

## BigLaw Attys Take On VA Roadblocks To Help Fellow Veterans

By **Aebra Coe**

*Law360 (November 9, 2021, 3:06 PM EST)* -- The bureaucracy of the U.S. Department of Veterans Affairs can make accessing benefits a complex and overwhelming task, but a handful of military veterans turned corporate attorneys are leveraging their military experience and legal know-how to take on pro bono cases helping their fellow service members.

Wilson Sonsini Goodrich & Rosati PC associate John Casey, a former Air Force officer, is one of those attorneys. This past summer Wilson Sonsini took on eight pro bono cases that involved veterans benefits appeals, and Casey was among the attorneys working on those cases. The firm has won five of the cases, and three are in progress. The cases were led by Casey's colleague, Army veteran John Lynch.

According to Casey, the wins are a testament to the need among veterans for pro bono legal help to push back against obstacles at the VA that prevent them from accessing monetary and medical benefits.

"There's no one at the VA out to get veterans, it's just that there's so much bureaucracy, so much stuff that can get lost in the shuffle, and it takes forever to get through the processes," Casey said. "When you understand that from the inside, it's helpful when you're trying to correct it on the outside."

Nearly 9,000 cases were appealed to the U.S. Court of Appeals for Veterans Claims last year, and about one-fourth of those appealing were not represented by an attorney at the time of the filing.

Having a lawyer absolutely helps, and having one who is also a military veteran also means the attorney has a good grasp of how the military works and its culture, and how to deftly interact within the social norms of the veteran community, the attorneys who spoke to Law360 Pulse said.

Another former Air Force officer, Finnegan Henderson Farabow Garrett & Dunner LLP partner Elizabeth Ferrill, has been involved with pro bono work on behalf of veterans for more than a decade including at the Court of Appeals for Veterans Claims.

Often the cases involve people who have been assigned a disability rating and as a result are entitled to benefits such as medical care or a monthly stipend.

*"After ... putting themselves on the line and it went wrong, I want them to know that there are other veterans out there who are going to help make it right."*



**JOHN CASEY**  
Wilson Sonsini

"Veterans have to apply for and fight for these ratings," Ferrill said. "The people we see didn't get a fair shake from the VA. We are helping them get a higher rating, and if we're successful they get a lot of other benefits associated with that higher rating."

In some cases the denials are due to the VA's being slow to fully understand certain conditions such as post-traumatic stress disorder or sexual trauma and how those afflictions can manifest years after a service member's time in the military ends, Ferrill said.

The individualized nature of medical conditions can also make the process for evaluating them complicated. Ferrill pointed to a former client who had developed back and knee pain from jumping out of airplanes more than 500 times.

"For some people, their bodies do OK and they live a good life afterward," she said. "Someone could say, someone else jumped out of a plane 500 times and they're fine. But it's not the same for everyone."

The system is aimed at preventing abuse, but Ferrill said the dollar amounts at stake are not eye-popping. They are often just enough to prevent a person from falling into poverty.

A person who is deemed 100% disabled — often someone who has lost a limb, for instance, and is not able to work — can only receive up to \$36,000 a year in VA disability benefits, Ferrill said.

Will Thompson, an associate at Varnum LLP who served in the Marine Corps before becoming a lawyer, said he represented a man pro bono who was exposed to lead as a rifle coach for the military and suffered neurological and muscle issues as a result. The VA would not acknowledge that the bullets fired in the range were an "instrumentality of war" even though they were service weapons fired for combat training, he said.

The case ultimately was decided in the client's favor.

"This guy was incredibly disabled and warranted further disability consideration from the Veterans Administration," Thompson said. "A lot of times veterans need additional resources to make the existing resources that are offered work in their favor."

Hogan Lovells associate Jonathan Stulberg, a Navy veteran, said another challenge veterans face in accessing benefits is cultural elements present in the military that make it less likely they'll report symptoms when they first occur, especially with injuries such as a traumatic brain injury or PTSD.

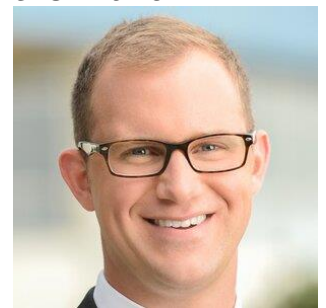
The culture is one where, in the heat of battle, soldiers push aside or ignore symptoms and pain so that they continue to serve alongside their team, only fully acknowledging the effects of their service months or years later, in some cases missing windows when they can document their symptoms.

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**ELIZABETH FERRILL**  
Finnegan

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**WILL THOMPSON**  
Varnum

He said he's worked with veterans who served in the Iraq War in only lightly armored Humvees and encountered explosions from roadside bombs.

"In some cases they had to remove shrapnel from parts of their body," Stulberg said. "But if they're walking out and can still carry a gun and follow orders, the mentality was, 'There's nothing wrong with you — we need you to get back out there and fight.'"

That sense of urgency isn't a bad thing when there's a mission to accomplish, but there needs to be corrective action taken on the back end, he said.

"That's what working with veterans is all about: Going back and correcting those errors and getting them the benefits they deserve," he said.

As a veteran himself, Stulberg said he has an understanding of the complexity of the military and how it operates, which gives him a leg up when taking on cases for other veterans.

For instance, paperwork filed at the time of an injury might not tell the full story, he said.

"It's very important to not doubt them because they don't have the proper paperwork," he said. "I make it a point to go past the paperwork and speak to the people who really understood the context of the kinds of things that happened," such as friends, officers and family members.

The attorneys told Law360 Pulse that pro bono is a great opportunity to give back and help other veterans.

"I want them to feel as though, after having made that decision [to enlist] and putting themselves on the line and it went wrong, I want them to know that there are other veterans out there who are going to help make it right," Casey said.

Ferrill said that during her time in the Air Force she was taught that as an officer she should eat last, go to bed last, and make sure all the men and women who worked for her were taken care of.

"When in the service we are told to put service before self. I feel like this is a continuation of that mission in my mind," she said.

--Editing by Brian Baresch.