ARMED SERVICES BOARD OF CONTRACT APPEALS
SKYLINE SIX
5109 LEESBURG PIKE
FALLS CHURCH, VA 22041-3208

31 October 1994

MEMORANDUM FOR: THE SECRETARY OF DEFENSE
THE SECRETARY OF THE ARMY
THE SECRETARY OF THE NAVY
THE SECRETARY OF THE AIR FORCE

SUBJECT: Report of Transactions and Proceedings of the Armed Services Board of Contract Appeals for the Fiscal Year Ending 30 September 1994

This report is furnished under paragraph 9 of the Charter of the Armed Services Board of Contract Appeals, 1 July 1979. The statistics reflect the adjudication of appeals of the Army, Navy, Air Force, Defense Logistics Agency (DLA), and other defense agencies. Also included are appeals of various executive agencies which have been adjudicated under inter-agency arrangements as provided in 41 U.S.C. § 607(c).

The following statistics cover activities of the Board during the report period and the current reserve of pending matters:

A.	Appeals docketed during FY 1994 (Includes 132 reinstatements)	1533
B.	Appeals disposed of during FY 1994	1583
C.	Number of Appeals Pending 1 October 1978	1163
	Number of Appeals Pending 1 October 1979	1221
	Number of Appeals Pending 1 October 1980	1259
	Number of Appeals Pending 1 October 1981	1301
	Number of Appeals Pending 1 October 1982	1594
	Number of Appeals Pending 1 October 1983	1695
	Number of Appeals Pending 1 October 1984	1729
	Number of Appeals Pending 1 October 1985	2074
	Number of Appeals Pending 1 October 1986	2096
	Number of Appeals Pending 1 October 1987	2503
	Number of Appeals Pending 1 October 1988	2355
	Number of Appeals Pending 1 October 1989	2321
	Number of Appeals Pending 1 October 1990	2462
	Number of Appeals Pending 1 October 1991	2367
	Number of Appeals Pending 1 October 1992	2198
	Number of Appeals Pending 1 October 1993	2027
	Number of Appeals Pending 1 October 1994	1977
	Net Decrease in Docket, FY 1994	50

D. Source of Appeals Docketed FY's 1990-94

	FY 90	FY 91	FY 92	FY 93	FY 94
Air Force	540	508	355	266	311
Army	671	579	599	465	472
Navy	591	476	414	481	358
DLA	153	197	116	150	124
NASA				14	3
Other	123	122	67	68	133
Reinstated	140	139	161	107	132
TOTAL	2218	2021	1712	1551	1533

E. Status of Appeals Pending End of FY 1994:

Complaint Due	179
Answer Due	215
Discovery	794
To Be Set	57
Hearing Set	283
Transcript & Briefs Due	128
Suspense	66
Ready to Write	255
TOTAL	1977
Rule 12	75

F. Appeals Disposed of During FY's 1990-94

1. Origin of Appeals:	FY 90	FY 91	FY 92	FY 93	FY 94
Air Force	494	565	477	374	359
Army	714	662	636	689	450
Navy	580	603	472	393	487
DLA	141	149	170	258	182
NASA				2	9
Other Agencies	110	87	97	60	73
Admin. Disposals	38	50	29	46	23
2. Rule 12 Proceedings	315	341	276	261	238
3. Record only Dispositions	297	364	350	253	203
4. Disposition:					
Dismissed	1532	1537	1257	1251	1150
Denied	254	279	283	262	225
Sustained	291	300	341	209	208
TOTAL	2077	2116	1881	1722	1583

	FY 90	FY 91	FY 92	FY 93	FY 94
5. Days from date of docketing to date of decision:					
All appeals:					
Average	459	455	510	512	462
Median	258	262	346	341	315
Rule 12 appeals:					
Average	149	160	165	145	163
Median	147	161	152	135	141

The number of appeals pending at the end of the fiscal year dropped under 2,000 for the first time in the last decade. However, an indication of the complexity of the docket is reflected by the fact that of the pending 1,977 appeals, approximately 350 appeals involve claims exceeding $1,000,000 which total approximately four billion dollars.

Of the Board's 1,977 active appeals, the Army has 640 (32.4%), the Navy 622 (31.5%), the Air Force has 405 (20.5%), DLA has 148 (7.5%), and 162 appeals (8.2%) are from other sources. At the conclusion of FY94, 8 of the appeals were court remands, 38 were applications under the Equal Access to Justice Act, 24 were motions for reconsideration, and 75 appeals were being processed under Rule 12 as expedited (12) or accelerated (63) appeals.

At the close of FY94, 46 ASBCA decisions were under review by the U.S. Court of Appeals for the Federal Circuit (including 7 Government appeals) and one maritime appeal was pending before a District Court. During the fiscal year, the parties requested the use of the Board's ADR services in 29 appeals (does not include appeals resolved by structured settlement conferences). The Board refused the request in two appeals (the parties failed to demonstrate that their appeal would benefit from an ADR process or that they had a sincere desire to cooperate in the resolution of the claims) and one request was withdrawn. All but three of the ADR proceedings resulted in a resolution of the appeals.

Judges Ruberry, Riismandel, and Axelman retired after long and distinguished careers. Together they had over 50 years of dedicated service at the ASBCA. Their marks as to the substantive law are embodied into the history of the Board. Their roles as guideposts and mentors cannot be underestimated.

PAUL WILLIAMS
Chairman