golf and have generally concluded that everyone should try the retirement gig at least once.

Douglas Rosinski

Douglas Rosinski is one of the nation's leading practitioners of veteran's benefits law, representing veterans and their families before the Department of Veterans Affairs (VA) and federal courts. At any time he has cases before the Court of Appeals for the Federal Circuit, Court of Appeals for Veterans Claims, the Board of Veterans' Appeals, and VA Regional Offices. Rosinski was also co-counsel in

the VA Data Theft Litigation class action which reportedly obtained the largest Privacy Act claim settlement in history. Rosinski has also taught veterans law at the University of South Carolina School of Law and routinely provides Continuing Legal Education training on legal topics affecting veterans.

Rosinski's other primary practice area is in the regulation of energy production facilities. He has extensive and varied experience with Nuclear Regulatory Commission (NRC), Federal Energy Regulatory Commission (FERC) and Department of Energy (DOE) regulations, oversight, and enforcement. Prior to joining Ogletree Deakins, Rosinski spent several years practicing energy law in Washington, D.C., assisting applicants, licensees, and others in resolving technical, management, and regulatory issues under close scrutiny from those agencies and outside interveners.

Prior to practicing law, Rosinski was an officer and qualified nuclear engineer in the U.S. Navy submarine force and obtained over 16 years of experience in licensing, startup, operation, and safety oversight of nuclear and other technical facilities before becoming an attorney. **T**

CHAIR continued from page 1

is remands—from the Court of Appeals for Veterans' Claims, which only provides remand, never a resolution, and from the Board of Veterans' Appeals, which remands more than they resolve, albeit they have the power to provide finality.

Out of my attendance at the Indian Law Conference and the Annual Convention of the National Congress of the American Indian came a proposal for the establishment of Traditional Tribal Veterans Centers on specific reservations—particularly in the West—where unemployment runs at 90% or more, the population of veterans averages 10% of the whole, there are no VSOs and it is often hundreds of miles to a VA medical center (although the availability of clinics is improving somewhat).

Unlike traditional vet centers which dispense only mental health care, the Tribal Centers would be cooperative ef-

forts between VA, IHS, Interior and the Tribal Councils and provide a very wide range of services, including family caregiver training, mental health care - both traditional and western - women's and family counseling, entrepreneurial and business loan counseling and education, interface between VA medical and pharmaceutical with IHS. Claims and benefits representation would be provided by Tribal Veteran Representatives, employed by the tribe and trained in all aspects of veterans' benefits and certified by VA as veterans' representatives on the same legal footing as state and county VSOs. Certification will require regulatory and legislative fixes. The Health Sub-committee of the House Veterans Affairs Committee is currently studying this proposal with the intent to turn it into legislation. We will have support

and cooperation in this from a variety of sources.

The July issue of *The Federal Lawyer* will be devoted to our veterans and veterans' law. We have one article already and the promise of three more. We would like to have at least one article each from the Southwest, Northwest, Midwest, Northeast, and Southeast. Even though we are all involved in legal and human issues the same entities, there are definite regional perspectives. This issue of TFL should reflect the variety of our membership in location, perspective and occupation. It has been a very long time since The Veterans Law Section has had this opportunity. Lets make it worthwhile!

The IT capability of our Federal Bar Association has improved even more since last year. The only barrier between your active participation and you is you. **T**

THE VETERANS TREATMENT COURT: WHAT DOES IT MEAN FOR VETERANS TODAY?

According to a 2008 study conducted by the Rand Corporation, nearly 20 percent of all veterans returning from Iraq and Afghanistan report symptoms of Post Traumatic Stress Disorder (PTSD), or major depression. Only about one-half seek treatment for their condition. According to the Rand report, the total affected population as of its 2008 study was more than 150,000.

Many of these veterans eventually find their way into the criminal justice system. Some are homeless. Some have addiction challenges. Many have difficulties reintegrating into the civilian work force upon their return from duty.

Unlike the approach taken to the nation's returning veterans at the end of the Vietnam conflict, there are efforts being made to address the unique circumstances of these returning veterans, taking into account their experiences in Iraq and Afghanistan. The efforts involve the development of Veterans Treatment Courts.

Among those who support the therapeutic court model for veterans, they indicate that veteran peer mentoring, dedicated veterans wings, housing options for the veteran and Veterans Administration resources can be garnered to prevent recidivism, and in the end, save limited community resources by restoring the veteran to productivity in society.

Included among the resources serving the therapeutic court model for veterans today, the Veterans Administration has established the Veterans Justice Outreach Initiative. According to the Veterans Administration, "The purpose of the Veteran Justice Outreach Initiative (VJO) initiative is to avoid the unnecessary criminalization of mental illness and extended incarceration among Veterans by ensuring that eligible justice-involved Veterans have timely access to VHA mental health and substance abuse services when clinically indicated, and other VA services and benefits as appropriate."

Jurisdictions have implemented the Veterans Treatment

Among those who support the therapeutic court model for veterans, they indicate that veteran peer mentoring, dedicated veterans wings, housing options for the veteran and Veterans Administration resources can be garnered to prevent recidivism, and in the end, save limited community resources by restoring the veteran to productivity in society.

Veterans Treatment Courts follow the therapeutic court model, seeking to serve the community, and the veterans who struggling with addiction, serious mental illness, and other problems. The primary focus of the Veterans Treatment Courts is to look for solutions for these individuals which go outside the limited jail and prison resources. The Veterans Treatment Courts promote sobriety, recovery, and stability through a coordinated effort between Drug and Mental Health Courts, the U.S. Department of Veterans Affairs health care networks, the Veterans Administration, volunteer veteran mentors, and veterans' support organizations.

As with any specialty court model, the Veterans Treatment Courts have those who strongly favor it, and those who strongly oppose it. Among those who oppose the specialty court model for veterans are some members of the defense community who argue that veterans are being singled out for different treatment. Certainly, in terms of the usual method of plea bargaining to resolve charges, the Veterans Treatment Court presents a different set of challenges for those who may have the responsibility of representing a repeat offender, or a veteran who, although not a recidivist, finds himself, or herself, before the courts for a serious criminal offense.

Court model in different ways. Some jurisdictions have established a separate veterans' docket, where those who have been identified as having qualifying military service have their cases set for a specific time during the day. This enables the court to have the veterans justice outreach coordinator in the courtroom to assist with filling out documentation for treatment, benefits, housing and related resources with the assistance of the Veterans Administration's representative in the courtroom. Other jurisdictions have established veterans' wings in their jail facilities, and established veteran-to-veteran peer mentoring programs.

Consistently, those who have spent their energies in establishing the Veterans Treatment Courts have indicated high degrees of success in rehabilitating and diverting the veterans from the criminal court system.

For more information about the Veterans Treatment Court models, visit the following websites:

www1.va.gov/homeless/page.cfm?pg=49

www.nadcp.org/learn/veterans-treatment-court

www.supremecourt.ohio.gov/PIO/news/2009/vaCoalition_101609.asp **T**

THE VETERANS LAW SECTION OF THE FEDERAL BAR ASSOCIATION CLAIMS SUMMIT 2010—MARCH 18, 2010

The Federal Bar Association is the foremost national association of private and government lawyers engaged in the practice of law before the federal courts and federal agencies. Sixteen thousand members of the legal profession belong to the Federal Bar Association. The Veterans Law Section of the Federal Bar Association (VLS/FBA) is one of a dozen sections within the Association, organized by substantive areas of practice. These comments are exclusively those of the Veterans Law Section of the Federal Bar Association and do not necessarily represent the views or official position of the entire Association.

As Congress continues its oversight of the Department of Veterans Affairs, we strongly urge the Committee to continue to devote its energies to continuing improvement through legislation of the disability compensation claims process. We also urge legislation to address all segments of the community of veterans and to clarify certain definitions used by the Department of Veterans Affairs to determine eligibility for disability compensation.

Regional Office Backlog

At least two reports in the last seven months have addressed this intolerable situation: “Audit of VA Regional Office Rating Claims Processing Exceeding 365 Days” (DVA Office of Inspector General) (IG) and “Veterans Benefits Administration Compensation and Pension Claims D Cycle Study” (Booz Allen Hamilton for DVA) (BAH). Both studies portrayed an agency in disarray, with inconsistent practices from office to office, logjams of files at various stages within the rating process, outright loss or misplacement of entire files (IG) and a total lack of coherence in the processing of any individual claim.

A secure, paperless record system for VHA, VBA

We continue to support the digitalization of VA records across the board with the caveat that the original paper file be preserved in secure storage. This will eliminate the logjams, permit duplication of or access to a file in which the claimant has issues in the appeals process and files a new claim in the AOJ. It will also facilitate the transmittal of records for C&P exams and vocational rehabilitation evaluations.

Enhanced training for rating personnel

Materials utilized in training new hires as rating personnel must be evaluated for currency and accuracy and updated as needed based on changing laws. Continuing education in regulations, case law and proper procedures that is geared to varying levels of knowledge and competence is essential to reformation of the claims process. Elimination of the one-size-fits-all method of continuing education in some Regional Offices (BAH) would

improve the quality and effectiveness of the training. We urge the evaluation of the efficiency of transmittal and implementation of instructions for implementing “Fast Letters” and other Agency updates of law or procedure.

Reconfiguration of Regional Office workspace

Workspaces in Regional Offices have been organized by grouping all similar functions in one area and transmitting the files from area to area (BAH), leading to logjams of files in the pre-rating stages, loss of continuity and misplacement of files (sometimes for months), and substantial delays in processing claims. (IG) Teams composed of one member from each function in the rating process, including adequate administrative support personnel, should be housed in discrete areas with storage facilities for files and ready access to research material through IT networks. (BAH) Each “team” should be supervised by a Decision Review Officer.

An example of this proposed reorganization is a pilot project (POD) in the Regional Office in North Little Rock, Arkansas. We strongly urge continuing oversight of this project for improvement of work quantity and quality. This approach should result in “humanizing” the claimant and clarification of claim elements. The result should be team “ownership” of the claim as a joint effort with better coordination of evidence procurement, contact with the claimant and ultimately more accurate and timely resolutions of claims.

Counting of and accountability for work product

Simply moving a file from point A to point B should not be countable as work product. It is critically important that should the “POD” project be expanded to all of the offices that production be measured by teams, with increased quality mentoring of individual members. Monitoring of team members for instructional and skill development needs should be in place. Each team should be assigned to a Decision Review Officer (DRO).

Decision Review Officers (DROs) are the first step in the review of the individual rating decision. They should be selected for expertise, as demonstrated by annual continuing education and testing, and be responsible for quality control of the teams assigned to them. DROs were initially designed to provide a “second look” at a rating decision before transmission to the Board of Veterans’ Appeals (BVA), upon request of the claimant and to provide an opportunity for dialogue with claimant and his or her advocate.

DRO assignment to quality control for rating teams, and reviewing rating decisions for accuracy and clarity, should result in decreased appeals to the BVA and subsequent remands back to

SUMMIT continued on page 6

the team. Hearings should be assigned to the DRO whose team rated the claim, leading to thorough preparation for hearings requested, and a greater likelihood of “getting it right the first time.” The IG Report’s “audit environment” consisted of a bit more than 11,000 cases with 365 days or more in the claim system. They noted that 75% of them were remands to the eleven Regional Offices audited.

Need for vertical accountability When VLS/FBA met with the Transition Team, we emphasized the necessity for vertical accountability from the Regional Office through the Office of the Secretary. The necessity for vertical accountability within the Regional Offices and between the command structures of the Regional Offices and the Office of the Secretary is critical. It is underscored by the results of the two studies referenced here and the hours of testimony before Congressional committees documenting inexcusable incidents where piles of mail were unopened and documents were sequestered and shredded documents in some Regional Offices. Within the Regional Offices a “chain of command” based on the team system must be instituted and personnel performance be rated for quality and accuracy of decision making alone.

Change the procedure

Renovate the entire procedure for providing Notice to veterans of Agency action. Section 504 of the Rehabilitation Act of 1973, as amended (Section 504) reads in applicable part:

No otherwise qualified individual with a disability in the United States, as defined in section 706 (20) of this title, shall, solely by reason of his or her disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance or under any program or activity conducted by any Executive agency or by the United States Postal Service.

VA’s implementing regulations at 38 C.F.R. Part 15 are substantially the same. See 38 C.F.R. Sect. 15.30(a) and Sect. 15.160(a). The exclusive reliance on standard print correspondence by regular mail is no longer sufficient, under an emerging body of case law. The current practice does not in any way meet the needs of a wide demographic of veterans with a wide range of physical and mental disabilities that preclude, in many instances, meaningful access to the benefits sought because of their inability to understand or utilize appropriately Notice in the form provided.

We believe and recommend that any notice to veterans of proposed Agency action be made through an appropriate combination of certified mail, telephonic, electronic and Braille, as implemented by the Social Security system. Because of the processing delays engendered by missed C&P exams, VA is also

encouraged to implement regulations that provide for a minimum of two weeks notice for any medical exam with appropriate consideration of geographic distances involved.

The need for changes in the methods of notification is particularly true of the Notice of Appellate Rights which appears at the end of every decision of the Board of Veterans’ Appeals. Not only is the language explaining procedural options confusing to claimants, it is written in much smaller size type than the decision to which it is appended. The language explaining the options should delineate each option and fully explain each option with a separate paragraph for each. The type size for each should be the same as that of the decision to which it is appended.

Retain the 1 year Notice Of Disagreement period. VLS/FBA does not support the shortening of the year allotted for a claimant to submit an NOD. The one year period provides enough time for the claimant to fully reflect on an unfavorable decision and seek counsel or other advocacy should that be desirable.

Elimination of the Statement of the Case. The SOC is intended to explain to the claimant who has expressed disagreement with the rating decision the reason for the decision and its regulatory basis. It has developed over the years into a disgorgement of cut and paste regulatory excerpts into which there might occasionally be inserted a comprehensible sentence of useful explanation. For all practical purposes, to the average veteran, it is simply not useful and is usually very confusing.

Adopt a Treating Physician Rule. Requiring deference to appropriately documented medical opinions from treating physicians would simplify the process and shorten processing time. If an opinion requires clarifying, clarification should be requested. Veterans should be advised when executing medical authorization for private medical records that the treating physician may submit supporting documentation and that the claim file may be made available to them for review. VA frequently takes the position that the treating physician, civilian or VHA, is too biased to render a fair and accurate opinion as to the etiology of medical evidence. This all too often leads to extensive searches for the “right” opinion from a VA examiner—“develop to deny.”

Restrictions on attorney representation prior to filing of a Notice of Disagreement. We strongly urge that 38 U.S.C. Sect. 5904(c)(1) be amended to allow a veteran to obtain fee-based legal representation when they file the claim rather than after the NOD is filed. Attorneys representing claimants before VA are the most regulated of any group of attorneys before any federal Agency. Permitting veterans to retain counsel earlier in the process would provide a mechanism for better, well-defined claims, more efficient and appropriate acquisition and presentation of evidence pertinent to the claim and reduction of the time elements involved in the appeals process. We disagree

strongly with any proposal to require testing of attorneys as a prerequisite to certification, particularly as the requirements for CLE certification far exceed those for any lay representatives.

Need for a change of culture

VLS/FBA continues to urge legislative support for a change of culture in DVA. Masses of unopened and shredded mail, missing files, sequestered and shredded documents in Regional Offices across the country have only served to heighten the perception of veterans remaining from WWII, Korea and Vietnam that applications move at imperceptible speed in a turgid bureaucracy that only waits for them to die. Veterans of the more recent conflicts, particularly OIF/OEF with massive and permanently disabling physical and mental injuries, can ill afford months or years without income while claims are processed parsing every possible penny in protection of the public purse.

We fully recognize that there are many people working at VA who are dedicated to supporting and honoring our veterans and performing the required tasks with honor and integrity. They do not often receive the recognition they deserve. The recently implemented program awarding employee-generated suggestions is certainly a step in the right direction. We would urge awards to rating teams which experience the fewest corrective remands or which have been determined through quality review, to have done a particularly good job with a rating decision.

The Board of Veterans' Appeals

We continue to assert the need for qualified decision-makers at the Board. Despite the protestations to the contrary, the "accuracy rate" of the decisions rendered continues to be less than ideal. The rate at which cases are remanded to the Board from the Court of Appeals for Veterans Claims belies the BVA's claims of a 90% accuracy rate. VLS/FBA continues to recommend legislative action in two areas as first steps toward resolving some of the issues.

Elimination of the Appeals Management Center (AMC). The AMC has become the repository of remands from the Court in which the veteran is without legal counsel. The AMC functions as the equivalent of a "Super Regional Office," engaging in the case development from which the Board is precluded by case law. The backlog in this entity is significant. Cases currently logjammed at the AMC should be sent back to the Regional Offices and the funds allocated to the AMC re-distributed to the Regional Offices for the use in developing the returned cases.

Increased qualification standards for "Veterans Law Judges."

VLS/FBA continues to support the implementation of a statutory requirement that "Veterans Law Judges" meet all qualifications of Administrative Law Judges in all other agencies within the Executive Branch. We do not support grandfather status for current Veterans Law Judges absent the ability of individuals to meet ALJ standards.

Decentralization of judicial function of Board of Veterans Appeals.

We strongly support legislative and agency action to decentralize the Board of Veterans' Appeals to provide increased access to appellate hearings at the Regional Offices for those veterans who seek to appeal their claims before a Veterans Law Judge. Re-location of the appellate entity, in much the same manner as Social Security ALJs, obviates the necessity of transferring files to Washington, and provides increased efficiency in the processing of appeals within the agency. There is far less time involved and decreased risk of loss or misdirection of claims files that exists in the current system and in a paperless world, easier transmission of data and discs.

Respectfully submitted,

Carol Wild Scott, Chair

Veterans Law Section
Federal Bar Association

CALL FOR ARTICLES

WE ARE INTERESTED IN PUBLISHING YOUR ARTICLES IN OUR NEWSLETTER! IF YOU HAVE A PIECE YOU WOULD LIKE TO SHARE WITH THE SECTION MEMBERSHIP, PLEASE FORWARD IT TO BOB GOSS AT BOB@GOSSLAW.COM FOR CONSIDERATION.

VETERANS LAW SECTION MEMBERSHIP RECRUITMENT CONTEST!

THE VETERANS LAW SECTION MEMBER THAT RECRUITS THE MOST MEMBERS TO THE VETERANS LAW SECTION BETWEEN MAY 1 AND AUGUST 31, 2010, WILL RECEIVE FREE REGISTRATION FOR THE 2010 FBA ANNUAL MEETING AND CONVENTION IN NEW ORLEANS! PLEASE SEND AN EMAIL TO ADRIENNE WOOLLEY AT AWOOLLEY@FEDBAR.ORG WITH THE NAMES OF THOSE YOU HAVE RECRUITED. THE WINNER WILL BE ANNOUNCED THE FIRST WEEK OF SEPTEMBER.

TOMMY

**Veterans Law Section of the Federal Bar Association
1220 N. Fillmore Street, Suite 444
Arlington, VA 22201**