

Will You Be Asked to Testify at Your Disability Hearing?

Don't attempt to go it alone!

Typically, an administrative law judge (ALJ) will decide cases based on the medical evidence in the file - this includes x-rays and other imaging exams, lab panels, treatment notes, and written statements from the claimant and the claimant's treating physicians. In some cases however, **the ALJ presiding over the case may also ask for the claimant's testimony in an effort to better understand their medical condition** and how it affects their ability to function and perform basic work activities (including your past work).

A disability hearing can be an anxiety-provoking event as it is. If you are asked to testify before an ALJ, your responses to his/her questions should **be honest and detailed**, but not to the point of exaggeration.

This is a time when you should avoid being modest about how your impairment(s) impact your ability to function on a day-to-day basis.

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For example, if your condition, or the pain resulting from your condition, limits your range of motion in a particular limb or joint, renders muscle weakness, or interferes with your ability to sit, stand, stoop, crouch, reach, grasp, or sleep for a long period of time, you should definitely make these limitations part of your testimony. **Being modest is a mistake many claimants make at their hearing.**

You should also be aware that an ALJ can ask a medical and/or vocational expert to weigh in on your ability to work. Unless you are trained to cross-examine said experts, you may be at a big disadvantage.

For this reason, it is especially important to have an **experienced attorney** or advocate by your side. Your attorney or advocate can help you prepare for your hearing and can serve to answer many of the important questions that may arise at your hearing.

*If you are nervous about your disability hearing, call us for a **FREE** evaluation of your case - (888) 234-5758.*

Vets: Learn When to Reopen Your Disability Claim

Last month, we ran an article that discussed how common disability rating disparities are amongst service members separated from the military. We also discussed the importance of appealing an unjust disability rating. For many vets, appealing the VA's decision(s) can be a scary thing.

Some vets might feel they are being greedy and should be content with the rating they received, while others decide they would rather not go through another year or two of the bureaucratic torture that is the disability claims process. Either way, these vets are forfeiting their rights to receive fair compensation for the physical and/or psychological injuries they sustained during combat.

In January, our firm accepted a case for a Marine who suffers from post traumatic stress disorder (PTSD) and hearing loss in one ear. Though every case is unique, this soldier's story was familiar. He had witnessed the deaths of several of his fellow service members while fighting in the war and lost his hearing in one ear as a result of shots being fired at close-range and loud explosions.

After filing a disability claim with the VA on his own in early 2005, he received a rating of 50% for his PTSD and 10% for his hearing loss – a combined rating of 60%. When the Marine appealed for a higher rating, he was denied by the VA's regional office. He never appealed.

When Your Condition Worsens

Sadly, as is the case with many vets, the Marine's condition got worse. He suffered for four years at his original rating before deciding that he needed to do something. That's when he contacted our firm. What happened next is rare, but certainly possible with the help of an experienced veterans' disability lawyer.

Because so much time had passed since our client was denied a higher rating, our firm had to reopen his claim by starting a new application. This gave us the opportunity to gather his most recent medical records and have his treating doctors complete special medical and mental assessment forms that would help prove his condition deserved a higher disability rating. Remember, the most critical aspect in any veteran's disability claim is strong

DISABILITY CLAIM TIP:

ASSESSMENT FORMS ARE POWERFUL FOR YOUR DISABILITY CLAIM

Asking your treating physician(s) to complete a specialized medical assessment form such as, the [Residual Functional Capacity Questionnaire](#) or the [Mental Capacity Assessment](#), is the most effective way to illustrate how your disability interferes with your attention and concentration and limits your ability to function in a competitive work situation (i.e., your level of inability to sit, stand, walk, stoop, crouch, grasp, reach, and move).

If your doctor(s) is reluctant about completing a medical assessment form, you can ask him or her to write a statement explaining the severity of your disabilities and the treatment that you receive. What you want to avoid is a letter from your doctor saying, "My patient is 100 percent disabled and cannot work." A judge will give this type of statement very little weight. However, if the statement is detailed and well-thought out, it can greatly improve your chances of being awarded disability benefits.

While medical assessments can be powerful, they can also prove worthless if your doctor(s) does not take his or her time to complete it. Many times (to our detriment), our doctors are pretty busy. With back-to-back appointments and unexpected emergencies, doctors are often reluctant to take on additional responsibilities such as, writing letters or completing forms in support of your disability claim. But, don't let this deter you from asking for their support. Some doctors despite their busy schedules will help their patients by providing them with the necessary medical evidence to prove their disability.

medical evidence. Within months of submitting his new medical evidence, **our client's disability rating was increased to 100%** on the first decision! Our client was shocked by the quick response and extremely grateful for the positive outcome.

*Did you know that you can continue to receive disability benefits at your current rating while we fight to get you a higher one? **Contact us for details – 1-888-234-5758.***

CALENDAR OF EVENTS

HURRICANE SEASON IS IN FULL SWING!

As a person with disabilities you and your family will need to take special measures to prepare for a possible disaster.

If you don't already, you should have a plan in place for: keeping yourself and your loved ones informed during and after a disaster; staying in or evacuating your home; and, where you will go should you need to evacuate. Keep in mind that you will need to find shelters that can accommodate persons with special needs.

For more information on disaster preparedness for persons with disabilities, click [here](#).

THANKSGIVING DAY - NOVEMBER 26, 2009

The Law Offices of LaVan & Neidenberg P.A. will be closed on Thursday November 26th and Friday November 27th in observance of the Thanksgiving holiday. We will reopen for business on Monday November 30th.

Our staff would like to wish all of our clients, business partners, and their loved ones a wonderful Thanksgiving Day! We urge you to never forget that you are blessed.

DID YOU KNOW THAT...

- There is a place for vets to sound off? Visit our [Veterans Blog](#) today to start a conversation about the veterans' issues you care about most.

SIGN OUR PETITION FOR FREE MEDICAL RECORDS!

LaVan & Neidenberg is sponsoring a petition to change medical records fees in the State of Florida. Currently, patients and their representatives are required to pay up to \$1 per page to obtain a copy of their own medical records. The Firm's legislative initiative proposes to **make medical records FREE for all individuals applying for disability benefits.**

Please join us in our fight for free access to medical records for the disabled and [sign our petition](#) today! Thank you for your support!

How to Increase the Odds of Winning Your Disability Claim

Always Keep Social Security Up-to-Date!

If a disability attorney or representative is working on your behalf to secure Social Security Disability Insurance (SSDI) or Supplemental Security Income (SSI) benefits, it is imperative to keep them informed of any changes in your situation, medically or otherwise.

Often times, we learn that a client has moved because we receive a returned letter or find out that they have changed their phone number because we can't contact them with the phone number we have on file. It is important to note, the Social Security Administration will send claimants important notices or letters that will require some type of compliance – if these notices or letters do not reach you and you fail to comply, they may close your claim.

If you miss a scheduled Disability Determination Services (DDS) medical examination or, worse, miss your disability hearing – that may have taken six months to a year, or longer, to get – for example, it could have serious implications on your claim.

The bottom line is - if you've:

- Moved
- Changed your phone number
- Started seeing a new doctor
- Your condition has worsened or improved
- You've recently gone to the emergency room
- You've been prescribed and are taking new medication

Contact your disability attorney or representative as soon as possible with the new information. If you are representing yourself, you will need to contact the Social Security office, DDS if your case is there, or the hearing office if your case is awaiting a hearing date.

LaVan & Neidenberg, P.A. – We Fight for Your Rights

We have evaluated thousands of disability claims with the Social Security Administration and Department of Veterans Affairs. Our legal team is adept at handling the complex system involved in a disability case and will help you navigate every step of the process. Our winning record speaks for itself – we have obtained over \$400 million in benefits for our clients.

Do you have questions about your disability claim? Contact The Law Offices of LaVan & Neidenberg at (888)234-5758.