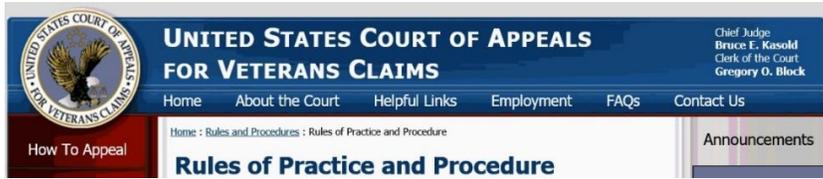


APPENDIX

The Court of Appeals for Veterans Claims



The Department of Veterans Affairs maintains a high volume, mass social justice welfare (disability) program akin in size and scope to the Social Security disability program. (the “Court”) has long maintained comprehensive “Rules of Practice and Procedure,” much as is now proposed for the Social Security Administration, Office of Disability Adjudication and Review. Of particular note is Rule 33, which provides that “[t]he Court may order the representatives and self-represented parties to participate in a staff conference, in person or by telephone, to consider refinement of the issues and such other matters as may help the Court resolve the case.” Resolution includes alternative pathways to resolution, much as is now proposed for Social Security disability hearings.

Rule 33, Court of Appeals for Veterans Claims

Set forth below, Rule 33 illustrates the further commitment of the Veterans Court to mediation and settlement of disability claims, much as is proposed here for Social Security. Rule 33 provides:

Rule 33: Staff Conference

(a) Participation. The Court may order the representatives and self-represented parties to participate in a staff conference, in person or by telephone, to consider refinement of the issues and such other matters as may help the Court resolve the case. When necessary, the Court will enter an appropriate order to control future proceedings. Parties are strongly encouraged to discuss settlement or alternative disposition of the matters on appeal.

(b) Pre-Briefing Process. In cases scheduled for pre-briefing staff conferences:

- (1) No later than 14 days prior to the staff conference, the appellant shall submit to the Secretary and Central Legal Staff (CLS) a summary of the issues the appellant intends to raise in the appeal, including citations to relevant authorities and submission of pertinent material in the record before the Agency;
- (2) The summary of issues shall be limited to 10 pages, subject to the requirements of Rule 32(b); the 10-page limit does not include submission of pertinent material in the record before the Agency;
- (3) Submissions shall be emailed to CLS at CLS-Calendar@uscourts.cavc.gov or faxed to CLS at (202) 585-3951;
- (4) The appellant shall also submit for filing with the Court and serve on the Secretary a certificate of service that includes the date of the appellant's submission to the Secretary and to CLS, the specific manner of service (fax or email), and the names and addresses of the persons served.

(c) Consultation. The representatives of the parties must consult with their respective clients in good faith to determine whether joint resolution of the appeal or settlement is possible. At the time of the staff conference, the representative must either possess the authority to enter into a joint resolution of the appeal or settlement to the extent authorized by the client or be in immediate contact with a person having such authority.

(d) Nondisclosure to Judges. Statements made during a conference, including written memoranda submitted for the conference, may not be disclosed to a Judge of the Court unless the parties agree in writing to such disclosure. This subsection does not apply to disciplinary actions or judicial review of a dispute about the content of the record before the Agency or record of proceedings or subsequent Equal Access to Justice Act (EAJA) applications, pursuant to 28 U.S.C. § 2412(d).