

# ARTICLE 139 CLAIMS

XVIII AIRBORNE CORPS CLAIMS OFFICE



## **ARTICLE 139 CLAIMS**

### **1. Q. WHAT IS AN ARTICLE 139 CLAIM?**

A. An Article 139, U.C.M.J., Claim is a claim for personal property wrongfully taken or willfully damaged by a member of the Armed Forces.

### **2. Q. WHO CAN FILE AN ARTICLE 139 CLAIM?**

A. Any individual (civilian or service member), business entity, State or local government, or charity can submit a claim under Article 139.

### **3. Q. WHAT TYPE OF PROPERTY LOSS OR DAMAGE IS COVERED BY ARTICLE 139?**

A. An Article 139 claim provides redress for loss of or damage to property which has been willfully damaged or wrongfully taken by a member of the Armed Forces of the United States.

i. *Willfully Damaged*: Includes damages inflicted intentionally, knowingly, and purposefully, without justifiable excuse. Also, includes damage caused by riotous, violent, or disorderly acts, acts of depredation, or acts of showing a reckless or wanton disregard for the property right of others. However willfully damaged property excludes damage caused inadvertently or thoughtlessly through negligence.

ii. *Wrongfully Taken*: Includes any unauthorized taking or withholding of property with the intent to deprive, temporarily or permanently, the person lawfully in possession of the property. This includes property taken through larceny, embezzlement, forgery, misappropriation, fraud or similar conduct. Takings which involve a dispute over the conduct of a soldier acting as the claimant's agent, a dispute over the terms of a contract, or a dispute over ownership of property are not cognizable unless the dispute is merely a cloak for an intent to steal.

### **4. Q. WHAT TYPES OF CLAIMS ARE NOT COVERED BY ARTICLE 139?**

A.

1. Collection of a debt
2. Claims for death or personal injury
3. Claims resulting from negligence
4. Claims resulting from the breach of a contractual or fiduciary relationship
5. Subrogated claims
6. Consequential damages such as lost business, lost earnings, carrying charges, interest, attorney fees, inconvenience, telephone calls, or time spent preparing the claim.

**5. Q. HOW DO I MAKE AN ARTICLE 139 CLAIM?**

A. A claim may initially be submitted orally, but it must be reduced to writing, signed by the claimant and for a definite amount. An oral claim which is not reduced to writing in ten calendar days may be dismissed. A sample claim letter is attached.

**6. Q. WHEN SHOULD I FILE MY ARTICLE 139 CLAIM?**

A. A claim must be submitted within 90 days of the incident which gave rise to the claim, or good cause for the delay must be shown. Generally, a person who is not aware of Article 139 or does not know the identity of the offender has good cause for delay in the submission of his claim.

**7. Q. WHERE DO I FILE MY ARTICLE 139 CLAIM?**

A. It is best to give your Article 139 claim letter to the offending soldier's Company Commander. The claim letter must then be forwarded within two days to the Special Court-Martial Convening Authority (usually the Battalion Commander) with jurisdiction over the offending soldier.

**8. Q. WHAT HAPPENS TO MY ARTICLE 139 CLAIM AFTER I SUBMIT IT?**

A. Within four working days of the receipt of the claim, an investigating officer must be appointed to conduct an investigation. Within 10 working days of appointment, the investigating officer must complete his investigation into the claim.

The investigating officer must then submit his findings and recommendations to the Claims Office. Within 5 working days, the Claims Judge Advocate will review the findings and recommendation. The claim will then be sent to the Commander, who will notify the claimant and the soldier of his decision.

Final action on the claim will be withheld for 10 working days in order to give the soldiers involved time to appeal the Commander's decision. The Commander will then either direct the appropriate Finance and Accounting Office to withhold pay from that soldier and to use that money to pay the claimant, or advise that claimant that his claim will not be paid.

**9. Q. IS THERE A RECONSIDERATION PROCESS?**

A. The claimant or soldier, whose pay has been assessed, may request the Approval Authority or successor in command to reconsider the action. The request for reconsideration must be in writing and clearly state the factual or legal basis for the relief requested.

The original Approval Authority may reconsider the action at any time while holding that position, even if the soldier whose pay was assessed has been transferred. This includes directing the claim being reinvestigated. However, a successor-in-command's review of the claim is limited to matters set forth in the record. Please note that unless the original Approval Authority receives the request in 10 working days after the notice of the decision, actions may only be modified, after legal review, on the following grounds:

1. Fraud
2. Substantial new evidence
3. Error(s) in calculation
4. Mistake of law apparent on the face of the record

If return of assessed pay is deemed appropriate, the Approval Authority should request the claimant to return the money.

SAMPLE ARTICLE 139 CLAIM

Pursuant to Article 139, U.C.M.J., and Chapter 9, AR 27-20, I state that on (date), (name) of (unit) wrongfully took/willfully damaged personal property of mine. I request that you access his/her pay in the amount of \$\_\_\_\_\_ and pay that sum to me.

The basis for the claim is: (list in detail the facts and circumstances of how the property was lost or damaged. Describing the property lost or damaged to include the date of purchase, the purchase price, and the replacement or repaid cost. Give names and addresses of any witnesses.)