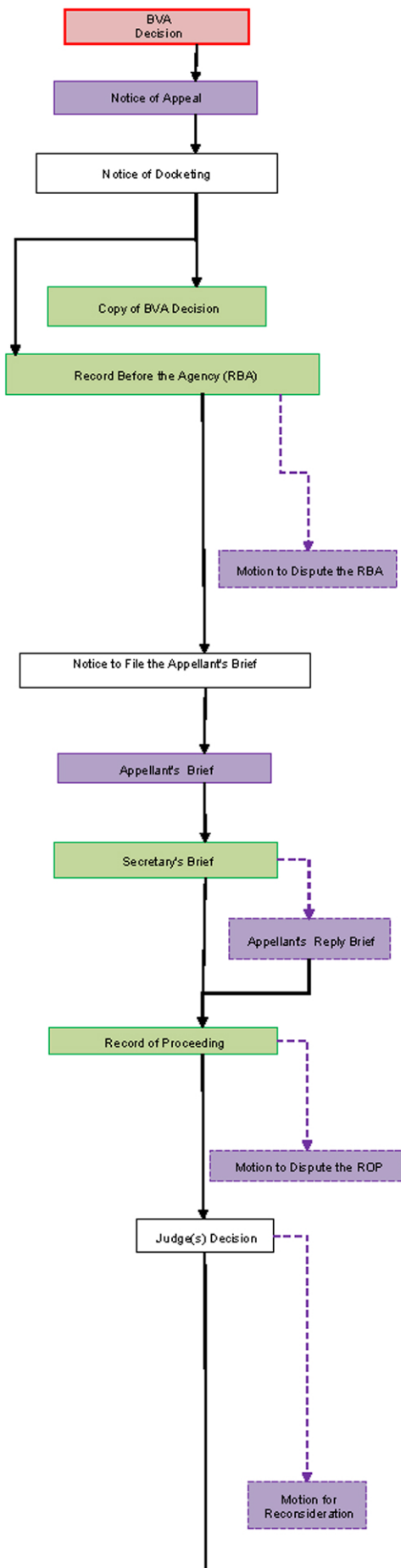


## Court Process

The U.S. Court of Appeals for Veterans Claims provides judicial review of the final decisions by the Board of Veterans' Appeals (BVA or Board). The Court reviews the BVA decision, the written record, and the briefs of the parties.

A person who files an appeal at the Court is called an "appellant." An appellant appealing a BVA decision is bringing legal action against the Secretary of Veterans Affairs, who is also referred to as the "Secretary" or "appellee."



<span style="color: purple;">■</span> filed by the appellant	<span style="border: 1px solid black; padding: 2px;"> </span> Issued by the Court
<span style="color: green;">■</span> filed by the Secretary	--- Optional

**NOTICE OF APPEAL**  
The appeals process starts when a Notice of Appeal is filed with the Clerk. The Notice of Appeal must be received by the Clerk within 120 days after the BVA decision. See instructions on [How to Appeal](#) and Rules 3 and 4.

**NOTICE OF DOCKETING**  
Once the Notice of Appeal is filed, the Clerk will send a Notice of Docketing containing the Court's case number and instructions for both parties. The Court's case number is different from the VA's claims file number; Place the Court's case number on every pleading sent to the Court. See Rule 4(b)(3).

**COPY OF THE BVA DECISION**  
The Notice of Docketing instructs the Secretary to file with the Court and serve on the appellant a Copy of the BVA decision within 30 days. See Rule 4(c)

**RECORD BEFORE THE AGENCY**  
The Notice of Docketing instructs the Secretary to serve on the appellant the Record Before the Agency (RBA) and file a notice with the Court certifying that the RBA has been served within 60 days. The Record Before the Agency is a collection of:  
: All materials that were contained in the claims file on the date the Board issued the decision  
: Any other material from the Record before the Secretary and the Board relevant to the issues listed in the Board decision on appeal  
: A list of any record matter that cannot be duplicated.

**MOTION TO DISPUTE THE RBA (OPTIONAL)**  
The appellant may file a motion to dispute the RBA within 14 days if there are documents missing in the RBA that are pertinent to the appeal. Please remember that the Court does not receive new evidence. See Rule 10(b).

**NOTICE TO FILE THE APPELLANT'S BRIEF**  
Once both parties agree on the content of the RBA, the Clerk will issue a notice instructing the appellant to file a brief within 60 days.

**APPELLANT'S BRIEF**  
The appellant must file a brief within 60 days. Pro se appellants may use the Informal Brief form sent by the Clerk. **DO NOT** fax the brief. Refer to specific pages in the RBA to cite recorded facts instead of attaching copies from the RBA. The brief may not exceed 30 pages. Please remember that the Court does not receive new evidence. See Rules 28, 31, and 32.

**SECRETARY'S BRIEF**  
The Secretary must file a brief with 60 days after service of the appellant's brief. See Rules 28, 31, and 32.

**APPELLANT'S REPLY BRIEF (OPTIONAL)**  
The appellant may file a reply brief in response to the Secretary's brief. The reply brief may not exceed 15 pages. See Rules 28, 31, and 32.

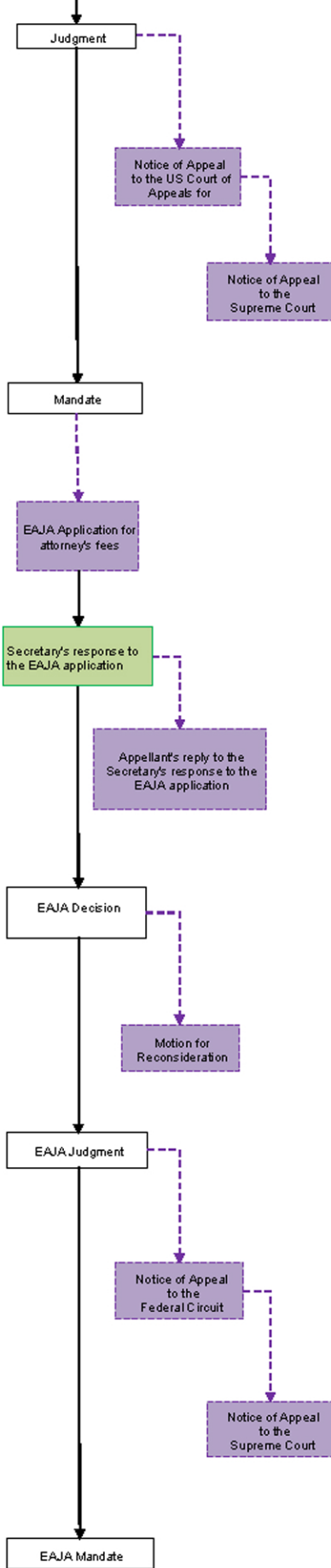
**RECORD OF PROCEEDINGS**  
The Secretary must file and serve the appellant the Record of Proceedings within 14 days after service of the appellant's reply brief or within 14 days after the reply brief was due (if a reply brief was not filed). The Record of Proceedings is a collection of materials, that only come from the RBA, that is required to decide the appeal. Only documents that are relevant to the issues decided by the Board that are on the appeal are included in the Record of Proceedings.

**MOTION TO DISPUTE THE ROP (OPTIONAL)**  
The appellant may file a motion to dispute the ROP within 14 days if there are documents missing in the ROP that are pertinent to the appeal. See Rule 38.1(c).

**JUDGE(S) DECISION**  
The single Judge assigned to the case may decide to have the case heard by a panel of 3 Judges or en banc (all 7 Judges) if he or she believes that the case presents a particularly significant legal question with broad application to more than one veteran, or present a question of "first impression," meaning that it is a new legal question not considered by the Court previously.  
: The Court may **affirm** the BVA decision, meaning the Court agrees with the BVA and will uphold the decision.  
: The Court may **reverse** (overturn), **vacate** (cancel), and/or **remand** the case, sending it back for action by the BVA or VA regional office.  
: The Court may also **dismiss** the appeal, leaving the BVA decision in effect, if it does not have the jurisdiction (or legal authority) to consider the appeal, if the Court rules have not been followed, or if the appellant withdrew the appeal.

**MOTION FOR RECONSIDERATION (OPTIONAL)**  
After the decision, the appellant may file a motion for reconsideration within 21 days (or 51 days if outside the US, Puerto Rico, or Virgin Islands). See Rule 35.

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**JUDGMENT**  
The judgment is entered on the docket 21 days after the decision (if no motion for reconsideration is filed) or when the time allowed for reconsideration in Rule 35 has expired. The judgment starts the 60 day appeal time to the US Court of Appeals for the Federal Circuit. See Rule 36.

**NOTICE OF APPEAL TO THE FEDERAL CIRCUIT (OPTIONAL)**  
If the appellant still disagrees with the Court's decision after reconsideration, he or she may file a Notice of Appeal to the US Court of Appeals for the Federal Circuit through the Court within 60 after the judgment has issued. The Court will forward the notice of appeal and filing fee to the Federal Circuit. The case at this Court will be stayed pending the decision of the Federal Circuit. See the Federal Circuit's Rules of Practice.

**APPEAL TO THE SUPREME COURT (OPTIONAL)**  
The decision of the Federal Circuit may be further appealed to the US Supreme Court. See the Supreme Court's Rules of Practice. The case at this Court will resume after the decision of the Federal Circuit and will continue through the Court process even if the appellant has an appeal at the Supreme Court.

**MANDATE**  
The mandate of the Court will be issued 60 days after the date of the entry of the Judgment or in accordance with 38 U.S.C. § 7291. It confirms the closing of the appeal. See Rule 41.

**EQUAL ACCESS TO JUSTICE ACT (EAJA) APPLICATION (OPTIONAL)**  
If the appellant wins the case, the appellant's representative may file an EAJA application for attorney fees within 30 days after the mandate has issued. **The EAJA process does NOT affect the decision on the appeal. An EAJA award does NOT affect the money that the appellant receives from the VA.** See Rule 39 (a).

**SECRETARY'S RESPONSE TO THE EAJA APPLICATION**  
The Secretary must file a response to the EAJA application within 30 days, stating if the VA is contesting the application. See Rule 39 (b).

**APPELLANT'S RESPONSE TO THE SECRETARY (OPTIONAL)**  
If the Secretary is contesting the EAJA application, the appellant's representative may file a reply to further justify the EAJA claim. See Rule 39 (c).

**EAJA DECISION**  
Uncontested EAJA claims are reviewed and approved by the Clerk of the Court. Contested EAJA claims are decided by a Judge or panel of Judges. The single Judge assigned to the case may decide to have the case heard by a panel of 3 Judges or en banc (all 7 Judges) if he or she believes that the case present a particularly significant legal question with broad application to more than one veteran, or present a question of "first impression."

**MOTION FOR RECONSIDERATION (OPTIONAL)**  
After the decision, the appellant's representative may file a motion for reconsideration within 21 days. See Rule 35.

**EAJA JUDGMENT**  
The judgment is entered on the docket 21 days after the decision (if no motion for reconsideration is filed) or when the time allowed for reconsideration in Rule 35 has expired. The judgment starts the 60 day appeal time to the US Court of Appeals for the Federal Circuit. See Rule 36.

**NOTICE OF APPEAL TO THE FEDERAL CIRCUIT (OPTIONAL)**  
If the appellant's representative still disagrees with the Court's decision after reconsideration, he or she may file a Notice of Appeal to the US Court of Appeals for the Federal Circuit through the Court within 60 after the judgment has issued. The Court will forward the notice of appeal and filing fee to the Federal Circuit. The case at this Court will be stayed pending the decision of the Federal Circuit. See the Federal Circuit's Rules of Practice.

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