



# U.S. COURT OF FEDERAL CLAIMS BAR ASSOCIATION



E-Newsletter  
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Dear Member,

We hope you enjoy our E-Newsletter. The theme of this Newsletter centers around the Heritage and Evolution of the US Court of Federal Claims.

If you have any questions or comments, or would like to submit an article for a future newsletter, please email [newsletter@cfcbar.org](mailto:newsletter@cfcbar.org).

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## Letter from the Chief Judge



The Court of Federal Claims was established in 1855 by an act of Congress, signed by the then-President Franklin Pierce. I majored in American History in college, but I had a hard time remembering anything about President Pierce other than his role in the Court's creation. So, like all scholars, I turned to Wikipedia, where I learned that Pierce, a pro-slavery northerner, served one term from 1853 to 1857, was a critic of Abraham Lincoln during the civil war, and ultimately died in obscurity in 1869. I also learned that President Pierce left behind a reputation as a heavy drinker, having famously announced as he left the White House at the end of his term that "There is nothing left [to do] but to get drunk."

The Court of Federal Claims has nonetheless thrived since President Pierce signed the bill establishing it into law. While the Court's name, size, and scope of jurisdiction have changed in the past almost 170 years, its stated purpose has remained the same—to provide private citizens with the right to seek monetary redress where they are wronged by their government. Its animating principle, as President Lincoln described in his 1861 State of the Union Address, is that "[it] is as much the duty of Government to render prompt justice against itself in favor of citizens, as it is to administer the same between private individuals."

As we all know, in light of these founding principles, the Court is frequently referred to as the “People’s Court.” I have to admit that whenever I hear that reference, I cringe a bit because I associate it with the original reality television court show of the same name. That People’s Court was presided over by Judge Joseph Wapner. Although Judge Wapner was much less colorful than, for example, Judge Judy, the show was incredibly popular in its time. In fact, a poll conducted by the Washington Post in 1989 found that while two-thirds of those surveyed could not name any of the nine justices on the United States Supreme Court, 54 percent could identify Judge Wapner as the judge of the People’s Court.

Of course, the role of our People’s Court is not to provide entertainment for the masses. As noted, its role is to promote a fundamental principle: that individuals have rights to secure redress from their government where that government has violated its legal obligations. But while we often quote that principle when we discuss the Court’s heritage, it remains subject to significant limitations, foremost among them those imposed by the doctrine of sovereign immunity. That centuries-old doctrine (which is found nowhere in our Constitution by the way) is based on the anachronistic notion that “the King can do no wrong.” But we do not have a King and, in fact, our country was founded on the rejection of the monarchy. Yet even in a Court whose historical purpose is to give citizens a forum to obtain redress from their government, sovereign immunity remains a significant obstacle to the accomplishment of that goal. As the government often reminds us, the Court of Federal Claims is “a court of limited jurisdiction.” And in many of the cases that come before our “People’s Court” the first order of business is to embark on a complicated and sometimes fruitless search for a clear statement reflecting the “consent” of the “King” to be sued.

Nonetheless, the Court of Federal Claims continues to provide a unique and invaluable public service. Over its long history, it has developed the expertise needed to resolve the grievances of private citizens and entities against their government in the many areas within its jurisdiction. It annually awards private parties hundreds of millions of dollars in compensation for, among other things, breaches of contract, Fifth Amendment takings, military and civilian pay claims, violations of money-mandating statutes and regulations, and, most recently, for injuries compensable under the National Childhood Vaccine Injury Act. The Court has been called on to address high profile issues of national importance, including, among others, the savings and loan crisis of the 1980, compensation for Japanese Americans who were interned during World War II, and the federal repository of spent nuclear fuel.

In closing, I want to point out that as our Court approaches its 170<sup>th</sup> year, it is now one of the oldest federal courts in the Nation. The Court’s heritage is a rich and unique one. The issues for which we have been assigned responsibility are diverse and frequently fascinating. We have the benefit of a highly talented and experienced bar. For those reasons, among others, we are all blessed to have been given the opportunity to be a part of the history of the Court of Federal Claims.

Chief Judge Elaine D. Kaplan

## President's Message



Dear Colleagues,

The U.S. Court of Federal Claims has a storied history, but what makes it truly special is its ongoing ability to adapt and stay relevant to the needs of those seeking justice. As we navigate today's fast-paced and ever-changing legal landscape, the Court continues to provide a vital forum for resolving disputes with the federal government—a mission that is as important now as ever.

One thing we can all agree on is that accessibility is key. Whether it's a small business owner contesting a government contract or an individual navigating a vaccine injury claim, the Court's commitment to ensuring everyone has a fair shot is what sets it apart.

Recent years have shown us the power of technology in making legal processes smoother and more efficient. Virtual hearings and electronic filings have gone from conveniences to necessities, proving that even in the legal world, innovation isn't optional. Of course, it's also a reminder to double-check whether you're on mute before speaking—a lesson some of us learned the hard way!

As members of the Bar Association, we're part of this effort to keep the Court's mission alive and thriving. Through our work, we help ensure that everyone—from big companies to everyday citizens—can access the justice they deserve. Let's continue to support the Court and its incredible history of balancing tradition with progress.

Thank you for all you do to support this great institution and the people it serves. It's through our joint efforts that we reaffirm the Court's commitment to accessibility, ensuring it remains a place where justice is within reach for all who seek it.

Warm regards,

Leah Durant

President, United States Court of Federal Claims Bar Association

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### **Ask the Judge!** **Judge Philip Hadji**

1. The United States Court of Federal Claims has a long history evolving from the Court of Claims, established in the mid-19th century, to its modern incarnation as an essential forum for claims against the federal government. Over time, its jurisdiction and scope have grown. What impact has the evolution of the Court's jurisdiction and scope had on the relationship between the federal government and private litigants?

ANSWER: I'm by no means an expert on the Court's history, but in my view, the Court's history demonstrates it has always been a place where private litigants

can seek redress against the sovereign, the United States Government. This fundamental relationship has never changed.

2. The Court of Federal Claims plays a crucial role in ensuring that individuals and entities have a proper judicial avenue to seek redress for grievances involving the federal government. The Court of Federal Claims is often the primary venue for individuals seeking monetary relief from the federal government. Can you describe how the Court ensures that the process remains accessible and fair for all parties, particularly for those without extensive resources?

ANSWER: The Court hears cases from parties represented by counsel and those that are not. For those that cannot afford to pay for counsel, but have a case that could potentially be meritorious, the Court will suggest that parties seek counsel through the Court of Federal Claims Bar Association Pro Bono/Attorney Referral Pilot Program. Interested attorneys may find out more information and register for this new pro bono program here: <https://cfcbar.org/programs/#1636952897484-08c4f6f2-75c6>. For parties that elect to represent themselves, the Court has put together a guidebook to assist, which is available here: [https://www.uscfc.uscourts.gov/sites/cfc/files/pro\\_se\\_guidebook.pdf](https://www.uscfc.uscourts.gov/sites/cfc/files/pro_se_guidebook.pdf).

3. Decisions from the Court of Federal Claims can have significant implications for public policy, especially in cases involving government spending or contracts. How do you approach the broader policy considerations in your rulings, particularly when there are competing interests at stake?

ANSWER: I have not made a ruling based on broader policy considerations. My rulings are based on the law and the factual record before me.

4. Looking ahead, what do you believe will be the most pressing challenges or opportunities facing the Court of Federal Claims in the coming years?

ANSWER: I'm excited to be part of a Court that for the first time in many years has no vacancies. I think a full bench, and several active senior judges, is a great recipe for giving every case the attention it deserves.

### ***\*Quick Answer Round\****

1. Grammar: Oxford comma or no Oxford comma?

ANSWER: Oxford comma.

2. Scheduling: digital calendar or manual calendar?

ANSWER: Digital.

3. While working: background noise (music/podcast) or silence?

ANSWER: Music when working from home and relative silence in chambers.

4. Lunch: bring or buy?

ANSWER: Buy.

5. Music: best concert you have attended?

ANSWER: Nothing comes to mind. It's been a while.

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### **Ask the Special Master!**

#### **Special Master Jennifer Shah**

1. The United States Court of Federal Claims has a long history evolving from the Court of Claims, established in the mid-19th century, to its modern incarnation as an essential forum for claims against the federal government. Over time, its jurisdiction and scope have grown to include the National Vaccine Injury Compensation Program. From your perspective as a Special Master, what impact has the evolution of the Court's jurisdiction and scope had on the relationship between the federal government and private litigants?

ANSWER: I can't really speak to the overall evolution of the jurisdiction of the CFC. The extension of the court's jurisdiction to include vaccine injury petitions has helped private litigants secure compensation for injuries through actions against the federal government. This is an important avenue for individuals to seek redress.

2. The Court of Federal Claims plays a crucial role in ensuring that individuals and entities have a proper judicial avenue to seek redress for grievances involving the federal government. The Court of Federal Claims is often the primary venue for individuals seeking monetary relief from the federal government. Can you describe how the process, specifically within the Vaccine Program, remains accessible and fair for all parties, particularly for those without extensive resources?

ANSWER: The legal costs and fees associated with litigation in the Vaccine Program are generally borne by the Program, not the petitioners. This enables petitioners to pursue their claims even without extensive resources. Additionally, the Program's no-fault system, particularly the ability to recover for Table injuries, makes securing compensation easier for petitioners.

3. Decisions from the Court of Federal Claims and Office of Special Masters can have significant implications for public policy. How do you approach the broader policy considerations in your rulings, particularly when there are competing interests at stake?

ANSWER: I am a strong believer in the rule of law and in maintaining the integrity of the judicial system. As such, my goal is to ensure a fair process and engage in a transparent and reasoned application of the law to the facts, medicine, and science presented in each case.

4. The Court of Federal Claims was designed as a Court with nationwide jurisdiction. What do you perceive as the most significant challenges in ensuring fair and efficient adjudication across diverse geographic regions? Additionally, could you elaborate on the potential advantages that such nationwide jurisdiction brings to both claimants and the legal system as a whole?

ANSWER: The nationwide jurisdiction of the vaccine court makes adjudication of petitions more uniform and streamlined, as Special Masters have particularized expertise in vaccine cases. Also, Special Masters often travel to petitioners to hear their cases, reducing the burden on petitioners. One challenge presented by this type of jurisdiction is the high volume of cases faced by the court.

5. Looking ahead, what do you believe will be the most pressing challenges or opportunities facing the Court of Federal Claims Office of Special Masters in the coming years?

ANSWER: The volume of cases before the court will likely be affected by emerging science and shifting policy priorities. In particular, the addition of the Covid vaccines to the Vaccine Program could significantly increase the court's caseload, given the wide scope of the immunization program for Covid.

### ***\*Quick Answer Round\****

1. Grammar: Oxford comma or no Oxford comma?

ANSWER: Oxford comma.

2. Scheduling: digital calendar or manual calendar?

ANSWER: Both, but I primarily rely on the digital calendar now.

3. While working: background noise (music/podcast) or silence?

ANSWER: It varies; each of those at times.

4. Lunch: bring or buy?

ANSWER: I bring lunch 90% of the time.

5. Music: best concert you have attended?

ANSWER: I am Gen X, so Duran Duran!

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### **Ask the Staffer!** **Francine Minor**

1. Can you describe your role at the U.S. Court of Federal Claims and what a typical day looks like for you?

ANSWER: My responsibilities at the USCFC include vaccine case administration, scheduling for the court, managing remote proceedings for judges participating in the ECRO Support program and public/internal customer service.

2. Can you describe the work you did prior to your current role at the USCFC as an ECRO Case Administrator in Operations?

ANSWER: My initial role at the USCFC was an Intake Coordinator. My responsibilities included classifying incoming mail and distributing to the appropriate court personnel, utilizing various computer applications to log all incoming material, retrieving on-site and archived case files for court personnel, attorneys and other interested parties, preparing closed case files for archiving, processing bar admission applications and certificates for newly admitted attorneys, and providing general and case related information to court personnel and the public. I was promoted to a Vaccine Case Administrator during my second year at the court. My responsibilities included docketing new cases utilizing CM/ECF, managing the progression of cases from opening to final disposition, reviewing incoming documents to determine conformity with the rules and requirements of the court, quality control of documents submitted to the court electronically, generating reports to chambers staff as needed, daily customer service and an introduction to my current duties as an ECRO Vaccine Case Administrator.

3. What do you find most rewarding about working at the Court of Federal Claims?

ANSWER: The most rewarding aspect of my job is helping the public and assisting my colleagues. I have developed great relationships over the years with many of my co-workers. We have cultivated a team environment that is positive and very productive.

4. How do you collaborate with judges, attorneys, and other staff to ensure the smooth functioning of the Court?

ANSWER: I collaborate with judges, special masters, attorneys and staff frequently throughout the work week. I routinely communicate with chambers regarding case filings as well as distributing connection information for upcoming ECRO supported proceedings. Chambers staff often reach out with requests for docket updates and corrections, questions regarding the vaccine program, and assistance with managing remote proceedings. Staff members reach out for conference room reservations, zoom invitations for meetings, and to request information for upcoming proceedings. My interactions with attorneys include providing them with proceeding information via email, following up on certificates of service and statistical requirements, and providing customer service over the phone when needed.

5. What advice would you give to someone interested in pursuing a career in public service or working in the judiciary, especially at a specialized court like the Court of Federal Claims?

ANSWER: I would advise someone who is interested in public service to research specific roles and career paths within the federal judiciary. I would also suggest visiting a courthouse to observe court proceedings and seek out information to learn more about the work of the judiciary.

### ***\*Quick Answer Round\****

1. Grammar: Oxford comma or no Oxford comma?

ANSWER: Oxford comma.

2. Scheduling: digital calendar or manual calendar?

ANSWER: Digital calendar.

3. While working: background noise (music/podcast) or silence?

ANSWER: Podcast.

4. Lunch: bring or buy?

ANSWER: Buy.

5. Music: best concert you have attended?

ANSWER: Ledisi in Baltimore.

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## **Important Announcements from the Court**

Please visit the home page of the Court's [website](#) for important announcements.

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## **Bar Leadership**

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