



## STATE OF ARKANSAS BUREAU OF LEGISLATIVE RESEARCH

Marty Garrity, Director  
Kevin Anderson, Assistant Director  
for Fiscal Services  
Matthew Miller, Assistant Director  
for Legal Services  
Richard Wilson, Assistant Director  
for Research Services

**TO:** CLAIMS REVIEW SUBCOMMITTEE

**FROM:** Legal Division Staff

**SUBJECT:** Summary of legal issues  
*Howard Wood v. Department of Correction*  
*Denied and dismissed claim/Appealed by Claimant*

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Date of Occurrence: February 1, 2016  
Date of Claim Filed: February 15, 2017  
Amount Claimed: \$77,500.00  
Amount Awarded: N/A  
Claimant's Representative: N/A  
Respondent's Representative: Thomas Burns

Allegations of Claimant: The inmate was the recipient of veteran's disability benefits prior to being incarcerated in the ADC. Per the inmate handbook given to him upon his entry into the ADC, the inmate states that he relied on the ADC to notify the Veteran's Administration of his incarceration. The inmate contends that the ADC did not do this, breaching its obligation to do so and resulting in an overpayment by the VA to the inmate in the amount of \$74,969.06. The inmate now seeks damages for nominal, compensatory, and punitive damages for the ADC's failure to follow procedure.

Agency Response: The agency moved to dismiss arguing the inmate has failed to state a claim upon which relief may be granted. Further, the agency argues that the inmate has "unclean hands" and has failed to exhaust his administrative remedies. Specifically, the agency states that the inmate has failed to plead any basis for an award of damages beyond mere speculation. Moreover, the agency asserts that the inmate failed on his own accord of notifying the VA and was therefore improperly receiving benefits. While the handbook indicates that the agency would notify the VA of the inmate's incarceration, the agency asserts that the inmate did not inform the agency that he was a benefit recipient, meaning that the agency did not know to notify the VA. The agency asserts that the inmate also failed on other occasions to notify the VA of other legal action of which he was a party. Last, the agency argues that the inmate failed to exhaust his administrative remedies within the VA. The agency contends that because of the inmate's own actions, this claim would have been noncognizable in a court of law and therefore is noncognizable here.

Opinion of the Claims Commission: The Commission granted the agency's motion to dismiss due to the failure of the inmate to respond to the motion in a timely fashion. A motion for reconsideration was likewise denied.