

# The Camp Lejeune Justice Act

Separating fact from fiction

by Mr. Robert "Butch" Bracknell

**T**he Camp Lejeune Justice Act (CLJA) was signed into law by the President on 10 August 2022. The CLJA was a chapter within the Honoring Our PACT Act of 2022, a larger measure wherein Congress provided increased access to claims for injuries to service members and their families caused by toxic agents. The new act has caused a metric ton of confusion in the veteran and military family communities. So let us take some pains to separate some real law talk from the barracks lawyering.

- This is a completely new legal process. This is NOT the same process as a VA disability claim.

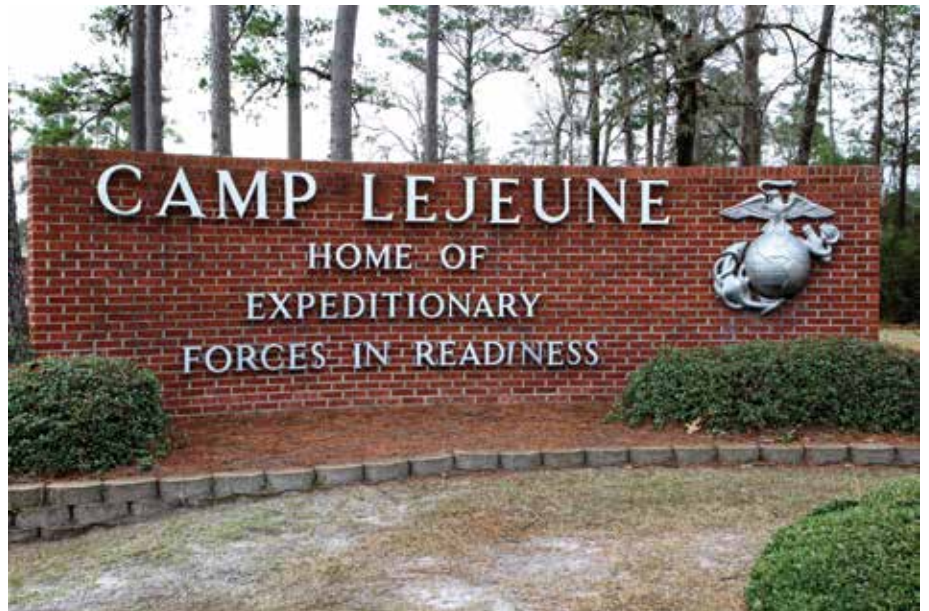
- Having a disability rating does not affect a veteran's ability to make a claim under the CLJA, but how a final settlement or judgment affects VA disability compensation later is yet to be fully established.

- Any award under this statute will be offset by a diminishment in VA compensation, but only a qualified legal professional aided by an accountant can help you make the decision on which path to take. It is possible a CLJA claim, even after attorney's fees are awarded, may place the injured veteran in a better financial position than continuing to receive VA disability compensation—a determination a potential claimant can only make with competent, professional advice.

- Moreover, simply filing the claim does not diminish the VA disability claimant's entitlement to compensation while the CLJA claim is pending.

- Survivors of a deceased veteran or family member may still have a claim under the act. This may include the

**>Mr. Bracknell is a retired Marine lawyer and is currently practicing law for an international security organization. He does not stand to gain financially from helping injured Marines and their families find a quality lawyer to explore a CLJA claim.**



**For nearly 30 years, the Holcomb Gate on Marine Corps Base Camp Lejeune has recognized the base's support to the Marines and sailors of II MEF and their families. (Photo courtesy U.S. Marine Corps.)**

survivors of decedents who passed away many years ago.

- Living on base during the statutory claim period is not a necessary precursor to a valid claim.

- Marines and families who lived off base but who came onto base routinely for shopping, daycare, medical care, and recreation are potential claimants, as well. The frequency of exposure to contaminated water will be one factor in the legal analysis of whether a claim can be substantiated.

- Cumulative exposure over time may aggregate to satisfy the statutory 30-day exposure period.

- The act creates—almost—a presumption that exposure to Camp Lejeune water caused various health maladies. Usually, the burden of proof is on the claimant. The CLJA changes the burden slightly in a way that favors claimants, noting that a "50/50" chance of causation is sufficient to establish liability.

- Your Veteran's Service Organization cannot and will not help you file

a CLJA claim. They can and will help you file your VA disability claim or obtain other veterans' entitlement benefits. Veteran's Service Organizations can be indispensable in assisting veterans with filing VA disability claims. They are absolutely unequipped and are not even permitted to assist a veteran with a CLJA claim.

- You can file a claim yourself without the assistance of a lawyer (*pro se*).

- Doing so is a terrible idea because this is complex litigation that requires professional skill—but, technically, it is possible. Responsible people know when it is time to hire a professional.

- Reasonable laypeople do not conduct heart surgery on themselves, they do not attempt nuclear fission, they do not attempt to rewire an old house from scratch (unless they are electricians), and they do not attempt to file complex medical-legal claims without professional legal assistance.

- Claims must be filed in federal court in the Eastern District of North Carolina.

- Lawyers all over the United States are soliciting clients, but it likely makes the most sense to hire a lawyer in the district where the action will be commenced.

- Local practice rules, familiarity with judges, expenses associated with making appearances (travel to the courthouse for hearings and trial), and other legal cultural factors are relevant. Eastern North Carolina federal trial lawyers are probably in a better position to deal with these dynamics than lawyers in Charlotte, Atlanta, Dallas, Chicago, or Boston.

- Normally, cases like this are taken on “contingency” where the trial lawyer handling the case contracts to receive about 33–40 percent of the total recovery, after litigation expenses.

- In this case, however, lawyers' fees will likely be capped at 25 percent of the veteran's recovery (settlement or trial judgment), plus expenses. On average, a claimant can count on taking home 60–70+ percent of the settlement or judgment.

- Qualified legal assistance—like a proper heart surgeon, a competent nuclear scientist, or a qualified electrician—costs money.

- There will be no punitive damages as there were in the Alex Jones trial or the Johnny Depp-Amber Heard proceedings. Punitive damages are designed to punish an actor for his conduct, but Congress has written that possibility out of the statute. This case is about compensation for injury only.

- The first step in the process will be filing an administrative claim against the U.S. Government.

- That process has not been worked out by the Government yet. For more “normal” Federal Tort Claims Act filings, the process begins by filing an SF-95 with the claims adjudication authority. The process may be different in this case, or it may be the same.

- Once that process is established by the Government, and a claimant's claim is filed and denied or offered to settle for some value less than adequate, only then will an attorney file suit. Be patient. This process will last at least a couple of years for most claimants.

- This is not a class action lawsuit. It possibly could become one, but it is not one yet—if ever.

- There are specific rules for class actions, and they only occur (are “certified” by a federal trial judge) if certain, specific legal conditions are met. Class action lawsuits occur when one client or a small set of clients represents the interests of a much larger class of people who are injured.

- Typical class actions include lawsuits against asbestos manufacturers and pharmaceutical companies, where there are possibly hundreds of thousands of injured plaintiffs; the named plaintiffs represent the entire class for the purpose of litigation.

- Another usual type of class action includes cases against defendants such as credit card companies and insurance companies, where individual harm is too small for a plaintiff to pursue, but when all the claims are put together or aggregated, it makes economic sense to bring the action to court.

- At present, this entire matter will be managed through individual claims.

- Be wary of “consultants” who are offering to help with these claims. Many

are just middlemen with no special expertise who are attempting to get their snouts into the compensation trough. A veteran or family member with a potential claim does not need one of these middlemen to charge fees or siphon off a portion of the recovery. You just need to find a reliable, honest, diligent lawyer who will assess your claim and help you pursue it.

In conclusion, we live in an era of disinformation, so please recognize that fact and act accordingly. Do not listen to sea lawyers and barracks lawyers or the guy on the end bar stool down at the VFW. The problem with them is if they are 10 percent right, they may sound credible, but the reality is that it makes them 90 percent wrong. Most of them are trying to be helpful, but most of them are out of their depth, as much as I would be trying to rewire my house from scratch: I know just enough about electricity to burn my own house down.

If you think you might have a claim, consult with a professional who is taking in cases and doing the work. If you cannot find someone credible, reach out to me, and I will refer you to a lawyer I trust who is taking these kinds of cases. I am not a civilian trial lawyer, and I will not make a dime on these claims. I just want my brother and sister Marine veterans and their family members injured by Camp Lejeune water and the Government's negligence to be taken care of properly and to receive competent professional advice.

You can reach me at Rob.Bracknell@gmail.com or by text at (757) 287-4704. I will not answer questions about your claims because this area of law is not within my expertise. I will, however, refer you to a qualified expert professional I trust to help you make an informed decision about whether to pursue a claim.

