

Court Name: District of Columbia
Division: 1
Receipt Number: 4616045474
Cashier ID: rbutler
Transaction Date: 01/24/2012
Payer Name: NEW CASE

CIVIL FILING FEE
For: NEW CASE
Amount: \$350.00

CHECK
Check/Money Order Num: 1425
Amt Tended: \$350.00

Total Due: \$350.00
Total Tended: \$350.00
Change Amt: \$0.00

12-0113

Only when the bank clears the
check, money order, or verifies
credit of funds, is the fee or debt
officially paid or discharged. A
\$45 fee will be charged for a
returned check.

COMPLAINT

IN THE UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF COLUMBIA, CIVIL DIVISION

CLIENT SERVER SOFTWARE SOLUTIONS,
INC., d/b/a/CSSS.NET,
3906 Raynor Parkway
Bellevue, NE 68123,

Plaintiff,

v.

ERIK K. SHINSEKI, SECRETARY OF THE
U.S. DEPARTMENT OF VETERANS AFFAIRS,
810 Vermont Ave., NW, Washington, DC 20420;
AND THOMAS J. LENEY, EXECUTIVE
DIRECTOR, SMALL AND VETERAN BUSINESS
PROGRAMS, U.S. DEPARTMENT OF VETERAN
AFFAIRS CENTER FOR VETERAN ENTERPRISE,
810 Vermont Ave., NW, Washington, DC 20420.

Defendants.

Case: 1:12-cv-00113
Assigned To : Wilkins, Robert L.
Assign. Date : 1/24/2012
Description: Admn. Agency Review

Comes now, Client Server Software Solutions, Inc., (hereafter "CSSS.NET" or
"Plaintiff"), and submits the following in support of its Complaint:

The Parties

1. CSSS.NET is a Subchapter S corporation organized under the laws of Nebraska, which during all times relevant to this proceeding has maintained and continues to maintain its principal place of business in Nebraska.

2. Defendant Erik K. Shinseki, Secretary of the Department of Veterans Affairs, (hereafter "Defendant Shinseki"), is the chief administrative officer of the U.S. Governmental Agency of the Department of Veterans Affairs (hereafter "the VA") with its principal place of business in Washington, D.C.

3. Thomas J. Leney, Director of Small and Veteran Business Programs, Department of Veterans Affairs, Center of Veterans Enterprise (hereafter "CVE") is the chief administrative officer of the the CVE, a department of the VA, a U. S. Government agency, with its principal place of business in Washington, D. C.

Jurisdiction and Venue

4. This action involves interpretation of federal statutes and regulations, therefore, this Court has federal question subject matter jurisdiction pursuant to 28 United States Code Sec. 1331.

5. All of the Defendants' actions as set forth below having taken place within Washington, D.C. and all of the Defendants' principal places of business are within Washington, D. C.; consequently, the venue of this action in the Civil Division of the U. S. District Court for the District of Columbia, is lawful pursuant to 28 United States Code Sec. 1391.

The Facts

6. Public Law (P.L.) 109-461, enacted on December 22, 2006, created a new contracting program within the Department of Veterans Affairs for Veteran-owned small businesses and expanded the service disabled Veteran contracting program for VA procurements. The thrust of the program is to create set-asides for small businesses owned and operated by service disabled Veterans to assist their obtaining federal contracts. This program, called "VETBIZ," has been implemented in two regulations:

a. 48 CFR Parts 802, 804, 808, 809, 810,813, 815, 817, 819, 828, and 852 of the VA Acquisition Regulations regarding supporting Veteran-owned and service-disabled Veteran-owned small businesses; and

b. 38 CFR Part 74 VA Veteran-Owned Small Business Verification Guidelines that was published on February 8, 2010, and clarified on January 19, 2011. This regulation defines the

requirements for verification as a Veteran-owned small business or a service-disabled Veteran-owned small business.

On October 13, 2010, the President signed the Veterans Benefits Act of 2010 into law (P.L. 111-275), which expanded the requirement that the VA verify the status of businesses claiming to be Veteran-owned businesses eligible to participate in the VETBIZ database. As a result of this legislation, applicants would now need to submit an application to establish their status as Veteran-owned businesses eligible to participate in the VETBIZ database. It is the VA's implementation of 38 CFR Part 74 as expanded by the Veterans Benefits Act of 2010 that forms the basis of Plaintiffs' Complaint against Defendants.

7. Lisa Wolford (hereafter "Wolford") is a Service Disabled Veteran, whose business, CSSS.NET, has provided technical computer consulting services to federal contracting agencies since 2002. CSSS.NET has been listed on the VETBIZ registry since the inception of the registry.

8. In March, 2011, Wolford sent in CSSS.NET's original package containing sufficient documentation to verify that CSSS.NET complied with all requirements of 38 C.F. R. Part 74 to continue qualifying as a Service Disabled Veteran Owned Small Business (hereafter "SDVOSB").

9. Wolford received no reply or confirmation from the VA that her documentation was complete. On August 22, 2011, she checked the VETBIZ website and discovered that CSSS.NET was no longer listed in the VETBIZ registry. She attempted to contact the VA by telephone and email, her usual methods of communicating with the VA, in order to learn why her business had been de-listed.

10. On August 23, 2011 CSSS.NET received its first denial letter from the VA stating that, because Wolford was a trustee of her own revocable trust, it could not be determined whether she remained the majority owner of CSSS.NET.

11. On September 6, 2011, Plaintiff filed a Request for Reconsideration with additional explanations of how the revocable trust did not function to remove Wolford's ability to direct CSSS.NET. Wolford sent emails to CVE to follow up on the status of the reconsideration on September 1, 2011 without reply.

12. Wolford attended a Vet-force meeting on September 13, 2011 at which Defendant Leney made a presentation regarding VETBIZ. During the question and answer period, Wolford related her difficulties with VETBIZ to Defendant Leney. He agreed that there was a substantive error on the part of the CVE in processing CSSS.NET's application and promised to assure that a thorough review of CSSS.NET's application to ensure that there were no further issues.

13. On September 15, 2011 Defendant Leney replied to Wolford's email that there were other issues and that CSSS.NET would receive a communication on September 16, 2011, regarding those issues. Wolford replied to this email on September 16, 2011 thanking Defendant Leney for his reply, and offering any further information needed to address any remaining issues.

14. Wolford sent further emails requesting a status and offering any additional amplifying information on September 22, 2011 and September 26, 2011. On September 26, 2011, Defendant Leney replied that Plaintiff would see a letter on September 27, 2011 addressing the status of CSSS.NET. However, no letter from CVE was forthcoming. Wolford sent another set of follow up emails on October 5, 2011 and October 11, 2011.

15. October 24, 2011 Wolford finally received a letter from CVE, once again denying CSSS.NET's status as a SDVOSB. Even though the letter stated that "CVE has confirmed that

you have valid service-disabled Veteran status from VA and own at least 51% of CSSS.NET, as required by the regulations," the letter went on to say that "CVE is unable to conclude that you satisfy the control requirements set forth in 38 CFR § 74.4" based on the following:

1. You failed to provide a resume, which raises an issue of whether you have management expertise to run this concern. The applicant is an information technology-consulting firm. You have failed to provide any information to CVE as to your experience or expertise in this field. As such, CVE cannot reasonably determine that you have "managerial experience of the extent and complexity needed to run the concern," as required by 38 CFR § 74.4(b).

2. Additionally, you provided three years of tax returns for a real estate company called FOF&N, L.L.C., for years 2007, 2008, and 2009. You are the 99% owner of this partnership, and your daughter Natalie O'Barr is the 1% owner. According to the tax forms, this company is a real estate company, and it shares the same address as the applicant. You did not provide a resume and that company does not have a website, so your role in that company cannot be determined. Without more information, it is unreasonable to assume that you can interrupt your present workday to address problems that might arise, in the performance of your duties in the applicant concern. Even though 38 CFR § 74.4(c)(1), as amended, requires that "[o]wners need not work full-time but must show sustained and significant time invested in the business," the regulations still require that "[o]ne or more veterans or service-disabled veteran owners who manage the applicant or participant must devote full-time to the business during normal working hours of firms in the same or similar line of business." 38 CFR §74.4(c)(3). While other outside employment is not necessarily a bar to establishing control of the applicant, you have to demonstrate that employment in another business will not interfere with control of the applicant business, per 38 C.F.R. § 74 4(c)(1). The Government Accountability Office has flagged this issue, and it issued a report, which found that a Veteran cannot control a business when he concurrently has a separate full-time job, which operates during the same normal business hours as the applicant firm. See *U.S. Gov't Accountability Office, Service-Disabled Veteran-Owned Small Business Program: Case Studies Show Fraud and Abuse Allowed Ineligible Firms to Obtain Millions of Dollars in Contracts*, GA0-10- 108 (Oct. 2009) The determination as to whether outside employment will bar establishing control is decided on a case-by- case basis, evaluating the particular facts and circumstances presented. You failed to provide a written explanation as to your role in FOF&N, L.L.C., as required by 38 CFR §74.4(c)(1). Additionally, that company is located at the same address of the applicant company. Without an explanation as to what role you have in that other company, if you have one other than owner, CVE cannot reasonably determine that you satisfy the "full-time" control requirements.

3. Finally, the applicant failed to provide enough information for CVE to determine if you are the highest paid person of the applicant, as required by 38 CFR § 74.4(g)(3). The applicant provided a Payroll report for 2009, but you were not listed on that payroll report. You also provided your 2010 W2 but did not provide the W2s of any other employees. Therefore, CVE cannot determine if you are the highest paid person in the applicant, because CVE does not have a way of comparing you to the other employees. Additionally, even if you are not the highest paid, the regulations permit this as long as you provide a written explanation as to how that helps the applicant. However, you also failed to do this. Therefore, CVE finds that you do not satisfy this element of control. (*paragraph numbers added.*)

16. Wolford had provided CVE with an exhaustive resume fully documenting her skills and abilities when she filed her original package in March, 2011, and again on November 3, 2011. Nevertheless, the October 24 2011 denial letter states that this was not provided.

17. Further, complete payroll records and timesheets for CSSS.NET were also provided to CVE. A cursory review of those records would have revealed that Wolford is the highest paid employee.

18. The packages provided to CVE contained an affidavit from Jeffrey Hamernik, Wolford's accountant for 14 years, verifying that she spends very little time on FOF&N, LLC, and that the real estate venture is merely a passive investment. The affidavit further attests that Wolford spends the majority of her time on CSSS.NET. Wolford also included an affidavit attesting that she spends no more than 5 minutes per month on the real estate company, whereas the majority of her efforts are spent on CSSS.NET.

19. On November 3, 2011 Wolford sent CVE a second request for reconsideration. CVE has yet to issue any final determination regarding this second request.

Count 1: CVE Failed to Issue a Final Ruling as Required by Regulation.

20. The governing regulation, 38 CFR §74.14(b), states that "the Director, CVE, *will* issue a written decision within 60 days, when practicable, of receipt of the applicant's request."

Further, 38 CFR §74.14(c) states that if “the Director, CVE, denies the application solely on issues not raised in the initial denial, the applicant may ask for reconsideration as if it were an initial denial.” The statement of facts above details a process that Plaintiffs began in March, 2011, and which has yet to produce a final determination, ten months later. The Director first issued a denial on August 23, 2011, and following a request for reconsideration, issued a second denial on completely different grounds on October 24, 2011. CVE has yet to issue any response to Plaintiff’s second request for reconsideration filed on November 3, 2011. Consequently, CVE has twice failed to meet its own requirements of a 60-day turnaround contained in 38 CFR §74.14(b).

Count II: CVE has Failed to Follow its own Regulations in evaluating CSSS.NET.

21. CVE de-listed CSSS.NET from the VETBIZ website without the proper prior notice as required by 38 CFR §74.21(c) and §74.22(c). Although CSSS.NET had previously enjoyed SDVOSB status, Wolford discovered that CSSS.NET had been de-listed, without any of the required written notice from CVE.

22. Further, prior to de-listing any business, CVE is required to conduct an examination of all relevant documents supporting the business’ application. 38 CFR §74.20(b). It is blatantly apparent from the two denial letters that Plaintiff has received that CVE failed to provide a consistent review of all documents provided to it. For example, Wolford has twice provided a copy of her extensive resume detailing her experience to CVE, and yet, the second denial states plainly that she never submitted such information. Further, the second denial makes it clear that the CVE examiner either failed to review the documents provided by CSSS.NET or failed to understand them and request clarification prior to issuing the denials.

Count III: CVE's Denials of SDVOSB Status to CSSS.NET is Arbitrary, Capricious, and Contrary to Law.

23. As detailed above, CVE has failed to follow its own regulations in reviewing the application of CSSS.NET to remain on the BIZNET listing, and in removing CSSS.NET from such listing without the proper notice.

24. Further, it is apparent that the examiner reviewing Plaintiff's application either completely disregarded, or failed to comprehend the documentation provided, and came to unreasonable "conclusions" resulting in continuing to deny CSSS.NET SDVOSB status. For example, the second denial letter states that CVE was unable to determine whether Wolford spends the appropriate amount of time conducting the business of CSSS.NET because she has an ownership interest in a second business, regardless of the payroll information and two affidavits provided, which clearly explain that the real estate business was merely a passive investment for Wolford, and that she in fact does work full time for CSSS.NET. The two denial letters already provided to Plaintiff rest on conclusions unsupported by the facts, and are therefore unreasonable, arbitrary and capricious.

Count IV: The Court Should Compel Agency Action Unlawfully Withheld and Unreasonably Delayed Pursuant to 5 USC §706.

25. This Court is authorized by 5 USC §706(1) to "compel agency action unlawfully withheld or unreasonably delayed." Based on the facts recited above, Plaintiff has tried valiantly to comply with the Defendant's regulations in order to maintain SDVOSB rating and listing on the VETBIZ website. What Plaintiff has received in response from the VA and CVE is a complete lack of recognition of the VA's own regulations with regard to notice of de-listing and administrative foot dragging that has resulted in an extremely protracted process, whereby

Plaintiff still has not been able to regain a position on the VETBIZ website, regardless of being qualified to do so.

Relief Requested

26. Accordingly, Plaintiff respectfully requests a judgment to include the following relief (and any further relief which the Court may find to be justified by the evidence):

a. De novo review under 5 USC §706 of the administrative record and a determination as to whether CSSS.NET should have been reinstated to the VETBIZ website.

b. A mandatory injunction, pursuant to 5 United States Code Sec. 702 and otherwise, temporarily and permanently mandating that Defendants find CSSS.NET meets the criteria of a SDVOSB and restoring the company's listing on the VETBIZ website; and

c. An award of reasonable attorneys' fees, court costs, and litigation expenses in a further amount determined by the Court after the return of any verdict in this proceeding.

This 18th day of January, 2012.

Respectfully submitted,
CSSS.NET, Plaintiff

By its Attorneys, PUCKETT & FARAJ, PLLC

By:  (MSP)
Haytham Faraj, Esq., DC Bar #990192
1800 Diagonal Road, Suite 210
Alexandria, VA 22314
Tel: 703-706-9566
Fax: 202-318-7652
Haytham@puckettfaraj.com

**United States District Court
For the District of Columbia**

Client Server Software)
Solutions, Inc. d/b/a CSSS.NET)
)
)
 vs Plaintiff)
)
 Erik K. Shinseki, Secretary of U. S. Department of)
 Veterans Affairs, and Thomas J. Leney, Executive)
 Director, Small and Veteran Business Programs, U. S.)
 Dept. of Veterans Affairs Center for Veteran Enterprise)
)
 Defendant)

Civ Case: 1:12-cv-00113
Assigned To : Wilkins, Robert L.
Assign. Date : 1/24/2012
Description: Admn. Agency Review

CERTIFICATE RULE LCvR 7.1

I, the undersigned, counsel of record for Plaintiff, CSSS.NET, certify that to the best of my knowledge and belief, the following are parent companies, subsidiaries or affiliates of CSSS.NET which have any outstanding securities in the hands of the public:

Not applicable.

These representations are made in order that judges of this court may determine the need for recusal.

Attorney of Record
Haytham Faraj, Esq (MSP)
Signature

990192
BAR IDENTIFICATION NO.

Haytham Faraj, Esq.
Print Name

1800 Diagonal Road, Suite 210
Address

Alexandria, VA 22314
City State Zip Code

703-706-9566
Phone Number

CIVIL COVER SHEET

JS-44
(Rev. 2/11 DC)

I (a) PLAINTIFFS Client Server Software Solutions, Inc. d/b/a CSSS.NET	DEFENDANTS Erik K. Shinseki, Secretary of the U. S. Department of Veterans Affairs; and Thomas J. Loney, Executive Director, Small and Veteran Business Programs, U. S. Dept. of Veterans Affairs Center for Veteran Enterprise
(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF <u>68123</u> (EXCEPT IN U.S. PLAINTIFF CASES)	COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT (IN U.S. PLAINTIFF CASES ONLY) <u>11001</u> NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED
(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER) Haytham Faraj, Esq. PUCKETT & FARAJ, PLLC 1800 Diagonal Road, Suite 210 Alexandria, VA 22314 703-706-9566	ATTORNEYS (IF KNOWN) Defendants' Address: 810 Vermont Avenue, NW Washington, DC 20420

II. BASIS OF JURISDICTION (PLACE AN x IN ONE BOX ONLY)	III CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN x IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT) FOR DIVERSITY CASES ONLY!																								
<input type="radio"/> 1 U.S. Government Plaintiff <input checked="" type="radio"/> 2 U.S. Government Defendant <input type="radio"/> 3 Federal Question (U.S. Government Not a Party) <input type="radio"/> 4 Diversity (Indicate Citizenship of Parties in item III)	<table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th></th> <th style="text-align: center;">PTF</th> <th style="text-align: center;">DFT</th> <th></th> <th style="text-align: center;">PTF</th> <th style="text-align: center;">DFT</th> </tr> </thead> <tbody> <tr> <td>Citizen of this State</td> <td style="text-align: center;"><input type="radio"/> 1</td> <td style="text-align: center;"><input type="radio"/> 1</td> <td>Incorporated or Principal Place of Business in This State</td> <td style="text-align: center;"><input type="radio"/> 4</td> <td style="text-align: center;"><input type="radio"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="radio"/> 2</td> <td style="text-align: center;"><input type="radio"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td style="text-align: center;"><input type="radio"/> 5</td> <td style="text-align: center;"><input type="radio"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="radio"/> 3</td> <td style="text-align: center;"><input type="radio"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="radio"/> 6</td> <td style="text-align: center;"><input type="radio"/> 6</td> </tr> </tbody> </table>		PTF	DFT		PTF	DFT	Citizen of this State	<input type="radio"/> 1	<input type="radio"/> 1	Incorporated or Principal Place of Business in This State	<input type="radio"/> 4	<input type="radio"/> 4	Citizen of Another State	<input type="radio"/> 2	<input type="radio"/> 2	Incorporated and Principal Place of Business in Another State	<input type="radio"/> 5	<input type="radio"/> 5	Citizen or Subject of a Foreign Country	<input type="radio"/> 3	<input type="radio"/> 3	Foreign Nation	<input type="radio"/> 6	<input type="radio"/> 6
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IV. CASE ASSIGNMENT AND NATURE OF SUIT

(Place a X in one category, A-N, that best represents your cause of action and one in a corresponding Nature of Suit)

<input type="radio"/> A. Antitrust <input type="checkbox"/> 410 Antitrust	<input type="radio"/> B. Personal Injury/Malpractice <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Medical Malpractice <input type="checkbox"/> 365 Product Liability <input type="checkbox"/> 368 Asbestos Product Liability	<input checked="" type="radio"/> C. Administrative Agency Review <input type="checkbox"/> 151 Medicare Act Social Security: <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) Other Statutes <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input checked="" type="checkbox"/> 890 Other Statutory Actions (If Administrative Agency is Involved)	<input type="radio"/> D. Temporary Restraining Order/Preliminary Injunction Any nature of suit from any category may be selected for this category of case assignment. *(If Antitrust, then A governs)*
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<input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions <input type="checkbox"/> 470 Racketeer Influenced & Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Satellite TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 900 Appeal of fee determination under equal access to Justice	<input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions (if not administrative agency review or Privacy Act)					

<input type="radio"/> G. Habeas Corpus/ 2255 <input type="checkbox"/> 530 Habeas Corpus-General <input type="checkbox"/> 510 Motion/Vacate Sentence <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee	<input type="radio"/> H. Employment Discrimination <input type="checkbox"/> 442 Civil Rights-Employment (criteria: race, gender/sex, national origin, discrimination, disability age, religion, retaliation) *(If pro se, select this deck)*	<input type="radio"/> I. FOIA/PRIVACY ACT <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 890 Other Statutory Actions (if Privacy Act) *(If pro se, select this deck)*	<input type="radio"/> J. Student Loan <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (excluding veterans)
<input type="radio"/> K. Labor/ERISA (non-employment) <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Labor Railway Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="radio"/> L. Other Civil Rights (non-employment) <input type="checkbox"/> 441 Voting (if not Voting Rights Act) <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 445 American w/Disabilities-Employment <input type="checkbox"/> 446 Americans w/Disabilities-Other	<input type="radio"/> M. Contract <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholder's Suits <input type="checkbox"/> 190 Other Contracts <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<input type="radio"/> N. Three-Judge Court <input type="checkbox"/> 441 Civil Rights-Voting (if Voting Rights Act)

V. ORIGIN

- 1 Original Proceeding
 2 Removed from State Court
 3 Remanded from Appellate Court
 4 Reinstated or Reopened
 5 Transferred from another district (specify)
 6 Multi district Litigation
 7 Appeal to District Judge from Mag. Judge

VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE.)
 38 CFR Part 74 -Request Preliminary Mandatory Injunction requiring Agency to restore Plaintiff to listing on VETBIZ database; de novo review

VII. REQUESTED IN COMPLAINT CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ _____ JURY DEMAND: YES NO Check YES only if demanded in complaint

VIII. RELATED CASE(S) IF ANY (See instruction) YES NO If yes, please complete related case form.

DATE 1-18-2012 SIGNATURE OF ATTORNEY OF RECORD Haytham Yady (MJP)

INSTRUCTIONS FOR COMPLETING CIVIL COVER SHEET JS-44
 Authority for Civil Cover Sheet

The JS-44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. Listed below are tips for completing the civil cover sheet. These tips coincide with the Roman Numerals on the Cover Sheet.

- I. COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF/DEFENDANT (b) County of residence: Use 11001 to indicate plaintiff is resident of Washington, D.C.; 88888 if plaintiff is resident of the United States but not of Washington, D.C., and 99999 if plaintiff is outside the United States.
- III. CITIZENSHIP OF PRINCIPAL PARTIES: This section is completed only if diversity of citizenship was selected as the Basis of Jurisdiction under Section II.
- IV. CASE ASSIGNMENT AND NATURE OF SUIT: The assignment of a judge to your case will depend on the category you select that best represents the primary cause of action found in your complaint. You may select only one category. You must also select one corresponding nature of suit found under the category of case.
- VI. CAUSE OF ACTION: Cite the US Civil Statute under which you are filing and write a brief statement of the primary cause.
- VIII. RELATED CASES, IF ANY: If you indicated that there is a related case, you must complete a related case form, which may be obtained from the Clerk's Office.

Because of the need for accurate and complete information, you should ensure the accuracy of the information provided prior to signing the form.