

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

TIMOTHY PLOE, KYLE MONTGOMERY,
JERRY COLEMAN, and BYRON BENITEZ,
on behalf of themselves and all others similarly
situated,
Plaintiffs,

v.

UNITED STATES OF AMERICA,
Defendant.

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) Case No.: 1:25-cv-01942-RMM
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) Judge Robin M. Meriweather
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) **FIRST AMENDED CLASS**
) **ACTION COMPLAINT**
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INTRODUCTION

1. Plaintiffs, Retired Sergeant First Class Timothy Ploe, Retired Army Staff Sergeant Kyle Montgomery, Retired Army Sergeant Jerry Coleman, and Retired Army Specialist Byron Benitez served their country with honor in the Army. All experienced combat and received multiple commendations for their service.

2. SFC Ploe joined the Army in 2001, serving as an Infantryman and then as a Recruiter. Between 2004 and 2013, he deployed twice to Iraq and once to Afghanistan, also serving in Kuwait related to these deployments. He was medically retired in April 2018. For his service, he was awarded the Purple Heart, the Bronze Star, and several other commendations.

3. SSG Montgomery joined the National Guard (Army) in 2011 and deployed once in that role to Afghanistan before switching to full-time active duty with the Army in 2015. He then served in the 75th Ranger Regiment, completing two additional deployments

to Afghanistan, until he was medically retired in September 2023. For his service, he was awarded the Purple Heart and Combat Infantryman Badge, among other commendations.

4. SGT Coleman joined the National Guard (Army) in 1996 and switched to full-time active duty with the Army in 2001. He then served as a Fire Direction Specialist for the multiple launch rocket system in the 1-39th “Speed in Action” Field Artillery Regiment and deployed to Kuwait and Iraq in that role. He was medically retired in December 2007. For his service, he was awarded an Army Commendation Medal and multiple Army Achievement Medals, among other commendations.

5. SPC Benitez joined the Army in 2002 and served as a Tanker on an M1A1 Abrams tank in the 66th “Iron Knights” Armor Regiment—the oldest armored unit in the Army. He deployed between 2003 and 2004 in support of Operation Iraqi Freedom, and he was medically retired as of January 2006. For his service, he was awarded a Combat Action Badge and Army Commendation Medal, among other commendations.

6. To honor and compensate veterans like SFC Ploe, SSG Montgomery, SGT Coleman, and SPC Benitez who were retired from military service and suffer from combat-related disabilities, Congress enacted the Combat-Related Special Compensation (“CRSC”) statute. *See* Pub. L. No. 107-314, § 636, 116 Stat. 2458, 2574–75 (2002) (codified at 10 U.S.C. § 1413a). Plaintiffs separately applied for CRSC benefits, and the Department of the Army determined that they qualified for CRSC. It awarded them retroactive CRSC for the time between when the Army received their completed applications and issued their CRSC decisions.

7. But pursuant to recently adopted Department of Defense guidance, the Army has refused to award, and the Defense Finance Accounting Service (“DFAS”) has refused to

pay, retroactive CRSC to which Plaintiffs are lawfully entitled: compensation for the period between the first full month after they became eligible—that is, when (1) they held retired status; (2) they were eligible for service-connected disability benefits from the Department of Veterans Affairs; and (3) CRSC was available to medical retirees—and the month after the Army received their applications.

8. That refusal—and the guidance directing such a result—defy the text, structure, and purpose of the CRSC statute. SFC Ploe, SSG Montgomery, SGT Coleman, and SPC Benitez bring this action to vindicate the promise that our Nation made to its combat-wounded veterans: that they will receive full and fair compensation for the sacrifices they made in its defense.

JURISDICTION AND VENUE

9. This case arises under 10 U.S.C. § 1413a, which confers a substantive right to monetary benefits from the defendant, the United States of America, for qualified retired servicemembers and, therefore, is a money-mandating provision of law.

10. Accordingly, this Court has original jurisdiction over this action under the Tucker Act, 28 U.S.C. § 1491(a)(1), and venue is proper in this Court.

11. In accordance with 28 U.S.C. § 2401(a), this action is brought within six years of the dates on which the Army unlawfully denied retroactive CRSC payments to SFC Ploe, SSG Montgomery, SGT Coleman, and SPC Benitez (December 15, 2025, December 9, 2025, December 31, 2025, and December 11, 2025, respectively) for the period between the first full month after they each became eligible—when (1) they held retired status; (2) they were eligible for service-connected disability benefits from the VA; and (3) CRSC was available to medical retirees—and the first full month after the Army received their applications.

PARTIES

12. Plaintiff SFC Timothy Ploe is a veteran of the Army and attained the rank of Sergeant First Class before his honorable discharge. SFC Ploe currently resides in Washington. This complaint may refer to him interchangeably as “Timothy Ploe” or “SFC Ploe.”

13. Plaintiff SSG Kyle Montgomery is a veteran of the Army and attained the rank of Staff Sergeant before his honorable discharge. SSG Montgomery currently resides in Virginia. This complaint may refer to him interchangeably as “Kyle Montgomery” or “SSG Montgomery.”

14. Plaintiff SGT Coleman is a veteran of the Army and attained the rank of Sergeant before his honorable discharge. SGT Coleman currently resides in Arkansas. This complaint may refer to him interchangeably as “Jerry Coleman” or “SGT Coleman.”

15. Plaintiff SPC Byron Benitez is a veteran of the Army and attained the rank of Specialist before his honorable discharge. SPC Benitez currently resides in Georgia. This complaint may refer to him interchangeably as “Byron Benitez” or “SPC Benitez.”

16. The defendant is the United States of America, acting by and through the Department of Defense, the Department of the Army, and the Defense Finance Accounting Service, all federal government agencies, and the subcomponents and officers, employees, and agents thereof. This complaint may refer to the defendant interchangeably as the “United States,” the “Department of Defense,” “DoD,” the “Army,” the “Defense Finance Accounting Service,” “DFAS,” the “federal government,” and the “government.”

FACTUAL ALLEGATIONS

Combat-Related Special Compensation Statute

17. Generally speaking, persons retired from military service receive retired pay, with various statutes triggering that right, which are not in dispute here.

18. Retired veterans ordinarily must waive a portion of that military retirement pay to receive disability benefits from the VA. *See* 38 U.S.C. §§ 5304–5305.

19. In 2002, Congress enacted the CRSC statute, which provides special compensation for combat-related disabilities up to the amount waived. *See* Pub. L. No. 107-314, § 636, 116 Stat. at 2574–75. CRSC was originally available only to a subset of longevity retirees with high disability ratings by the VA.

20. On January 1, 2004, CRSC became available to longevity retirees with a 10% disability rating or higher. *See* National Defense Authorization Act for Fiscal Year 2004, Pub. L. No. 108-136, § 642, 117 Stat. 1392, 1516–17 (2003).

21. On January 1, 2008, CRSC became available to medical retirees, such as SFC Ploe, SSG Montgomery, SGT Coleman, and SPC Benitez, with a 10% disability rating or higher. *See* National Defense Authorization Act for Fiscal Year 2008, Pub. L. No. 110-181, § 641, 122 Stat. 3, 156 (2008); *see also* 38 U.S.C. § 1155; 38 C.F.R. § 4.31.

22. The CRSC statute currently states that “[t]he Secretary concerned”—the Secretary of the Army in Plaintiffs’ cases—“shall pay to each eligible combat-related disabled uniformed services retiree who elects benefits under this section a monthly amount for the combat-related disability of the retiree determined under subsection (b).” 10 U.S.C. § 1413a(a).

23. Subsection (b)(1), in turn, states that “the monthly amount to be paid an eligible combat-related disabled uniformed services retiree under subsection (a) for any month is the amount of compensation to which the retiree is entitled under title 38 for that month, determined without regard to any disability of the retiree that is not a combat-related disability.” *Id.* § 1413a(b)(1). Subsection (b)(2) sets a maximum monthly payment, and subsection (b)(3) adjusts the monthly amount in ways that are immaterial to this case. *Id.* § 1413a(b)(2), (3).

24. Subsection (c) defines eligibility and states that “an eligible combat-related disabled uniformed services retiree referred to in subsection (a) is a member of the uniformed services who—(1) is entitled to retired pay (other than by reason of section 12731b of this title); and (2) has a combat-related disability.” *Id.* § 1413a(c)(1)–(2).

25. Subsection (d) states: “The Secretary of Defense shall prescribe procedures and criteria under which a disabled uniformed services retiree may apply to the Secretary of a military department to be considered to be an eligible combat-related disabled uniformed services retiree.” *Id.* § 1413a(d). It further requires that such procedures “apply uniformly throughout the Department of Defense.” *Id.*

26. Subsection (e) defines “combat-related disability” to mean “a disability that is compensable under the laws administered by the Secretary of Veterans Affairs and that—(1) is attributable to an injury for which the member was awarded the Purple Heart; or (2) was incurred (as determined under criteria prescribed by the Secretary of Defense)—(A) as a direct result of armed conflict; (B) while engaged in hazardous service; (C) in the performance of duty under conditions simulating war; or (D) through an instrumentality of war.” *Id.* § 1413a(e)(1)–(2).

27. In sum, the statute specifies that entitlement to CRSC benefits begins when a veteran is entitled to retirement pay, *see id.* § 1413a(c)(1), and has a condition that is compensable by the VA, *see id.* § 1413a(e). The CRSC statute thus confers eligible veterans an effective date that is the later of: (1) the first full month after the veteran’s retirement; (2) the first full month after a veteran is initially eligible for service-connected disability benefits from the VA; or (3) the effective date of the National Defense Authorization Act amendment creating CRSC for the relevant group, which for Plaintiffs is January 1, 2008, as they are all medical retirees.

Soto v. United States

28. Prior to August 20, 2025, DoD determined the amount of retroactive CRSC payments as follows:

29. First, DoD determined the date on which the veteran first became eligible for CRSC. Per the statute, a veteran becomes eligible on the date when the veteran both is “entitled to retired pay” and “has a combat-related disability,” *i.e.*, a disability recognized by the VA. *Id.* § 1413a(c), (e). DoD listed the first full month after this date as the “effective date” in CRSC award decisions.

30. Second, DoD paid retroactive CRSC back to this “effective date”—with one key exception: DoD applied the Barring Act’s six-year limitations period to restrict the amount of retroactive payments that a veteran could obtain under CRSC. *See* 31 U.S.C. § 3702(b). Thus, if the veteran first became eligible more than six years before the veteran applied, DoD would assign an effective date six years before the application date and pay a maximum of six years of retroactive CRSC.

31. Retired Corporal Simon Soto was medically retired and was initially eligible for service-connected disability benefits from the VA in 2006. Congress amended the CRSC statute to make CRSC available to medical retirees like CPL Soto beginning January 1, 2008. Thus, CPL Soto met the requirements for CRSC payments on that date, January 1, 2008. He successfully applied for CRSC in 2016, but the government treated his award of retroactive payments as limited by the Barring Act to the six years before his application was complete. He filed a class action arguing that the Barring Act did not apply to CRSC.

32. The Supreme Court agreed with CPL Soto and held that the Barring Act did not limit retroactive CRSC payments to six years. *See Soto v. United States*, 605 U.S. 360, 370 (2025).

33. In reaching this decision, the Supreme Court recognized that the CRSC statute does not “expressly limit the number of months for which an applicant may obtain payment.” *Id.* at 365.

34. It further stated that “where, as here, the statutory scheme involves a small group of particularly deserving claimants, it is not extraordinary to think that Congress wished to forgo a limitations period.” *Id.* at 371.

35. And it noted that “the CRSC statute clearly authorizes the Secretary concerned to determine CRSC claimants’ eligibility according to specific criteria, and those criteria say nothing about time limits.” *Id.* at 372 (citing 10 U.S.C. § 1413a(a), (c), (d)). “Under these circumstances,” it concluded, “the most reasonable inference is that the process of ‘determin[ing] upon the validity’ of a CRSC claim simply does not involve applying a defined period of recovery.” *Id.* (alteration in original).

Post-Soto Guidance

36. On August 20, 2025, Acting Assistant Secretary of Defense for Manpower and Reserve Affairs William G. Fitzhugh issued *Interim Guidance on Combat-Related Special Compensation Determinations Pursuant to the United States Supreme Court Decision in Soto v. United States and on Effective Dates of Combat-Related Special Compensation Determinations* (“August 20th Interim Guidance”). This August 20th Interim Guidance is attached as Exhibit 1 and expressly incorporated into this complaint.

37. The August 20th Interim Guidance directs the Secretaries of the military departments to “cease applying the Barring Act to limit compensation in CRSC award decisions” and provides procedural guidance to the Secretaries of the military departments to determine the effective dates for CRSC awards that pre-date *Soto*. Ex. 1, at 1.

38. The August 20th Interim Guidance further directs that, “for CRSC eligibility determinations made on or after the date of this memorandum,” “the effective date for CRSC payments is the date on which the Secretary concerned first received the completed application.” *Id.* at 2 (emphasis omitted). The August 20th Interim Guidance thus changed DoD’s policy for determining the effective date of CRSC payments: for decisions issued before August 20, 2025, the effective date was the first full month after the date on which the veteran became eligible for CRSC pursuant to the statute; for decisions issued on or after August 20, 2025, the effective date was the first full month after the date on which the Secretary concerned received the veteran’s completed application.

39. On January 30, 2026, Assistant Secretary of Defense for Manpower and Reserve Affairs Timothy D. Dill issued *Clarifying Guidance on Effective Dates of Combat-Related Special Compensation Determination Pursuant to ASD (M&RA) memorandum of August 20, 2025*

(“January 30th Guidance”). This January 30th Guidance is attached as Exhibit 2 and expressly incorporated into this complaint.

40. The January 30th Guidance revises how the August 20th Interim Guidance affects applications submitted before August 20, 2025, and applications with pending VA disability claims on that date. *See* Ex. 2, at 1–2. But it expressly provides that “[t]he effective date for CRSC applications submitted after August 20, 2025, that did not have a VA claim in process at that time remains unchanged.” *Id.* at 2.

41. Consequently, the January 30th Guidance has only carved out two groups of CRSC applicants from the effective-date policy stated in the August 20th Interim Guidance: those whose CRSC applications were submitted before August 20, 2025, and those who have applications with pending VA disability claims on that date. Otherwise, the August 20th Interim Guidance’s effective-date policy remains in effect.

The Denial of SFC Ploe’s Full Retroactive CRSC

42. SFC Ploe served honorably in the Army from July 2001 until April 2018. During almost seventeen years in the Army, he participated in hundreds of combat operations and attained the rank of Sergeant First Class. SFC Ploe deployed to Iraq in 2004 and again in 2006, and he deployed to Afghanistan in 2012. He received the Purple Heart, the Bronze Star Medal, and the Combat Infantryman Badge, recognizing his bravery in combat with the enemy, as well as many other awards for his service.

43. SFC Ploe sustained multiple injuries during his combat deployments. Significantly, in August 2007, the explosion of an improvised explosive device destroyed the Humvee that SFC Ploe was riding in, resulting in injuries to multiple parts of his body.

44. SFC Ploe was medically retired from the Army and became eligible for retired pay in April 2018.

45. Also in April 2018, SFC Ploe became initially eligible for multiple VA service-connected disabilities, with a combined total rating of 100%.

46. SFC Ploe submitted his completed CRSC application to the Army after August 20, 2025, and it was received on August 29, 2025.

47. In December 2025, after the issuance of the August 20th Interim Guidance, the Army Human Resources Command issued its decision memorandum on SFC Ploe's application for CRSC.

48. The decision indicated that SFC Ploe's application was approved based on several medical conditions and that he was determined to have a combined combat-related disability percentage of 50%. However, the decision indicated the CRSC effective date for each condition was September 2025, even though SFC Ploe met all the CRSC entitlement criteria on April 27, 2018. That was when SFC Ploe was "entitled to retired pay" and had a "combat-related disability," *i.e.*, a "combat-related" disability compensable by the VA.

49. The determination of the effective date for SFC Ploe's CRSC payments as September 2025, rather than the first month after he became eligible (May 2018), was pursuant to the August 20th Interim Guidance.

50. The January 30th Guidance does not change his applicable CRSC effective date. Because SFC Ploe submitted his CRSC application to the Army after August 20, 2025, the January 30th Guidance leaves his effective date "unchanged" from how it was calculated under the August 20th Interim Guidance. *See* Ex. 2, at 2.

The Denial of SSG Montgomery's Full Retroactive CRSC

51. SSG Montgomery served honorably in the National Guard (Army) from October 2011 until May 2015, and then in the Army from May 2015 until September 2023. He completed Airborne training and Special Forces Assessment and Selection in 2016, and he then joined the 75th Ranger Regiment. By the end of his twelve years of service, he had attained the rank of Staff Sergeant. His service included three deployments to Afghanistan. Among many other awards, he received the Purple Heart, Combat Infantryman Badge, and Joint Service Commendation Medal with Combat Device, recognizing his service in armed conflict with the enemy.

52. SSG Montgomery sustained multiple injuries during his deployments to Afghanistan. Significantly, in September 2019, while his unit was inspecting and clearing a suspected improvised explosive device and chemical weapons factory, the facility exploded. A wall collapsed directly onto SSG Montgomery and other servicemembers, rendering SSG Montgomery unconscious and causing numerous crush injuries, including a severe traumatic brain injury, a collapsed lung, and fractures to his pelvis—which required titanium rods to be rebuilt—as well as to his spine, ribs, and other bones.

53. SSG Montgomery was medically retired from the Army and became eligible for retired pay in September 2023.

54. Also in September 2023, SSG Montgomery became initially eligible for multiple VA service-connected disabilities, with a combined total rating of 100%.

55. SSG Montgomery submitted his completed CRSC application to the Army via email, and it was received on August 20, 2025.

56. In December 2025, after the issuance of the August 20th Interim Guidance, the Army Human Resources Command issued its decision memorandum on SSG Montgomery's application for CRSC.

57. The decision indicated that SSG Montgomery's application was approved based on several medical conditions and that he was determined to have a combined combat-related disability percentage of 90%. However, the decision indicated the CRSC effective date for each condition was September 2025, even though SSG Montgomery met all the CRSC entitlement criteria on September 21, 2023. That was when SSG Montgomery was "entitled to retired pay" and had a "combat-related disability," *i.e.*, a "combat-related" disability compensable by the VA.

58. The determination of the effective date for SSG Montgomery's CRSC payments as September 2025, rather than the first month after he became eligible (October 2023), was pursuant to the August 20th Interim Guidance.

59. SSG Montgomery's effective date has not been revised. His application was submitted *on* August 20, 2025—not "*before* the August 20, 2025, memorandum." Ex. 2, at 1 (emphasis added). The Army has not applied the January 30th Guidance to change the determination of his effective date.

The Denial of SGT Coleman's Full Retroactive CRSC

60. SGT Coleman served honorably in the National Guard (Army) from February 1996 until June 2001, and then in the Army from June 2001 until December 2007. During his almost 11 years of service, he attained the rank of Sergeant. SGT Coleman deployed with the 1-39th Field Artillery (MLRS) to Kuwait and Iraq. He was awarded an Army Commendation Medal and multiple Army Achievement Medals, among other commendations.

61. SGT Coleman's unit participated in a three-week trek from Kuwait to Baghdad, serving as rocket launchers. His unit served near the front line. And because his unit cleared its own positions, the unit engaged in firefights for eight to ten hours each day. Once in Baghdad, SGT Coleman experienced the explosion of a five-hundred-pound bomb dropped on a Humvee carrying ammunition two hundred feet away from him.

62. SGT Coleman was medically retired from the Army and became eligible for retired pay in December 2007.

63. Also in December 2007, SGT Coleman became initially eligible for multiple VA service-connected disabilities, with a combined total rating of 50%. As of January 2022, his combined disability rating was 80%.

64. SGT Coleman submitted his completed CRSC application to the Army after August 20, 2025, and it was received on September 9, 2025.

65. In December 2025, the Army Human Resources Command issued its decision memorandum on SGT Coleman's application for CRSC.

66. The decision indicated that SGT Coleman's application was approved based on several medical conditions and that he was determined to have a combined combat-related disability percentage of 60%. However, the decision indicated the CRSC effective date for each condition was October 2025, even though SGT Coleman met all the CRSC entitlement criteria prior to January 1, 2008, the date that CRSC was extended to medical retirees. Coleman was "entitled to retired pay" and had a "combat-related disability," *i.e.*, a "combat-related" disability compensable by the VA, as of December 28, 2007.

67. The determination of the effective date for SGT Coleman’s CRSC payments as October 2025, rather than the first month after he became eligible (January 2008), was pursuant to the August 20th Interim Guidance.

68. The January 30th Guidance does not change his applicable CRSC effective date. Because SGT Coleman submitted his CRSC application to the Army after August 20, 2025, the January 30th Guidance leaves his effective date “unchanged” from how it was calculated under the August 20th Interim Guidance. *See* Ex. 2, at 2.

The Denial of SPC Benitez’s Full Retroactive CRSC

69. SPC Benitez served honorably in the Army from September 2002 until January 2006. During more than three years in the Army, he attained the rank of Specialist. SPC Benitez deployed to Iraq in support of Operation Iraqi Freedom. He received a Combat Action Badge and an Army Commendation Medal, recognizing his bravery in combat, as well as many other awards for his service.

70. The Army cited SPC Benitez’s service with his tank company in Samarra, Iraq, in awarding these commendations. In November 2003, enemy combatants ambushed SPC Benitez’s tank company as it was delivering the fledgling Iraqi state’s new currency to local banks. A roadside bomb destroyed a Humvee traveling ahead of SPC Benitez, and the pressure wave from the blast caused him to fall into his tank. The tank then came under heavy fire. SPC Benitez loaded the main gun of the tank and fired its machine gun at numerous enemy targets, including one who was preparing to fire a rocket-propelled grenade.

71. SPC Benitez was medically retired from the Army and became eligible for retired pay in January 2006. Although he was initially honorably discharged pursuant to Army Regulation 635-200, para. 5–17, a decision by the Army Board for Correction of

Military Records on February 11, 2025, resulted in the retroactive correction of SPC Benitez's military record to reflect that he was retired for permanent disability, effective January 27, 2006.

72. Also in January 2006, SPC Benitez became initially eligible for multiple VA service-connected disabilities with a combined rating of 40%. As of July 2014, his combined disability rating was 100%.

73. SPC Benitez submitted his completed CRSC application to the Army after August 20, 2025, and it was received on August 22, 2025.

74. In December 2025, the Army Human Resources Command issued its decision memorandum on SPC Benitez's application for CRSC.

75. The memorandum indicated that SPC Benitez's application was approved based on several medical conditions and that he was determined to have a combined combat-related disability percentage of 100%. However, the memorandum indicated the CRSC effective date for each condition was September 2025 even though SPC Benitez met all the CRSC entitlement criteria prior to January 1, 2008, the date CRSC was extended to medical retirees. Since SPC Benitez was retroactively deemed to have been retired as of January 27, 2006, SPC Benitez was "entitled to retired pay" as of that date. SPC Benitez had a "combat-related disability," *i.e.*, a "combat-related" disability compensable by the VA, as of January 28, 2006.

76. The determination of the effective date for SPC Benitez's CRSC payments as September 2025, rather than January 1, 2008, was pursuant to the August 20th Interim Guidance.

77. The January 30th Guidance does not change his applicable CRSC effective date. Because SPC Benitez submitted his CRSC application to the Army after August 20, 2025, the January 30th Guidance leaves his effective date “unchanged” from how it was calculated under the August 20th Interim Guidance. *See* Ex. 2, at 2.

The Denial of Full Retroactive CRSC to Plaintiffs Is Unlawful

78. The determinations of the effective dates for Plaintiffs’ CRSC, which were made pursuant to the August 20th Interim Guidance and left “unchanged” by the January 30th Guidance, are contrary to the CRSC statute and the Supreme Court’s decision in *Soto*.

79. The CRSC statute directs the government to pay “a monthly amount for the combat-related disability of the retiree” who is “eligible.” 10 U.S.C. § 1413a(a).

80. Subsection (b) specifies how the Secretaries are to calculate the monthly amount, and it does not authorize the Secretaries to establish an effective date. Rather, as the Supreme Court recognized, the statute “say[s] nothing about time limits.” *Soto*, 605 U.S. at 372.

81. Subsection (d)’s direction to the Secretary of Defense to “prescribe procedures and criteria” does not allow the government to rewrite the statute. “Procedures” under the statute are the steps that a retiree must follow to “apply to the Secretary of a military department to be considered to be an eligible combat-related disabled uniformed services retiree.” 10 U.S.C. § 1413a(d); *see Procedure*, Black’s Law Dictionary 1323 (9th ed. 2009) (defining “procedure” as “[a] specific method or course of action”). “Criteria” are the standards applied to determine whether a retiree is “eligible” for CRSC. 10 U.S.C. § 1413a(d); *see Criterion*, Oxford Eng. Dictionary, <https://doi.org/10.1093/OED/2304273753> (last

updated Sep. 25, 2025) (defining “criterion” as “[a] test, principle, rule, canon, or standard, by which anything is judged”).

82. The August 20th Interim Guidance’s “effective date” is nothing more than a limitations period by another name in violation of the statute’s text, structure, and purpose. Congress sought to provide compensation to veterans with combat-related disabilities. And once more, DoD has defied that direction.

CLASS ALLEGATIONS

83. SFC Ploe, SSG Montgomery, SGT Coleman, and SPC Benitez bring this action on behalf of themselves and all others similarly situated.

84. *Class Definition.* Plaintiffs seek to certify under Rule 23 of the United States Court of Federal Claims a class that is defined as follows:

All former servicemembers of the Army, Navy, Air Force, Marine Corps, Coast Guard, and Space Force whose CRSC applications under 10 U.S.C. § 1413a were granted, but who were denied CRSC for the periods preceding their applications and during which they met the eligibility requirements under 10 U.S.C. § 1413a(c) for such payments, as a result of the government unlawfully specifying that their CRSC was effective only upon receipt of their completed applications.

85. *Numerosity.* The numerosity requirement of Rule 23(a)(1) of the United States Court of Federal Claims is satisfied because, upon information and belief, the members of the class are so numerous as to make joinder impracticable. While the exact number of class members is presently unknown to Plaintiffs and can be ascertained only through appropriate discovery, information available to Plaintiffs and their counsel suggests that class members number at least in the hundreds and are continuing to increase as the policy is prospectively applied.

86. Specifically, records published by DoD suggest that numerosity is met here. DoD regularly issues reports on military retirees, including CRSC recipients. The last report, issued in 2023 and covering fiscal year 2022, stated that 52,304 disability-retirees received CRSC payments. See U.S. Dep't of Def., Off. of the Actuary, *Statistical Report on the Military Report System* 25, 68 (2023), <https://tinyurl.com/3w5jv6y7>. The previous report, issued in 2022 and covering fiscal year 2021, stated that 50,302 disability retirees received such payments. See U.S. Dep't of Def., Off. of the Actuary, *Statistical Report on the Military Report System* 25, 68 (2022), <https://tinyurl.com/yujkz2fn>. This yields a difference of 2,002 veterans. This difference means that at least 2,002 CRSC petitions were granted over that one-year period. That figure likely understates new approvals given that numerous CRSC recipients would have passed away during the year. Even using the 2,002 figure, however, extrapolating that rate (about 167 veterans receiving approval of their CRSC applications per month) suggests that several hundred veterans received approval for CRSC but were denied full retroactive CRSC payments during the more than six months that have passed between when DoD issued the August 20th Interim Guidance and the filing of this amended complaint. As demonstrated by the examples of SFC Ploe, SSG Montgomery, SGT Coleman, and SPC Benitez, the January 30th Guidance does not undermine these assumptions.

87. *Commonality*. The commonality requirement of Rule 23(a)(2) of the United States Court of Federal Claims is satisfied because there are questions of law and fact common to the class. Common questions include, but are not limited to, whether the United States may lawfully deny an otherwise eligible veteran retroactive CRSC by making CRSC payments effective only upon receipt of a completed application. The United States has acted in a similar manner toward all class members by denying each the full extent of retroactive

CRSC payments to which they are entitled under the statute pursuant to the August 20th Interim Guidance and the January 30th Guidance.

88. *Typicality and Adequacy.* The typicality and adequacy requirements of Rule 23(a)(3) and (4) of the United States Court of Federal Claims are met. SFC Ploe's, SSG Montgomery's, SGT Coleman's, and SPC Benitez's claims are typical of the claims of the class, given that the denial of full retroactive CRSC benefits to them arises from the same course of events as the denials of such benefits to other class members, and as class representatives, they will fairly and adequately protect the interests of the class. Further, Plaintiffs' retained attorneys are competent and experienced in class actions and veterans matters, and they will fairly and adequately protect the interests of the class.

89. *Maintainability.* The maintainability requirements of Rule 23(b)(2) and (3) of the United States Court of Federal Claims are met. As noted, the United States has acted on grounds generally applicable to the class. Questions of law or fact common to the members of the class—especially, but not exclusively, the lawfulness of making CRSC payments effective only upon the receipt of a completed application—predominate over any questions affecting only individual members, and a class action is superior to other available methods for the fair and efficient adjudication of the controversy. Permitting Plaintiffs to maintain this action on behalf of the proposed class will bring appropriate monetary relief to the class as a whole.

COUNT I

(10 U.S.C. § 1413a)

90. Plaintiffs incorporate the allegations in paragraphs 1 through 89 as if fully set forth herein.

91. 10 U.S.C. § 1413a confers a substantive right to monetary benefits for qualifying discharged servicemembers.

92. Plaintiffs and other members of the proposed class have been denied the full amount of CRSC retroactive compensation to which they are entitled under 10 U.S.C. § 1413a as a result of the federal government unlawfully deeming CRSC payments effective only upon the receipt of a completed application. The exact amount owed to Plaintiffs can only be calculated by DFAS, but it can safely be estimated to exceed \$10,000.

PRAYER FOR RELIEF

Plaintiffs respectfully request that this Court enter judgment against the United States and award the following relief:

- a. Certifying this action as a class action;
- b. Appointing SFC Ploe, SSG Montgomery, SGT Coleman, and SPC Benitez as the representatives of the class;
- c. Appointing counsel for Plaintiffs as class counsel;
- d. Granting retroactive CRSC benefits to Plaintiffs and the other class members, which are in amounts that are formulaic in nature;
- e. Awarding Plaintiffs and the other class members costs and reasonable attorneys' fees; and
- f. Granting any other relief that the Court deems proper.

Dated: March 13, 2026

Respectfully submitted,

/s/ *Tacy F. Flint*

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Exhibit 1



MANPOWER AND
RESERVE AFFAIRS

OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE
1500 DEFENSE PENTAGON
WASHINGTON, D.C. 20301-1500

8/20/25

MEMORANDUM FOR ASSISTANT SECRETARY OF THE ARMY (MANPOWER AND
RESERVE AFFAIRS)
ASSISTANT SECRETARY OF THE NAVY (MANPOWER AND
RESERVE AFFAIRS)
ASSISTANT SECRETARY OF THE AIR FORCE (MANPOWER
AND RESERVE AFFAIRS)
DIRECTOR, DEFENSE FINANCE AND ACCOUNTING SERVICE

SUBJECT: Interim Guidance on Combat-Related Special Compensation Determinations
Pursuant to the United States Supreme Court Decision in *Soto v. United States* and
on Effective Dates of Combat-Related Special Compensation Determinations

On June 12, 2025, the United States Supreme Court issued a decision in *Soto v. United States*. This memorandum provides interim guidance related to review of Combat-Related Special Compensation (CRSC) determinations pursuant to that decision and provides further guidance on effective dates of prospective CRSC determinations.

Corporal Simon Soto served in the Marine Corps from 2000 to 2006, when he was medically retired. Petitioner Soto subsequently applied for CRSC in 2016. His application was approved but retroactive payment was limited to a six-year period under section 3702(b) of title 31 of the United States Code (31 U.S.C. § 3702(b)), otherwise known as the Barring Act. Cpl Soto filed a class-action lawsuit arguing that the Barring Act does not apply to CRSC because 10 U.S.C. § 1413a, the CRSC statute, provides its own settlement mechanism. The petitioner prevailed at the District Court, was reversed at the Federal Circuit, and petitioned the Supreme Court to review. The Supreme Court held that the CRSC statute provides a settlement mechanism for CRSC claims, displacing the Barring Act, and remanded the case to the lower court for proceedings consistent with the Court's decision.

Effective immediately, Secretaries of the military departments will cease applying the Barring Act to limit compensation in CRSC award decisions. Additionally, Secretaries of the military departments will remove all references to the Barring Act from any websites, question and answer documents, or other material related to CRSC.

Pursuant to the Court's decision in *Soto*, the Department must identify retired members who's retrospective CRSC awards were limited to six years under the Barring Act and ensure they are compensated to the appropriate effective date. **Attachment 1 provides procedural guidance for this process and should be used to determine the effective date of any CRSC awards that were made before the date of this memorandum.**

Additionally, the Court's finding that the Barring Act does not apply to the CRSC statute requires the Department, under 10 U.S.C. § 1413a(d), to establish procedures and criteria for

application for CRSC eligibility, including establishing an appropriate effective date for CRSC determinations made after the issuance of this guidance.

Accordingly, **for CRSC eligibility determinations made on or after the date of this memorandum**, if the Secretary of the military department concerned initially determines that an applicant for CRSC is an eligible combat-related uniformed services retiree, the effective date for CRSC payments is the date on which the Secretary concerned first received the completed application. For a member previously found eligible for CRSC, any subsequent award for additional disabilities later determined to be combat-related shall be effective on the date the Secretary of the military department received the completed application for such disabilities.

The Secretaries of the military departments will apply this guidance effective on the date of the signature of this memorandum. The Department will issue permanent guidance on this subject in a Department of Defense Instruction (DoDI) as early as practicable.

FITZHUGH.WILLIA M.GRAYSON.1049 315623 Digitally signed by FITZHUGH.WILLIAM.GRAYSON.1049315623 Date: 2025.08.20 10:41:49 -04'00'

William G. Fitzhugh
Performing the Duties of the Assistant Secretary
of Defense for Manpower and Reserve
Affairs

Attachments:
As stated

Attachment 1 – DoD Guidance on Identification and Payment of Retired Members Whose CRSC Claims Were Limited by Application of 31 U.S.C. § 3702(b), The Barring Act

1. Population. The population subject to Attachment 1 includes all members who, prior to publication of this guidance, were determined as an eligible combat-related uniformed services retiree by the Secretary of a military department and had an award of retroactive CRSC limited due to the application of the Barring Act in determining the CRSC effective date. Hereinafter the “Pre -Soto Population)

2. Effective Dates of Claims. The effective date of a claim the Pre-Soto Population is the date that would have been determined to be the effective date, but for the application of the Barring Act. This will be the first date on which the following are true:

- a. a member was eligible for military retired pay; and
- b. a member was in receipt of Department of Veterans Affairs disability compensation and there was a reduction of military retired pay due to the member’s waiver of retired pay to receive VADC; and
- c. a member met the at least one of the criteria in 10 U.S.C. § 1413a(e); and
 - i. . if a member completed at least 20 years of service in accordance with 10 U.S.C. § 1405 or is a Reserve retiree with 7,200 or more points under 10 U.S.C. § 12733 and has a combined VA disability rating of at least 10 percent and has been awarded a Purple Heart or has a combined VA disability rating of at least 60 percent if they have not been awarded a Purple Heart, the effective date is no earlier than June 1, 2003; or
 - ii. . if a member is a Reserve retiree receiving retired pay under 10 U.S.C. § 12731 by any reason other than 10 U.S.C. 12731b, the effective date is no earlier than January 1, 2004; or
 - iii. if a member was retired under any authority outside of those described in paragraphs 2.d. or 2.e. above and not by reason of 10 U.S.C. 12731b, the effective date is no earlier than January 1, 2008.

3. Procedures. Identification and compensation of the Pre-Soto Population will require efforts from the military departments and the Defense Finance and Accounting Service (DFAS). Responsible parties will follow the procedures outlined below.

a. Military Departments. The Secretaries of the military departments will, in a timely manner:

- (1) review the records of all potentially impacted CRSC recipients and determine which members were subject to reduction in award due to application of the Barring Act; and

(2) determine the appropriate effective date for impacted members, modify CRSC decisional documents to reflect the corrected effective dates for members' claims and provide members updated copies of decision documents; and

(3) Provide DFAS with documentation of:

(i) the original effective date; and

(ii) the corrected effective date; and

(iii) the member's entitlement to CRSC, listing all determinations.

b. DFAS. The Director, DFAS will:

(1) compute the amount of retroactive CRSC payments due to impacted members as a result of the data provided by the military departments under paragraph 3.a. above; and

(2) notify impacted members, in a timely manner, of changes to their entitlement as a result of the *Soto* decision; and

(3) process, in a timely manner, payments of retroactive CRSC for impacted members.

4. Arrears of Pay. In the case of members who were part of the Pre-*Soto* Population but have since died, any retroactive CRSC amounts owed for during their lifetime should be considered as Arrears of Pay, payable pursuant to 10 U.S.C. § 2771, subject to any debts the member may have had outstanding at the time of death.

a. Any proper beneficiaries for arrears of pay may make a claim for those additional CRSC payments.

b. DFAS will forward any claim to the CRSC board for determination of what a proper effective date would have been in accordance with Paragraph 3a.

c. Upon receiving from the CRSC Board an effective date for the deceased member, DFAS will compute the additional arrears of pay in accordance with Paragraph 3.b.

d. In no case may a payment be made for any period after the death of the CRSC recipient.

Exhibit 2



MANPOWER AND
RESERVE AFFAIRS

ASSISTANT SECRETARY OF WAR
1500 DEFENSE PENTAGON
WASHINGTON, D.C. 20301-1500

JAN 30 2026

MEMORANDUM FOR ASSISTANT SECRETARY OF THE ARMY (MANPOWER AND
RESERVE AFFAIRS
ASSISTANT SECRETARY OF THE NAVY (MANPOWER AND
RESERVE AFFAIRS
ASSISTANT SECRETARY OF THE AIR FORCE (MANPOWER
AND RESERVE AFFAIRS)
DIRECTOR, DEFENSE FINANCE AND ACCOUNTING SERVICE

SUBJECT: Clarifying Guidance on Effective Dates of Combat-Related Special Compensation
Determinations Pursuant to ASD (M&RA) memorandum of August 20, 2025

On August 20, 2025, this office issued guidance on the effective date of Combat-Related Special Compensation (CRSC) determinations. For CRSC eligibility determinations made on or after that date, we directed that the effective date for payments is the date on which the Secretary concerned first received the completed application.

This memorandum clarifies the calculation of effective dates for those CRSC determinations.

- a. Any CRSC application submitted before the August 20, 2025, memorandum or any application with a pending Department of Veterans Affairs (VA) disability compensation claim at that time that later results in a finding of combat-related disability should be treated as if the determination was made before the August 20, 2025, memorandum.
- b. For such applications, the effective date of the award will be determined using the guidance in paragraph 2 of Attachment 1 of the August 20, 2025, memorandum. In practice, this will be the first date on which all the following are true:
 - i. a member was eligible for military retired pay; and
 - ii. a member was in receipt of Department of Veterans Affairs disability compensation (VADC) and there was a reduction of military retired pay due to the member's waiver of retired pay to receive VADC; and
 - iii. a member met the at least one of the criteria in 10 U.S.C. § 1413a(e).
- c. The effective date of a CRSC award pursuant to this guidance is no earlier than the following, based on the member's status:

- i. June 1, 2003: For members with at least 20 years of service (or Reserve retirees with 7,200 or more points and either a Purple Heart with a disability rating of at least 10 percent or more, or a disability rating of at least 60 percent or more without a Purple Heart);
- ii. January 1, 2004: For Reserve retirees receiving retired pay under 10 U.S.C. § 12731 (for reasons other than under 10 U.S.C. 12731b); or
- iii. January 1, 2008: For members retired under other authorities not described above.

The effective date for CRSC applications submitted after August 20, 2025, that did not have a VA claim in process at that time remains unchanged.

Please review any CRSC determinations made between August 20, 2025, and the date of this memorandum, and adjust effective dates as necessary to comply with this guidance.

If you have any questions, my contact on this matter is Mr. Ron Garner, ronald.t.garner.civ@mail.mil, or (703) 693-1059.

Handwritten signature in blue ink, appearing to read "T. Dill".

Timothy D. Dill