

ARTICLE 139 CLAIMS — THE MILITARY EQUIVALENT OF SMALL CLAIMS COURT

by CPT Mike Gilbertson

Claims filed under Article 139 of the Uniform Code of Military Justice (UCMJ), are the closest thing the military has to small claims court.

If your personal property is willfully damaged or wrongfully taken by a U.S. service member, including active duty personnel, retired personnel who were on active duty when the claim was filed, and Reservists and National Guard while subject to the UCMJ, you may file a claim against the U.S. service member under Article 139. If the claim is substantiated, Article 139 allows Finance to pay the victim directly from the service member's military pay. If an individual offender cannot be determined, Article 139 authorizes commanders to direct Finance to withhold the pay of all members of a unit who were present at the scene of the incident that gave rise to the claim. Article 139 is entirely separate and distinct from disciplinary action taken under other sections of the UCMJ.

Examples of incidents upon which an Article 139 claim could be based include:

- A Soldier starts a fight with a civilian and breaks the civilian's home furnishings.
- A Soldier is off-duty and intentionally breaks a downtown storefront window.
- A Soldier "borrows" another Soldier's cell phone and sells it to a pawn shop.
- A Soldier deliberately pours a beer into the stereo system of another Soldier who dated his girlfriend.

Limitations: Article 139 claims cannot be based on personal injury, breach of contract, unpaid bills, or bad checks. Nor can Article 139 claims be based on property damage caused inadvertently or thoughtlessly. Article 139 claims do not cover indirect or consequential damages like loss of use or attorney's fees. An appropriated fund entity or a non-appropriated fund entity cannot file an Article 139 claim. However, just because a claim does not meet the filing requirements for Article 139 does not preclude you from pursuing other avenues of legal redress.

Process: A claimant must file within 90 days of the incident giving rise to the claim, unless the Special Court Martial Convening Authority (SPCMCA) acting on the claim determines there is good cause for delay. Good cause generally includes being unaware of Article 139 or the identity of the offender(s). The claim may be initially presented by the claimant, or an authorized agent, orally or in writing. The claim must be reduced to writing within 10 days of oral presentment, it must request a specific sum in U.S. dollars, and it must be signed. The victim does not need an attorney to file the claim and the claims system will not reimburse the victim for attorney's fees or a professional appraisal.

For more information on Article 139 claims, and a form you can use to file such a claim, see our handout at: <http://www.21tsc.army.mil/aerja/Claims/Article%20139%20Claims%20FAQs.pdf>

For answers to questions about claims and assistance in filing any kind of claim, contact the Kaiserslautern Legal Services Center Claims Office at DSN 483-8414/8862 or Civilian 0631-411-8414/8862, and ask to speak to one of our claims examiners, Mrs. Berndt or Mrs. Jordan. You can also e-mail claims questions to us at:

legal@eur.army.mil

