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29TH DISTRICT, NEW YORK

COMMITTEE ON AGRICULTURE
COMMITTEE ON ARMED SERVICES

COMMITTEE ON
HOMELAND SECURITY

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SUBMITTED BY: Peter Barclay

Congress of the United States

House of Representatives

Washington, DC 20515-3224

AS AMENDED

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The Honorable Eric K. Shinseki
Department of Veterans Affairs
810 Vermont Ave, NW
Washington, DC 20420-0002

Dear Secretary Shinseki:

I am writing, pursuant to frequent contact I have had with several military veterans, to enquire about three issues.

They are: 1. What is the official view of the Veterans Administration with regard to the right of courts or other legal proceedings, to attach, divert or garnish payments to military veterans for service-connected disability compensation?

I am advised that under US Code Title 38, Section 5301 service-connected disability payments in particular cannot legally be attached or diverted; but that this continues to regularly happen at the state and local court levels, as part of divorce proceedings and property diversion. Indeed, we have been provided with a list of about 50 such cases of exactly this circumstance. As a consequence, a number of veterans are trying at their own expense to fight this at the state level.

This strikes us as an injustice, especially as we have been advised that the State of California has just passed a law to protect veterans' disability compensation from just such protection.

This brings me to my second question: 2. Would it not therefore make more sense for the VA, with the support of the Executive Branch, to call for federal government action to end this problem. It is, after all, a federal law that is being ignored.

If, as I believe, this is sensible I would be pleased to have your support for an effort here in Congress by which I and my colleagues could work to bring such a bill into law. Preliminary consultations suggest at least one dozen Members are prepared to join me, with the prospect of many more to quickly follow.

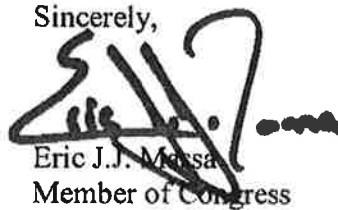
On the other hand, if there are other ways to resolve this problem using existing Executive Branch or administrative authorities, possibly through the Department of Justice, this would be entirely acceptable. My sole objective is to have this unjust seizure of what are supposed to be

payments for lost physical or mental capacity, received in full by those suffering these disabilities.

I am aware that this may also require greater attention being paid to just and equitable settlements upon the dissolution of marriages, but this is a distinct matter best dealt with by direct means and not by the flaunting of both existing federal law and policy intentions.

So in essence my final question is this: If you share my concern for this problem, what solutions would you be willing to support? I greatly appreciate your attention to this and look forward to a productive collaboration to resolve this issue.

Sincerely,

A handwritten signature in black ink, appearing to read "Eric J.J. Massa", is written over a horizontal line. The signature is stylized with a large, sweeping initial "E".

Eric J.J. Massa
Member of Congress