JACKSON & MacNICHOL ATTORNEYS AT LAW

238 WESTERN AVENUE SOUTH PORTLAND, MAINE 04106 Exhibit 10

(207) 772-9000 (207) 772-3312 (fax)

E-mail: mail@jackson-macnichol.com

FRANCIS M. JACKSON

Boston, MA Office (617) 933-9025 fax (877) 738-4116

Washington, DC Office (202) 470-6992 fax (888) 709-3535

PENELOPE & GRONBECK MICHAEL A. CAHILL MARC D. PEPIN

To arrange a meeting in Boston or Washington, DC Please call (800) 524-3339

ALEXANDER MacNICHOL 1935 - 2013

MURROUGH H. O'BRIEN Of Counsel

NEIL RILEY
Veterans Advocate

September 16, 2014

Via Fax: (215)381-3489

Jeanne Paul, Service Center Manager Department of Veterans Affairs Philadelphia Regional Office P.O. Box 8079 Philadelphia, PA 19101

Re:

Joseph Viola

VA Claim No: CSS 199 52 9753

Dear Ms. Paul:

I am writing to you because I handle much of the firm's practice before the Court of Appeals for Veterans Claims. In that capacity I have been asked to file an application to the Court for a Writ of Mandamus to compel the Philadelphia regional office to comply with its obligations under the FOIA pursuant to 38 C.F.R. § 1.577 as well as its obligations under the Privacy Act.

On May 14, 2012, Mr. Viola's representative, Ms. Gronbeck of this office, wrote to the Philadelphia Regional Office. As a part of that letter she wrote: "Please also send a complete copy of his C File: a copy of the signed request is enclosed." She, in fact, enclosed a form, duly signed by Mr. Viola, authorizing the release of a copy of his C-file and directing that it be sent to Ms. Gronbeck. A copy of the May 14, 2012, letter, together with a copy of the certified mail receipt showing that it was received at the regional office on May 17, 2012 is enclosed. Also enclosed is the formal demand for the file pursuant to the Freedom of Information Act which was sent to the regional office on May 20, 2014, after Mr. Viola had been waiting two years for a copy of his file. (I have also enclosed a copy of her letter to Senator Casey asking for his assistance in obtaining the file.) There has still been no response regarding his file.

Jeanne Paul, Service Center Manager Department of Veterans Affairs Philadelphia Regional Office September 16, 2014 Page Two

I suspect that when you check into this matter you will find that whoever is directly responsible tries to pass this off as an isolated event. However, I want to make sure that you understand that this is not an isolated event. For that reason I am enclosing the letters that Ms. Gronbeck has sent to your office in sixteen other cases, all going back to at least 2013.

As you can see from the enclosures, Ms. Gronbeck has tried various methods of getting cooperation in providing these files. The requests have been faxed, sent by certified mail, or both, and in some cases followed up by formal FOIA requests. She has even, in some cases, requested that a senator or representative inquire about the delay in getting the files. However, in each of these seventeen cases the request has been outstanding since at least last year.

There is a serious problem here. I have no way of knowing why C-files are provided relatively quickly in some cases and there is no response at all in other cases. I understand that the Philadelphia office is large and busy but it would seem that there must be at least one person who could have gotten this file and copied it sometime in the last two years.

In addition to Mr, Viola's file and the other 16 files that have been outstanding since at least last year, I am enclosing an additional list of the names and file numbers (with copies of the releases) of seven more that have been outstanding since at least April of this year.

As I'm sure you can understand, it is not possible for Ms. Gronbeck to do the best possible job of representing her clients when she is not able to obtain this basic information about their cases. Not only are we having this serious problem with getting C-files, there is another problem. Whoever it is that is in charge of seeing that the information showing that Ms. Gronbeck has sent in her power of attorney and thus should be given access electronically to the limited records that are now available in the electronic system is being similarly slow to act. As a result, it is frequently not possible to get into the electronic system to get even basic information regarding the status of a particular veteran's case.

So that we are clear on where things stand, it is my intention to file for a writ of mandamus in the court if we have not received the seventeen C-files (that of Mr. Viola and the 16 others) that have been outstanding since last year, by 30 days from the date of this letter.

I will wait an additional 60 days before taking action on the remaining list of seven more files that I have enclosed.

However, you should also be aware that from this point forward we will be sending a FOIA request each time that we request a file. As you can see, the FOIA request letter points out that there is a specified time in the statue (which works out to roughly 30 days) in which to respond to such requests. In any cases where there is no file, and no call to discuss when we can get the file within the statutory period, we will feel free to file an FOIA lawsuit in the local federal court.

Jeanne Paul, Service Center Manager Department of Veterans Affairs Philadelphia Regional Office September 16, 2014 Page Three

Thank you for your attention in this matter. Should you have any questions or require any additional information, please feel free to contact my office.

Sincerely,

Francis M. Jackson

FMJ/mf Enc. - 20

cc: Joseph Viola (w/o enc.)
Diane M. Rubens, Center Director
Tom Murphy, Director, Compensation Service, VBA
Office of General Counsel

(Hard copy follows by certified mail)