

## **FOREWORD**

### **VETERANS LAW AT SYRACUSE UNIVERSITY**

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I congratulate the *Syracuse Law Review* on the publication of this important issue devoted to legal matters affecting America's veterans and military families. With this issue, the *Law Review* and the Syracuse University College of Law have again demonstrated their key role in our University's effort to remain the best school in the United States for veterans-related education, research, service, and innovation.

Much has been accomplished with veterans at our University in the last few years. Today, Syracuse University's Institute for Veterans and Military Families (IVMF), and our Office of Veterans and Military Affairs (OVMA), together have more than one hundred professional staff members working intensively on veteran issues—on employment, policy, education, training, and health—and the number has been growing fast. The Institute is widely acknowledged as the nation's thought-leader in many of these areas. OVMA makes sure our University well serves our veterans in our student body, on our faculty, and on our staff.

Veteran and military-connected student enrollment at our University has more than doubled in the last three years, and now is well over one thousand students, a number that equates to more than four percent of our full-time enrollment. That compares favorably to almost all of our peers.

Beyond reaching students on campus, Syracuse University now conducts training for veterans and military personnel and their families in many nontraditional platforms and formats around the country and on military bases around the world. We are reaching tens of thousands of veterans and military personnel each year, with much of the training focusing on the transition to civilian life and on entrepreneurship and health and wellness.

The University has recently broken ground on a more than \$60 million building—a National Veterans Resource Complex—that will house all our programs in a state of the art facility with more than 100,000 square feet of extraordinarily beautiful and useful spaces designed after a nationally refereed competition. All this work illustrates the University's commitment to leadership on veterans' issues.

The Syracuse University College of Law has long played a vital role in this work. The College of Law now has more than thirty current veteran

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or military-connected students. Many more students, veteran and nonveteran alike, work each day in veteran outreach and service. Most notably, the College two years ago created the Veterans Legal Clinic, which provides representation to veterans and their families who are seeking benefits from the Department of Veteran Affairs (VA) or upgrading a military discharge through the various military branches. Students engage in fact investigation, draft persuasive letters and briefs to the various governmental agencies, and have the opportunity to orally advocate for clients. In addition to client representation, the Clinic engages in community outreach at the local VA hospital and at the Veterans Outreach Center in Utica.

The College of Law recently brought the United States Court of Appeals for Veterans Claims (CAVC) to Syracuse.<sup>1</sup> The distinguished judges heard oral arguments in significant cases involving veterans' benefits, and also educated students and faculty about the court and the developing field.

This issue of the *Law Review* further enhances the dialogue and progress at the school. In five articles, this issue highlights the broad range of policies, practice areas, and fields of law that bear on caring for those who have worn the uniform.

James D. Ridgway is the Chief Counsel for Strategy, Innovation, and Programs at the Board of Veterans' Appeals and has authored more than a dozen law review articles and a book chapter focusing on veterans' law. David Ames is the Chief of the Office of Quality Assurance at the Board of Veterans' appeals where his team's mission is to both monitor and improve the overall quality of the Board's decisions. Ridgway and Ames argue that the Supreme Court's decision in *S.E.C. v. Chenery II* has been applied overbroadly by appellate courts.<sup>2</sup> This problem is far more than academic because the refusal of appellate courts to engage with the merits of agency decisions imposes needless costs and delay on both agencies and those contesting agency actions. The article concludes that the court should abandon its current approach to review in favor of a traditional approach of reviewing agency findings of adjudicative fact for clear error.

Judge Lawrence B. Hagel adds great distinction to the authors in this issue. Before earning a law degree, Judge Hagel served in the U.S. Marine

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1. *U.S. Court of Appeals for Veterans Claims to Hold Appellate Hearing at Syracuse University College of Law*, SYRACUSE U. C. L. (Sept. 20, 2016), [http://law.syr.edu/news\\_events/news/u.s.-court-of-appeals-for-veterans-claims-to-hold-appellate-hearing-at-syra](http://law.syr.edu/news_events/news/u.s.-court-of-appeals-for-veterans-claims-to-hold-appellate-hearing-at-syra).

2. James D. Ridgway & David S. Ames, *Misunderstanding Chenery and the Problem of Reasons-or-Bases Review*, 68 SYRACUSE L. REV. 303 (2018).

Corps, where he was awarded the Combat Action Ribbon, the Meritorious Service Medal (three awards), and the Joint Service Commendation Medal. He was appointed a Judge of the U.S. Court of Appeals for Veterans Claims by President George W. Bush in December 2003. He became Chief Judge on August 7, 2015. Judge Hagel and Dale Ton suggest that given the ubiquitous nature of technology in society, the court must devise policies and procedural rules to control its use in the courtroom.<sup>3</sup> The availability of electronic, especially video, technology has been proven successful by other federal courts of appeals and would provide great benefit to the court's bar, to appellants, and to the court itself. The article reviews the restrictions placed on traditional electronic devices and explores factors to consider should a court want to develop uniform rules in this regard.

The law office of Carpenter Chartered has been representing veterans with VA claims since 1983, which pre-dates judicial review by five years. Ken Carpenter and Sara Huerter's article is an examination of the VA's review of attorneys' and agents' fee agreements including a discussion of the current statutory and regulatory authority regarding this review.<sup>4</sup> This leads to a discussion of the VA's current practice and how it conflicts with congressional intent while offering some potential solutions to improve the VA's review of fee agreements. The article is relevant to attorneys as well as veterans and other claimants because of the obvious financial consequences resulting from an executed fee agreement.

Yelena Duterte is the Director of Syracuse University College of Law's Veterans Legal Clinic. *Decision, Appeal, Repeat* is an article focusing on the VA's adjudication of claims, its errors, and long wait times for decisions.<sup>5</sup> Specifically, the article recommends that either the VA rewrite regulations or Congress craft legislation that allows for veterans to settle their claims for disability compensation. Settlements would allow veterans to have control over the finalization of their claims and remove settled claims from the endless docket backlogging the VA appellate system.

Chris Meek is an alumnus of Syracuse University's Maxwell School of Citizenship and Public Affairs, a philanthropist, and businessman. He is the co-founder of SoldierStrong, a 501(c)(3) charitable organization

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3. Lawrence B. Hagel & Dale T. Ton, *Electronic Technology in the United States Court of Appeals for Veterans Claims*, 68 SYRACUSE L. REV. 347 (2018).

4. Kenneth M. Carpenter & Sara Huerter, *What's Missing and What's Needed in the VA's Review of Fee Agreements*, 68 SYRACUSE L. REV. 381 (2018).

5. Yelena Duterte, *Decision, Appeal, Repeat*, 68 SYRACUSE L. REV. 407 (2018).

dedicated to helping America's veterans and service men and women take their next steps forward. Christopher Mohrman is an attorney who specializes in the intersection of law, public policy, and politics. He works with various companies and groups to pursue their policy and legal objectives at the state and federal levels. Mr. Mohrman previously served in various senior state government policy roles and has advised multiple state and federal campaigns. Gavin Clingham is a Washington, D.C. based attorney who advises nonprofit organizations in their public and government affairs initiatives. Together, these three men argue that the current limitations imposed by 26 I.R.C. § 501(c)(3) prevent non-profit organizations, such as SoldierStrong, from acting effectively as a legislative advocate for veterans' affairs.<sup>6</sup> Further, the article illustrates the deficiencies in the current United States Code that seek to offer a compromise to nonprofit organizations engaged in "political activities," and the dangers in associating a nonprofit organization with political activities.

Ultimately, the goal of this issue is to present the difficulties that veterans face in the United States, both legally and more generally. By approaching these issues, and offering solutions, we can improve the lives of veterans' through legislation, advocacy, and awareness.

I thank all who have worked on veterans' issues at Syracuse University and salute the *Syracuse Law Review* for this fine issue.

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6. Chris Meek, Christopher Mohrman & Gavin Clingham, *Essay: SoldierStrong*, 68 SYRACUSE L. REV. 429 (2018).