Veterans Clinic Research Training

Liz Parker
Publication Services Librarian
eparker-10@sandiego.edu
Introduction

❖ Librarians are available to help with clinic research

❖ You can reach us via chat: sandiego.edu/law/library
❖ or email: 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
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

Search Catalog | Databases

Library Account | Classic Catalog | Course Reserves | Past Exams

Contact the LRC

Circulation Desk
ircirc@sandiego.edu
619-260-4542

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

Hours
Sunday, October 10, 2021

LRC Building Hours
8:00am – 12:00am

Reference Desk
12:00pm – 4:00pm

View all Hours

https://www.sandiego.edu/law/library/
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 unconstitutional...

Fundamental Legal Issues When Dealing with Homeowner's Associations

Katherine Proctor  October 07, 2021

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

https://www.uscourts.cavc.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.
Background on Individuals
Background on Individuals

Public Records
- Lexis
- Search Systems

Social Media
- Facebook
- Instagram
- LinkedIn
- Twitter
Enter information in at least one field below.

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<tr>
<td>First Name</td>
<td>Middle Name/Initial</td>
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<td>david</td>
<td>berkowitz</td>
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<td>State</td>
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<tr>
<td>Date of Birth</td>
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- Find similar sounding last names
- Find nicknames of first name
- Display nickname of first name
- Display Criminal Record Photo

Filing Jurisdiction: New York
<table>
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<tr>
<th>No.</th>
<th>Full Name</th>
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<td></td>
<td>06/1953</td>
<td>Source: Department of Corrections</td>
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<td>NY</td>
<td></td>
<td>06/1953</td>
<td>Source: Department of Corrections</td>
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</table>
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

RACHEL CORDOVA
Plaintiff/Petitioner

ROSALINDA MENDOZA
Plaintiff/Petitioner

MARTHA YATES
Plaintiff/Petitioner

UNITED EDUCATION INSTITUTE
Defendant/Respondent

DOCKET ENTRIES

DATE
Any

FILED
Oct 15, 2012

PDF
View

DESCRIPTION
Complaint filed by Cordova, Rachel; Mendoza, Rosalinda; Yates, Martha.

BL-1
BL-2
BL-3
BL-4
BL-5
BL-6
BL-7

Clear Filters
Filter Entries

Print Entries Request Entries

Date Filed
Oct 15, 2012

Docket Number
201200083573

Court
California Superior Court, San Diego County

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

RACHEL CORDOVA, ROSALINDA MENDOZA, and MARTHA YATES

CASE NO.: 37-2012-00083573-CU8T-CTL
CLASS ACTION
COMPLAINT FOR DAMAGES, INJUNCTIVE RELIEF AND RESTITUTION

1. Deceptive Practices (Violation of Consumers Legal Remedies Act, Cal. Civil Code §§ 1750 et seq.)
4. Fraud

Action Filed: Trial Date: None set
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)
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.

<table>
<thead>
<tr>
<th>Benefits</th>
<th>How To Apply</th>
</tr>
</thead>
<tbody>
<tr>
<td>Before leaving military service – pre-discharge claims</td>
<td>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 VA Pre-discharge claim program before leaving service.</td>
</tr>
<tr>
<td>Veteran Readiness and Employment benefits for service members and Veterans</td>
<td>The best way to file for Veteran Readiness and Employment services is to apply online at va.gov/careers-employment. To submit a paper application, download and complete a VA Form 28-1900, &quot;Disabled Veterans Application for Vocational Rehabilitation&quot; 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 Veteran Readiness and Employment (VR&amp;E) website.</td>
</tr>
<tr>
<td>Disability compensation benefits for Veterans</td>
<td>The best way to file for disability compensation is to apply online at <a href="http://www.va.gov/disability">www.va.gov/disability</a>. To submit a paper application, download and complete VA Form 21-526EZ, &quot;Application for Disability Compensation and Related Compensation Benefits&quot; 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 (608) 531-7818 (inside the U.S.) (248) 524-4200 (outside the U.S.) You can also go to your local regional office and turn in your application for processing. Visit the VA Compensation website for more information about compensation benefits.</td>
</tr>
</tbody>
</table>
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.

A single traumatic injury may cause multiple disabilities of the muscles and nerves, limitation of motion in one or more joints, and resorption of bone that may be severe enough to cause deformity or restriction of movement. Nevertheless, when evaluating a musculoskeletal disability, the examiner must determine the specific disability due to each type of injury and combine the values that result from each injury.
• 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. 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.”

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. 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.

Army:
BCMR/DRB - email: usarmy.pentagon.hqda-arba.mbx.webmaster@mail.mil

Navy/Marine Corps:
BCNR - https://www.secnav.navy.mil/mra/bcmr/Pages/Contact_Us.aspx

Air Force:
BCMR - email: saf.mbc.workflow@us.af.mil
PDBR - email: usaf.pentagon.saf-mr.mbx.PDBRPA@mail.mil
DRB - email: usaf.pentagon.saf-mr.mbx.drb-workflow@mail.mil

Coast Guard:
BCMR - email: cgbcmr@hq.dhs.gov
DRB - email: drb@uscg.mil

https://boards.law.af.mil/
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 with any questions or issues.

Browse Decisions

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Military and Veterans Law on WL/LX

- **Lexis** (Practice Area: Military and Veterans Law)
- **Westlaw** (Practice Area: Military Law)
Lexis and Westlaw

Home / Military & Veterans Law

Military & Veterans Law

Enter a source name, a citation, terms or shep: [citation] to Shep

- Search all sources on this page
- Select sources to search

Cases
- All Military & Veterans Law Cases
- Court of Appeals for Armed Forces (CAAF)
- Military Branches Criminal Appeals
- U.S. Court Military Commission Review
- US Court of Appeals for Veterans Claims

Statutes and Legislation
- All Military & Veterans Law Statutes and Legislation
- All Military & Veterans Law Codes & Court Rules
- Uniform Code of Military Justice

Home

Military Law

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Content Types
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- No items selected
- Clear Selection
- Specify content to search

- Cases
- Statutes & Court Rules
- Regulations
- Regulatory Publications
- Administrative Decisions & Guidance
- Secondary Sources
- Briefs
- Trial Court Documents
- Proposed & Enacted Legislation
- Proposed & Adopted Regulations
Additional Resources

OCBA Veterans & Military Committee

LACBA Veterans Legal Services Project
Questions?

Liz Parker
eparker-10@sandiego.edu

LRC Reference
lrcrefer@sandiego.edu
619.260.4612
www.sandiego.edu/law/library/

Slides will be posted at
www.sandiego.edu/law/library/research-trainings/clinics.php