



Be Our Guest

By Michael R. Viterna

Keep Fighting for Benefits

Maybe it's just the times. If you're going to be a Michigander, you better be able to take some shots to the body. The state economy is certainly taking economic body blows.

But it's how you get back up after getting those shots that is the measure of the man. Tony Filippis, Sr., founder of Wright and Filippis, who recently passed away, should be an inspiration to all of us. He didn't let life keep him down. He kept getting up and helping others.


If you just looked at the statistics, you might think it's not worth getting back up. Presently, nearly 400,000 cases are awaiting a decision by VA. The Detroit RO has over 13,000 cases pending and half its raters are new hires. In 2006, at the U.S. Court of Appeals for Veteran Claims, there were 3,729 new cases filed. The Court found a way to dismiss a number of those for lack of jurisdiction, default or voluntary dismissal. Some would call those legal tricks to avoid the merits. In the end, the Court only made decisions on 2,135 cases. The Court found that the Board of Veterans Appeals was wrong 79% of the time.

The lesson here is even if your VA claim gets denied at the Board, don't consider that a knock-out punch. You need to get up and keep moving forward even with an appeal into the Court of Appeals for Veteran Claims. It is a long process, even the Court acknowledges that once the case arrives on its docket it takes more than a year to be resolved. But the fight for benefits is not over until the last round.

The Court of Appeals for Veteran Claims is becoming more active and issuing more decisions every year. The number of case at court relates to the number of claims at VA. Those decisions have a

substantive and procedural impact on your claim. Those cases involved such important issues as the type of notification the VA must provide for disability compensation and the elements that must be addressed up front. A confusing notification will not satisfy the VA's obligations under the law. Those notifications must also be tailored to the situation that is being advanced by the veteran.

One combination of punches that is now available to the veteran is the ability to engage a lawyer earlier in the process. The law precluded lawyers from obtaining a fee prior to an adverse board decision since almost the Civil War. The increase in complexity of Veteran's law, the creation and decisions of the Court of Appeals for Veterans Claims and the tremendous backlog of cases, all came together to convince Congress and the President to allow claimants to pay a fee to a lawyer after an NOD (Notice of Disagreement) is filed. The goal of every VSO advocate and veterans appeals lawyer is to assist the veteran in obtaining the benefits which are being withheld by the VA. We are hopeful that this one, two punch will turn the tide in the fight to obtain benefits.

Among the many sports that Tony Filippis excelled in was boxing. He founded the Athletes with Disabilities Hall of Fame and would never have let himself be knocked down and stay on the canvas. He always got up. Mr. Filippis was a friend of PVA and to all with disabilities. We can all be inspired by his life, marvel at his heart and vow to carry on with his determination. 

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