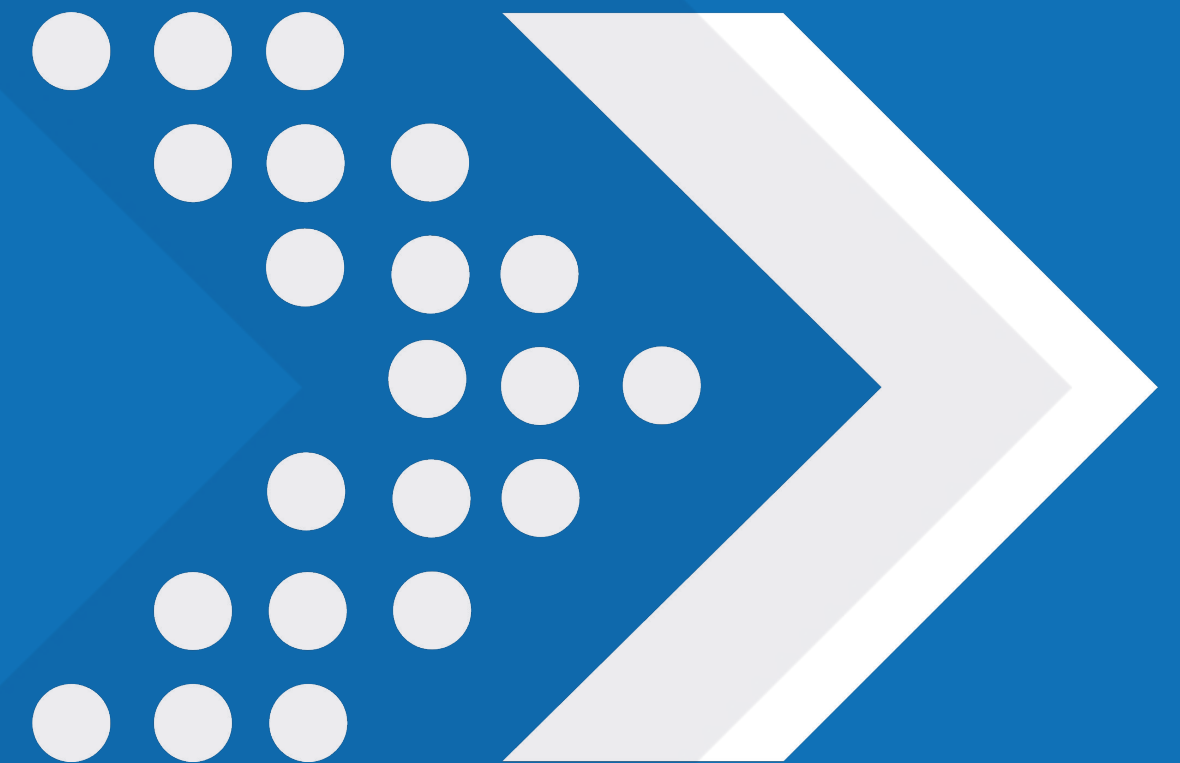




SIMPLYCONVERT

# ROUNDTABLE DISCUSSION



Thursday, February 23 + Notes



# Jennifer Tennile Karnes (Langley)

## Attorney, Tort Claims Unit

Office of the Judge Advocate General Norfolk Division

- Background in high level litigation, corporate restructuring, and business consulting
- Born in Norfolk, Virginia, Ms. Langley received her B.S. from University of North Carolina- Pembroke, her M.B.A. from Regent University, and her J.D. from the Washington & Lee School of Law.
- In addition to all Virginia state courts, she is admitted to practice before the U.S. District Court, Eastern District of Virginia, and U.S. Bankruptcy Court, Eastern and Western Districts of Virginia.

## By the Numbers...

# How many staff members are working on Camp Lejeune claims?

Staff: 8 attorneys, 8 paralegals, 2 claims techs, a paralegal manager and a managing attorney.

The DON is trying to hire additional resources, but it takes time. The military uses appropriated funds, which must be included in a budget passed by Congress. New hires must be able to obtain a security clearance (secret), and get an interim-clearance which requires a full background check.

## By the Numbers...

How many claims have been submitted?

Because of the current systems and the various submission options, it's hard to give an exact number.

In August alone there were 4,000 paper claims.

Current estimate is 20,000, not including January.

# Technology

Will there be a way to integrate with the TCU platform for claims and when is it expected to be complete?

Platform build is on time, but we must get security approval before launch. We are hopeful those approvals will come by end of March with a go-live in April. There will be a way to integrate with the TCU platform. The go-live is an evergreen launch so additional functionalities will be added incrementally. Jennifer will send an email with details when it is live.





# Claims Form

For submissions of .csv, can you clarify the proper email to use?

• cljaclaims@us.navy.mil

• clclaims@us.navy.mil

Both emails work!

These are both aliases. The real address is not memorable:  
usn.norfolk.navyjagwashdc.mbx.camp-lejeune-water-tort-claims@us.navy.mil

CLAIM FOR INJURY OR DEATH																									
1. Submit To Appropriate Federal Agency: OFFICE OF THE JUDGE ADVOCATE GENERAL TORT CLAIMS UNIT NORFOLK 9620 MARYLAND AVENUE, SUITE 205 NORFOLK, VA 23511-2949			2. Name, Address of claimant and claimant's attorney, if any. (See instructions.) <table><tr><td rowspan="4">Claimant</td><td>First Name</td><td>Last Name</td><td rowspan="4">Attorney</td><td>Atty First Nam</td><td>Atty Last Name</td></tr><tr><td colspan="2">Street Address</td><td colspan="2">Atty Street Address</td></tr><tr><td colspan="2">Apt or Suite</td><td colspan="2">Atty Suite</td></tr><tr><td>City</td><td>Zip</td><td>Atty City</td><td>VA</td><td>Atty Zip</td></tr></table>			Claimant	First Name	Last Name	Attorney	Atty First Nam	Atty Last Name	Street Address		Atty Street Address		Apt or Suite		Atty Suite		City	Zip	Atty City	VA	Atty Zip	
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Print Form

Save Form





# Claims Form

Do you need to have formal  
estate documents before you  
file a claim form for a decedent?

Yes! You can hold on to them right now.  
But when you sign your certification, you  
are saying you already have them and that  
you are the proper party to file the claim.  
Will be collected at Substantiation phase.

CLAIM FOR INJURY OR DEATH					
1. Submit To Appropriate Federal Agency: OFFICE OF THE JUDGE ADVOCATE GENERAL TORT CLAIMS UNIT NORFOLK 9620 MARYLAND AVENUE, SUITE 205 NORFOLK, VA 23511-2949			2. Name, Address of claimant and claimant's attorney, if any. (See instructions.)		
Claimant	First Name		Last Name		
	Street Address		Atty First Nam Atty Last Name		
	Apt or Suite		Atty Street Address		
	City		Zip		Atty Suite
				Atty City	VA Atty Zip
3. TYPE OF EMPLOYMENT	4. DATE OF BIRTH	5. MARITAL STATUS	6. DATE AND DAY OF ACCIDENT		7. TIME (A.M. or P.M.)
<input type="checkbox"/> MILITARY <input type="checkbox"/> CIVILIAN		Select One	Start	End	<input type="checkbox"/> Estimated N/A
8a. BASIS OF CLAIM					
Please select your status at the time of exposure to the water at Camp Lejeune. (Statuses with an asterisk (*) require additional information. For Civilian Military Dependents, provide the full name of your sponsor. For Civilian Employees Working for a Private Company on Base, provide the name of your employer. For In Utero Injuries, provide the full name of your mother, at the time of your birth.)					
Select One		Additional Information:			
8b. At the time of exposure where did you reside? (Check one) <input type="checkbox"/> Tarawa Terrace Housing <input type="checkbox"/> Hospital Point Housing <input type="checkbox"/> Other On Base Housing <input type="checkbox"/> Outside of Camp Lejeune					
8c. At the time of exposure, did you work at the Hadnot Point Industrial Area in Camp Lejeune? <input type="checkbox"/> Yes <input type="checkbox"/> No					
8d. Select the Nature of Your Injury.					
Select One					
8e. If you selected "Other" in 8d, describe the nature of your injury.					
9. PROPERTY DAMAGE					
NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, street, city, State, and Zip Code)					
N/A					
BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF DAMAGE AND THE LOCATION WHERE PROPERTY MAY BE INSPECTED. (See instructions on reverse side.)					
N/A					
10. PERSONAL INJURY/WRONGFUL DEATH					
STATE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM.					
(Check all that apply)					
<input type="checkbox"/> Bladder Cancer <input type="checkbox"/> Multiple Myeloma <input type="checkbox"/> Other Kidney Diseases <input type="checkbox"/> Other (Please explain)					
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<input type="checkbox"/> Adult Leukemia <input type="checkbox"/> Cardiac Defect <input type="checkbox"/> Aplastic Anemia & Other Myelodysplastic Syndromes					
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11. AGENTS AND OTHER REPRESENTATIVES <input type="checkbox"/> I am filing this claim on behalf of myself. (Skip to Block 12)					
NAME			AGENT CAPACITY AND ADDRESS		
If you are filing on behalf of an estate or another person, please list your information:			Agent Capacity Select One (If Applicable)		
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(An authorized agent must provide evidence establishing express authority to act for claimant, showing title/legal capacity of person signing with evidence of authority to present a claim. Please attach document with your claim form.)			Agent Address Agent Street Address Agent Suite or Apt Agent City Zip		
			Agent Phone Agent Email		
12. (See instructions ) AMOUNT OF CLAIM (In dollars)					
12a. PROPERTY DAMAGE	12b. PERSONAL INJURY	12c. WRONGFUL DEATH	12d. TOTAL (Failure to specify may cause forfeiture of your rights.)		
N/A	\$ 0.00	\$ 0.00	\$ 0.00		
I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE ACCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM.					
13a. SIGNATURE OF CLAIMANT (See instructions on reverse side.)			13b. Phone number of signatory		14. DATE OF CLAIM (MMDDYYYY)
Select One Attorney (if applicable)			Claimant: Attorney:		
15a. Claimant Email Address			15b. Attorney Email Address		
CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM			CRIMINAL PENAL TY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS		
The claimant shall forfeit and pay to the United States the sum of \$2,000 plus double the amount of damages sustained by the United States. (See 31 U.S.C. 3729.)			Fine of not more than \$10,000 or imprisonment for not more than 5 years or both. (See 18 U.S.C. 287, 1001.)		
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				Print Form	Save Form





# Claims Form

Should we use the claimant's  
current name or name at time at  
CLJ be used?

Use the current name.

This is who will get paid at the end.

The name must match the SSN. It will be  
run through the Treasury Offset  
Program ("TOPs") before disbursements  
are made.

CLAIM FOR INJURY OR DEATH					
1. Submit To Appropriate Federal Agency: OFFICE OF THE JUDGE ADVOCATE GENERAL TORT CLAIMS UNIT NORFOLK 9620 MARYLAND AVENUE, SUITE 205 NORFOLK, VA 23511-2949			2. Name, Address of claimant and claimant's attorney, if any. (See instructions.)		
Claimant			First Name		Last Name
			Street Address		
			Apt or Suite		
			City		
3. TYPE OF EMPLOYMENT <input type="checkbox"/> MILITARY <input type="checkbox"/> CIVILIAN			4. DATE OF BIRTH		5. MARITAL STATUS Select One
6. DATE AND DAY OF ACCIDENT Start End <input type="checkbox"/> Estimated			7. TIME (A.M. or P.M.) N/A		
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Select One Additional Information:					
8b. At the time of exposure where did you reside? (Check one) <input type="checkbox"/> Tarawa Terrace Housing <input type="checkbox"/> Hospital Point Housing <input type="checkbox"/> Other On Base Housing <input type="checkbox"/> Outside of Camp Lejeune					
8c. At the time of exposure, did you work at the Hadnot Point Industrial Area in Camp Lejeune? <input type="checkbox"/> Yes <input type="checkbox"/> No					
8d. Select the Nature of Your Injury. Select One					
8e. If you selected "Other" in 8d, describe the nature of your injury.					
9. PROPERTY DAMAGE					
NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, street, city, State, and Zip Code)					
N/A					
BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF DAMAGE AND THE LOCATION WHERE PROPERTY MAY BE INSPECTED. (See instructions on reverse side.)					
N/A					
10. PERSONAL INJURY/WRONGFUL DEATH					
STATE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. (Check all that apply)					
<input type="checkbox"/> Bladder Cancer <input type="checkbox"/> Multiple Myeloma <input type="checkbox"/> Other Kidney Diseases <input type="checkbox"/> Other (Please explain)					
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11. AGENTS AND OTHER REPRESENTATIVES <input type="checkbox"/> I am filing this claim on behalf of myself. (Skip to Block 12)					
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			Agent Phone Agent Email		
12. (See instructions ) AMOUNT OF CLAIM (In dollars)					
12a. PROPERTY DAMAGE		12b. PERSONAL INJURY		12c. WRONGFUL DEATH	
N/A		\$ 0.00		\$ 0.00	
				12d. TOTAL (Failure to specify may cause forfeiture of your rights.) \$ 0.00	
I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE ACCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM.					
13a. SIGNATURE OF CLAIMANT (See instructions on reverse side.) Select One Attorney (if applicable)				13b. Phone number of signatory Claimant: Attorney:	
14. DATE OF CLAIM (MMDDYYYY)					
15a. Claimant Email Address			15b. Attorney Email Address		
CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM The claimant shall forfeit and pay to the United States the sum of \$2,000 plus double the amount of damages sustained by the United States. (See 31 U.S.C. 3729.)			CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS Fine of not more than \$10,000 or imprisonment for not more than 5 years or both. (See 18 U.S.C. 287, 1001.)		
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Print Form

Save Form





# Claims Form

Clients who were at Camp Lejeune while serving in the military and later returned as civilian contractors.

Would we list the status as of the latest time on base, or longest time on base?

Can list either, but probably better to list military. Ultimately the DON will be looking for a DoD ID, which stays with individuals from their first association with the military through any other affiliation including civil service. The DON will use that ID to track that claimant.

CLAIM FOR INJURY OR DEATH					
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Claimant	First Name		Last Name		
	Street Address		Atty First Nam Atty Last Name		
	Apt or Suite		Atty Street Address		
	City		Zip		Atty Suite
				Atty City	VA Atty Zip
3. TYPE OF EMPLOYMENT <input type="checkbox"/> MILITARY <input type="checkbox"/> CIVILIAN		4. DATE OF BIRTH	5. MARITAL STATUS Select One	6. DATE AND DAY OF ACCIDENT Start End <input type="checkbox"/> Estimated	
7. TIME (A.M. or P.M.) N/A					
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8b. At the time of exposure where did you reside? (Check one) <input type="checkbox"/> Tarawa Terrace Housing <input type="checkbox"/> Hospital Point Housing <input type="checkbox"/> Other On Base Housing <input type="checkbox"/> Outside of Camp Lejeune					
8c. At the time of exposure, did you work at the Hadnot Point Industrial Area in Camp Lejeune? <input type="checkbox"/> Yes <input type="checkbox"/> No					
8d. Select the Nature of Your Injury. Select One					
8e. If you selected "Other" in 8d, describe the nature of your injury.					
9. PROPERTY DAMAGE NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, street, city, State, and Zip Code) N/A BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF DAMAGE AND THE LOCATION WHERE PROPERTY MAY BE INSPECTED. (See instructions on reverse side.) N/A					
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12. (See instructions ) AMOUNT OF CLAIM (In dollars)					
12a. PROPERTY DAMAGE N/A		12b. PERSONAL INJURY \$ 0.00		12c. WRONGFUL DEATH \$ 0.00	
12d. TOTAL (Failure to specify may cause forfeiture of your rights.) \$ 0.00					
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				Print Form	
				Save Form	



# Claims Form

12. (See instructions )			
AMOUNT OF CLAIM (In dollars)			
12a. PROPERTY DAMAGE	12b. PERSONAL INJURY	12c. WRONGFUL DEATH	12d. TOTAL (Failure to specify may cause forfeiture of your rights.)
N/A	\$ 0.00	\$ 0.00	\$ 0.00
I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE ACCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM.			

Can you clarify how to handle amount of Claim in Box 12, a - d:

Generally, FTCA follows the state law for damages

- Should we have claimed damages number in only 1 box a-c and then a total in d?

Consider using a calculated field if necessary to ensure  $b+c = d$

- Would we need a separate form for a "loss of consortium" claim?

Loss of consortium is personal injury

- Do survival actions need to be listed on the Claim Form as a wrongful death or a personal injury?

In NC, wrongful death is a derivative of personal injury



# Claims Form - MCAS New River

8b. At the time of exposure where did you reside? (Check one) ☐ Tarawa Terrace Housing ☐ Hospital Point Housing ☐ Other On Base Housing ☐ Outside of Camp Lejeune

8c. At the time of exposure, did you work at the Hadnot Point Industrial Area in Camp Lejeune? ☐ Yes ☐ No

8d. **Select the Nature of Your Injury.**

Select One

8e. If you selected "Other" in 8d, describe the nature of your injury.

In block 8d, what box should be checked for claimants stationed at New River ?

If “\*Other” is selected, in the text box, should the nature of the injury be described consistent with Options 1 and 2, e.g. Personal Injury Caused by Exposure to Water at Marine Corps Air Station New River?

For New River, “On Base Housing” can be selected. Then an explanation can be added to note New River. Consistency in the claim form and substantiation is important.

If Hospital Point is selected and later the lines changes, the form can be amended.

## Claim Form Process - Discussion

Is there a point at which ridiculous demands might be held against attorneys?

No, the DONs recognizes that attorneys are aware and understand that they cannot recover more than they ask for. The administrative process is forgiving.

A Claim Form can be amended up until it is adjudicated. The Claim Form's purpose is to help start an investigation.



# Claims Form - Date of Submission

<b>I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE ACCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM.</b>			
<b>13a. SIGNATURE OF CLAIMANT</b> <i>(See instructions on reverse side.)</i>		<b>13b. Phone number of signatory</b>	<b>14. DATE OF CLAIM</b> (MMDDYYYY)
Select One <input type="text"/> Attorney (if applicable)		Claimant: <input type="text"/> Attorney: <input type="text"/>	<input type="text"/>
<b>15a. Claimant Email Address</b> <input type="text"/>		<b>15b. Attorney Email Address</b> <input type="text"/>	
<b>CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM</b> The claimant shall forfeit and pay to the United States the sum of \$2,000 plus double the amount of damages sustained by the United States. <i>(See 31 U.S.C. 3729.)</i>		<b>CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS</b> Fine of not more than \$10,000 or imprisonment for not more than 5 years or both. <i>(See 18 U.S.C. 287, 1001.)</i>	
<small>If you are having trouble emailing this form using the "Email Form" Button you may manually email this form to CLclaims@us.navy.mil with the subject line "CLJA Claim Your Last Name, Your First Name and the date in MMDDYYYY format." Please do not include any punctuation in the date. Please include this form as an attachment named "Your Last Name, Your First Name and the date in MMDDYYYY in format". For additional instructions please consult the directions on the JAG website.</small>			
		<b>Print Form</b>	<b>Save Form</b>

How do we correctly fill out box 14?

Example: The client signs the form on 3/1. The law firm submits the form on 3/10.

According to the form instructions, the name of the file should be 3/1. Will that cause confusion if the filed date is 3/10?

The file name should be the date the claimant signs the form. Note that the lawyer can sign this in lieu of client as long as ATF is submitted.

# Claims Form - Date of Submission

<b>I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE ACCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM.</b>			
<b>13a. SIGNATURE OF CLAIMANT</b> <i>(See instructions on reverse side.)</i>		<b>13b. Phone number of signatory</b>	<b>14. DATE OF CLAIM</b> (MMDDYYYY)
Select One <input type="text"/> Attorney (if applicable)		Claimant: <input type="text"/>	<input type="text"/>
Attorney: <input type="text"/>			
<b>15a. Claimant Email Address</b> <input type="text"/>		<b>15b. Attorney Email Address</b> <input type="text"/>	
<b>CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM</b> The claimant shall forfeit and pay to the United States the sum of \$2,000 plus double the amount of damages sustained by the United States. <i>(See 31 U.S.C. 3729.)</i>		<b>CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS</b> Fine of not more than \$10,000 or imprisonment for not more than 5 years or both. <i>(See 18 U.S.C. 287, 1001.)</i>	
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		<b>Print Form</b>	<b>Save Form</b>

When does the 180-day time frame begin - the date the claimant signs the form or the date the claim is transmitted to the DON?

The date the DON receives a properly presented claim is when the 180 day period starts. If the claim is determined to not be properly presented, the 180 days have not started.



# Duplicate Claims

What is the process for duplicate claims?

The amount of duplicates is unprecedented. It can be tough to find duplicates in the current process and system. Some attorneys are submitting good info and some are not.

Once the DON gets the portal updated and approval to accept SSNs, duplicates can be more easily identified.

How will a law firm get a warning?

In first batch of perfection, the DON has highlighted claims that are suspected duplicates.

# Dual Representation - Considerations

Law firms need to talk to their clients to determine if they are working with another attorney or if they have filed a pro se claim.

Qualitative estimate of pro se claims, not based on data, is about  
10% of all claims are pro se.



## Dual Representation - Considerations

What happens if a client says, “I don’t want to work with you anymore”?

In a normal case, the attorney would withdraw and the claim would stand. Because the claim is tied directly to the claimant, this is more complicated. To withdraw as the lawyer on record, the Navy will need to “complete” that case file and then archive it.

The withdrawing attorney needs to submit the documents they said they had at Claim form submission, i.e. your authorization and an authorization stating that you have permission to close the claim and not just withdraw as attorney.

# Amended Claim Forms

Do you require a specific format for amending an error in the claim forms?

The two most important things are to:

- 1) Reference the case number and
- 2) Submit the amendment in same way you submitted the claim, e.g. if you filed by pdf, amend by pdf.

Fill out exact same thing and DON takes it as a brand new complaint, superseding the other.



# Amended Claim Forms

How should you amend a claim form if the claimant was alive at the time you filed it, and is now deceased?

If a claim goes from Personal Injury to Wrongful Death, just add the 'agent', estate representative, executor, etc.

Does amending a Claim Form (batch or individually), reset the 6-month timeline?

No. Once it's perfected it's perfected.

# Perfection Letters

How many perfection letters have been sent?

Nearly 5,000.

They are being sent in batches.

The batches are by state, law firm, and the month they were filed.



# Perfection Letters

Is this the correct format for the perfection letter numbers? And will this be the number that you require for future conversations and amendments for each client?

---

CLS-23-123456 (6 figure number)

- CLS - is constant
  - When the DON moves to their portal, the format will begin with “CL” only. The “S” denotes that the claim is in the interim system.
- 23 - denotes the year
- “123456” is variable, claimant specific

# Substantiation

What is the difference between a perfection letter and a substantiation request?

Perfection is about meeting the low bar of properly presenting a claim. If a claim is perfected, something has been submitted that meets the standard of a claim under the law.

Substantiation is the step following perfection. After a claim is perfected, it moves into the substantiation phase. In this stage, the attorney will be sending the demand packet, requested numbers, medical records, bills, lifecare plan, economic impact study, claimant narrative (non-economic), liability, causation. Essentially, the case that is being made to the DON.



# Substantiation

How many Substantiation Requests have been sent?

The first substantiation request was submitted months ago.

Law firms need to conduct their own investigation and secure medical records themselves. A lot of records are also with the VA, which is a separate agency.

Substantiation requests are consistent across all law firms.

# Substantiation

In your 1/31/23 mass email, you said that the TCU is “beginning to send out substantiation requests for targeted claims.” Can you explain what you meant by “targeted claims”?

The path from perfection to substantiation is typically automatic, but the volume makes it so that it is being done in groups. The DON will be asking for substantiation once the groups are finalized.



## Substantiation

There does not appear to be a timing requirement to respond to a Substantiation Request. Is this true?

In most DON cases, there is a timeframe. Here, because of extenuating circumstances, there are not formal time requirements. But there are guidelines. Generally, if after 60 days, the DON does not receive a response to a substantiation request, a second request will be sent. If from the date of the 2nd substantiation request, another 60 days pass without response, a third and final substantiation request will be sent via certified mail. If another 60 days passes without action, the claim will be denied. Claimants do have 6 months to request reconsideration of a claim.

If clients sign with multiple law firms and one law firm does not respond to substantiation, the other claims are not valid.

# Substantiation

How many completed Substantiation Requests have been submitted to DON?

The DON is issuing litigation holds and is still investigating.

What happens after a completed Substantiation Request is returned to your office?

Substantiation happens concurrently with an internal Navy investigation on each claim.

# Substantiation

Can you confirm the following about the DoD SAFE Process (current process for receiving client substantiation files):

- Every client must have data uploaded separately, no bulk uploads?
- Every document must be individually uploaded and encrypted?
- Data size limitation = only 25 files at a time?

Unfortunately, yes. Which is one of the reasons we have been slowly asking for substantiation. We are working on other arrangements currently.



# Substantiation

If an attorney does not use the DoD SAFE Process, is it accurate that CD ROM is the only current option and email and USB cannot be used to transmit client data?

Correct. PHI cannot be sent via email and the DoD computers do not allow USB drives as a security measure.

## Requesting Client Records

In a previous email, you noted that law firms should not request military service records. Can you talk about what the preferred process for obtaining these records might look like?

Does this apply for housing records as well?

Is there any chance that the VA may organize a process for getting medical records for Veterans?

Personnel records are held by an outside agency. These can be made available if the attorney requests them during substantiation. There are Medical records held by the military. The VA will also have many medical records. They are a separate agency. Law firms will need to secure medical records themselves.

# Data Format

For the normalization of data, do you now have a list of non-presumptive injuries that we can use to make sure our format is the same as yours?

This is in progress. It has to be done in such a way that injuries are not excluded and can be understood by pro se claimants.



# Offers

If a claim has been on file for 6 months and a settlement offer has not been made, what is the likelihood that the claim will be resolved by the TCU?

The passage of 6 months only signals that the claimant has the right to file suit.

# Offers

Under the TCU's procedures, is the TCU able to make offers after the 180 days have expired?

TCU is able to give offers after the 180 day period.

How many offers have been made?

They have not gotten there yet. We are gathering information of 4 presumptive conditions the DON is going to investigate.

## Filed Cases

If the 6 months has tolled and a claim has been filed in federal court, how is the DON notified?

The DOJ tells the DON and the DON becomes the DOJ's client.



## Filed Cases

Is the client removed from the administrative process at this point or do we need to make continued amendments as client situations change?

If a claim is filed in federal court, the attorney would cease working with the DON / Navy JAG and cannot pursue resolution through the DON's administrative process anymore. All communication must go through the DOJ.

## Key Information

Is there a place to consolidate FAQs so that they are visible to all law firms involved?

DON is working on it! The portal will become the resource for all news and will host an FAQ section.

## Live Questions

The substantiation sample letter seems to request absolutely all medical records, should we send all or what's relevant?

What you send the DON will consider.

If we have secured military records, does it save time?

Yes.



## Live Questions

If an attorney has multiple claimants with the same injury, can those claimants be submitted with the experts supporting documentation on general, and then individual details be submitted for each claimant?

No, even though we are going to try to have global conversations, claims must be substantiated and adjudicated at an individual level.

# Live Questions

What does the negotiation process look like?

It's a back-and-forth with the adjudicators. They do have internal policies because they are trying to keep things consistent. JAG has adjudication limits where there has to be discussion with other people and they will discuss and roundtable. Jennifer Langley is one of the adjudicators or you may be working with another attorney.

# Live Questions

Does a client have to sign claim form or can attorney get approval documents from them in place?

The attorney can sign as long as they have an authorization on file. Be prepared to send the authorization if it is requested.

If both the client and the attorney sign the claim form, an attorney authorization is not needed.

# Live Questions

Does TCU have a plan to offset VA medical benefits?

Yes, in substantiation and other processes, the TCU may send a follow up to ask more questions about the claimant's benefits. The DON has a calculator to assess set-offs and offsets based on certain factors.

Will portion of award for attorneys fee be offset by VA offsets?

The award is the award. It is a flat number. The DON does not consider attorneys fees and costs to be a separate award.



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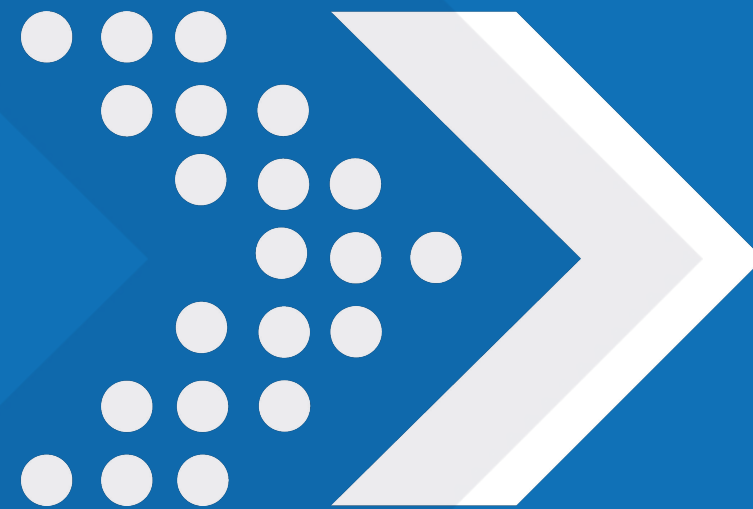
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