



**Statement of the
Fleet Reserve Association
on its
2018 Legislative Goals**

Presented to the:

**U.S. House of Representatives and
United States Senate
Veterans' Affairs Committees**

By

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The FRA

The Fleet Reserve Association (FRA) is the oldest and largest organization serving enlisted men and women in the active, Reserve, and retired communities plus veterans of the Navy, Marine Corps, and Coast Guard. The Association is Congressionally Chartered, recognized by the Department of Veterans Affairs (VA) and entrusted to serve all veterans who seek its help.

FRA was started in 1924 and its name is derived from the Navy's program for personnel transferring to the Fleet Reserve or Fleet Marine Corps Reserve after 20 or more years of active duty, but less than 30 years for retirement purposes. During the required period of service in the Fleet Reserve, assigned personnel earn retainer pay and are subject to recall by the Secretary of the Navy.

The Association testifies regularly before the House and Senate Veterans' Affairs Committees, and the Association is actively involved in the Veterans Affairs Voluntary Services (VAVS) program. A member of the National Headquarters' staff serves as FRA's National Veterans Service Officer (NVSO) and as a representative on the VAVS National Advisory Committee (NAC). FRA's NVSO also oversees the Association's Veterans Service Officer program and represents veterans throughout the claims process and before the Board of Veteran's Appeals.

In 2016, FRA membership overwhelmingly approved the establishment of the Fleet Reserve Association Veterans Service Foundation (VSF). The main strategy for the VSF is to improve and grow the FRA Veterans Service Officers (VSO) program. The newly formed foundation has a 501(c) (3) tax exempt status and nearly 800 accredited service officers with FRA.

FRA became a member of the Veterans Day National Committee in August 2007, joining 24 other nationally recognized Veterans Service Organizations (VSO) on this important committee that coordinates National Veterans' Day ceremonies at Arlington National Cemetery. The Association is a leading organization in The Military Coalition (TMC), a group of 33 nationally recognized military and veteran's organizations collectively representing the concerns of over five million members. FRA senior staff members also serve in a number of TMC leadership positions.

The Association's motto is "Loyalty, Protection, and Service."

Certification of Non-Receipt of Federal Funds

Pursuant to the requirements of House Rule XI, the Fleet Reserve Association has not received any federal grant or contract during the current fiscal year or either of the two previous fiscal years.

Introduction

Distinguished Chairmen, Ranking Members and other members of the Committees, thank you for the opportunity to present the FRA's 2018 legislative goals to the Committees. FRA wants to note that veteran's benefits are earned through service and sacrifice in the defense of this great Nation and are not "entitlements" or "social welfare" programs. FRA will oppose any across-the-board budget driven cuts that lumps veteran's programs with unrelated civilian programs and completely rejects any efforts that would ask veterans to do their "fair share" in deficit reduction.

FY 2019 VA Budget

FRA welcomes the overall VA budget increase of \$12.1 billion, more than a six percent increase over the FY 2018 budget. Since 2006, the VA budget is up 175 percent, while overall federal spending increased 54 percent and GDP grew by 40 percent. Other highlights of the Administration's FY 2019 budget request include:

- Increasing medical care \$4.2 billion above 2018 (\$76.5 billion) in 2019 and \$2.6 billion above 2019 in FY 2020;
- Hiring an additional 225 fiduciary employees to protect veterans unable to manage their VA benefits;
- Adding \$1.2 billion in FY 2019 budget to implement single Electronic Health Record (EHR) to create a seamless transition from DoD to VA; and
- Providing \$14.7 billion in discretionary funding for community care for veterans.

The FY 2019 proposed budget calls for rounding down VA monthly benefits to the nearest dollar to pay for veterans attending flight school under the Post 9/11 GI Bill. Post 9/11 GI Bill benefits have been earned with 3 or more years of arduous service by veterans who were in the military after September 11, 2001. Disabled veterans should not have their benefits cut to pay for this benefit.

The Association supports the Independent Budget (IB) recommendations that were recently released and co-authored by Disabled American Veterans (DAV), Paralyzed Veterans of America (PVA), and Veterans of Foreign Wars (VFW). IB has served as a guide for funding the VA for 31 years and this framework will help meet the challenges of serving American veterans.

Agent Orange/Blue Water Navy Reform

FRA wants to thank HVAC Chairman Dr. Phil Roe (Tenn.) for stating in last week's hearing that we need to fix this "Blue Water" problem. We also appreciate him scheduling a Committee mark up on the "Blue Water Navy Vietnam Veterans Act" (H.R.299) in November 2017. It did not

occur when HVAC members could not agree if the bill should be paid for by rounding down veteran's benefit checks to the nearest dollar.

The Association supports the “Blue Water Navy Vietnam Veterans Act” introduced in both the House and Senate (H.R. 299 & S. 422 respectively) last year would clarify that service members serving off the coast of the Republic of Vietnam during the Vietnam conflict have a presumption for filing disability claims with the VA for ailments associated with exposure to the Agent Orange herbicide. FRA believes Congress should recognize that the so-called “Blue water” veterans were exposed to Agent Orange herbicide and authorize presumptive status for VA disability claims associated with this exposure. Presumption of service connection exists for Vietnam veterans who served in country, on land and inland waterways. Enactment of H.R. 299/S. 422 will bring a degree of justice to tens of thousands of Navy personnel who have been denied service connection by the VA since 2002. FRA wants to thank to thank Sen. Kirsten Gillibrand for sponsoring the Senate bill and thank Rep. David Valadao for sponsoring the House bill. We also want to thank the 324 House co-sponsors, and 45 Senate co-sponsors.

If the bill is enacted these service members will no longer have to prove direct exposure to Agent Orange, and they will receive expedited consideration for VA benefits if they are afflicted with any of the health conditions associated with exposure to this defoliant. From 1964-1975 more than 500,000 service members were deployed off the coast of Vietnam and may have been exposed to Agent Orange, a herbicide used in Vietnam. Past VA policy (1991-2001) allowed service members to file claims if they received the Vietnam Service Medal or Vietnam Campaign Medal. But VA implemented a “boots on the ground” limitation on obtaining an Agent Orange presumption connection.

The herbicide was use to destroy foliage on river shore used by the Viet Cong to hide in and shoot at ships passing by. The chemical got into rivers that ran out to sea. Ships used water for bathing and drinking. It has been proven that desalinization process for water intensified toxicity of the small amounts of herbicide in water.

FRA is grateful to the 14 Senators who sent a letter to the VA in 2016, requesting that the VA reconsider its ban on presumption for anyone who did not serve on the ground of the Republic of Vietnam because it is too restrictive. The Association totally agrees with this letter. The letter references the recent *Gray v McDonald* decision by the Court of Appeals for Veterans Claims that found that VA’s exclusion of Da Nang Harbor from the definition of “inland waterways” to be arbitrary and capricious. FRA is disappointed, but not surprised, that the VA issued court-ordered “clarified” definition of inland waterways for purposes of determining presumption for coverage still excludes the “Blue Water” Vietnam veterans. For the VA to state with such confidence that the toxin, Agent Orange could not cross from inland water ways and harbors into open seas is to reject the laws of nature. It is as if some imaginary line drawn across the mouth of any river or bay had the ability to stop ocean currents from flowing.

It is important to note that the VA Secretary could implement a regulation to provide this presumption to "Blue Water" Vietnam veterans.

VA Choice Reform

Nearly four years ago when effective committee oversight and subsequent media reports uncovered that veterans around the country were facing unacceptable wait times for VA care, Congress passed the FRA-supported Veterans Access, Choice and Accountability Act (P.L.113-146), which established the Choice Program. The Choice Program allowed veterans who meet certain qualifications to seek care from health care providers in the community. Since fiscal year 2014, community care appointments have increased by 61 percent.

Though VA has been collaborating with community providers to treat veterans since 1945, the recent increase in veteran demand for community care has highlighted serious issues and inefficiencies within the VA's community care system. For example, VA currently uses six different methods to refer veteran patients to community providers. These six different methods often conflict with one another, creating confusion for veterans, community providers and VA employees alike.

In December both the House Veterans Affairs Committee and the Senate Veterans Affairs Committee passed legislation improving VA Choice. The SVAC passed "Caring for Our Veterans Act" (S. 2193) and HVAC passed "The VA Care in the Community Act" (H.R. 4242). Both bills streamline the Department of Veterans Affairs (VA) community care accounts into one veteran-centric program that replaces the Choice Program, removing the current 30-day, 40-mile requirement to give veterans more timely access to community care.

"The VA Care in the Community Act" (H.R.4242) would consolidate VA's existing community care programs into one cohesive program. It would modernize VA's medical claims processing system to ensure that community providers can expect to be paid on time for the care they provide to veterans on the VA's behalf. It would further require the VA to conduct periodic local capacity and market assessments. These would identify how gaps in care can be addressed through improvements to both internal and external capacity, standardize rates the VA pays to community providers and authorize the VA to enter into provider agreements for needed care, when contracts are not achievable.

The "Caring for Our Veterans Act" (S.2193) is intended to reform the VA health care system by providing easier access for veterans to meet with private-sector doctors and expansion of the VA's care givers assistance programs. The bill also includes \$3 billion in additional funding for the current VA Choice Program. FRA believes the VA's first priority must be to ensure all veterans, currently waiting for treatment, are provided timely access to care.

The bill is estimated to cost \$54 billion over 5 years. It also includes \$3 billion in additional funding for the current VA Choice program.

The bill would establish a permanent, streamlined "Veterans Community Care Program" that provides veterans access to health care services in their own communities. Under this legislation, a veteran and their doctor will decide where that veteran can receive care, taking into consideration the veteran's healthcare needs, availability and quality of both VA and community care.

In addition, the legislation will help improve existing VA health care and services by removing barriers for VA healthcare professionals to practice telemedicine. It also strengthens opioid prescription guidelines for VA and partnering community care providers and eliminates impediments to hiring and retention of VA healthcare professionals. Additional provisions in the legislation include:

- Authorizing access to walk-in community clinics for enrolled veterans who have previously used VA healthcare services in the past two years;
- Allowing the VA to enter into agreements with community healthcare and extended-care providers who meet veterans' demands for care in their community;
- Creating reporting requirements to ensure all VA and community care programs are operating efficiently and effectively based on a number of factors including veterans' satisfaction and quality standards; and
- Creating standards for timely payment to community care providers.

FRA strongly supports efforts to improve the VA Choice program and FRA's 2018 Legislative Agenda calls for extending the VA Caregivers Act to full-time caregivers of catastrophically disabled veterans from conflicts before September 11, 2001. The Senate bill, unlike the House bill, expands the VA caregiver program to include veterans injured before September 11, 2001. Therefore FRA prefers the Senate bill. The Association wants to thank HVAC Chairman Dr. Phil Roe for announcing his support for expanding coverage for caregivers of veterans disabled before September 11, 2001 at the joint hearing on March 6, 2018.

Caregiver Expansion

The "Caring for Our Veterans Act" (S.2193) expands eligibility for the VA's Program of Comprehensive Assistance for Family Caregivers to veterans of all generations, including Vietnam-era veterans.

A 2014 RAND study commissioned by the Elizabeth Dole Foundation estimates the services these caregivers provide save our nation \$13.6 billion annually, yet these caregivers too often pay a price, suffering physical and emotional stress and illnesses; difficulty maintaining employment; financial, legal and family strains; and isolation.

These military caregivers shoulder the everyday responsibilities of providing care to those who suffered the emotional and physical tolls of war. These dedicated individuals make many sacrifices to care for their loved ones, and they deserve our support. This bill will expand access to services for caregivers and help ensure they have the resource they need to care for these severely disabled veterans.

The Association urges full implementation of the VA Caregivers Law (P.L. 111-163), and supports extension of this Act to full-time caregivers of catastrophically disabled veterans conflicts before September 11, 2001. In FRA's recent online survey (January/February 2018) nearly 72 percent of veterans surveyed see the caregivers program as "Very Important" or "Somewhat important." That is why FRA is also supporting the "The Military and Veteran Caregiver Services Improvement Act" (H.R. 1472/S. 591) that has been introduced in the House and Senate (sponsored by Rep. Jim Langevin-RI and Sen. Patty Murray-WA respectively) to expand the VA Caregivers program to include veterans catastrophically disabled before September 11, 2001.

Veterans Health Care Reform

FRA's online survey (January/February 2018) indicates nearly 94 percent of veterans see quality of VA health care benefits as "Very Important" (the highest rating). Last year 81 percent of veterans saw quality of health care benefits as "Very Important." FRA believes that the substantial increase from this year to last year indicates a growing concern in the veteran's community on the quality of care veterans are receiving at the VA. The past four years VA and specifically the Veterans Health Administration (VHA) have been embroiled in controversy and scandal. Since the Phoenix waiting list scandal was uncovered by Congress a robust debate has ensued on how to reform VHA to ensure it can provide timely, comprehensive and veteran-centric health care to veterans in need. At a recent House Veterans Affairs Committee (HVAC) hearing VA Secretary Shulken claimed that VA community care appointments have increased by 61percent overall since Choice was created and, last year, 30 percent of all VA appointments were held in the community rather than in VA medical facilities.

FRA is deeply concerned that a recent Government Accountability Office report (GAO-18-26) accuses VA staff of failing to detail potentially dangerous doctors to appropriate authorities. The Association appreciates the House Veterans Affairs, Subcommittee on Oversight and Investigations holding an oversight hearing on the report in December 2017. Chairman of the subcommittee, Congressman Jack Bergman (Mich.) said the VA has approximately 40,000 providers in 170 medical centers treating 9 million veterans a year, therefore, ensuring the VA provides safe quality care is vital.

Dr. Gerard Cox, Acting Deputy Under Secretary for Health for Organizational Excellence for the VA stated, "We are taking three major steps to improve clinical competency and reporting by improving oversight to ensure that no settlement agreement waives VA's ability to report providers to the National Practitioner Data Bank (NPDB) or the State Licensing Boards (SLB), reporting more clinical occupations to the NPDB, and improving the timeliness of reporting." These steps come as a direct result of the GAO report that criticized the Veterans Health Administration (VHA) officials for what they see as systemic failures in the agency's documentation and investigation of complaints against clinical care providers.

The GAO report found that some complaints were ignored until investigators raised concerns. In other cases it took months or even years for some of the complaints to be investigated. "Refusing

or failing to adhere to reporting requirements puts not just veterans, but all patients across the country, at risk of receiving substandard health care," said Bergman.

The GAO report recommends the VHA address these issues. The VHA indicated it will implement all of the GAO recommendations.

Appeals Process Reform

FRA supported the Veterans Appeals Improvement and Modernization Act (H.R. 2288 – Public Law 115-55) that was enacted in August of 2017. At January 2017 HVAC hearing to provide oversight of implementation of the new law it was revealed that there are currently 374,000 disability claims appeals pending at VA. The Association appreciates HVACs recent oversight hearing on implementation.

The bill, sponsored by Rep. Mike Bost (IL), would create three “lanes” for veterans’ appeals, including the “Local Higher Level Review Lane” in which an adjudicator reviews the same evidence considered by the original claims processor; the “New Evidence Lane,” in which the veteran could submit new evidence for review and have a hearing; and the “Board Lane,” in which jurisdiction for the appeal would transfer immediately to the Board of Veterans’ Appeals.

The new law provides the VA Secretary the authority to test the new system prior to full implementation and would allow some veterans already going through the appeals process to opt into the new system. It would also require VA to provide a comprehensive plan for processing legacy appeals (appeals filed before the effective date of the bill). “The Modernization Act is the most significant statutory change affecting VA disability compensation appeals in decades.”¹

Disability Claims Backlog

FRA urges Congress to pass legislation that requires VA be held accountable for achieving the VA Secretary’s stated goal to achieve an operational state for VA in which no claim is pending over 125 days and all claims have an accuracy rate of 98 percent or higher.

About 96,000 first-time benefits claims were “backlogged” as of December 31, 2016. A claim is considered “backlogged” if it isn’t completed within 125 days. Nearly 78,600 claims are backlog and claim adjudication is at 83 percent accuracy according to the VA’s Monday Morning Report February 19, 2018. The previous Administration promised to bring that number down to zero by the start of 2016. The backlog peaked at about 611,000 cases in March 2013 and was down as low as 70,000 cases in fall of 2015, when VA officials announced that zeroing out the backlog completely was likely impossible and could unnecessarily rush some cases.

¹ Testimony statement, Thomas Bowman, VA Deputy Secretary submitted for HVAC Jan. 30, 2018 hearing

There are currently more than 374,000 disability claims appeals pending at VA in January 2018; as compared to nearly 304,000 benefit cases that were pending in the VA's appeals system, as of December 31, 2016. That's more than a 70,000 increase in pending appeals. Appeals typically take three or more years to fully complete. Hopefully the "Veterans Appeals Improvement and Modernization Act" will have a positive impact.

Mental Health/Suicide

The VA reports that 20 veterans a day commit suicide. Because of this statistic FRA gives this issue a high priority. That is why the Association welcomes President Donald J. Trump Executive Order titled, "Supporting Our Veterans during Their Transition from Uniformed Service to Civilian Life." This Executive Order directs the Departments of Defense (DoD), Veterans Affairs (VA) and Homeland Security (DHS) to develop a plan to ensure that all new veterans receive mental health care for at least one year following their separation from service.

The three agencies will work together to develop a joint action plan to ensure that new veterans who currently do not qualify for enrollment in healthcare — primarily due to lack of verified service connection related to the medical issue at hand — will receive treatment and access to services for mental health care for one year following their separation from service.

"As service members transition to veteran status, they face higher risk of suicide and mental health difficulties," said VA Secretary Shulkin. "During this critical phase, many transitioning service members may not qualify for enrollment in health care. The focus of this Executive Order is to coordinate Federal assets to close that gap."

The DoD, VA and DHS will work to expand mental health programs and other resources for new veterans for a year following departure from uniformed service, including eliminating prior time limits and:

- Expanding peer community outreach and group sessions in the VA Whole Health initiative from 18 Whole Health Flagship facilities to all facilities. Whole Health includes wellness and establishing individual health goals;
- Extending the DoD's "Be There Peer Support Call and Outreach Center" services to provide peer support for veterans in the year following separation from service; and
- Expanding the DoD's Military One Source, which offers resources to active duty members, to include services to separating service members to one year beyond separation.

“In signing this Executive Order, President Trump has provided clear guidance to further ensure our veterans and their families know that we are focusing on ways to improve their ability to move forward and achieve their goals in life after service,” said Secretary Shulkin.

FRA’s 2018 legislative agenda includes ensuring adequate funding for DoD and VA health care resource sharing in delivering seamless, cost effective, quality services to personnel wounded in combat and other veterans and their families.

Oversight of VA IT

The Association believes Congressional oversight of VA technology is vital to ensuring improvements in the system. The Association was delighted that the House Veterans Affairs Committee (HVAC) choose this topic for its first hearing in the 115th Congress. FRA notes the FY 2019 budget requests \$4.2 billion for information technology which is \$129 million above the FY 2018 budget.

VA Secretary Shulkin in June 2017 announced that the VA will dramatically reform his agency’s Electronic Health Record (EHR) system by replacing the old antiquated system with same system used by the Department of Defense. This change is a shift from the VA's previous plan to develop its own system to digitize records. It will bring the agencies closer to sharing veterans' health information in an effort to solve a problem that has plagued the two departments for decades. “The health and safety of our Veterans is one of our highest national priorities.” Shulkin said “Having a veteran's complete and accurate health record in a single common EHR system is critical to that care, and to improving patient safety.” Secretary Shulkin claims that the software has a high level of cyber-security.

Some members of Congress have expressed concern about the cost. “While the EHR modernization effort is necessary, it is very expensive. The contract with Cerner alone has a price tag of about \$10 billion and that doesn’t even include the costs of updating infrastructure to accommodate the new EHR, implementation support, or sustaining VistA up until the day it can be turned off.”²

The cost notwithstanding FRA believes there is tremendous opportunity with the two departments using the same EHR. FRA has long sought to ensure adequate funding for DoD and VA health care resource sharing in delivering seamless, cost effective, quality services to personnel wounded in combat and other veterans and their families. The Association urges these Committees to provide increased oversight to ensure the VA will make progress on this issue.

² HVAC Chairman Dr. Phil Roe’s Opening statement Feb 15 HVAC hearing on VA budget.

VA Home Loan Program

The Fleet Reserve Association (FRA) supports the “Protecting Veterans from Predatory Lending Act”(S. 2304), sponsored by Senator Thom Tillis (NC), that would protect veterans from targeted predatory home loan practices by requiring lenders to demonstrate a material benefit to consumers when refinancing their mortgage.

The Department of Veteran’s Affairs (VA) home loan program was designed to provide veterans and service members with the opportunity to purchase their own home through a VA insured mortgage from a private lender. VA loans have lower credit score requirements than other mortgages, and often don’t require down payments. Since its inception, it has insured more than 20 million home loans to help veterans become homeowners. However, today a small number of lenders are abusing the program by utilizing misleading advertising tactics and engaging in a practice known as “churning” – the refinancing of a home loan over and over again to generate fees and profits for lenders at the direct expense of veterans and their families, often without their knowledge.

Women Veterans Issues

Today, women serve in the Reserve Component at a rate of 17 percent which is 3 percent higher than that of the active duty military. Women are serving in combat conditions right alongside their male counterparts, which raises a whole new set of issues for these veterans. That is why FRA supports the “Deborah Sampson Act” (S. 681) that seeks to improve and expand VA's programs and services for women veterans. Major provisions of the bill include the following:

- Empowers women veterans by expanding peer-to-peer counseling, group counseling and call centers for women veterans;
- Improves the quality of care for infant children of women veterans by increasing the number of days of maternity care VA facilities can provide and authorizing medically-necessary transportation for newborns;
- Eliminates barriers to care by increasing the number of gender-specific providers and coordinators in VA facilities, training clinicians, and retrofitting VA facilities to enhance privacy and improve the environment of care for women veterans;
- Provides support services for women veterans seeking legal assistance, and authorizes additional grants for organizations supporting low-income women veterans; and
- Improves the collection and analysis of data regarding women veterans, and expands outreach by centralizing all information for women veterans in one easily accessible place on the VA website.

FRA has this bill listed on its Internet Action Center located on the Association's website (www.fra.org) to provide members the opportunity to ask their legislators to support this bill.

Homeless Veterans

Recently two House Veterans Affairs Subcommittees (Economic Opportunity and Health) held a joint hearing on the problem of veteran's homelessness. In 2010 the Department of Veterans Affairs (VA) established a goal of eliminating veteran's homelessness by 2015. That goal has not been achieved. The Department of Housing and Urban Development (HUD) and VA have a wide range of programs that prevent and end homelessness among veterans, including health care, housing solutions, job training and education. VA, the Department of Labor, and HUD programs for homeless veterans have reduced homelessness. Witnesses at the hearing agreed that such programs are highly successful in working toward a "functional zero" and in assuring veterans who overcome homelessness do not become homeless again.

It's estimated that 39,472 veterans were homeless as of January 2016. That's down from about 75,600 veterans on the streets in 2009, when Obama announced plans to house every veteran in America by the end of 2015. So far, 33 communities and three states have been certified as "effectively" ending veteran's homelessness, meaning they have the resources to rapidly house all veterans in in their community facing financial distress.

Increase Veterans Burial Benefits

The VA pays a higher level of burial benefits upon the death of a veteran who dies from a service-connected illness or disability and lesser burial benefits upon the death of a wartime veteran who dies from a non-service-connected illness or disability. The current VA burial expense payment is \$2,000 for a service-connected death and \$300 for a non-service connected death, along with a \$700 plot allowance. At its inception, the payout covered 72 percent of the funeral costs for a service-connected death, 22 percent for a non-service-connected death and 54 percent of the cost of a burial plot. Due to the dramatic increase in private sector funeral expenses, this benefit has been seriously eroded over the years. While these benefits were never intended to cover the full costs of burial, they now pay for only a small fraction of what they covered in 1973 when the VA first started paying burial benefits. The VA should provide the resources needed to meet increasing private-sector costs of burial.

Congress should increase the plot allowance for all eligible veterans and expand the eligibility for the plot allowance for all veterans who might be eligible for burial in a national cemetery, not just those who served during wartime.

USERRA

FRA supports the enforcement of The Uniformed Services Employment and Reemployment Rights Act (USERRA) which is a federal law intended to ensure that persons who serve or have served in the Armed Forces, Reserves, National Guard or other “uniformed services: (1) are not disadvantaged in their civilian careers because of their service; (2) are promptly reemployed in their civilian jobs upon their return from duty; and (3) are not discriminated against in employment based on past, present, or future military service.

The Association is deeply concerned about The U.S. Court of Appeals for the Fifth Circuit ruling (*Michael T. Garrett v Circuit City Stores Inc.* 04-11360) that states that an arbitration agreement is enforceable in disputes involving USERRA. The case involves Marine Corps reservist who claimed that his civilian employer fired him because he was mobilized and deployed to Afghanistan which is a violation of USERRA. The company successfully argued that an arbitration agreement prevented Garrett from suing the company in court. The company's arbitration agreement provided that claims arising out of termination of employment would be settled by binding arbitration, enforceable by and subject to the Federal Arbitration Act. Circuit City asked a district court to dismiss the lawsuit and compel arbitration.

Garrett argued that USERRA precludes the enforcement of a binding arbitration agreement, and the district court agreed. The company then appealed the ruling before the U.S. Court of Appeals for the Fifth Circuit, which covers Louisiana, Mississippi, and Tennessee.

In arguing his case, Garrett claimed that USERRA guarantees him a right to a federal court trial. However, the appeals court disagreed and said the arbitration agreement is enforceable.

"On the contrary, USERRA provides several means for the resolution of disputes, and there is no guarantee of a federal forum for aggrieved employees," the court wrote.

In reversing the lower court's ruling, the appeals court also said that Garrett failed to show that arbitration under Circuit City's rules would prevent him from having a fair opportunity to present his claims. The appeals court sent the case back to the lower court for proceedings consistent with the ruling.

Conclusion

In closing, allow me again to express the sincere appreciation of the Association's membership for all that you and the members of both of the House and Senate Veterans' Affairs Committees and your outstanding staffs do for our Nation's veterans.

Our leadership and Legislative Team stand ready to work with the Committees and their staffs to improve benefits for all veterans who have served this great Nation.

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FRA National President William E. Starkey

William E. Starkey is National President of Fleet Reserve Association (FRA) for the Association Year 2017-2018. Shipmate Starkey was elected as the National President of the Fleet Reserve Association (FRA) at the 90th FRA National Convention in Hunt Valley, Maryland.

Shipmate Starkey enlisted in the United States Navy in June 1962 and was honorably discharged in December 1967 from the United States Navy. He obtained the rank of UTW2. He enlisted in the United States Naval Reserves in 1975 and retired in 1994 as an E-9, MCPO with 24 years of total service.

He joined the FRA in February 1994 and became a Life Member in 2003. Shipmate Starkey has been an active member of the FRA for 23 plus continuous years, and is a member of South Jersey Branch 57

On the Regional level, he served his shipmates in the North Region in the following elected Offices: Vice President of the Northeast Region (1999-2000 and in 2001 for 6 months), President of the Northeast Region (2000-2001, 2002-2003), and Junior Past President of the Northeast Region (in 2001 for 6 months, and 2003-2004), and Treasurer of the Northeast Region (2003-2007). During his tenure as Regional President of the Northeast Region, he served 2 terms on the FRA National Board of Directors (2000-2001, 2002-2003).

During the merger of the Northeast and New England Regions, he served as the parliamentarian for the merger, wrote the bylaws for the new region which is called the Northeast/New England Region, served 3 terms as the Northeast/New England Region Parliamentarian and three terms as the Northeast/New England Region Treasurer.

Shipmate Starkey was elected as the FRA National Vice President for the 2016-2017 Association Year at the FRA 89th National Convention held in Jacksonville, Florida. And he was elected as the FRA National President for the 2017-2018 Association Year at the FRA 90th National Convention held in Hunt Valley, Maryland.