



ARMED SERVICES BOARD OF CONTRACT APPEALS

SKYLINE 6, ROOM 703
5109 LEESBURG PIKE
FALLS CHURCH, VA 22041-3208

22 October 2013

MEMORANDUM FOR: SECRETARY OF DEFENSE
SECRETARY OF THE ARMY
SECRETARY OF THE NAVY
SECRETARY OF THE AIR FORCE
GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE
DIRECTOR OF THE DEFENSE LOGISTICS AGENCY

SUBJECT: Report of Transactions and Proceedings of the Armed Services Board
of Contract Appeals for the Fiscal Year Ending 30 September 2013

This report is furnished under paragraph 9 of the Charter of the Armed Services Board of Contract Appeals, revised 14 May 2007. The statistics reflect the adjudication of appeals of the Army, Navy, Air Force, Corps of Engineers, Defense Logistics Agency, Defense Contract Management Agency, other Defense agencies, Central Intelligence Agency, National Aeronautics and Space Administration, and the Washington Metropolitan Area Transit Authority.

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

A. Appeals Docketed During FY 2013	672
B. Appeals Disposed During FY 2013	459
C. Appeals Pending	
Number of Appeals Pending 1 October 2008	572
Number of Appeals Pending 1 October 2009	532
Number of Appeals Pending 1 October 2010	573
Number of Appeals Pending 1 October 2011	566
Number of Appeals Pending 1 October 2012	680
Number of Appeals Pending 1 October 2013	893
Net Increase in Docket, FY 2013	213

D. Source of Appeals Docketed FYs 2009-2013

	<u>FY 09</u>	<u>FY 10</u>	<u>FY11</u>	<u>FY12</u>	<u>FY13</u>
Army	113	114	126	124	159
Navy	30	62	38	72	76
Air Force	41	62	45	92	34
Corps of Eng.	110	140	95	147	185
DLA & DCMA	66	49	94	91	115
Other Agencies	12	9	10	17	18
Reinstated	<u>32</u>	<u>29</u>	<u>24</u>	<u>28</u>	<u>85</u>
TOTAL	404	465	432	571	672

E. Appeals Disposed During FYs 2009-2013

	<u>FY 09</u>	<u>FY 10</u>	<u>FY 11</u>	<u>FY12</u>	<u>FY13</u>
1. Origin of Appeals					
Army	74	126	115	123	143
Navy	60	70	62	68	42
Air Force	68	32	78	53	57
Corps of Eng.	158	123	112	115	114
DLA & DCMA	65	58	63	83	84
Other Agencies	<u>19</u>	<u>15</u>	<u>9</u>	<u>15</u>	<u>19</u>
TOTAL	444	424	439	457	459
2. Rule 12 Proceedings					
	19	25	29	51	27
3. Disposition					
Sustained	69	61	43	41	80
Denied	34	46	38	45	60
Dismissed	<u>341</u>	<u>317</u>	<u>358</u>	<u>371</u>	<u>319</u>
TOTAL	444	424	439	457	459

F. Status of Appeals Pending 1 October 2013

Complaint Due	93
Answer Due	105
Discovery	257
To Be Set	41
Hearing Set	114
Transcript & Briefs Due	53
Suspense	206
Ready to Write	<u>24</u>
TOTAL	893

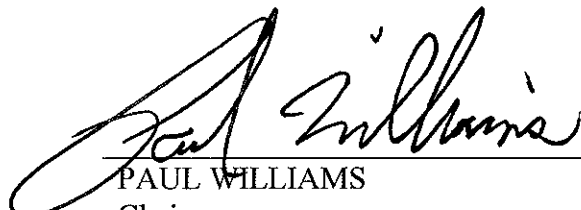
Of the Board's 893 active appeals, the Army has 253 (28.3%), the Navy has 99 (11.1%), the Air Force has 75 (8.4%), the Corps of Engineers has 301 (33.7%), DLA and DCMA have 146 (16.3%), and the remaining 19 appeals (2.1%) are from other sources.

During FY 2013, there were 40 elections to have appeals processed under Board Rule 12 (26 expedited and 14 accelerated), 4 applications under the Equal Access to Justice Act, 31 motions for reconsideration, and 0 court remands. At the conclusion of FY 2013, there were 6 appeals being processed under Board Rule 12 (2 expedited and 4 accelerated), 5 applications under the Equal Access to Justice Act, 20 motions for reconsideration, and 0 court remands pending.

In FY 2013, the Board disposed of 140 appeals on the merits. Of those dispositions, 57.1% of the decisions found merit in whole or in part. The Board dismissed 319 appeals. In the majority of cases, a dismissal reflects that the parties have reached a settlement. The U.S. Court of Appeals for the Federal Circuit docketed 8 appeals from Board decisions, and 6 appeals were pending at the close of the fiscal year. Of the 8 dispositions by the Court of Appeals for the Federal Circuit involving appeals of ASBCA decisions: 6 were affirmed, 2 were dismissed. One appeal from a Board decision was pending in another tribunal at the close of the fiscal year - a maritime appeal at the U.S. District Court for the Southern District of California.

During FY 2013, parties requested the Board's ADR services 34 times, covering 99 appeals and 2 undocketed disputes. Thirty-three requests were for nonbinding ADR and 1 request, covering 4 matters, was for binding ADR. Sixteen of the requests received during the year were pending at the close of the fiscal year. Of the 27 requests concluded during the year, not limited to FY 2013 requests, 1 request, covering 4 matters, was for binding ADR and 26 requests, covering 78 matters, were for nonbinding ADR. All were successfully resolved.

Several of the Board's hearings and ADR proceedings were delayed or postponed due to furlough and sequestration issues.



PAUL WILLIAMS
Chairman