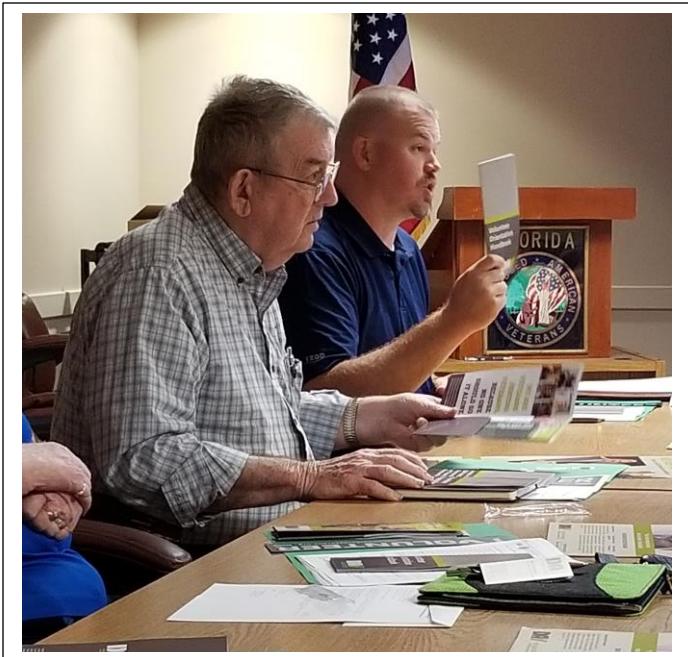




Department of Florida September 2019 Newsletter



Department Commander Thomas Ayala



This was a busy month for me. I attended the National Convention in Orlando, visited four chapters (23, 84, 101, 112),

Attended both Department first VAVS training by John Kleindienst, National Voluntary Services Director and Department Line Officer training. Congratulation to the following individuals in our Department:

DAV National 1st Jr Vice Commander Andy Marshall
DAV Auxiliary National Commander Diane Franz
DAV National Executive Committeeman Jack Johnson
DAV Alternate National Executive Committeeman Frank Chicollo
DAV Auxiliary National Executive Committeewoman Irene Stevens
Congratulations to all of you.

My first chapter visit was to Venice Gulf #101. This chapter has a bar and its located in Nokomis, FL. They have new Chapter Line Officers and are doing a great job within their community. The new Commander comes to the Chapter with some experiences for other VSO Leadership roles. With the guidance from our Department Director of Services Ken Wolfe, the Chapter will continue to move forward.

Greater Daytona #84 was the next Chapter I visited. Commander Larry Wells has great ideas that will help the chapter grow in membership.

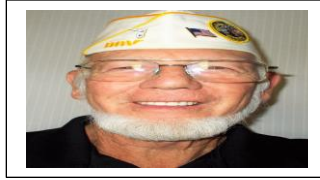
This chapter has done so many great things in their community. Veterans Museum and Education Center of Daytona Beach presented a proposal to the chapter. They would like to move their museum to Chapter 84's building. I believe this would be a great merger for both Chapter 84 and the Veterans Museum and Education Center of Daytona Beach. Both DAV and the Chapter will benefit from all the exposure toward membership and Service Officer claims. Good luck Chapter 84.

My third chapter visit was to Bay Area #112 located in Niceville. This chapter continue to amaze me. They have four Service Officers that handled between 90 -140 claims a month. Their Chapter Chaplain is 96 years young and is very active in the Chapter. He told me of a chapter member he visits every week who is 102 years young. Thank you for your service and for all you do for veterans and their families.

Last Chapter I visited was Al Gray #23 located in Pensacola. This chapter is doing some great community outreach with their local nursing home and schools. They have an outreach program called "Read to a Veteran", to help children in a Title 10 School with reading. Title 10 Schools are those schools with 95% of their students have free or reduced lunch meals. During the week of Veterans Day, the school with have different programs for all their local veterans. Chapter 23 will help them spread the word to all their chapter members. Keep up the outstanding work you are doing in Pensacola.

Remember beginning January 1, 2020, Lifetime Membership fees will increase \$300.00 flat fee. Those Veterans 80 and over will continue to be FREE. Great time to have a Membership Drive!!





Department Senior Vice Commander Duane Godfrey

This month we had the National Convention at the Rosen Shingle Hotel in Orlando and learned about the new By-law changes coming in January, starting 1/2020 all new members can join as a Life Member for the ridiculous amount of \$300.00 compared to other organizations that is a great deal. **DO NOT FORGET THE NEW MEMBERSHIP CHALLENGE** to get at least (1) one new member before Mid-Winter Conference in January.

We also had a change in the Annual Financial Reporting Requirements for 2020 Annual Financial Reporting period, the amount of \$10,000 and will now be \$25, 000. Rationale; The \$10000 income requirement which requires chapters to provide a copy of their financial Report to the National Organization was first implemented in 1995 and has not been amended since. It seems reasonable to increase the amount to \$25,000 with the understanding that Departments are going to have a greater role in reviewing and evaluating the financial activities of such chapter. This in my opinion was a good move.

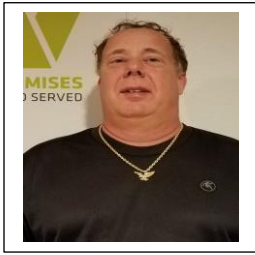
PLEASE turn in your LVAP form the first week of each month , we are focusing on the Local Veteran Assistance Program this Year so if your Chapter is not turning in the LVAP form expect a call or visit from one of the line officers to help you understand and turn in all of the hours you should be getting . Only about 1/2 of the chapters are turning them in ,so please call the Dept for assistance at 352 331 0945 . WE NEED TO DO BETTER!

There a lot of chapters that do not have meeting in August , but when you return if you would like one of the line officers to visit your chapter call or email the Department.



HOOKED ON HEROES will again be taking veterans fishing October 5, 2019 from Steinhatchee, Fl. Veterans must be at Sea Hag Marina by 8:00 am. The trip lasts until approximately 3:00 pm and will be given a bag lunch to eat while fishing and a chicken and rice dinner when returning. All poles and bait are furnished. If you wish to volunteer your boat or want to donate call Ron Cadle at 386-364-9589 or email to yesu812@windstream.net or look them up on Facebook **hooked on heroes**. Don't forget to reserve your spot.





Department Junior Vice Commander John Raber

As many of you may already know the membership will be 300.00 dollars for any new member as of January 1st 2020. This is a great tool for the next few months in your recruiting efforts. Anyone that signs up will be grandfathered at the current rate therefore could save some new members up to 160 dollars. I cannot stress enough the importance of membership. With every ones' effort we should easily make 100% for the state of Florida.

Next, I would like to talk about Midwinter Conference. We seem to be having many officers who are not sure of their duties or they are misinterpreting some of the bylaws in the State of Florida. Midwinter is the place to learn and ask the questions. The more you learn and take back to your Chapters the better the organization. is as a whole. Nobody including myself, knows everything. I have always learned something new at every Conference. Just a reminder there is no registration fee for Florida Midwinter Conference in 2020.

I am enjoying going to Chapters and visiting with all of you and believe it would be a great experience if members did the same thing. You can get a lot of great ideas about fundraising, committees, special functions, etc., from other Chapters that you can share with your Chapter. Also, everyone who is an officer should read their Chapter By-laws in their entirety every year. A good time to review them is at the first E-board or Chapter meeting following installation of new officers. Most of the time when I am asked a question my response is "what does it say in your By-Laws"? I always have had an open-door policy and can be reached anytime for assistance or if you need me to attend one of your functions. It would be my Honor since I work for you.



As many of you may have heard, the National Organization will no longer operate the Mobile Service Office Program as they will be utilizing Information Seminars in lieu of the MSO Program. However, the Department of Florida has its own MSO and will continue to operate the MSO Program on a Department basis.

Thus far, three chapters have requested the MSO visit their chapters—Chapters 1, 18 and 150. Chapter 150 has been scheduled for November 13. Awaiting scheduling dates from Chapters 1 and 18 according to our Department Adjutant. The MSO will be staffed by 2 DSO's who will be assigned by the Department Adjutant.

If your chapter wishes to have the MSO scheduled to visit your chapter, please contact our Department Adjutant andy@davfla.com. A minimum of 60 days' notice is required for mailing to eligible veterans in your Chapter's area.





Department Chaplain Chip Hanson

News from CNN on September 11, 2001

September 12, 2001 Posted: 12:27 pm EDT (1627 GMT)

8:45 am A highjacked passenger jet, American Airlines Flight 11 out of Boston, Massachusetts, crashes into the north tower of the World Trade Center, tearing a gaping hole in the building and setting it afire.

9:03 am A second highjacked airliner, United Airlines Flight 175 from Boston crashes into the south tower of the World Trade Center and explodes. Both buildings are burning.

9:43 am American Airlines Flight 77 crashes into the Pentagon, sending up huge plume of smoke. Evacuation begins immediately.

10:05 am The south tower of the World Trade Center collapses, plummeting into the streets below. A massive cloud of dust and debris forms and slowly drifts away from the buildings.

10:10 am A portion of the Pentagon collapses.

10:10 am United Airlines Flight 93, also highjacked, crashes into Somerset County, Pennsylvania

10:28 am The World Trade Center's north tower collapses from the top down as if it were being peeled apart, releasing a tremendous cloud of debris and smoke.

Such a sad day in American History

Some VAVS information will be in my column this month.

Our VAVS Chairperson is Maryann Keckler, who is also the VAVS Representative at James Haley VAH. Our Judge Advocate John Markiewicz is the VAVS Representative at the Lake City VA Hospital. Johnathan Turk is the VAVS Representative at Lake Nona VAH and PDC Richard Tolfa is the Deputy VAVS representative. Mike Gaspar is the new VAVS Representative at Bay Pines VAMC. Duane Romine is the VAVS Representative at Gainesville VAH and Past National Commander Al Linden is the Deputy VAVS Representative. Robert Wigersma is the new VAVS Representative at West Palm Beach VAMC.





John Markiewicz Department Judge Advocate

DAV Chapters, Departments and National are non-profit corporations governed by rules, regulations and laws established by the organization as well as by government entities at all levels. In many cases actions can fall into the category of being legal (having the right to do) but may not be the morally or ethically right thing to do. The “DAV Nonprofit Advisor” had the following to say in a recent issue.

Should leaders and others who engage in immoral acts on behalf of the corporation bear the stigma and the consequences of such acts? Soon-to-be-President Woodrow Wilson addressed that question more than a century ago with these words: “It is childish, it is futile, it is ridiculous! Society cannot afford to have individuals [with power avoid] personal responsibility!” And so it is with nonprofit leaders.

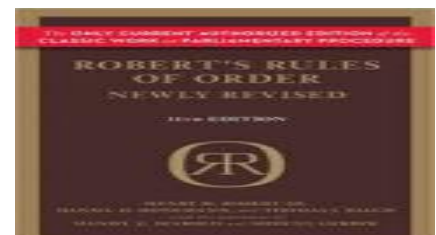
Retention of a leadership position in a nonprofit organization does—or should—involve adhering to legal and moral standards when acting on behalf of the corporation. The law cannot punish immorality that does not cross the line into illegality*. None the less, nonprofit leaders and the organizations on whose behalf they act are both subject to various marketplace sanctions for immoral behavior. Leaders can be replaced. Organizations can be boycotted. The first (and in some ways, only) defense against immoral corporate conduct is moral individual conduct. That is why, even for corporate subordinates, the so-called “following orders” defense (“I had to do it to save my job”) is ineffective as a legal defense or a moral free pass.

Lawyers and moralists alike are recognizing the wisdom of penetrating the corporate veil to hold flesh-and-blood human beings accountable for acts taken on behalf of a corporation. The so-called “intermediate sanctions” regulations issued by the IRS were groundbreaking in the nonprofit world. For the first time, charities are subject to a formal government program of targeting people whose bad acts are carried out on behalf of an organization. What does this mean for a DAV leader? It signals the need for a permanent sensitivity to the fact that—morally speaking—DAV is only as good as what you make it. DAV is good because you are. Let’s all keep it that way.

*Sometimes, certain principles are so important that a society decides to make a moral principle a legal one. For example, long before the civil rights laws prohibiting discrimination were enacted, it was still immoral to mistreat persons because of their age, sex, race, etc.

We have run across several chapter by-laws that contain outdated information in them such as number of members present that constitute a quorum, meeting dates and times, number of members on E-Board, etc.

Do you have one of these available?





Andy Marshall Department Adjutant

Legislative Report

Important Florida Legislative Session Dates

August 1, 2019 – Deadline for filing Senate claim bills

Interim Committee Meeting Schedule for 2020 Legislative Session

- Monday, September 16 – Friday, September 20, 2019
- Monday, October 14 – Friday, October 18, 2019
- Monday, October 21 – Friday, October 25, 2019
- Monday, November 4 – Friday, November 8, 2019
- Tuesday, November 12 – Friday, November 15, 2019
- Monday, December 9 – Friday, December 13, 2019

The 2020 Legislative Session will convene on Tuesday, January 14, 2020.

House Joint Resolution 717

Proposes amendments to State Constitution to authorize surviving spouse of deceased veteran to carry over certain discounts on ad valorem taxes on homestead property under specified circumstances; authorizes transfer of discount to another permanent residence if surviving spouse remains unmarried.

Bill died on calendar

S0886

Proposing amendments to the State Constitution to provide that the homestead property tax discount for certain veterans who had permanent, combat-related disabilities carries over to the benefit of the veteran's surviving spouse under certain circumstances until he or she remarries or sells or otherwise disposes of the property, to provide that the discount for the surviving spouse is transferable

to another homestead under certain circumstances, and to provide an effective date, etc.

Bill died in Appropriations

HB 937

Requires chief judge of each judicial circuit to establish military veterans & servicemembers court program; requires chief judge to consider nationally recognized best practices when adopting policies & procedures for program.

Died in Criminal Justice Subcommittee

A Few Facts about the Vietnam Wall

- There are 58, 267 names on the Wall
- 39, 996 were age 22 or younger
- 8, 283 were just age 19
- 33, 103 were just age 18
- 5 soldiers were just age 16
- 31 sets of parents have 2 sons names on the Wall
- 997 were killed on their first day
- 1, 448 were killed on their last day.
- 8 women names are on the Wall
- 154 soldiers names are on the Wall who were awarded the Medal of Honor
- Approximately 1, 200 names on the wall are listed as POW/MIA
- West Virginia had the highest casualty rate. West Virginia had 711 casualties—39.9 per 100,000 people
- Most casualties on a single day was 1/31/68 with 245 casualties
- Most casualties in a single month was May 1968 with 2, 415 casualties.

**Chapters visited by Department Line Officers & Adjutant Since Department Convention
1, 13, 23, 84, 97, 101, 112**

Adjutant's Column Continued

State of Florida Veteran Demographics

- Number of Veterans 1, 525, 400
- Number of women Veterans 144, 229
- Percent of Women Veterans 9.46%
- Number of Military Retirees 200, 509
- Number of Veterans age 65 or older 807, 597
- Percent of Veterans Age 65 or Older 52.94%
- Number of Veterans receiving Disability Compensation 348, 567
- Number of Veterans Receiving Pension 23, 266
- Number of Dependency & Indemnity (DIC) 34, 160
- Number of enrollees in VA Healthcare System 733, 087
- Number of Veterans in Emergency Shelters 10, 732
- Number of Veterans in Transitional Housing 6, 379
- **Number of Veterans unsheltered 15, 879***
- **Florida Veterans Suicide 570***
- Highest Veteran Pop. by County 96, 585 Hillsborough
- 41, 601 are rated as 100% disabled

Senator Joins Call to Allow Troops to Sue for Military Medical Malpractice

A senator has taken up the cause to negate a controversial court ruling that bars service members from suing the federal government in cases of medical malpractice by military doctors.

Sen. John Kennedy, R-Louisiana, has introduced an amendment to the Senate's proposed defense policy bill that would allow military personnel to file claims for injury or death caused by improper medical or dental care or during research studies at a military medical facility.

Troops are prevented from suing the federal government for injuries deemed incidental to military service, including medical malpractice, under a 1950 court ruling, *Feres v. United States*. In that case, the U.S. Supreme Court ruled that service members fall under an exception to the Federal Tort Claims Act -- the law that allows citizens to sue the government.

Kennedy's amendment mirrors similar legislation introduced in April in the House, which seeks to exempt medical negligence or wrongful acts by military physicians from the ruling, commonly referred to as the *Feres* doctrine.

Under the proposed amendment, troops and their families would be allowed to sue, except in cases of care rendered at battalion aid stations, in combat or at a field facility in a combat zone.

The Senate plans to debate the defense bill this week; whether any amendments will be considered and included in the final draft has not been announced. In past years, fewer than a handful of amendments have received a roll call vote.

In the House, Rep. Jackie Speier, D-California, has sponsored the Sgt. First Class Richard Stayskal Military Medical Accountability Act, named for an [Army](#) Green Beret and former Marine who has terminal lung cancer and whose military doctors failed to follow up on a suspicious mass found during a pre-training medical screening.

Speier said the legislation, which has been forwarded to the House Judiciary Subcommittee on the Constitution, Civil Rights, and Civil Liberties, is needed because the *Feres* ruling has "deprived troops of their legal rights."

The U.S. Supreme Court ruled in three separate cases in 1950 that the Federal Tort Claims Act, the law that permits citizens sue the government for wrongdoings by federal employees or agencies, does not apply to most service members for injuries resulting from the negligence of other military personnel.

The justices said the ruling was needed to ensure that Congress was not "burdened with private bills on behalf of military and naval personnel."

Critics have argued, however, that the compensation package provided to troops or their families following a major medical error in a U.S. military medical facility is not sufficient to care for severely injured or ill personnel or their families in cases of death.

Last month, the U.S. Supreme Court decided against hearing a case that challenged the legitimacy of the *Feres* ruling. In similar cases during the past several decades, the justices have said that Congress needed to change the law if it wanted troops to have the right to sue.

Calendar of Events

September 2 Labor Day



September 18
U.S. Air Force Birthday



September 20
POW/MIA Recognition Day



Gold Star Mother's Day



Adjutant's Column Continued

The Department of Florida submitted three resolutions to the National Convention Committee on Resolutions. For those resolutions received from your Department, the attached describes its final disposition, of which there are four possibilities:

- Adopted;
- Rejected as Duplicate;
- Rejected; and
- Referred to the National Organization.

All three resolutions were adopted by the Convention Committee and will be referred to Congress.

Establish presumptive service connection for breast cancer due to exposure to BPA as found in plastic disposable water bottles exposed to extreme heat.

Extend space-available air travel aboard military aircraft to dependents of service-connected disabled veterans having a permanent disability rated 100%.

Extend the travel area that service-connected disabled veterans having a Permanent and disability rated 100% may travel from CONUS to CONUS and overseas.

A VA study of Gulf War-era Veterans showed that many health problems, including migraine headaches, dermatitis, and arthritis, were more common among females compared to males. The exception was for certain diseases related to cardiovascular health and diabetes, which are generally more common among U.S males. The findings are illustrated at <https://go.usa.gov/xVTWJ>

Please see below email from the St. Petersburg National Service Office

To ensure all of the DSO's and CSO's get an automatic reply that we received their email it is imperative that they use the new encrypted email address. Dav.vbaspt@va.gov.

Once e-mailed to this email address you will receive the following response from the National Service Office.

Thank You for contacting the DAV St. Petersburg National Service Office.

If you are submitting a claim or evidence to our office, your claim or evidence will be scanned and submitted electronically to the VA on the same date of receipt. Please be advised the VA can take up to 45 days to process your claim or evidence before its available for review in e-Benefits.

If your emailing our office with a question or concern, please be advised you will receive a return phone call or email within two business days.



Don't forget to book your reservations for January's CSO Certification Training and Mid-Winter Conference. Training begins at 1:00 pm on Tuesday, January 7, 2020 and concludes at 9:30 am Friday, January 10. Mid-Winter Conference begins at 10:00 am Friday morning following end of CSO Training.

Department Service Officer Training has been scheduled for Monday, October 21 beginning at 8:30 am and concluding on Tuesday, October 22 at noon.

NSO Supervisor's Column Michael Michelotti

The Appeals Modernization Act (AMA) Revisited

As we discussed in the May 2019 newsletter the AMA changed the procedures for initiating a disagreement with a VA decision. Did you know it also fundamentally changed the way we submit claims to the VA and the forms we use? This article will address those fundamental changes for claim submissions. 38 CFR § 3.1 re-defined claims into two categories.

Claim means a written or electronic communication requesting a determination of entitlement or evidencing a belief in entitlement, to a specific benefit under the laws administered by the Department of Veterans Affairs submitted on an application form prescribed by the Secretary.

(1) *Initial claim.* An initial claim is any complete claim, other than a supplemental claim, for a benefit on a form prescribed by the Secretary. The first initial claim for one or more benefits received by VA is further defined as an original claim. Initial claims include:

- (i) A new claim requesting service connection for a disability or grant of a new benefit, and
- (ii) A claim for increase in a disability evaluation rating or rate of a benefit paid based on a change or worsening in condition or circumstance since the last decision issued by VA for the benefit.

(2) *Supplemental claim.* A supplemental claim is any complete claim for a VA benefit on an application form prescribed by the Secretary where an initial or supplemental claim for the same or similar benefit on the same or similar basis was previously decided.

Note: For an initial claim the form prescribed by the Secretary is the 21-526EZ (service connection), 21P-527EZ (pension), 21-686c (dependency), 21-8940 (individual unemployability), 21-4502 (automobile grant or adaptive equipment), etc.

Note: For a supplemental claim, the only form prescribed by the Secretary is the 20-0995. Supplemental claims must always be accompanied by new and relevant evidence or the claimant must identify where the VA can obtain new and relevant evidence for the VA to consider it a complete application.

So, keeping in mind what we learned above let's look at a few frequently asked questions that we receive.

Question: If a Veteran files a claim for a secondary condition that was previously filed as direct service connection, then would this be a supplemental claim?

Answer: Yes. (You must use the 20-0995 to reopen this claim)

Question: If the Veteran claims a left knee condition secondary to an service connected left hip condition but had not claimed the left knee previously, how would the VA treat this claim? **Answer:** This would be considered an initial claim since the left knee condition was never previously decided on any basis. (You must use the 21-526 EZ to file this claim)

Question: On February 20, 2019 (after the implementation of AMA), can a Veteran file a supplemental claim in which the one-year appeal period is still pending (e.g., previous decision was made in December 2018)? **Answer:** Yes, claimants may file a supplemental claim at any time on or after February 19, 2019, for review of a previously denied issue. (You would use of the 20-0995 to initiate the review)

Question: Can a Veteran file a supplemental claim on an evaluation issue more than a year after the prior decision? **Answer:** Yes. There is no regulatory time limit for filing a supplemental claim. (You must use the 20-0995 to reopen this claim)

Question: If a veteran believes their condition has worsened since its last evaluation and VA decision what form should be used to file a claim for an increase?

Answer: A claim for an increase is considered an initial claim (as defined above) and therefore a 21-526 EZ must be used to initiate the claim.

Question: If a veteran believes their condition is worse than the evaluation assigned in a VA decision, what form should be used to file a review of that decision?

Answer: If the veteran has new and relevant evidence showing his or her condition is worse than portrayed, he or she should use the 20-0995; if the veteran believes the VA committed a clear error in the decision they should use the 20-0996 (higher-level review); or the veteran can initiate a Notice of Disagreement to the Board of Veterans' Appeals by utilizing the VA10182 form.