

**LAW OFFICES OF
CARPENTER CHARTERED
P.O. BOX 2099
1525 S. TOPEKA BOULEVARD
TOPEKA, KANSAS 66601-2099**

TELEPHONE: 785-357-5251

FACSIMILE: 785-357-4902

KENNETH M. CARPENTER
Chief Executive Officer

GLENDA S. HERL
Chief Operating Officer

SARA N. HUERTER

July 16, 2024

Ms. Tiffany M. Wagner
Clerk of the Court
U.S. Court of Appeals for Veterans Claims
625 Indiana Ave., N. W. - Suite 900
Washington, D.C. 20004-2950

RE: Frazier, Jeanine
No. 22-4670
Citation to Supplemental Authority by the Appellant

Dear Ms. Wagner:

Pursuant to U.S. Vet.App. R. 30(b), this letter is submitted to bring to the Court's attention supplemental authority that is relevant to the above-referenced case now pending before the Court. The supplemental authority is as follows:

Where Congress writes two statutory provisions and uses different terms in each. Each must understood to have independent meaning and effect. *See Pub. Lands Council v. Babbitt*, 529 U.S. 728, 746-47 (2000) (rejecting interpretation of statute that would have "two sets of different words mean the same thing").

In 38 U.S.C. § 5121(a), Congress uses the term "accrued benefits" to describe periodic monetary benefits to be paid to specifically identified individuals who are permitted to bring a new action for an individual who was entitled at death under existing ratings or decisions or those based on evidence in the file at date of death to recover VA benefits due and unpaid at death of a VA claimant. In 38 U.S.C. § 5121A(a)(1), Congress does not use the term "accrued benefits" but instead uses the term "a living person" who would be eligible to receive accrued benefits due to the claimant under § 5121(a) to identify those individuals who may

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file a request to be substituted as the claimant for the purposes of processing the claim to completion.

Thank you for your attention to this matter.

Sincerely,

/s/Kenneth M. Carpenter
Kenneth M. Carpenter
Counsel for Appellant,
Jeanine Frazier
Electronically filed July 16, 2024