

## Article 139 Claims

### Office of the Staff Judge Advocate Claims Division

If you feel a member of the Armed Forces has willfully damaged or wrongfully taken your property you may be able to recover your damages by filing an Article 139 claim. Article 139, UCMJ, provides a means of redress to any individual or business whether civilian or military who believes their property has been willfully damaged or wrongfully taken by a member of the Armed Forces of the United States. An Article 139 claim is a complaint made to the Brigade Commander of the offending soldier. Article 139 authorizes the Brigade Commander to investigate allegations of wrongful taking or willful damage of property by soldiers in their command, and to direct finance to pay the victim directly from the soldier's pay if appropriate.

The key words in Article 139 are "willfully damaged" or "wrongfully taken," meaning, generally, vandalism or theft. Willful damage is damage inflicted intentionally, knowingly, and purposefully without a justifiable excuse. Willful damage is not damage caused inadvertently or thoughtlessly in a negligent manner. A wrongful taking is any unauthorized taking or withholding of property, with the intent to temporarily or permanently deprive the rightful owner. An investigating officer (IO) must find that the offender intended the act that caused the loss or showed a reckless or wanton disregard of the property rights of the claimant. An Article 139 claim is appropriate if it is shown, for example, that a particular soldier stole personal property, such as a stereo or camera or cash, and that property cannot be recovered. An Article 139 claim would also be appropriate if a soldier intentionally vandalized an automobile or willfully destroyed or damaged a claimant's personal property.

Article 139 does not apply to claims for property damage resulting from negligence (such as most fender-bender traffic accidents), or for death or personal injury. Article 139 does not apply to disputes over debts, contracts, or over ownership of property, unless the dispute is merely a cloak for intent to steal. Article 139 does not include claims for indirect, remote or consequential damages. For example, if Private A has to rent a car because Private B wrongfully took and wrecked Private A's car, Private A can recover only the reasonable value of the damage to the car.

The Article 139 claim must be written, signed by the claimant and seek a definite sum of money in U.S. dollars. The complaint must be submitted within 90 days of the incident giving rise to it, unless there is good cause for the delay. Although the complaint may be submitted to any commander in the offender or claimant's chain of command, it is better to submit the claim through the Claims Office. The Claims Office will forward the complaint to the offender's Brigade Commander. The Brigade Commander will appoint an investigating Officer within four days of the receipt of the claim. The IO completes the investigation within 10 days of receipt of the claim and submits the report to the Brigade Commander who returns the report to the Claims Office for legal review.

After the legal review, the claim is returned to the Brigade Commander for approval or disapproval. If the Brigade Commander approves the claim, he or she will direct the Finance and Accounting Office to withhold the amount approved from the pay of the offending soldier and pay it directly to the claimant. The Brigade Commander may approve claims for up to \$5,000.00. The Commanding General, 7<sup>th</sup> Infantry Division and Fort Carson may approve claims that are over \$5,000.00 but less than \$10,000.00. For claims greater than \$10,000.00, approval is required from the commander of the U.S. Army Claims Service, The Judge Advocate General, or The Assistant Judge Advocate General.

Although Article 139 does not provide for a right of appeal, either the claimant or a soldier whose pay is assessed may request the approval authority reconsider the action. Both the claimant and respondent have ten (10) working days to request reconsideration. The request for reconsideration must be in writing and clearly state the factual or legal basis for the reconsideration.

The Claims Office can help the claimant file his or her claim and ensure the claim is delivered to the appropriate commander. A Claims Judge Advocate briefs and advises the IO, monitors the progress of the claim, and reviews the IO's report for legal sufficiency. They will also forward any claim for an amount over \$10,000.00 to the U.S. Army Claims Service.

Article 139 can be a valuable tool for commanders. Article 139 provides an opportunity to force the wrongdoer to compensate victims for property damage or destruction. Command emphasis is required to ensure these investigations are completed quickly. Article 139 claims operate independently of any criminal action, and should not be delayed pending the outcome of adverse criminal or administrative initiatives. In addition, since respondents are often pending separation, it is crucial that Article 139 claims be filed and processed as quickly as possible to ensure valid claims are paid before the respondent is separated and no longer subject to military pay withholding. Once the offender is no longer receiving military pay, the claimant may have no effective remedy for his loss.

If you feel a member of the Armed Forces has willfully damaged or wrongfully taken your property, contact the Fort Carson Claims Division at 526-1355 for information on initiating an Article 139 claim. The Claims Office is located in the Office of the Staff Judge Advocate, Building 6285, 7086 Albanese Loop, across the street from the Elkhorn Conference Center. Office hours are 0900-1600 Monday through Friday (1200 – 1300, closed for lunch.)