More on Reforming Section 1500

We have previously written on the need to reform 28 U.S.C. Section 1500—an outmoded Civil War-era statute that deprives the U.S. Court of Federal Claims (CFC) of jurisdiction over claims that, when filed, were based on the same "operative facts" as claims then pending in a district court. Both the American Bar Association and the Administrative Conference of the United States have recommended that Section 1500 be repealed. Read about the ABA's resolution urging repeal here, and the ACUS recommendation in Marzulla Law's January 2013 newsletter. Now, Emily S. Bremer, an Attorney Advisor to the Administrative Conference of the United States, and Jonathan R. Siegal, Professor of Law and Davis Research Fellow at the George Washington University Law School, have published an article in the Alabama Law Review titled *Clearing the Path to Justice: The Need to Reform 28 U.S.C. § 1500*.

As Bremer and Siegal report in their article, "[s]cholars have uniformly criticized the statute . . . ." Among the critics are also federal judges and several justices of the Supreme Court. Bremer and Siegal review several options for reform, concluding that the best solution would be a simple, complete repeal of Section 1500:

> *The best solution—and one that has drawn substantial, albeit not universal, support over the years —is to repeal § 1500. This solution would eliminate the difficulties created by § 1500 and prevent plaintiffs from losing legitimate claims for reasons unrelated to their merits. It would allow plaintiffs suing the United States, like plaintiffs suing any other defendant, to pursue all potential claims that they might have. . . . [And] it would level the playing field between the government—the ultimate repeat player before the CFC—and all plaintiffs.*

Bremer and Siegal's article can be found here.