

# Securing Disability Benefits for a Veteran in Need

June 18, 2016

June 18, 2016 (WASHINGTON D.C., NEW YORK) – In a hard-fought case that began in 2009, Proskauer associate David Mordkoff succeeded in obtaining more than \$3,500 per month in disability benefits for a veteran who, when she first sought the Firm’s help, had only been receiving about \$500 per month for the injuries she suffered as a result of her military service.

Our client joined the U.S. Navy in 2004. While at her initial boot camp, she injured her ankle, and was instructed to rest the ankle for a couple days before returning to active training. While recovering in her room, a petty officer ordered her to “scrub the deck” to remove black marks on the floor. She requested a scrubbing device to complete the task, but the petty officer directed her to put a rag under her foot to scrub the floor, despite her injury. She followed orders and while scrubbing with her healthy foot, her other leg gave out. She fell and crashed into the rack supporting her bed, hurting her shoulder and back. Injuries from this fall have grown worse over time. Her pain is so extreme that after she had her first child, she could not lift her infant son or bend over to change his diapers.

Proskauer began representing the veteran in 2009 through a referral from the City Bar Justice Center’s Veterans Assistance Project. David reviewed her medical files and submitted papers to the Department of Veterans Affairs seeking an increase in her disability benefits for several different conditions. To that point, the V.A. had denied her claims that her debilitating shoulder condition was “connected” to her military service.

In 2011, the V.A. increased the amount that our client received for headaches and other conditions, but again held that her shoulder injuries were not related to her military service. David then commenced the lengthy appeals process to challenge that denial. In 2013, David appeared before a decision review officer at the V.A. Regional Office in New York to argue on the client’s behalf that her claim for “service connection” for her shoulder injuries should be granted. In 2014, the decision review officer issued a decision that, for the first time in 10 years, provided official recognition by the V.A. that the veteran’s shoulder injuries were incurred during and caused by her military service. This decision awarded retroactive benefits, but refused to compensate her at the 100% level.

Unsatisfied with this partial victory because the client was disabled and unable to work

due to her service-connected injuries, David continued to press for increased benefits and filed an application for Individual Unemployability on the veteran's behalf, despite knowing that it would likely take another two years to succeed on this application.

At long last, in April 2016 David received a decision awarding benefits to the client at the 100% compensation level, which has resulted in payments of more than \$3,300 per month retroactive to 2014. When her dependent spouse and child are added in, the client now receives over \$3,500 per month. In addition to increased compensation, the 100% rating qualifies her for several other V.A. benefits that were previously unavailable to her.

Congratulating David on this victory, Kent Eiler, the director of the Veterans Assistance Project at the City Bar Justice Center, commented that the dramatic increase in benefits is "a complete game-changer for [the client] and her family. I am so pleased to hear about the life-changing difference you've made."