



**Fiscal Year 2022 Annual Report
October 1, 2021, to September 30, 2022
United States Court of Appeals for Veterans Claims**

1. *The number of appeals filed with the Court:*¹ **7,344 appeals** (17% pro se at the time of filing)

2. *The number of petitions filed with the Court:* **280 petitions** (60% pro se at the time of filing)

3. *The number of applications filed with the Court under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412:* **6,530 EAJA applications**

4. *The total number of dispositions*² *by each of the following for FY 2022:*
 - (A) **The Court as a whole**
 - 8,164 appeals (8% pro se at time of disposition)
 - 260 petitions (52% pro se at time of disposition)
 - 6,534 EAJA applications
 - 178 requests for reconsideration/panel decision³
 - 140 appeals*
 - 38 petitions*
 - 15,136 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 2022 (continued):*

(B) The Clerk of the Court⁴

6,380 appeals

6 petitions

6,511 EAJA applications

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

12,897 total dispositions

(C) A single judge of the Court

1,746 appeals

249 petitions

23 EAJA applications

106 requests for reconsideration

85 appeals

21 petitions

2,124 total dispositions

(D) A multi-judge panel of the Court

37 appeals

5 petitions

0 EAJA applications

57 requests for panel decision following a single-judge decision/panel reconsideration

44 appeals

13 petitions

99 total dispositions

(E) The full Court

1 appeal

0 petitions

0 EAJA applications

15 requests for a full court decision following a panel decision

11 appeals

4 petitions

16 total dispositions

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

5. *The number of each type of disposition by the Court, including settlement, affirmance, 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	403	7	1	411
<i>Affirmed or dismissed in part, reversed or vacated and remanded in part</i>	3,096	148	1	0	3,245
<i>Reversed or vacated and remanded in whole or in part</i>	0	944	19	0	963
<i>Remanded</i>	2,657	7	2	0	2,666
<i>Dismissed for lack of jurisdiction or timeliness</i>	7	227	2	0	236
<i>Dismissed for default</i>	230	3	0	0	233
<i>Dismissed voluntarily</i>	390	14	6	0	410
TOTAL	6,380	1,746	37	1	8,164

PETITIONS

TYPE OF DISPOSITION	CLERK	SINGLE JUDGE	THREE-JUDGE PANEL	FULL COURT	TOTAL
<i>Extraordinary relief granted</i>	0	2	0	0	2
<i>Extraordinary relief denied</i>	0	100	1	0	101
<i>Extraordinary relief dismissed</i>	0	72	3	0	75
<i>Dismissed for default</i>	3	2	0	0	5
<i>Dismissed voluntarily</i>	3	73	1	0	77
TOTAL	6	249	5	0	260

⁵ Please see footnote 4.

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

E A J A

TYPE OF DISPOSITION	CLERK	SINGLE JUDGE	THREE-JUDGE PANEL	FULL COURT	TOTAL
<i>Applications after decisions in appeals</i>	6,511	19	0	0	6,530
<i>Granted</i>	6,511	11	0	0	6,522
<i>Denied</i>	0	3	0	0	3
<i>Dismissed</i>	0	5	0	0	5
<i>Applications after decisions in petitions</i>	0	4	0	0	4
<i>Granted</i>	0	2	0	0	2
<i>Denied</i>	0	2	0	0	2
<i>Dismissed</i>	0	0	0	0	0
TOTAL	6,511	23	0	0	6,534

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 **244 days (8.1 months)**. This involves pre-chambers procedural activity⁶ (including record dispute resolution, staff mediation conferencing,⁷ briefing, screening, time for pro se appellants to seek counsel, and requests for additional time from the parties) and then disposition by a judge or a panel of judges (including consideration of any requests for class certification and class action) or by 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 **223 days (7.4 months)**. This involves pre-chambers procedural activity (including record dispute resolution, staff mediation 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.

⁶ Pre-chambers procedural activity, the period of time from filing an appeal to assignment of the appeal to chambers, includes record dispute resolution, staff mediation conferencing, briefing, screening, time for pro se appellants to seek counsel, and requests for additional time from the parties.

⁷ Staff mediation conferencing is required for all represented parties. In May 2021, the Court initiated a 2-year pilot program that makes counsel available to otherwise unrepresented parties for the limited purpose of participating in mediation. Approximately one third of the unrepresented parties have opted to participate in this pilot.

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):*
- (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 **77 days (2.6 months)**. Activity once a matter is assigned to chambers includes judges and law clerks collaborating to draft a decision and circulating all draft decisions to all judges for a 1-week comment period. The median time from filing an appeal to disposition by a single judge, which includes pre-chambers procedural activity, is **456 days (15.2 months)**. Pre-chambers procedural activity includes record dispute resolution, staff mediation 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 a panel is **168 days (5.6 months)**. Activity once a matter is assigned to a panel includes judges collaborating with each other to determine the disposition and assign writing responsibilities; considering any requests for class certification and class action; 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 1-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 **672 days (22.4 months)**. Pre-chambers procedural activity includes record dispute resolution, staff mediation 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:* **57 days** (1.9 months)
8. *The median time from filing an EAJA application under 28 U.S. C. § 2412 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:* **124 days** (4.1 months)
Note: This time includes approximately 2 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:* **27 held** (47 scheduled, 8 settled, 12 canceled)

11. *The number of cases appealed to the United States Court of Appeals for the Federal Circuit:* **128 total cases**
 108 appeals
 19 petitions
 1 EAJA application

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> ⁸	5,300	1,041	6,341
<i>Pending decision by a judge or panel</i>	350	7	357
<i>Post decision</i>	779	2	781
<i>Pending a motion for reconsideration or panel</i>	43	0	43
<i>Pending entry of judgment</i>	173	0	173
<i>Pending entry of mandate</i>	411	1	412
<i>On appeal before the Federal Circuit</i> ⁹	152	1	153
TOTAL	6,429	1,050	7,479

13. *The number of cases pending with the Court more than 18 months as of the end of the fiscal year:* **652 total cases**
 643 appeals
 9 petitions

<i>Pre-chambers procedural activity</i> ¹⁰	126
<i>Pending decision by a judge or panel</i>	71
<i>Post decision</i>	455

⁸ Please see footnote 6

⁹ This represents the number of cases pending on appeal to the Federal Circuit at the end of FY 2022, which is different than the number of notices of appeal filed during FY 2022 reported in element 11.

¹⁰ Delays associated with these cases are due primarily to parties' requests for stays, parties' requests for additional time, or complexity of the case.

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

Four retired judges were recalled to service as Senior Judges in FY 2022. Senior Judges issued 164 single-judge decisions in total. In addition, Senior Judges participated in 1 three-judge panel, 0 en banc panels, 3 three-judge panels formed to address motions for reconsideration of single-judge decisions, and 0 three-judge panels formed to address motions for reconsideration of three-judge-panel decisions. Two Senior Judges were also involved in committee work for the Court.

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, 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 developing class action caseload. The 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.

The number of new cases filed at the Court in FY 2022 decreased by 8%. This decrease correlates to a reduction of final decisions issued by the Board of Veterans' Appeals (Board). In FY 2022, the Board decreased production of final decisions from 99,721 in FY 2021 to 95,294.

Over the course of FY 2022, the Court averaged 612 appeals filed per month, and reached a high of 717 appeals filed in March 2022. The Court did not receive any new requests for class certification in FY 2022 but continued to have six active class action cases in progress. The Court continues to keep pace with its substantial caseload in large part due to the significant percentage of cases that are resolved through the mandatory pre-briefing mediation conferences conducted by Court staff attorneys.

In FY 2022, the Court averaged 160 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 211. The Court received 847 filings per active judge, based on the 7,624 cases (7,344 appeals and 280 petitions) filed in FY 2022. The number of filings per active judge for the Circuit Courts of appeals ranged from 74 to 424.

By statute, the Court is permanently authorized seven active judges. Based on workload increase, Congress has temporarily authorized two additional judges, bringing the number of active judges currently in service to nine. Seven permanent active judges are not adequate, and the Court's

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.

15. An assessment of the workload of each judge of the Court, including consideration of the following (continued):

- (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.**

sustained workload justifies making the nine-judge authorization permanent. Further, based on projections that production of final decisions by the Board will continue to grow in the future, projections that have already resulted in increased staff authorizations for the Board and the Office of General Counsel Court of Appeals for Veterans Claims Litigation Group, the Court included funding for 2 additional temporary judgeships in its FY 2023 budget estimate submitted to Congress. In response, funds necessary to pay for the additional judges and chambers staff were appropriated in the Consolidated Appropriations Act, 2023. Congressional legislation authorizing the new judgeships has been introduced.