



MOUNTAIN POST LEGAL BRIEF

A Preventive Law Service of The Office of the Staff Judge Advocate
Headquarters, Fort Carson
Keeping You Informed On Personal Legal Affairs



ARTICLE 139 CLAIMS

Consider these questions and answers to help you determine your rights under Article 139, UCMJ in filing a claim against a servicemember.

Q: WHAT IS ARTICLE 139, UCMJ?

A: Article 139 of the UCMJ provides redress for property willfully damaged or destroyed, or wrongfully taken by members of the Armed Forces. Article 139 is an administrative remedy focused on providing restitution to victims of certain offenses committed by a military member.

Q: WHO MAY FILE A CLAIM UNDER ARTICLE 139?

A: Any individual, state or local government entity that lawfully owns or has an ownership in property, or business may file an Article 139 claim.

Q: WHAT ACTIONS ARE PROPER SUBJECTS OF AN ARTICLE 139 COMPLAINT?

A: Article 139 applies only to loss or damage to "real or personal property that has been willfully damaged or wrongfully taken" by a military member. Willful damage includes "damage caused intentionally without justification" and damage from "riotous, violent, or disorderly acts; acts of depredation or acts showing a reckless and wanton disregard for the property rights of others." Property "wrongfully taken" includes property stolen, misappropriated or obtained through forgery, embezzlement and fraud.

Q: WHAT ARE NOT PROPER SUBJECTS OF AN ARTICLE 139 COMPLAINT?

A: Article 139 does not apply to claims:

- (1) Resulting from negligent acts;
- (2) For personal injury, death, or theft of services;
- (3) From acts or omissions of military personnel acting within the scope of their employment;
- (4) Resulting from the conduct of Reserve Component personnel who are not subject to the UCMJ at the time of the offense;
- (5) Subrogated claims (including insurers);
- (6) Involving only contractual and fiduciary disputes; and
- (7) For indirect, remote, or consequential damages.

Q: WHAT ARE THE PROCEDURES FOR FILING AN ARTICLE 139 CLAIM?

A: A claim must be submitted to a Claims Office within 90 days of the incident that gave rise to the claim, unless the claimant can show good cause for his failure to submit the claim within the prescribed time period. An Article 139 claim may be submitted either orally or in writing. An oral claim must be reduced to writing and signed by the claimant within 10-days of making the claim. An oral claim not reduced to writing within 10-days may be dismissed. The claim must seek a definite sum in U.S. dollars.

Q: WHAT HAPPENS AFTER AN ARTICLE 139 CLAIM IS SUBMITTED?

A: After submission, an Article 139 claim is forwarded to the appropriate court-martial convening authority (CMCA). A Special Court-Martial Convening Authority (typically a brigade commander) may act on claims for \$5,000 or less. If the claim is \$5,001 to \$10,000, a General Court-Martial Convening Authority may act on the matter. The pertinent CMCA will determine whether the claim is timely filed or, if not timely filed, whether good cause exists. If the court-martial convening authority believes the claim appears cognizable, he/she will appoint an investigating officer (IO) to

investigate the matter. Generally, the IO is given 10 working days to complete the claims investigation. Upon conclusion of his investigation, the IO will submit his findings and recommendations to the servicing judge advocate for legal review. Upon completion of the legal review, the IO will forward his findings and recommendation to the appointing convening authority for decision. The convening authority may disapprove the findings (regardless of amount) or approve the findings in an amount equal to or less than the amount recommended by the IO. Claims recommended for approval in an amount in excess of \$10,000 will be forwarded to the United States Army Claims Service for action.

Q: WHAT IF A CLAIM IS APPROVED AGAINST ME, OR MY CLAIM AGAINST A SOLDIER IS APPROVED FOR TOO SMALL AN AMOUNT?

A: AR 27-20 allows for a request for reconsideration of an approved claim. Either party may present in writing a request which clearly states the factual or legal basis for the reconsideration. The original approval authority for the claim may then require additional investigation or modify the action due to fraud, substantial new evidence, errors in calculation, or mistake of law.

Q: WHAT SHOULD I DO IF I HAVE FURTHER QUESTIONS ABOUT ARTICLE 139 CLAIMS?

A: You may contact the Fort Carson Legal Assistance Division for preliminary advice. A legal assistance attorney can advise you, and arrange for you to file a claim with the Fort Carson Claims Division.

Consultation with Army attorneys is free to eligible clients. If you have questions or need help with legal problems, call the Fort Carson Legal Assistance Office at 719-526-5572/5573 or come by the office (building 6222) Monday-Friday from 9 a.m. to 4 p.m. Appointments are made on the last duty day of every week, you can call or walk-in to schedule an appointment.

MOUNTAIN POST LEGAL BRIEF is one of a series of informative handouts from the Fort Carson Legal Assistance Division containing general information on topics that legal assistance attorneys frequently advise on. Information provided is general in nature and does not constitute legal advice. Consult an attorney for specific legal advice for your particular situation. You may schedule a legal assistance appointment by calling the Legal Assistance Division at 719-526-5572.