

An Article 139 Claim Update

by CPT A.J. Browell

If a Soldier has wrongfully taken or willfully damaged your property, you may file a claim against the Soldier under Article 139 of the Uniform Code of Military Justice (UCMJ). However, certain requirements must be met before your claim can be paid. Two important requirements in Article 139 claims are:

- the claimant must be a **proper party** under the rules; and,
- the property must actually be **willfully** damaged.

There are many categories of individuals or entities that can be a proper claimant for the purposes of Article 139. This includes local nationals, businesses, charities, and even state or local governmental agencies. Proper party claimants do **not** include agencies or non-appropriated fund instrumentalities (NAFIs) of the United States Government (*e.g.*, military units, DoDDS Schools, MWR programs).

In addition, an Article 139 claim must establish that the offender willfully damaged the property. Willful damage to property falls into one of two categories: (1) damage caused intentionally (*e.g.*, vandalism), and (2) damage resulting from riotous, violent, or disorderly acts, acts of depredation, or acts showing a reckless and wanton disregard for the property rights of others. In other words, the Soldier must understand that there is a high likelihood that his behavior could cause damage, and intentionally cause it anyhow. This type of behavior is distinguished from a Soldier acting negligently; accidental damage is not within the scope of Article 139.

Article 139 claims frequently relate to a Soldier's actions while under the influence of alcohol. However, just because a Soldier was "under the influence" does not necessarily mean he willfully damaged the property. The degree of intoxication by itself, or in combination with other evidence of recklessness, may be enough to establish that the Soldier acted willfully, but it is by no means dispositive of the issue.

For example, if Soldier A discovers his wife is having an affair with Soldier B and Soldier A drinks a liter of vodka, then drives his car into the living room of Soldier B, it would likely be determined that Soldier A willfully caused such damage. Conversely, if Soldier C gets drunk in downtown Kaiserslautern and, on the way home, veers onto a curb damaging a local national's mailbox, it would likely be determined that Soldier C did **not** willfully damage the mailbox.

As you can see, the issues involved in Article 139 claims are complex; the claims experts at the Kaiserslautern Claims Office stand ready to advise potential Article 139 claimants on how to avail themselves of this important alternative to small claims court.

If you have further questions about these or other claims-related issues, call the Kaiserslautern Claims Office at DSN 483-8855/8856 or Civilian 0631-411-8855/8856, or visit the office, located in Room 112 of the Kaiserslautern Legal Services Center, and consult with our claims experts.

