

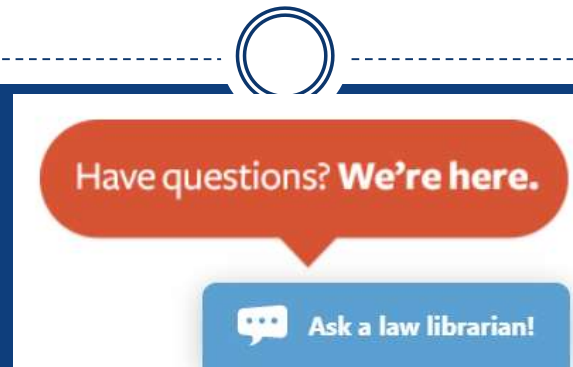
# Legal Research Center



# Veterans Clinic Research Training

Liz Parker  
Publication Services Librarian  
[eparker-10@sandiego.edu](mailto:eparker-10@sandiego.edu)

# Introduction



- ❖ Librarians are available to help with clinic research
- ❖ You can reach us via chat: [sandiego.edu/law/library](https://sandiego.edu/law/library)
- ❖ or email: [lrcrefer@sandiego.edu](mailto:lrcrefer@sandiego.edu)
- ❖ Resources you use in the clinic will differ from those used in LWR

# Research Training



- ❖ Resources
  - ❖ LRC Databases
  - ❖ Government websites
  - ❖ Other online resources
- ❖ Gather background information on individuals – clients & witnesses
- ❖ Conduct a litigation search to research potential defendants
- ❖ Research past discharge upgrade cases
- ❖ Additional resources from other veterans advocates

# Resources



# Useful LRC Materials for Practice



- ❖ Civil practice
- ❖ Pre-trial procedure
- ❖ Trial procedure
- ❖ Appeals & writs
- ❖ Rules of court
- ❖ Formbooks & drafting tools
- ❖ Jury instructions
- ❖ Arbitration
- ❖ Client communications

# California Court Materials



- ❖ [California Rules of Court](#)
- ❖ [Local Rules](#), including San Diego County
- ❖ [Forms](#)
- ❖ [Jury Instructions](#)

CALIFORNIA COURTS  
THE JUDICIAL BRANCH OF CALIFORNIA

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Tulare County Courthouse, 1878



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# Pardee Legal Research Center

The law library exists to support the educational and scholarly activities of the USD law community.

## Quick Links

- Online Study Aids
- Study Room Reservations & LRC Access
- CALI code
- Faculty Resources & Faculty Services
- San Diego Circuit
- Printing
- Course Reserves & Past Exams
- Tips for 3Ls & Recent Grads
- Law Alumni Library Account

## Search LRC

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Databases

enter search term



Library Account | Classic Catalog | Course Reserves | Past Exams

Hours  
Sunday, October 10, 2021

LRC Building Hours

8:00am – 12:00am

Reference Desk

12:00pm – 4:00pm

[View all Hours](#)

## Contact the LRC

**Circulation Desk**  
lrccirc@sandiego.edu  
619-260-4542

**Reference Desk**  
lrcrefer@sandiego.edu  
619-260-4612  
Zoom appointments available on request

Ask a law librarian!

# LRC Digital Resources

Recommended and subscription resources. Those marked with a lock symbol require username/password or IP authentication

All Subjects

All Database Types

All Vendors / Providers

Search for Databases

Go

## Popular Databases

The most frequently-used databases

### Bloomberg Law Popular

Bloomberg legal content, integrated into an already powerful system of primary and secondary legal content, company and market information and news. Individual user access is given to USD law students and faculty. You must register with Bloomberg to gain access to its products and services. Please contact the LRC reference desk to obtain a Bloomberg Law account.

### CALI Lessons Popular

Students: use the authorization code you see after logging into USDOne.

Faculty: contact the reference desk for the faculty code.

### CEB OnLaw Pro Popular

CEB OnLaw Pro provides access to CEB's California practice guides, primary law, case law citator, and continuing legal education materials. New USD users must create their own accounts. [Click here](#) for the law school's registration code, then [create a new law student/faculty/admin account here](#) or [a new paralegal student/faculty/admin account here](#).

### Congressional Publications (ProQuest) Popular

Publications generated by the U.S. Congress and accessed via ProQuest, including: CIS Legislative Histories, 1969-present; House & Senate Reports, 1817-present; House & Senate Hearings, 1824-present; Congressional Research Service (CRS) Reports, 1916-present; House & Senate Documents, 1817-present, and Committee Prints & Miscellaneous Publications, 1830-present; Executive Reports, 1843-present, & Executive Documents, 1825-1980; Serial Set, 1789-present.

[more...](#)

### HeinOnline Popular

HeinOnline is a premier online database containing more than 178 million pages and 270,000 titles of historical and government documents in a fully searchable, image-based format. HeinOnline bridges an important research gap by providing comprehensive coverage from inception of more than 2,700 law-related periodicals. In addition to its vast collection of academic journals, HeinOnline contains the entire Congressional Record, Federal Register, and Code of Federal Regulations, complete coverage of the U.S. Reports back to 1754, and entire databases dedicated to treaties,

All A B C D E F G H I J K L M N O P Q R S T U V W X Y Z #

## 145 Databases found

### A

#### Academic Search Premier

Provides full text for over 2,940 scholarly publications including social sciences, humanities, education, computer sciences, engineering, language and linguistics, arts & literature, health sciences, and ethnic studies.

#### AILALink

AILALink is the go-to resource for immigration law research, providing its subscribers with access to immigration-related statutes, regulations, and important case law (select); agency correspondence and manuals, AILA/government liaison minutes, forms, and a plethora of AILA publications.

#### Appeals

Helps more than 100,000 taxpayers each year resolve their tax disputes without going to Tax Court. An IRS site.

#### Avalon Project - Documents in Law, History and Diplomacy (Yale's)

The Avalon Project will mount digital documents relevant to the fields of Law, History, Economics, Politics, Diplomacy and Government. We do not intend to mount only static text but rather to add value to the text by linking to supporting documents expressly referred to in the body of the text.

The Avalon Project will no doubt contain controversial documents. Their inclusion does not indicate endorsement of their contents nor sympathy with the ideology, doctrines, or means employed by their authors. They are included for the sake of completeness and balance and because in many cases they are by our definition a supporting document.

[more...](#)

### B

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### C

#### CA State Trademarks

LEXIS

Active Records: From April 4, 1896 through current





## How To Disclose the Absence of Malpractice Insurance

CEB October 08, 2021

If you don't have, or drop, malpractice insurance, here's what you must do. Under California Rules of Professional Conduct, rule 1.4.2, lawyers must disclose in writing the absence of professional liability insurance. This disclosure must be made directly to a client at the outset of the attorney-client...

## Registered Co-owner Of Vehicle Can't Be Convicted Of Using Electronic Tracking Device

David Saunders October 08, 2021

Can a registered co-owner of a car be convicted of using an electronic tracking device to track the car when it is driven by the other owner? In *People v. Agnelli* (2021) 68 Cal. App. 5th Supp. 1, the Appellate Division of the Orange County Superior Court answered, no, the governing statute is unconstitutionally...



## Fundamental Legal Issues When Dealing with Homeowner's Associations

### Law Alerts

ALL...

#### Newsom Signs Bills Banning 'Stealthling' and Enhancing Spousal Rape Punishment

Katherine Proctor October 08, 2021

California Gov. Gavin Newsom on Thursday signed a pair of bills strengthening protections for victims of sexual assault and misconduct, one banning nonconsensual condom removal during sex and the other enhancing punishments for spousal rape. Both bills were authored by Assemblymember Cristina Garcia...

#### Judge Tosses Subway Class Action Suit, Tells Plaintiffs to Change Their Tune in Amended Tuna Complaint

Nate Jackson October 08, 2021

A California federal judge temporarily threw back a proposed class action from Subway customers over the alleged misrepresentation of its sustainable tuna. The judge held on Thursday that the customers failed to plead reliance on the claims of misrepresentation and that it was "suspicious" that the...

#### New California Law Ends Mandatory Minimum Sentences for Nonviolent Drug Offenses

Katherine Proctor October 07, 2021

California Gov. Gavin Newsom on Thursday signed a bill to end mandatory minimum



## Secondary Sources

Administrative Law

Appellate Law

Business Entities

Business Litigation

Business Transactions

Criminal Law

Employment Law

Environmental, Land Use &  
Natural Resources

Evidence

Family Law

Insurance Law

Intellectual Property

Law Practice Management

Litigation Practice & Procedure

Personal Injury

Privacy & Information Security

Real Property

State & Local Government

Find Secondary Source Publications using the search button above



## Law Practice Management

- ▶ California Basic Practice Handbook
- ▼ California Client Communications Manual: Sample Letters and Forms
  - Contents
  - Preface
  - About the Authors
  - Selected Developments
  - Cutoffs and Citation
  - ▶ 1 Initial Contact With Prospective Client
  - ▶ 2 Nonengagement: Letters Declining Representation
  - ▶ 3 General Attorney-Client Fee Agreements
  - ▶ 4 Consent to Representation After Disclosing Conflict of Interest
  - ▶ 5 Status Reports and Notices About Case to Client
  - ▼ 6 Requests for Documents From Client
    - ▶ I. HANDLING DOCUMENT REQUESTS
    - ▼ II. FORMS
      - §6.6 A. Form: Letter Requesting That Client Provide Documents for

## 6 Requests for Documents From Client

California Client Communications Manual: Sample Letters and Forms

**§6.7 B. Form: Letter Requesting That Client Provide Documents for Attorney's Review in Litigation Matter—General Form**[Click to Download Form](#)

\_ \_[Date]\_ \_

\_ \_[Client name and address]\_ \_

Re: \_ \_[Client's case name and number]\_ \_

Dear Mr./Ms. Client:

I am in the process of investigating the facts of this matter and need to review any documents in your possession that relate to your \_ \_[claim/defense]\_ \_ . In particular, I would like to review the following documents: \_ \_[specify document(s) needed, e.g., a copy of all canceled checks and credit card statements or insurance receipts showing payments for medical treatment to Dr. Jones]\_ \_ . Please mail or bring the documents to my office by \_ \_[date]\_ \_ .

If you are unable to locate the document(s) or have any questions regarding this request, please call me. [Also, if you have or know of other documents that you feel would be helpful to an understanding of your position in this matter, please let me know immediately.]



# U.S. Department of Veterans Affairs



- ❖ Veterans Benefits Administration
- ❖ Veterans Health Administration
- ❖ National Cemetery Administration



# UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

Chief Judge  
**Margaret Bartley**  
Clerk of the Court  
**Gregory O. Block**

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Opinions](#)[Active Panel Cases](#)[Stayed Cases](#)[Class Action Cases](#)[Electronic Filing](#)[Docket Search](#)[Oral Arguments](#)

## Welcome

The United States Court of Appeals for Veterans Claims is a national court of record, established under Article I of the Constitution of the United States. The Court has exclusive jurisdiction to provide judicial review of final decisions by the Board of Veterans' Appeals, an entity within the Department of Veterans Affairs.

The Court provides veterans an impartial judicial forum for review of administrative decisions by the Board of Veterans' Appeals that are adverse to the veteran-appellant's claim of entitlement to benefits for service-connected disabilities, survivor benefits and other benefits such as education payments and waiver of indebtedness. In furtherance of its mission, the Court also seeks to help ensure that all veterans have equal access to the Court and to promote public trust and confidence in the Court.

### [ View Recent Decisions and Precedential Opinions ]

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<https://www.uscourts.cavc.gov/>

## Announcements

### In the News

The Federal Lawyer  
Judicial Profile

Hon. Scott J. Laurer

*Read more...*

### Court Introduces Electronic Payment of Filing Fees

[More Information](#)

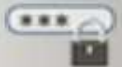
### Miscellaneous Order 13-21

Rules of Practice and  
Procedure

**Revised Rule 30**

### Watch Oral Arguments via Video Conference

on YouTube Live here





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Extended Care & Assisted Living

Bill Pay

For Family Members & Spouses

For Employees

For Business

VA » Board of Veterans' Appeals

<https://www.bva.va.gov/>

## Board of Veterans' Appeals

The Board of Veterans' Appeals has learned that a limited number of Veterans may have had their Board Appeal forms (VA Form 10182, Decision Review Request: Board Appeal (Notice of Disagreement)) mistakenly rejected for being untimely. Out of an abundance of caution, the Board is sending out a wide notice to help ensure no other Veterans were impacted by this. If you filed a VA Form 10182 with the Board between February 19, 2019, and March 23, 2021, and believe it may have been improperly rejected as untimely, please send a letter to the "Clerk of the Board" at P.O. Box 27063, Washington, DC 20038 or via fax to 1-844-678-8979 no later than March 1, 2022. In your letter, state you are asking the Board to "RECALCULATE TIMELINESS" and be careful to include the Veteran's full name, claim number or SSN, the date of the rating decision you appealed to the Board, and the date of your original VA Form 10182 appeal form that the Board told you was untimely.

[Click here](#)  for the Board's response to COVID-19

Interested in a Virtual tele-hearing? [Click here](#)

### What does the Board do?

The Board of Veterans' Appeals (Board) is a part of the Department of Veterans Affairs (VA), located in Washington, D.C. The Board's mission is to conduct hearings and decide appeals properly before the Board.

### RESOURCES

[Board of Veterans' Appeals Home Page](#)

[Appeals Metrics](#)

[Customer Service](#)

[Chairman's Annual Reports to Congress](#)

[Quarterly Reports](#)

[Military Spouse Employment](#)

[Frequently Asked Questions](#)

[VA Forms](#)

[Board Hearings](#) 

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# Background on Individuals



# Background on Individuals



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- ❖ [Search Systems](#)

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### COVID-19 Resources

View complimentary COVID-19 resources.

### Social Justice

#### Resources

View complimentary Racial Equality, Police Reform & Protesters' Rights Resources.





**People**

Locate a Person (Nationwide)  
Death Records  
Voter Registration



**Businesses**

Locate a Business (Nationwide)  
California Business Locator  
Corporation Filings  
FEIN  
Fictitious Business Names  
Texas Sales Permit  
Uniform Commercial Code Filings

**Assets**

Current Asset Report (People)  
FAA Aircraft

**Real Property**

Real Property  
Foreclosures  
Property History



**Licenses**

DEA Registrants  
FAA Pilots  
FCC Licenses  
Hunting & Fishing Licenses  
Professional Licenses  
Health Care Provider  
Health Care Provider Sanctions  
Tax Professionals

**Courts & Filings**

Bankruptcy Filings  
Criminal Records  
Judgments & Liens  
Marriage & Divorce Records  
OSHA Inspection



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Your GLBA Permissible Use: [I have no permissible use](#)



Form Search

Enter information in at least one field below.

**Basic Information**

SSN	LexID(sm)	
<input type="text" value="123-45-6789 or 123456789"/>	<input type="text"/>	
First Name	Middle Name/Initial	Last Name
<input type="text" value="david"/>	<input type="text"/>	<input type="text" value="berkowitz"/>
Street Address		
<input type="text"/>		
City	State	Zip Code
<input type="text"/>	<input type="text" value="All Available States"/>	<input type="text"/>
Date of Birth		
<input type="text" value="06/01/1953"/>		

**Advanced**

- Find similar sounding last names
- Find nicknames of first name
- Display Criminal Record Photo

Filing Jurisdiction



Search Clear Form



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**Terms:** first-name(**david**) last-name(**berkowitz**) dob(**6/1/1953**) filing jurisdiction(**NY**) ( [Edit Search](#) | [New Search](#) )



← 1 - 2 of 2 →

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No.	Full Name	Address	SSN	Date of Birth	Case Information
<a href="#">View Source Documents</a>		<a href="#">Click for Additional Searches</a>			
<input type="checkbox"/> 1.	<a href="#">BERKOWITZ, DAVID</a>	NY		06/1953	Source: Department of Corrections
<input type="checkbox"/> 2.	<a href="#">BERKOWITZ, DAVID</a>	NY		06/1953	Source: Department of Corrections

[Public Records](#) > [Criminal Records](#) > Search Results

**Terms:** first-name(**david**) last-name(**berkowitz**) dob(**6/1/1953**) filing jurisdiction(**NY**) ( [Edit Search](#) | [New Search](#) )

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← 1 of 2 →

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**Further Searches**

[Locate a Person \(Nationwide\)](#)

## New York Department Of Corrections

### Offender Information

**Name:** BERKOWITZ, DAVID  
**Address:** NY  
**Case Type:** Department Of Correction  
**Party Status:** UNDER CUSTODY  
**DOB:** 06/1953  
**Race:** WHITE  
**Sex:** Male



### Offenses

**Offense #1**  
**Case Type:** Department Of Correction  
**Offense Type:** F  
**Offense:** ATTEMPTED MURDER 2ND  
**Level:** FB

**Offense #2**  
**Case Type:** Department Of Correction  
**Offense Type:** F  
**Offense:** MURDER 2ND  
**Level:** FA1

**Offense #3**  
**Case Type:** Department Of Correction  
**Offense Type:** F  
**Offense:** MURDER 2ND  
**Level:** FA1

**Offense #4**  
**Case Type:** Department Of Correction  
**Offense Type:** F  
**Offense:** CRIM POSS WEAP 2ND  
**Level:** FC

**Offense #5**  
**Case Type:** Department Of Correction

# Litigation Search



# Dockets



- ❖ Bloomberg Law
  - ❖ Includes all federal dockets, limited access to state
  - ❖ Free to USD Law users
  - ❖ Not all documents are available
- ❖ Westlaw, Lexis
- ❖ Court websites
  - ❖ Some courts provide dockets online for a fee
  - ❖ Other courts – call court clerk



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- Books & Treatises
- Transactional Precedents Search
- State Law Chart Builders

### Dockets Search

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All California Superior Court Dockets

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JUDGE

DOCKET #

DATE





CORDOVA VS. UNITED EDUCATION INSTITUTE, Docket No. 201200083573 (Cal. Super. Ct. Oct 15, 2012), Court Docket



RACHEL CORDOVA

Plaintiff/Petitioner

ROSALINDA MENDOZA

Plaintiff/Petitioner

MARTHA YATES

Plaintiff/Petitioner

UNITED EDUCATION INSTITUTE

Defendant/Respondent

DOCKET ENTRIES

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Type here to filter entries by keyword

DATE

Any

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Reverse Entries

ENTRY	FILED	PDF	DESCRIPTION
<input type="checkbox"/> BL-1	Oct 15, 2012	<a href="#">View</a>	Complaint filed by Cordova, Rachel; Mendoza, Rosalinda; Yates, Martha.
<input type="checkbox"/> BL-2	Oct 15, 2012	<a href="#">Request</a>	Original Summons filed by Cordova, Rachel; Mendoza, Rosalinda; Yates, Martha.
<input type="checkbox"/> BL-3	Oct 15, 2012	<a href="#">Request</a>	Civil Case Cover Sheet filed by Cordova, Rachel; Mendoza, Rosalinda; Yates, Martha.
<input type="checkbox"/> BL-4	Oct 15, 2012	<a href="#">View</a>	Summons issued.
<input type="checkbox"/> BL-5	Oct 15, 2012	<a href="#">Request</a>	Case assigned to Judicial Officer Prager, Ronald.
<input type="checkbox"/> BL-6	Oct 15, 2012	<a href="#">Request</a>	Case initiation form printed.
<input type="checkbox"/> BL-7	Nov 19, 2012	<a href="#">Request</a>	Motion Hearing (Civil) scheduled for

GENERAL INFO

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Current As Of

Sep. 23, 2019  
10:15 AM EDT

What Does This Mean?

Date Filed

Oct. 15, 2012

Docket Number

201200083573

Court

California Superior Court,  
San Diego County

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## Court Dockets ☆ Favorite

### CORDOVA vs. UNITED EDUCATION INSTITUTE, Docket No. 201200083573 (Cal. Super. Ct. Oct 15, 2012), Court Docket

Open PDF in New Window

1	Scott L. Metzger (Bar No. 89718) Annette C. Clark (Bar No. 208216)	<b>FILED</b> CIVIL BUSINESS OFFICE 13 CENTRAL DIVISION
2	<b>DUCKOR SPRADLING METZGER &amp; WYNNE</b> A Law Corporation	<b>2012 OCT 15 P 3 32</b>
3	3043 4 <sup>th</sup> Avenue San Diego, California 92103	CLERK - SUPERIOR COURT SAN DIEGO COUNTY, CA
4	(619) 209-3000; (619) 209-3043 fax	
5	Robert W. Thompson (Bar No. 106411) Kathleen M. Hartman (Bar No. 219934)	
6	<b>CALLAHAN THOMPSON SHERMAN &amp; CAUDILL LLP</b>	
7	2601 Main Street, Suite 800 Irvine, California 92614	
8	(949)261-2872; (949)261-6060 fax	
9		
10	Attorneys for Plaintiffs RACHEL CORDOVA, ROSALINDA MENDOZA, and MARTHA YATES	
11		
12	SUPERIOR COURT OF THE STATE OF CALIFORNIA	
13	COUNTY OF SAN DIEGO	
14		
15	RACHEL CORDOVA, ROSALINDA MENDOZA, and MARTIA YATES Individually and on behalf of the general public,	CASE NO.: <b>37-2012-00083573-CU-BT-CTL</b>
16		<b>CLASS ACTION</b>
17	Plaintiffs,	<b>COMPLAINT FOR DAMAGES, INJUNCTIVE RELIEF AND RESTITUTION</b>
18		
19	v.	1. Deceptive Practices (Violation of Consumers Legal Remedies Act, Cal. Civil Code §§ 1750 et seq.)
20	UNITED EDUCATION INSTITUTE, a California corporation, and DOES 1 through 50, inclusive	2. Unfair Business Practices (Violation of Cal. Bus. & Prof. Code § 17200 et seq.)
21		3. Misleading and Deceptive Advertising (Violation of Cal. Bus. & Prof. Code § 17500 et seq.)
22	Defendants.	4. Fraud
23		
24		Action Filed:
25		Trial Date: None set

#### GENERAL INFO

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Docket Sheet

Docket Number  
201200083573

Court  
California Superior Court,  
San Diego County

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# Researching Common Veterans Legal Issues



# VA Benefits



# Resources on VA Benefits



Veterans Benefits Administration website

<https://benefits.va.gov/benefits/>

## Manuals

[VA Benefits Manual](#)

[Manual M21-1](#) (VA rules and procedures for deciding benefit claims)

[WARMS](#) (reference material about VA benefits)

## Cases

Board of Veterans Appeals (BVA)

Court of Appeals of Veterans Claims (CAVC)

## Statutes and Regulations

United States Code, Title 38

CFR and Federal Register (WL, LX, or free government sites)

Select One



▶ Transition and Economic Development

▶ Compensation

▶ Education & Training

▶ Veteran Readiness & Employment

▶ Home Loans

▶ Life Insurance

▶ Pension

Appeals Modernization

▶ Special Groups

▶ Services

▼ Applying for Benefits

Applying for Benefits Home

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# Veterans Benefits Administration

## Applying for Benefits

There are numerous ways to apply for VA benefits depending on the type of benefit you are seeking. We encourage you to work with an [accredited representative](#) who can assist you with the claims process. You can [find and appoint or manage your accredited representative in eBenefits](#).

[En Español](#)

Benefits	How To Apply
Before leaving military service – pre-discharge claims	If you are a member of the armed forces serving on either active duty or full-time National Guard duty, you should apply through the <a href="#">VA Pre-discharge claim program</a> before leaving service.
Veteran Readiness and Employment benefits for service members and Veterans	The best way to file for Veteran Readiness and Employment services is to apply <a href="#">online at va.gov/careers-employment</a> . To submit a paper application, download and complete a VA Form 28-1900, "Disabled Veterans Application for Vocational Rehabilitation"  and mail it to your local regional office. You may also go to your local regional office and turn in your application for processing.  Visit the <a href="#">Veteran Readiness and Employment (VR&amp;E) website</a> .
Disability compensation benefits for Veterans	The best way to file for disability compensation is to apply online at <a href="#">www.va.gov/disability</a> .  To submit a paper application, download and complete VA Form 21-526EZ, "Application for Disability Compensation and Related Compensation Benefits"  and mail the application to:  U.S. Department of Veterans Affairs Claims Intake Center PO Box 4444 Janesville, WI 53547-4444  Or, you can fax it to: (844) 531-7818 (inside the U.S.) (248) 524-4260 (outside the U.S.)  You can also go to your <a href="#">local regional office</a> and turn in your application for processing.  Visit the <a href="#">VA Compensation website</a> for more information about compensation benefits.

## 1 Veterans Benefits Manual 5.2 Actions

Go to  1 of 67 Search Document

## View full table of contents

Veterans Benefits Manual

Synopsis to Chapter 5 : SETTING,  
INCREASING, OR REDUCING A  
VETERAN'S SERVICE-CONNECTED  
DISABILITY RATING5.1 EVALUATING THE DEGREE OF  
DISABILITY FOR SERVICE-CONNECTED  
DISABILITIES**5.2 RATING THE DEGREE OF DISABILITY  
FOR PARTICULAR TYPES OF  
DISABILITIES**5.3 EXTRASCHEDULAR RATINGS FOR  
EXCEPTIONAL OR UNUSUAL  
DISABILITIES5.4 TEMPORARY 100 PERCENT  
DISABILITY RATINGS5.5 TOTAL DISABILITY RATINGS BASED  
ON UNEMPLOYABILITY OF THE  
INDIVIDUAL5.6 SPECIAL CONSIDERATION FOR  
PAIRED ORGANS AND EXTREMITIES5.7 SPECIAL MONTHLY COMPENSATION:  
STATUTORY AWARDS OF  
COMPENSATION

5.8 REEXAMINATIONS BY THE VA

5.9 CLAIMS FOR AN INCREASE IN  
DISABILITY RATING5.10 EFFECTIVE DATE FOR RATING  
INCREASES

Table of Contents

Previous

# 1 Veterans Benefits Manual 5.2

Next

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Veterans Benefits Manual > Part I Disability Benefits for Veterans > Chapter 5 SETTING,  
INCREASING, OR REDUCING A VETERAN'S SERVICE-CONNECTED DISABILITY RATING

## 5.2 RATING THE DEGREE OF DISABILITY FOR PARTICULAR TYPES OF DISABILITIES

### 5.2.1 Evaluation of Musculoskeletal Disabilities

#### 5.2.1.1 Introduction

As the result of military service, a veteran may incur traumatic injuries resulting from gunshot, shell fragments, athletic activity or physical training, and other trauma. These traumatic injuries may cause multiple disabilities including muscle damage, motor and sensory nerve impairment, impairment of adjacent joints, and, in severe instances, amputation.

The residuals of traumatic injuries generally create musculoskeletal disabilities. The term musculoskeletal refers to the skeleton and the muscles. In the context of VA disability benefit law, musculoskeletal disabilities are disabilities of the bones, the muscles, the nerves, and the joints. In addition, scars that are caused by penetrating missile wounds or by other traumatic injuries must also be considered when evaluating a musculoskeletal disability, **150a**.

A single traumatic injury may cause multiple disabilities of the muscles and nerves, limitation of

## About

## Notes

## About This Document

## Source Information

Veterans Benefits Manual

## Related Content

Find references to this treatise

- The examiner does not provide the detail required by 38 C.F.R. §§ 4.40 and 4.45 when describing the effects of pain or other impairments on the motion of a joint.

Another type of common error involves examinations that are used by VA to rate disabilities of the musculoskeletal system under 38 C.F.R. § 4.71a (2020). In the context of examinations evaluating functional loss in the musculoskeletal system under Diagnostic Codes (DCs) based on limitation of motion, the examination must take into account the additional degree of range of motion lost in a veteran's joint as a result of pain, including during periods where the claimant suffers a flareup or when the joint is used repeatedly over time. 315 In *Mitchell v. Shinseki*, the Court found that when providing this information, the examiner must specifically indicate at "what point during the range of motion the appellant experience[s] any limitation of motion that [is] specifically attributable to pain," and that the examiner must provide the same level of detail when describing functional loss during flareups, or when the joint is used repeatedly over time, or explain why such information cannot "feasibly be provided." 316

It should also be noted that under *Mitchell*, interference with the function of a joint caused by less or more movement than is normal, weakened movement, excess fatigability, or incoordination is to be rated the same as "functional loss [that is] caused by some other factor (e.g., deformity, adhesion, atrophy, tendon-tie-up, see 38 C.F.R. §§ 4.40, 4.45(a)), that *actually* limit[s] motion." 317 As a result, an examination would also be inadequate if the examiner indicates that there is additional functional loss caused by weakness or fatigability, but fails to describe that increased functional loss in terms of additional degrees of motion lost.





# Discharge Upgrades



# Resources on Discharge Upgrades



## VA Website

[How to Apply for a Discharge Upgrade](#)

## Manuals

- ❖ Yale Veterans Legal Services Clinic
  - [Forms & Resources for Veterans Seeking Discharge Upgrade](#)
  - [Veterans Discharge Upgrade Manual](#)
- ❖ *Military Discharge Upgrade Legal Practice Manual*  
(available in print at USD Legal Clinics)

## Cases

[Military Review Boards](#) (Discharge Review Boards and BCMR)

# Military Review Boards



## Army

[Discharge Review Board](#)

[Board for Correction of Military Records](#)

## Navy & Marine Corps

[Discharge Review Board](#)

[Board for Correction of Naval Records](#)

## Air Force

[Discharge Review Board](#)

[Board for Correction of Military Records](#)

## Coast Guard

[Discharge Review Board](#)

[Board for Correction of Military Records](#)

# How to Apply for a Discharge Upgrade

Answer a series of questions to get customized step-by-step instructions on how to apply for a discharge upgrade or correction. If your application goes through and your discharge is upgraded, you'll be eligible for the VA benefits you earned during your period of service.

All branches of the military consider you to have a strong case for a discharge upgrade if you can show your discharge was connected to any of these categories:

- Mental health conditions, including posttraumatic stress disorder (PTSD)
- Traumatic brain injury (TBI)
- Sexual assault or harassment during military service (at VA, we refer to this as military sexual trauma or MST)
- Sexual orientation (including under the Don't Ask, Don't Tell policy)

The information you enter on the next page is completely confidential.

[Get started »](#)

**Can I get VA benefits without a discharge upgrade?**

Even with a less than honorable discharge, you may be able to access some VA benefits through the Character of Discharge review process. When you apply for VA benefits, we'll review your



# Boards of Review Reading Rooms

This is the Department of Defense Electronic Reading Room for the Military Departments' Boards for the Corrections of Military/Naval Records (BCMR) and the Discharge Review Boards (DRB). The reading room contains the decisional documents for each of the Boards from October 1998 to the present for public research. The personal identifiable information (PII) and non-public information have been redacted (removed) from these documents. Decision documents are added by the end of each quarter of the year (31 March, 30 June, 30 September, and 31 December), adding decisions finalized in the preceding quarter. This website is not designed for applicants to obtain the decision on their application or obtain the status of their application. Decisions on applications to these boards are sent directly to the applicants as soon as the board issues the decision. If you wish to request a specific decisional document or have questions on the status of a current application, please contact the appropriate military department board directly using the links shown below.

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## Army:

BCMR/DRB - email: [usarmy.pentagon.hqda-arba.mbx.webmaster@mail.mil](mailto:usarmy.pentagon.hqda-arba.mbx.webmaster@mail.mil)

## Navy/Marine Corps:

BCNR - [https://www.secnav.navy.mil/mra/bcnr/Pages/Contact\\_Us.aspx](https://www.secnav.navy.mil/mra/bcnr/Pages/Contact_Us.aspx)

NDRB - <https://www.secnav.navy.mil/mra/CORB/Pages/NDRB/default.aspx>

## Air Force:

BCMR - email: [saf.mrbc.workflow@us.af.mil](mailto:saf.mrbc.workflow@us.af.mil)

PDBR - email: [usaf.pentagon.saf-mr.mbx.PDBRPA@mail.mil](mailto:usaf.pentagon.saf-mr.mbx.PDBRPA@mail.mil)

DRB - email: [usaf.pentagon.saf-mr.mbx.drb-workflow@mail.mil](mailto:usaf.pentagon.saf-mr.mbx.drb-workflow@mail.mil)


## Coast Guard:

BCMR - email: [cgbcmr@hq.dhs.gov](mailto:cgbcmr@hq.dhs.gov)


DRB - email: [drb@uscg.mil](mailto:drb@uscg.mil)

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 [Air Force Boards](#)

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## Search Decisions



# Veteran Discharge Upgrade Database

Upgrade.Vet is a searchable database of decisions from the U.S. Department of Defense (DoD) Boards for the Corrections of Military/Naval Records (BCMR) and the Discharge Review Boards (DRB). The files on this site were published by the DoD at the [Boards of Review Reading Rooms](#).

*Note: these files comprise the entire database of the DoD Reading Rooms as published in late 2015. As of this writing (January 2020), the DoD Reading Rooms have removed access to this information. The decisions are provided here as a convenience for veterans and their representatives who are seeking to understand the decisional history of the DoD BCMR and DRB boards. With few exceptions, each file has been converted from its original format into HTML to enable search and preview. Links to the original documents are provided. Please contact [upgrade.vet@gmail.com](mailto:upgrade.vet@gmail.com) with any questions or issues.*

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# Other Resources



# Additional Resources



[OCBA Veterans & Military Committee](#)



LACBA  
Veterans  
Legal Services  
Project

[LACBA Veterans Legal Services Project](#)

# Additional Resources



[ABA Veterans Legal Services Initiative](#)



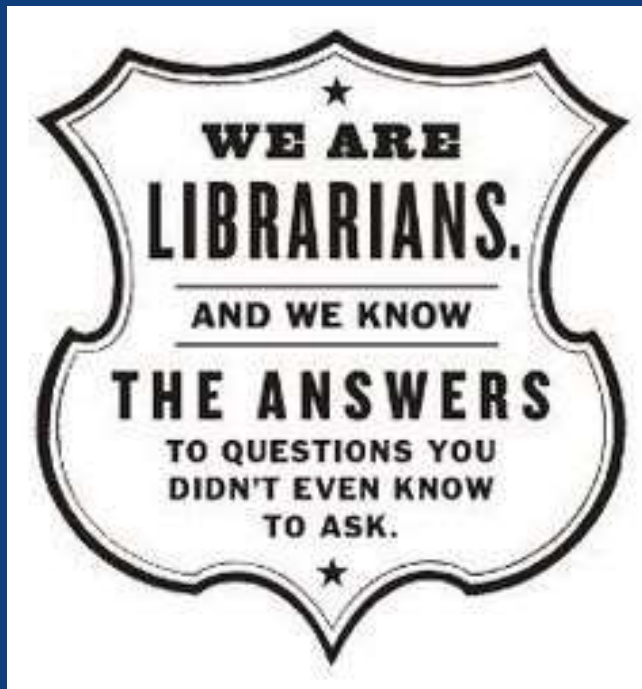
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# Questions?



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LRC Reference

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619.260.4612

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