

Claims Under Article 139, Uniform Code of Military Justice

Is it actually an Article 139 Claim?

WHAT IS AN ARTICLE 139 CLAIM?

Property that is **willfully damaged or destroyed, or wrongfully taken**, by members of the Armed Forces of the United States.

FACTS

- Any individual (civilian or service member), business entity, State or local government, or charity may submit a claim under Article 139, UCMJ, for property willfully damaged or wrongfully taken by a member of the Armed Forces.
- Property that is **willfully damaged** is essentially vandalism – damage or loss, which is intentionally inflicted. Loss or damage caused by riotous, violent or disorderly conduct may be considered intentionally inflicted.
- A **wrongful taking** is essentially theft – an unauthorized taking or withholding of property with the intent to deprive the owner of either temporary or permanent possession.
- The following claims **ARE NOT** covered by Article 139: collection of a debt; claims for death or personal injury; claims resulting from negligence or from breach of a contractual or fiduciary relationship; subrogated claims; and consequential damages such as lost business, lost earnings, carrying charges, interest, attorneys fees, inconvenience, telephone calls, or time spent preparing the claim.

PROCEDURES

- Claims must be submitted within 90 days of the incident to the commander who has Special Court-Martial Convening Authority (SPCMCA) over the offending service member. The Brigade Legal of that command may assist an individual with the preparation of his or her claim.
- Within four working days of receipt of the claim, the SPCMCA must appoint an investigating officer, unless the SPCMCA determines the claim is not cognizable (i.e. contractual) under Article 139. Commanders should instruct investigating officers to obtain advice from a claims attorney prior to starting the investigation. The investigating officer must complete the investigation within ten days of appointment and submit the findings and recommendations to a claims attorney for a legal review. The claims attorney prepares a written legal review and forwards the claim to the appropriate commander who notifies the claimant and the service member of his or her decision and provides them with 10 working days to respond before taking final action. If the appropriate commander approves the claim, the commander directs finance to withhold the pay from the service member and pay the claimant.
- Determination of who is the appropriate commander to take final action on the claim is based on the amount of the claim.
- The SPCMCA may take final action on claims that do not exceed \$5,000. The GCMCA may take final action on claims that exceed \$5,000 but do not exceed \$10,000. The Commander, USARCS must approve the GCMCA's recommendation to assess amounts in excess of \$10,000.

If you have any questions, contact your unit's legal clerk or contact the Fort Drum Claims Division, OSJA.