



# JOURNAL

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ACTLJOURNAL@gmail.com

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American College of Trial Lawyers  
1300 Dove Street, Suite 150, Newport Beach, California 92660

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# FOUNDATION UPDATE



EACH YEAR THE ACTL FOUNDATION NOT ONLY FUNDS THE EMIL GUMPERT AWARD, INCREASED LAST YEAR TO \$150,000, BUT ALSO CONSIDERS THE GUMPERT RUNNERS-UP FOR POSSIBLE AWARDS. THIS YEAR ONE OF THOSE RUNNERS-UP WAS A VETERANS DISABILITY ADVOCACY GROUP, PROJECT ONE VET @ A TIME (POVAT).



POVAT’s foundation story is the story of Command Chief Master Sergeant Will Markham, the highly decorated combat veteran who co-founded POVAT. Markham’s job, as a Combat Controller, was to deploy – undetected – into hostile territory to conduct reconnaissance and to establish assault zones and airfields. Markham was the first Air Force member on the ground in Afghanistan after 9/11 and was awarded a Silver Star for gallantry in action.

Upon Markham’s retirement in 2016 after thirty-one years in the Air Force, the Veterans’ Administration (VA) initially determined that he was 100% disabled as a result of the severe physical injuries and psychological damage that he had sustained. Nonetheless, the

## POVAT Summary Table

Case	DOB	Life Expectancy	Married	Additional Dependents	Pre-POVAT Disability %	Post-POVAT Disability %	Increased Lifetime Benefit in US Dollars
BW	06/26/68	80.48	NO	NO	0	90	569,186
JS	03/07/69	80.36	YES	NO	0	90	609,627
BT	12/08/67	80.60	YES	YES	90	100	366,006
WM	06/09/68	80.49	YES	NO	30	100	875,960
AC	09/17/70	n/a	n/a	n/a	80	80	--
JR	10/09/78	79.07	YES	YES	0	60	456,673
SL	09/16/72	79.80	YES	YES	50	100	720,448
CW	04/05/66	80.90	YES	YES	90	100	328,440
<b>AVERAGE INCREASED BENEFIT</b>							<b>491,918</b>

VA downgraded his disability rating eighteen months later from 100% to 30% as the result of a “reassessment” that lasted a total of seven minutes conducted by a nurse. That downgrade meant that Markham was no longer eligible for VA medical benefits. Moreover, the VA then used the downgrade to claw back \$10,000 from Markham for purported “overpayments.”

At that time, Markham knew very little about the VA disability or appeal process. To obtain some expert assistance, Markham contracted Jeffrey O’Hara, a well-known Newark, N.J. trial lawyer and a Fellow of the College. O’Hara, in turn, brought in Dr. Mark McLaughlin, a renowned neurosurgeon. That began a multi-year process during which Markham, O’Hara and McLaughlin worked together to have Markham’s original 100% disability rating reinstated. Finally, in November 2019, the VA reinstated Markham’s original 100% disability rating and made that rating permanent.

That experience led Markham, O’Hara and McLaughlin to co-found POVAT to assist other disabled veterans in obtaining the benefits that they are rightfully

due. During its first three years of existence, POVAT has assisted 100 veterans in seventeen different states and Japan. The vast majority of claims that POVAT is handling are still stuck in the VA disability adjudication process, but POVAT’s record of success on resolved claims is impressive. The results POVAT obtained for the first eight veterans it helped are summarized above.

With the \$100,000 grant awarded by the Foundation, POVAT hopes to assist approximately twenty additional veterans. The Center for Forensic Economics has estimated that, with POVAT’s assistance, those disabled veterans should be able to obtain total additional lifetime economic benefits of approximately \$9.8 million. That’s a return on the Foundation’s grant that even Wall Street investors would envy.

Our thanks to the many Fellows who contribute to the Foundation because, for these disabled American veterans and many others, justice can’t wait . . .

*David Hensler*  
**ACTL Foundation President**

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1300 Dove Street, Suite 150  
Newport Beach, California 92660

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## Statement of Purpose

The American College of Trial Lawyers, founded in 1950, is composed of the best of the trial bar from the United States and Canada. Fellowship in the College is extended by invitation only, after careful investigation, to those experienced trial lawyers who have mastered the art of advocacy and those whose professional careers have been marked by the highest standards of ethical conduct, professionalism, civility and collegiality. Lawyers must have a minimum of 15 years' experience before they can be considered for Fellowship. Membership in the College cannot exceed 1% of the total lawyer population of any state or province. Fellows are carefully selected from among those who represent plaintiffs and those who represent defendants in civil cases; those who prosecute and those who defend persons accused of crime. The College is thus able to speak with a balanced voice on important issues affecting the administration of justice. The College strives to improve and elevate the standards of trial practice, the administration of justice and the ethics of the trial profession.

"In this select circle, we find pleasure and charm in the illustrious company of our contemporaries and take the keenest delight in exalting our friendships."

*Hon. Emil Gumpert  
Chancellor-Founder  
American College of Trial Lawyers*