

Chisholm, Chisholm & Kilpatrick LTD
Attn: Robert Chisholm
321 S. Main St. #200
Providence, RI 02903

Dear Mr. Chisholm,

After reading your July 1, 2022, website article concerning the Board of Veterans' Appeals, as concerned Board Veterans Law Judges (VLJs) we would like to provide additional insight into the decreased issuance of Board decisions and the corresponding alarming increase in the number of cases awaiting signature in most VLJ queues. As of July 12, 2022, the weekly Production Case Report circulated to the VLJs documents that 1,321 Legacy and 520 AMA cases were awaiting VLJ review and signature. Many VLJs in that report had a large volume of cases awaiting signature, with some at 70 or more. As a concerned group of VLJs, we are writing you out of frustration, as our concerns have been ignored by SES Board management and the Secretary of Veterans Affairs. Long ago we predicted the dramatic decrease in issuing decisions and warned both Board management and the Secretary, but we were ignored.

The predicates for the slowdown in production were the Chairman's impulsive decision to triple the hearing days assigned to each VLJ, and her unreasoned decision to transform the VLJ position into a supervisory one. During the Pandemic, the Chairman decided to increase the number of hearing days assigned every month to each VLJ from two days to seven days. Her intention, stated explicitly in large part, was to make her mark as the Chairman who conquered the Legacy hearing backlog. Predictably, however, more than tripling the number of hearing days resulted in a dramatic decrease in the number of cases signed. It also resulted in many instances where the hearing had to be postponed, or where the veteran felt compelled to proceed without representation, because the Veterans Service Organizations were not given time to increase their staff to accommodate the Board's suddenly increased hearing pace. Moreover, SES Board managers failed to monitor whether Legacy hearings were even being prioritized, resulting in the scheduling of numerous AMA hearings that undercut the Chairman's goal of reducing the Legacy hearing "backlog". Eventually, the Chairman grudgingly acknowledged the logistical problems of the VSOs (though she criticized the VSOs as not being team players), and recently reduced the number of hearings assigned every month to each judge to five.

Concurrently with unbalancing VLJ priorities toward holding an unprecedented number of hearings at the expense of signing decisions, the Chairman and her SES Board managers

saddled the VLJs with supervisory responsibilities, compounding this by not providing more than ad hoc training. Prior to FY22, supervision of attorneys was the responsibility of Supervisory Senior Counsel (SSCs), a GS-15 position specifically created for the purpose of Board attorney supervision. SSCs now only supervise probationary attorneys, and VLJs instead are responsible for supervising the remainder (typically 7 to 10 attorneys per VLJ). The VLJ position had never before been a supervisory one, and unsurprisingly an estimated 80% of the VLJs have never before held a position as a government supervisor. Time that used to be spent signing decisions is now spent on a myriad of clerical duties attending the supervisory role, such as keeping track of attorney production, tracking attorney training, preparing charts, counseling, reprimands, preparing and tracking promotion packages, performance appraisals, and the time-consuming process of rehabilitating poorly performing attorneys. No formal training program was offered to make the transition to supervisor duties efficient. Instead, SES Board managers had the SSCs conduct short ad hoc training sessions that often conflicted with hearings. SES Board management also placed a 10-hour video course in supervision in our training queue, and when informed that this "training" course was outdated, the SES managers literally laughed about it. Unsurprising, the VLJs have found little support from HR, and the inconsistent personnel policies among SES managers have frustrated the VLJs in their new responsibilities.

The more than tripling of hearing days and the crippling supervisory duties coupled with the lack of training and support have directly led to the decline in the ability to sign cases, and hence the reduced number of decisions veterans are receiving.

The Chairman and her SES managers have focused on two initiatives to counterbalance their sabotage of the Board's mission to issue decisions: using Acting VLJs, and hiring more VLJs. Acting VLJs are GS-14s who have limited authority to sign decisions, and the plan by management was to have these individuals absorb the excess cases sitting in the VLJs' signing queues. Alas, SES management belatedly realized that a large number of cases sitting in the queues were Legacy hearing cases, which must be signed by the judge who held the hearing. The Acting initiative is a failure, as the numbers continue to show.

As for hiring new VLJs, you are already aware that that the Chairman elected to prioritize hiring VLJs with no knowledge of Veterans Benefits law. Of the 20 VLJs hired from the June 2021 cohort, 12 were inexperienced in Veterans Benefits law. Of the recently hired cohort of 30, it appears up to 25 have no experience in Veterans Benefit law (only 5 VLJs were chosen from the ranks of the Board SSCs, who are able to hit the ground running in production). The inexperience of the new judges, coupled with how many were hired, is severely impacting the ability of the Board to decide cases. We have included for you a spreadsheet of VLJ productivity

for October 2021 to June 2022, which shows the average number of cases per week signed by each VLJ. The 13 judges hired in the June 2021 cohort are highlighted, and you will see that except for VLJ Kirby (a re-hire who had prior experience at the Board before her appointment as a VLJ), the new VLJs only average from one to six signed decisions per week. The new VLJs required experienced VLJs to train them, resulting in a further reduction in the number of decisions reaching veterans. The Chairman and her SES managers have harmed veterans by their actions in hiring inexperienced VLJs.

We hope this provides you with more insight into the reduction in the number of decisions reaching veterans. The VLJs are capable and willing to accomplish the Board's mission of issuing decisions. We are hampered by poorly conceived and executed initiatives from the departing Chairman and her SES team, who have effectively transformed the VLJ corps into highly paid administrative staff with only a secondary responsibility of signing veterans' decisions. Frankly, the arrogance and incompetence of the Chairman and her executive team is embarrassing, and it is shameful that it ended up affecting our veterans as well.

Sincerely


Concerned Judges of the Board

Board of Veterans' Appeals Judge Production for October 2021 to June 2022

LAST NAME	FIRST NAME	LEGACY SIGNED	AMA SIGNED	TOTAL SIGNED	AVERAGE DECISIONS PER WEEK
		897	184	1081	27.7
		804	250	1054	27.0
		700	177	877	22.5
		710	119	829	21.3
		635	183	818	21.0
		581	212	793	20.3
		598	188	786	20.2
		600	185	785	20.1
		665	113	778	19.9
		577	197	774	19.8
		661	110	771	19.8
		600	159	759	19.5
		603	155	758	19.4
		668	88	756	19.4
		579	172	751	19.3
		596	154	750	19.2
		585	164	749	19.2
		551	181	732	18.8
		539	191	730	18.7
		580	147	727	18.6
		573	127	700	17.9
		422	273	695	17.8
		580	113	693	17.8
		564	125	689	17.7
		551	137	688	17.6
		571	111	682	17.5
		494	184	678	17.4
		569	108	677	17.4
		553	121	674	17.3
		444	229	673	17.3
		574	99	673	17.3
		519	152	671	17.2
		546	123	669	17.2
		538	118	656	16.8
		529	120	649	16.6
		484	153	637	16.3
		533	99	632	16.2
		525	105	630	16.2
		497	130	627	16.1

504	119	623	16.0
458	165	623	16.0
489	132	621	15.9
504	115	619	15.9
517	98	615	15.8
497	116	613	15.7
435	177	612	15.7
501	109	610	15.6
483	127	610	15.6
507	95	602	15.4
498	103	601	15.4
501	97	598	15.3
469	129	598	15.3
437	151	588	15.1
465	119	584	15.0
504	72	576	14.8
483	92	575	14.7
486	89	575	14.7
449	124	573	14.7
475	91	566	14.5
452	114	566	14.5
449	116	565	14.5
430	134	564	14.5
497	64	561	14.4
437	120	557	14.3
407	141	548	14.1
460	87	547	14.0
455	91	546	14.0
430	106	536	13.7
417	115	532	13.6
409	121	530	13.6
460	70	530	13.6
398	124	522	13.4
400	118	518	13.3
387	130	517	13.3
436	70	506	13.0
407	98	505	12.9
436	65	501	12.8
363	134	497	12.7
375	115	490	12.6
462	26	488	12.5
409	77	486	12.5
409	76	485	12.4
390	93	483	12.4
353	126	479	12.3
347	130	477	12.2
406	68	474	12.2

123	322	445	11.4
332	92	424	10.9
274	102	376	9.6
307	62	369	9.5
267	101	368	9.4
269	97	366	9.4
218	117	335	8.6
233	61	294	7.5
95	157	252	6.5
199	35	234	6.0
48	182	230	5.9
181	33	214	5.5
46	166	212	5.4
168	39	207	5.3
64	118	182	4.7
141	31	172	4.4
32	133	165	4.2
32	117	149	3.8
63	52	115	2.9
16	95	111	2.8
10	96	106	2.7
7	96	103	2.6
56	2	58	1.5
18	28	46	1.2
1	43	44	1.1
34	5	39	1.0
13	1	14	0.4



Please Read Immediately