Department of Veteran's Affairs
ATTN: 318/BDD/LCL

This is a claim for CUE, Clear and Unmistakable Error, under provisions of 38 CFR 5109A for violation of 38 CFR 4.2 and 38 CFR 4.6.

Veteran respectfully request the VA call a clear and unmistakable error on part of the March 23, 2011 rating decision from the Winston Salem VA Regional Office, and to correct it. The laws in effect at that time were not properly applied nor was all the relevant evidence that was available in support of the veteran's claim considered. The result was a denial for service-connection for Residuals, Left Hand Fracture. Had the laws and regulations been properly applied, and the preponderance of supporting evidence considered, it would have manifestly changed the outcome of the decision in that should there be future development of arthritis in area of the fractured/healed left 5th metacarpal, it would be deemed service connected and therefore compensable.

Exhibit — 1, VA rating decision dated March 23, 2011, pages 12 — 13, state in part "A review of your available service treatment records shows review of your available service treatment records shows you complained of left hand injury in September 1997. X-rays were normal with no objective evidence of fracture." "At your VA Compensation and Pension Examination..." "X-rays were normal." "The examiner did not provide a diagnosis because there was no current pathology to render a diagnosis." "In the absence of objective evidence demonstrating a current, chronic disability, service connection for residuals, left hand fracture is denied."

Exhibit — 2, the C&P Report dated 7/31/2010, page 18 — 19, stated in part "DIAGNOSIS:" "For the claimant's condition of Left Hand Fracture, there is no diagnosis because the condition has resolved."

Exhibit — 3, Service treatment record dated October 21, 1997, X-ray was taken of veteran's left hand and referral was made for veteran to be seen by an Orthopedic Specialist.

Exhibit — 4, Service treatment record dated October 24, 1997, veteran was seen by an Orthopedic Specialist who examined the veteran and viewed the X-ray taken on October 21, 1997 and stated in part "Pts 5MT fracture has healed." Signed (unreadable signature), MD.

This CUE review request is based on the laws in effect and information available at the time of the adjudication on March 23, 2011.

Sincerely,

LIST OF EXHIBITS

Exhibit — 1 VA rating decision dated March 23, 2011
Exhibit — 2 C&P Report dated 7/31/2010
Exhibit — 3 Service treatment record dated October 21, 1997
Exhibit — 4 Service treatment record dated October 24, 1997