

Blog Entry: Federal Circuit Court of Appeals Puts the Class in Class Actions

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The Federal Circuit Court of Appeals is best known for adjudicating patent disputes. But that's not the extent of its portfolio. It also has exclusive appellate jurisdiction over decisions of the United States Court of Appeals for Veterans Claims, which, in turn, reviews decisions of the Board of Veterans' Appeals. Those tribunals adjudicate benefits claims by military veterans.

High-stakes patent cases tend to evoke more buzz than those involving veterans' benefits, but a recent decision by the Federal Circuit on the latter topic is likely to go down as one of its most significant. All quoted text is from the court.

Here's the background: "Conley F. Monk, Jr., petitioned the Veterans Court to certify a class action and to otherwise aggregate for adjudication the claims of thousands of veterans whose claims were similarly situated to his own. The Veterans Court denied the request on grounds that it lacks authority to certify classes of claims, or to adjudicate disability claims on an aggregate basis."

Here's the issue: "This appeal concerns whether the United States Court of Appeals for Veterans Claims has authority to certify a class for class action or for similar aggregate resolution procedures."

And here's the holding: "We hold that the Veterans Court has the authority to certify a class for a class action and to maintain similar aggregate resolution procedures. We reverse the judgment of the Veterans Court and remand for further proceedings consistent with this opinion."

Mr. Monk was a Marine during the Vietnam War. His benefits claim was originally denied, prompting him to file a Notice of Disagreement - an "NOD" - with the VA challenging that decision. When he did not receive a prompt response from the VA, he sought to certify in the United States Court of Appeals for Veterans Claims ("Veterans Court") a class consisting of "all veterans who had applied for VA benefits, had timely filed an NOD, had not received a decision within twelve months, and had demonstrated medical or financial hardship as defined" by statute.

The Veterans Court denied Monk's request for class certification, claiming "that it lacks authority to maintain class actions." It stated that "Mr. Monk fails to appreciate the [Veterans] Court's long-standing declaration that it does not have the authority to entertain class actions." "In the absence of such authority," it said, "no other arguments matter."

In other words, the Veterans Court claimed that it lacked authority to certify class actions simply because it so declared.

Enter the Federal Circuit Court of Appeals. In a unanimous decision dated April 26, 2017, it held that “the Veteran’s Court decision that it lacks authority to certify and adjudicate class action cases was an abuse of discretion” and “that the Veterans Court has such authority under the All Writs Act, other statutory authority, and the Veterans Court’s inherent powers.”

The All Writs Act provides that “[t]he Supreme Court and *all courts established by Act of Congress* may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law.” (Emphasis added.) Because the Veterans Court was established by Act of Congress, it was authorized by the All Writs Act law to create rules and procedures for the administration of class actions.

The court also found that the federal statute creating the Veterans Court - the Veterans Judicial Review Act - did not expressly preclude class actions in that court. On the contrary, that statute *permitted* the Veterans Court “to prescribe rules of practice and procedures” in that court - which would include rules for the administration of class actions.

And so yes: the Veterans Court *is* empowered to administer class actions, and it erred when it held to the contrary. In fact, the Federal Circuit identified several distinct benefits to class adjudication in veterans-related cases. “Class actions,” it noted, “can help the Veterans Court exercise [its] authority by promoting efficiency, consistency, and fairness, and improving access to legal and expert assistance by parties with limited resources.” And “class actions may help the Veterans Court consistently adjudicate cases by increasing its prospects for precedential opinions. The Veterans Court issues only a small number of precedential opinions each year. Permitting class actions would help prevent the VA from mooting claims scheduled for precedential review.” And “class action suits could be used to compel correction of systemic error and to ensure that like veterans are treated alike.” Three compelling reasons for allowing veterans to pursue their claims as class actions.

The Federal Circuit did not rule on whether class certification was appropriate in Monk’s case; that would be for the Veterans Court to decide on remand. It simply held that the Veterans Court *is* authorized by law to certify class actions. In so holding, it flung open a door that for too long had been sealed shut.

The case is *Monk v. Shulkin*, federal Circuit Court of Appeals, case nos. 2015-7092, 2015-7106, and the decision can be found at <https://goo.gl/5jfmRb>.