



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, DC 20530

The Honorable Dan Sullivan
United States Senate
Washington, DC 20510

Dear Senator Sullivan:

Thank you for your letter to the Department of Justice (Department), dated October 17, 2023, regarding the application of the attorney fee provisions under the Federal Tort Claims Act (FTCA) to Camp Lejeune Justice Act (CLJA) cases. The Department appreciates your ongoing leadership to protect and advocate for veterans and their families, and your efforts to ensure they receive all benefits available to them under law. Please know the Department is committed to a process to ensure veterans and others are able to quickly resolve qualifying claims under the CLJA and that settlement funds in these cases provide fair compensation to individual plaintiffs and claimants.

In your letter, you expressed concern about public awareness of the FTCA and the applicability of that Act's attorney's fee provisions to CLJA claims under 28 U.S.C. § 2678. As you know, the Department and the Department of the Navy publicly announced on September 15, 2023, that the caps on attorney's fees in § 2678 apply to settlements made pursuant to the Elective Option. Related guidance is published on the Department's website,¹ as well as the Department of the Navy's CLJA claims website.² The Department also updated the stipulation that plaintiffs must sign when accepting a CLJA Elective Option settlement to acknowledge that attorney's fees may not exceed the caps set forth in § 2678.

Today, the Department filed a Statement of Interest Regarding Attorneys' Fees in the CLJA cases pending in the Eastern District of North Carolina. The Statement of Interest sets forth the Department's position that CLJA actions are subject to the fee limitations in 28 U.S.C. § 2678 of the FTCA, and that those limitations apply both to "administrative claims presented to the agency" and to "[l]itigation settlements and judgments." The filing is publicly available and is enclosed here. We have also clarified on the Department's webpage that "the FTCA's fee cap provision and the associated fines and penalties apply to all claims made under the CLJA," and that, accordingly, "contingency fee arrangements with Camp Lejeune claimants cannot exceed 20% for administrative claims or 25% for suits filed in court."³ The website also explains that "[s]uch attorney's fee caps apply to any judgment or settlement amount after any applicable offsets for health and disability benefits."⁴

¹ See U.S. Dep't of Justice, Environmental Torts Litigation Section, <https://www.justice.gov/civil/environmental-tort-litigation-section> (last visited Oct. 27, 2023).

² See U.S. Dep't of the Navy, Camp Lejeune Justice Act Claims, <https://www.navy.mil/clja/> (last visited Oct. 27, 2023).

³ U.S. Dep't of Justice, Environmental Torts Litigation Section, <https://www.justice.gov/civil/environmental-tort-litigation-section> (last visited Oct. 27, 2023).

⁴ *Id.*

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We hope this information is helpful. Please do not hesitate to contact this office if we may provide additional assistance regarding this or any other matter.

Sincerely,

Carlos Felipe Uriarte
Assistant Attorney General

Enclosure