

Date: August 6, 2024

Additional clarification has been released by DON/DOJ regarding claim form filings as we enter the last week before the Department of Navy's 8/10/24 deadline for filing administrative claim forms.

Below guidance is taken verbatim from the Department of the Navy, in consultation with DOJ, in response to frequently asked questions that Plaintiff Leadership Group and other firms have continued to submit.

*******Announcement by DON on Saturday, August 3, 2024*******

Effective from Saturday, 8/3 to 8/10, to ensure that “ever filer has the opportunity to submit CLJA claims,” the CLU is taking the following actions:

- (i) from today through August 10, 2024, bulk-filing will be limited to less than 1,000 CLJA claims in a single file; and
- (ii) law firms that are unable to bulk-file CLJA claims in the Claims Management Portal **may alternatively email their bulk files containing CLJA claims to the CLCU.**
- (iii) CLCU staff will cease manually entering claims to reduce any strain on the system.

****The claims management portal is the preferred method for submitting claims.** Visit: <https://clclaims.jag.navy.mil/> to submit claims.

DON has noted some uploading delays on very large .pdf files (in which firms are putting all substantiating material in one rather large .pdf). Similar to the 1K limit per file described above, if the uploading is a continued issue through the week, DON may have to institute a similar limit on breaking up .pdf substantiating information files. If DON does that, it will be highlighted in the portal banner.

Q&A (Submitted questions to DON in black; DON/DOJ answers in red):

1. If the attorney completed the claim form and signed it on behalf of their client: Is it required prior to the 8/10/24 deadline that the attorneys upload a document reflecting the attorney's authority to file the claim form on their client's behalf (we are internally calling that an Authorization to File form) to satisfy the “signature” presentment requirement? Or is the .csv or portal submission sufficient if it includes their attorney's name in the appropriate field?
 - a. I do not think uploading the authority to file is required prior to the deadline based on DON guidance thus far. Please confirm.

Confirmed.

This has been addressed in the attached questions and was also modified on the portal when the issue of the certification statement was previously raised: The Government's position is that a properly presented CLJA claim filed on behalf of another must include a statement of the filer's authority to file a CLJA claim on behalf of the claimant. This element, in addition to the four other elements of presentment, are required to properly present a CLJA claim to the Department of the Navy. The evidence of that authority is required before a claim is substantiated and settled.

2. Similarly, if the attorney completed the claim form in a deceased client's case: Is it required prior to the 8/10/24 deadline to upload estate paperwork and/or Authority to File to satisfy the "authority" or "signature" presentment requirement?
 - a. I do not think so. Please confirm.

Confirmed.

3. If a claimant has died between their personal injury filing and now, is the DON requiring that they amend their claim to file for wrongful death prior to the 8/10/24 deadline?
 - a. We are amending ours to be safe, but I do not think so. Please confirm.

"Injury resulting in death" damages is an additional damages claim. You would need to amend the claim to include those damages based upon the change in circumstances. If you have that information now, please feel free to amend in the portal. If the claimant dies after 10 Aug, the amendment can be made that that time.

4. Will DON allow amendments to add for wrongful death as individuals continue to pass away after the deadline? Has that been discussed?
 - a. I think so. Please confirm.

Please see answer to #3 above.

5. Generally confirming that amendments and submission of documents will continue to be allowed after the 8/10/24 deadline. We have cases to amend (not for the 5 required fields, but relating to other fields) but we are going to wait until after the deadline to start working on those.

Additional substantiating documents to filed claims can certainly be submitted after the 10 Aug date. Amendments based on newly acquired evidence can also be made after 10 Aug.

6. Is there a way to modify the portal to not lock attorneys out of amendments once the status switches from Draft to Submitted? My staff tells me we get locked out of amendments once that status switches, which honestly deters us amending and adding documents to claims. Is there any way to change that?

The amendment process is described here:

<https://clclaims.jag.navy.mil/help/claim/#Amending%20a%20filed%20claim>

7. We are getting lots of questions about bulk downloading claims in the portal by law firm? My understanding is that cannot be done at this time unfortunately. Is DON working on a solution to that, or no?

At this time, there is no function that allows exporting a list of all claims filed by a law firm. Please note that firms can view their claims in the Claims Management Portal, and you will continue to see claims populated in our portal as we complete our data entry efforts.

8. Q: Do you view the “filer” as the attorney or the injured party?

A: The “filer” as described in our presentment policy is the individual submitting the claim. The filer can be the claimant/injured party, or an individual filing on behalf of the claimant/injured party. In the situation described in the question above, the “filer” is the attorney filing a CLJA claim on behalf of an injured party.

9. Q: Assuming you view the “filer” as the attorney, is the “statement” requirement met when an attorney successfully completes a bulk filing (which requires the attorney to certify that he or she “is the person legally authorized to file a claim on behalf of the injured party”)?

A: Yes, the “statement” requirement referenced above would be met when an attorney successfully completes a bulk filing in which the attorney certifies that they are “the person legally authorized to file a claim on behalf of the injured party.”

10. Q: When a claim by the agent/legal representative of an injured party (for example, a claim by the administrator of an estate) is included in a successful bulk filing, is the requirement that the claim show the “legal capacity of the person signing” met by populating the “Agent Capacity” column of the template?

A: The “Agent Capacity” column on the bulk filing template is reserved for situations where attorneys are filing a CLJA claim on behalf of an agent acting on behalf of the claimant/injured party. In this situation, the filing attorney’s name is recorded in the “Claimant Attorney First Name” and “Claimant Attorney Last Name” columns while the capacity of the agent on behalf of whom the attorney is filing the CLJA claim is recorded in the "Agency Capacity" column. Agent capacities are limited to Executor of Estate, Administrator, Trustee, Attorney-in-Fact/Power of Attorney, Conservator, Parent/Legal Guardian, or Other Agent.

11. Q: The PLG does not agree that section 804(j)(2) of the PACT Act governs the filing of an administrative claim at all. But to the extent the government contends it does, does it agree that an individual “commence[s]” a claim by providing the 5 pieces of information

listed on page 5? In other words, does the government agree that the requirements to “commence[]” a claim under the CLJA are the same as those to “present” a claim under 28 USC 2675?

A: Yes.

12. Q: Are you able to provide any more detail on the process the CLCU will be using to “address duplicate claims”? As we have mentioned before, we do not think it is appropriate or a good use of resources for the CLCU to attempt to adjudicate situations where multiple claims have been filed for the same injured party. Claimants make individual decisions about the counsel they choose to retain, so any rule based on dates alone (whether filing dates or “the date the filing firm received all necessary information to file a CLJA claim”) will necessarily lead to the CLCU choosing to proceed with counsel other than the claimant’s chosen counsel in at least some cases. Instead, we believe strongly that the best way to resolve multiple-filing situations is for the CLCU to simply notify the various attorneys who have filed for a given claimant (and the claimant, if a *pro se* claim has been filed) to enable them to work with the claimant to resolve the situation.

A: The CLCU plans to notify every filer of each duplicate CLJA claim and will request that the filers of those claims officially identify for the CLCU the filer that will engage with the CLCU to resolve the claim. The CLCU will not unilaterally make that decision. The purpose for gathering as much information as possible about each claim is to assist the CLCU in identifying duplicates. This process is complex and the more data points available for comparison the better the results enabling the CLCU to identify and resolve duplicate claim issues as quickly as possible.

13. All of our claims that are in the portal currently, show in that draft status, which from my understanding of the portal means, "Claim has not been officially submitted for processing". Do we need to go through each one, open and verify the data, and then save for it to show as "Submitted"?

A: Draft versus submitted is a portal distinction that ensures a claimant/authorized representative has validated the ingested claims. In this draft stage, you can make any adjustments to the claim, validate, and submit. Your original filing date is the date of batch form filing.

14. We also have several claims we need to amend for, and I know previously Jennifer Langley directed us to do batch amendments with a CSV with the changed info as red. Is there a way to do batch amendments through the portal, or do we need to just do them individually?

A: The current system cannot ingest amendment or profile changes in batches, therefore, claims in your portal in draft status, can be amended or adjusted

before you submit. This was the intent behind the draft status. Ms. Langley's advice pre-dates the Claims Management Portal.

15. Also, do these amended claims still need to have a new claim form completed before an amendment can be made or can we make the amendment without making our clients sign another claim form?

A: You can amend a submitted claim directly in the Portal (for claims in draft status, see previous answers). Profile changes (which are not substantive amendments) can also be made in the portal.

16. Will the claims that have been settled be updated to show as settled, or is there anything we need to do for those within the portal?

A: No action is required from filers. The CLCU will populate settlement information in the portal for all CLJA claims settled to date.

17. I noticed there is a portion within a claim to provide substantiation documents, as well as substantiating information such as the date of diagnosis for the injury our client is claiming, can we start utilizing the portal to submit this information if we have it?

A: Absolutely.

18. For the cases we believe qualify for the Elective Option, and can provide sufficient documentation to show this, is there a way to bring these to your attention for review and consideration of settlement? Such as uploading the substantiating documentation and then utilizing the "Messages" function for the client's file within the portal?

A: Yes

19. I also noticed that under the "Claims Details" and if the Nature of Injury is Personal Injury for said claim, it does not list the claim amount for wrongful death; however, on the Personal Injury Claim Forms we submitted on behalf of our clients, in batch files, we included a claim amount for both Personal Injury and Wrongful Death injury in the unfortunate chance that our client passes away before recovery is made. Is there a reason this is not displayed in the portal?

A: It should show as "injury resulting in death damages." Due to the legal meaning of "wrongful death" in many states, and not to confuse the elective

option death amount with those constructions, we refined the name to “injury resulting in death damages.”

20. Additionally, if we are added to a client's retainer and take over their claim, how do we transfer the claim from one firm to another?

A: You can now submit a change of representative through the portal directly.

21. Lastly, under the "Claimant Information" tab, it states, "Attorneys must provide authorization to file as evidence they are authorized to act on behalf of the Claimant or their authorized agent. This claim cannot be evaluated for settlement awarded until there is proper authorization," with a spot to upload a document. What documentation is needed to provide the correct authorization that you are looking for?

A: A retainer agreement is sufficient.