



OUR ANNUAL TAX ISSUE!!

KAISERSLAUTERN LEGAL SERVICES CENTER



KAISERSLAUTERN LEGAL INFORMER

21st TSC WINS 5 DA-LEVEL LEGAL AWARDS



The 21st TSC Commanding General, MG Aundre F. Piggee (center) and the USAG Kaiserslautern Commander and CSM (left) share a proud moment with members of the Kaiserslautern Legal Services Center's award-winning client services team.

by Steve Smith

In a special courtroom ceremony on February 1st, the 21st TSC Commanding General, MG Aundre F. Piggee, presented five Department of the Army-level awards to representatives from 21st TSC law centers in Germany, Belgium, and the Netherlands.

Each year, legal assistance and claims offices throughout the Army compete for these coveted awards. 21st TSC has a proud record of achievement in these competitions, having won 71 such awards since 2001.

The Kaiserslautern Legal Services Center was a double winner. Former Claims Judge Advocate CPT Mike Gilbertson accepted the FY11 TJAG Award for Excellence in Claims, and 21st TSC Tax Program Coordinator Donald Davis accepted

the FY11 Army Chief of Staff Award for Excellence in Legal Assistance. This marked the sixth consecutive year that Kaiserslautern has won both awards.

Other 21st TSC winners in the FY11 competition included the Stuttgart Law Center (Claims), the Northern Law Center in Mons, Belgium (Legal Assistance), and the Netherlands Law Center in Schinnen (Legal Assistance).

MG Piggee congratulated the winning offices for "being the best in the Army at taking care of Soldiers and their Families," and giving real meaning to the 21st TSC motto: "First in Support!"

The courtroom ceremony was followed by the ribbon cutting for the Grand Opening of the Kaiserslautern Tax Assistance Center. Photos of both events appear in this special tax edition of this newsletter.

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*United States Army
Judge Advocate
General's Corps -
America's Oldest
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The 2013 Tax Season in Pictures:

MG Aundre F. Piggee (center), the 21st TSC Commanding General, assisted by LTC Lars Zetterstrom (left), the USAG Kaiserslautern Commander, and COL Ralph J. Tremaglio, III (right), the 21st TSC Staff Judge Advocate, slashes the ribbon at the Grand Opening of the Kaiserslautern Tax Assistance Center on February 1st. Since then, 21st TSC tax centers have prepared over 4,100 federal and state tax returns, saving military taxpayers over \$840,000 and generating over \$8.9 million in refunds. ***Hooah!***



LTC Sean McMahon, 21st TSC Deputy Staff Judge Advocate, thanks Monica Merchan, an IRS Senior Tax Consultant from New York City, for training our Kaiserslautern and Stuttgart tax teams for the second year in a row.



Our Kaiserslautern Tax Assistance Center waiting room has seen so much customer traffic over the years that it was time for new carpeting, which was installed over President's Day weekend to minimize disruptions.



Our Kleber Tax Team

The staff of the Kaiserslautern Tax Assistance Center is ready to serve you. They are located in Room 101 on the ground floor of Bldg. 3210 on Kleber Kaserne. Call DSN 483-7688 or 0631-411-7688 for more information.



Our Landstuhl Tax Team

To better serve our customers in the western KMC, we also operate a satellite Tax Assistance Center at Landstuhl Regional Medical Center, on the ground floor of the Education Center in Bldg. 3701. Call DSN 486-6334 or 06371-86-6334 for more information.

Tips for the 2013 Tax Season

by Donald Davis

The biggest change that will affect military taxpayers in Europe this tax season is the permanent closure of the Heidelberg Tax Assistance Center, which will take place on April 15th this year. Thousands of taxpayers have used the services of Heidelberg's tax center over the years. It acquired even more customers when the military communities in Karlsruhe, Worms, Darmstadt, and Mannheim drew down; everyone fell in on Heidelberg. Not everyone who is currently living in the greater Heidelberg area will be moving to Wiesbaden, particularly the hundreds of military retirees, widows, and widowers who live in the surrounding area. Many of these taxpayers will turn to the tax centers in Kaiserslautern, Stuttgart, and Wiesbaden for help, but, since Stuttgart is surrounded by gridlocked Autobahns and Kaiserslautern is closer to Heidelberg than Wiesbaden (and is home to the KMCC shopping mall), we anticipate that the majority of taxpayers who used to have their taxes prepared in Heidelberg will wind up coming to Kaiserslautern. We will do our best to accommodate this influx of new customers, as we have for those who have moved to Sembach or work in Grundstadt or Germersheim. Whether we will be able to continue to offer a full range of tax assistance services as we have in the past will depend in large part on whether IMCOM continues to fund civilian tax clerks in sufficient numbers to meet the demand.

As in past seasons, we're doing a lot of state tax returns. Remember, just because you are stationed overseas doesn't mean you don't have to pay state taxes. It all depends on the law of your state of legal residence. Some states have no income tax. Some do but don't tax you if you meet a "three-part test." Others have special tax breaks for the military. And still others tax you regardless of whether you are in the military or overseas. This is a very complicated business, and the best advice I can give you is to visit our tax assistance centers and let the tax experts figure it out for you. We have special guides and software that can be a big help, and the service is absolutely free!

While the stateside filing deadline is April 15th, taxpayers overseas enjoy an automatic extension of the deadline to file until June 17th [since June 15th falls on a Saturday this year]. ***This is not an extension of the time to pay any taxes you owe!*** If you owe taxes, you must pay by April 15th to avoid paying interest and late payment penalties. Our tax centers on Kleber Kaserne and at Landstuhl will remain open through June 17th to assist taxpayers who avail themselves of the overseas filing extension. It's a valuable program; use it or lose it!

A final note: ***it is particularly important that taxpayers who want to use our free tax services come see us before April 15th this year!*** While our tax centers will remain open until June 17th, our staffing after April 15th will not be as robust as it has been in years past. And, as noted above, you need to figure out whether you will owe tax and pay it by April 15th to avoid interest and penalties.

Editor's Note: Donald Davis is the 21st TSC Tax Program Coordinator.



KAISERSLAUTERN LEGAL SERVICES CENTER

**Building 3210
Kleber Kaserne**

Legal Assistance 483-8848

Tax Assistance 483-7688

Claims 483-8855/8856

International Affairs 483-8854

Trial Defense Service 483-8397

[Civilian: 0631-411-XXXX]

Administrative Law 484-8747

Criminal Law 484-7419

[Civilian: 0631-413-XXXX]

TY 2012 KEY FIGURES:

Average Exchange Rate:
\$1.00 = .809 Euros*

Mileage Rates:

Business: **55.5 cents/mile**

Moving/Medical: **23 cents/mile**

Charitable: **14 cents/mile**

**Maximum Foreign Earned
Income Exclusion: \$95,100**

Standard Deductions:

MFJ/Qual. Widow(er) **\$11,900**

Single/MFS: **\$5,950**

Head of Household: **\$8,700**

Personal Exemptions: \$3,800

*** this is the rate the IRS is using, but the IRS will accept "any reasonable rate"**

Tax Returns and Identity Theft

A tax attorney offers practical tips on how to protect yourself...

by Mark Christensen

Most of us know that basic identity theft prevention starts with the protection of personally identifiable information, often called PII. Our social security numbers are one of the most sensitive pieces of our PII, linked to our employment, financial accounts, and status with the U.S. Government. Protecting your PII is a full-time job.

The IRS is aware that many identity theft cases involve tax returns. Identity thieves use PII to file fraudulent tax returns in order to collect illegal refunds, often with devastating effects on the victims. Be especially aware of scams involving tax information, and be prepared to address situations where your PII has been used illegally.

First, guard your personal information. Identity thieves get PII in many ways, such as stealing a wallet or purse, posing as someone who needs information, looking through trash, or stealing information on unsecured websites or in unencrypted e-mails.

Second, watch out for IRS impersonators. The IRS does not initiate contact with taxpayers by e-mail or social media channels to request PII or notify someone of an audit, refund, or investigation. Scammers use phone calls, faxes, websites, or even in-person contacts. If you are approached in any manner about your PII, be very suspicious about the source and do not respond.

Finally, protect your PII. While preparing a tax return, protect it with a strong password. Once you e-file a return, take it off your hard drive and store it on a CD or flash drive in a safe place, like a lock box or safe. If you use a tax preparer, ask how he or she will protect your information. Army tax centers do not store tax returns or your PII. We prepare returns on a secure website provided through the IRS, and we ensure that the sanctity of your PII is maintained throughout the preparation process.

Some ways to determine whether you might be a victim of identity theft include:

- The IRS notifies you that a return has already been filed using your information.
- The IRS says you owe taxes for a year when you were not legally required to file and did not file.
- IRS records show you were paid wages from an employer you did not have.

If the IRS notifies you about a questionable tax item, respond quickly using the contact information in the letter you received. The IRS will take immediate steps to correct and secure your tax account. You can also contact the Kaiserslautern Legal Services Center for more information about addressing identity theft concerns.

To make an appointment to see a Legal Assistance Attorney, call the Kaiserslautern Legal Assistance Office at DSN 483-8848 or Civilian 0631-411-8848.



What If You Owe Taxes?

A tax attorney lays out options for those who owe...

by Steve Smith

The vast majority of taxpayers who patronize our tax assistance centers receive refunds, but there are always a few who wind up having to pay additional tax to Uncle Sam. This can result from underwithholding (*i.e.*, not having enough withheld from your pay or pension to cover your tax obligations), having an unexpectedly good year in the stock market, receiving an untaxed bonus, or various other reasons.



If you owe tax, you should pay it by April 15th to avoid being assessed interest and late payment penalties on amounts owed. If you are ready to file your return before April 15th, you can make your payment by writing a check to the “United States Treasury” and enclosing it and Form 1040V (a voucher that identifies the taxpayers and their tax identification numbers—SSNs or ITINs) with a paper version of your return and mailing it to the IRS. Even if you are not ready to file yet, you should still send in payment by April 15th for what you estimate you will owe. Your payment should be accompanied by either Form 1040V or a Form 4868, which is the form you file to request a filing extension until October 15th. Note that overseas filers have an automatic filing extension until June 17th, but, if you will need more time than that, filing Form 4868 is the way to go.

If you electronically file your return, you can either have payment automatically deducted from your bank account, or you can print out Form 1040V and mail it to the IRS by April 15th with a check for the amount of additional tax owed.

What if you owe more than you can afford to pay right now? You can fill out Form 9465 and send it to the IRS to request permission to pay in installments. The IRS will charge you \$105 to set up this installment agreement (or \$52 if you make your payments by electronic funds transfer). Either way, that’s a lot to pay if you only owe a small amount. If you can pay the full amount you owe within 120 days, call 1-800-829-1040 to establish your request to pay in full. If you can do this, you can avoid paying the fee to set up an installment agreement.

How can you avoid having to pay in future years? You can submit a new W-4 Form to your employer (or a W-4P Form to whoever pays your pension or annuity) to have more tax withheld from each paycheck (or pension/annuity payment) you receive throughout the year. Or you can pay additional tax to the IRS throughout the year by filling out the worksheets on Form 1040ES (“ES” stands for estimated tax) to estimate how much additional tax you will have to pay and mailing in the four coupons that are part of that form so you pay that tax in quarterly installments. Waiting until the end of the year to pay the extra tax is generally not a good idea. To the extent you deprive the IRS of the ability to make money with your money throughout the tax year, they’ll get it by assessing an underwithholding penalty.

For more information on how to make payments to the IRS, contact your servicing tax assistance center or make an appointment to see a Legal Assistance Attorney.

Meet Our New Chief Paralegal NCO

by Steve Smith

MSG Dwayne Dozier arrived in Kaiserslautern this winter to take over for retiring MSG Scott Haarer as Chief Paralegal NCO for the 21st TSC Office of the Staff Judge Advocate. He comes to us from Fort Jackson, South Carolina, where he spent the last two years as a First Sergeant training thousands of 42A Human Resource Specialists and 36B Financial Management Technicians.

A native of Newark, New Jersey, MSG Dozier entered the Army Reserve in 1991, and went on Active Duty in 1993. He is no stranger to the 21st TSC, having served from 1996 to 1999 as a paralegal in our Mannheim Law Center, where he worked in Claims and for the Trial Defense Service. He has also served in Korea and Hawaii, and at Fort Hood and Fort Sam Houston, in addition to serving as a Drill Sergeant at Fort Jackson.



MSG Dozier is accompanied by his wife, Nicki, and his daughter, Morgan, who is an 8th grader at Kaiserslautern Middle School. His son, Donovan, is a freshman in college.

A fan of the New York Giants and New York Knicks, MSG Dozier enjoys playing basketball and cooking. He is happy to be back in Germany and looking forward to the challenge of training and taking care of the needs of the 21st TSC's military paralegals.

IRS Adopts a "5-Year Rule" on Individual Taxpayer Identification Numbers (ITINs)

by Donald Davis

There was a time when nonresident aliens who were married to American taxpayers could simply write "NRA" in the Social Security Number (SSN) block next to their name on a U.S. tax return. Those days are long gone. If your foreign spouse does not qualify for a SSN because they do not live or work in the U.S., they need to apply for an Individual Taxpayer Identification Number (ITIN), which is a 9-digit number similar to a SSN that begins with a 9. The foreign spouse fills out Form W-7 to request the ITIN, attaches proof of identity, and mails it along with a paper return (with the space for the spouse's SSN left blank) to the IRS's ITIN Unit in Austin, Texas. The ITIN Unit assigns an ITIN, sends a letter to the applicant containing the number (for use on future returns), writes the number in the blank on the current year paper return, and forwards the return for processing.

This application process has never been easy, and it is about to get even harder. The IRS recently announced that newly-issued ITINs will expire after five years. This change will provide additional safeguards to the ITIN program to help ensure only people with legitimate tax purposes are using the numbers. Taxpayers who still need an ITIN at the end of five years will be able to reapply at the end of the expiration period. In addition, the IRS will explore options, through engagement with interested groups, for deactivating or refreshing the information relating to previously-issued ITINs. ITINs that were obtained before 2013 that have not been used on a federal income tax return will also be subject to being deactivated.

The only good news I have to report is an exception the IRS carved out for military taxpayers. The exception allows military taxpayers to submit, as proof of identify, a photocopy of the applicant's military dependent ID card or passport that has been notarized by an American notary. We can do that! It's a lot less burdensome than having to send original documents to the IRS with a W-7 form.

Job Well Done!

MG Aundre F. Piggee, the 21st TSC Commanding General, presents the American flag to MSG Scott Haarer, the outgoing 21st TSC Chief Paralegal NCO, on the occasion of his retirement after 21 years of dedicated service, in a special ceremony held at the Galaxy Theater in Vogelweh. MSG Haarer and his family are now living in Clarksville, Tennessee.



MSG Dwayne Dozier, incoming 21st TSC Chief Paralegal NCO (left), congratulates USAREUR Paralegal Soldier of the Year Blair Berry on his promotion to Sergeant, and his joining the ranks of the Noncommissioned Officers.



21st TSC SJA COL Ralph J. Tremaglio, III (right) presents the Achievement Medal for Civilian Service to Ethics & Fiscal Law Attorney Rick Schwartz, who is the author of this newsletter's "Ethics Corner" column.



"Tax talkers" from Kaiserslautern took part in two AFN "Open-Line" tax call-in shows in February, broadcast from AFN HQs on Coleman Barracks in Mannheim.



In the studio with legendary AFN broadcaster Gary Bautell, who moderated the "Open-Line" shows. Gary has worked at AFN since 1962. That's Elvis on the wall!

Is Mediation Right for You?

KLSC to launch alternative dispute resolution program...

by MAJ Karin Chelluri

The primary objective of mediation is to allow you to resolve your disputes without judicial intervention. Mediation provides a forum in which you and the opposing party meet and discuss different alternatives for settlement. Most disputes result from poor communication. Mediation is an opportunity to communicate better—to be fully heard, to present your story, and to search for mutually satisfactory solutions. In mediation people often communicate more effectively with one another than in court because the mediator is there to facilitate a reciprocal exchange of information. Unlike a court proceeding, mediation provides a neutral setting where both parties to a domestic dispute are allowed to share and discuss their thoughts and feelings about issues such as division of personal property, the need for future support, and the future needs and custody arrangements for children.



More importantly, mediation allows the parties to consider alternatives they may not have been able to perceive before. By mediating, parties are likely to get more of what they really want instead of what a lawyer tells them they should request or be satisfied with. In mediation, you express your own opinions and concerns, unlike the civil litigation or family law process where your attorney will speak for you, unless you “take the stand,” subjecting yourself to cross-examination by an opposing attorney. In both civil litigation and family law court, most often there is a verdict or decision by a judge and the parties must accept the court’s decision. Mediation is nearly always a better form of dispute resolution as it permits you to control the outcome, rather than a third party who doesn’t have to live with an imperfect solution.

The best part about using mediation to resolve family law disputes is that typically where children are involved both parents must continue to communicate with each other far into the future; it is far more advantageous to maintain a cordial, cooperative relationship rather than a scorched earth adversarial process that results in bitterness and acrimony moving forward, a result that often occurs after a contested divorce or custody proceeding.

What kinds of issues are appropriate for mediation? Mediation can assist you in resolving concerns such as division of property, child custody, and debt allocation in a pre-divorce context; post-divorce custody, neighbor-to-neighbor disputes, and contract disputes can also be mediated. You decide if you would like to try mediation; the process is voluntary and both parties must sign an agreement affirming that they are willing to mediate. You will not be forced or coerced into settling your case during mediation, if you do not like the proposed outcome you can choose not to enter a mediated settlement agreement at the conclusion of the mediation session. It is important to remember, however, that if you cannot come to a resolution you will likely be giving all the decision making authority to a judge.

[continued on page 9...]

Is Mediation Right for You? (continued)

Most parties who enter mediation settle their dispute because they wisely weigh the question, “Who do I want to decide this issue, me or a Judge?” Often when issues remain unresolved and are considered by the judge, no one wins, because neither side gets exactly what they want. Mediation offers the unique flexibility to craft creative solutions that address the core of the dispute and your true interests.

Can you trust a mediator to aid in resolving your dispute? A mediator will have training in the mediation process. Often, the mediator will be an attorney who has practiced family law, and will be familiar with the general issues of your case. The format of the mediation can take several forms. Some mediators prefer to seat everyone around a table and discuss all the open issues in this public forum. Some prefer to separate the parties into different work spaces and shuttle back and forth between each side. Alternatively, the mediator may act as a facilitator, identifying open issues, exploring solutions and road blocks, and making suggestions for alternatives neither party may have originally considered. Unlike a lawyer who advocates only for his own client’s interests, a mediator is an objective third party whose only interest is to get the two opposing sides to meet somewhere in the middle. The mediator will not impose his judgment on the parties or force them to enter into a settlement agreement. If the parties can come to a satisfactory settlement, however, the mediator will draft a mediated settlement agreement (MSA) reflecting the outcome of the mediation. In order to be binding, the MSA must contain a conspicuous statement that it is irrevocable, both parties must sign (and, if attorneys are already involved, they must sign, too). Although mediation may settle every issue in the case, a brief final hearing may be necessary to conclude the case. Finally, a brief note on confidentiality: none of the information disclosed in mediation is admissible in court. This enables the participants to feel secure in disclosing the facts necessary to settle their dispute.

The Kaiserslautern Legal Services Center will be inaugurating a mediation services program in April of this year. Watch for more information in the next issue of the Kaiserslautern Legal Informer and check the 21st TSC OSJA website (below) for further updates.



We're On the Web!

Current editions of the “Kaiserslautern Legal Informer” are posted on the 21st TSC website at: <http://www.eur.army.mil/21TSC/mags.asp>

Back editions of this newsletter and articles we've published on legal assistance topics are posted on the 21st TSC OSJA website at: <http://www.eur.army.mil/21TSC/sja/LegalAssist/LegalAssistance.asp> Articles and information papers on claims topics are posted at: <http://www.eur.army.mil/21TSC/SJA/Claims/Claims.asp>

The “KLI” is also posted on JAGCNet and shared with legal assistance and claims practitioners Army-wide.

The Trouble With German Traffic Tickets...

by Joerg Modellmog

German traffic tickets can be puzzling. Have you ever wondered why you should have to pay a higher fine for a final traffic ticket when you never received any prior warning ticket for the same offense? And why is a parking ticket fee often lower than the cost of paying for parking at a parking lot? The key to unraveling the mystery of German traffic tickets is to understand the difference between a warning notice fee (“*Verwarnungsgeld*”) and an administrative fine ticket (“*Bußgeldbescheid*”).



Warning notices are the traffic ticket agency’s offer to settle an offense for a lower amount of payment, if the fine is paid expeditiously. USAREUR Motor Vehicle Registry (MVR) personnel work very hard in helping German traffic ticket authorities to process the tens of thousands of traffic warning notices issued to U.S. Forces personnel each year. MVR assists the German agencies by providing them with pre-printed labels with the individual offender’s address. The Germans then send the warning notice through the German postal system to the offender’s APO address (it is therefore important to keep your address current with MVR). As an alternative, German police may also just leave a warning notice ticket on your windshield, instructing you to pay the illegal parking fee within a week.

There is no required special service of process form when it comes to warning notice fees; regular mail is an option as well as more formal procedures. If a warning fine is not paid within a week (if left on your windshield), or within a reasonable period (if APO mail is used to send the warning notice), then the German ticket issuing authorities will issue an administrative fine ticket (“*Bußgeldbescheid*”).

German case law allows the ticket issuing authorities to withdraw the warning notice fee by issuing an administrative fine order. You do NOT have a right or entitlement to first receive a warning notice, or even to be made aware that a warning notice was issued. You are obligated to pay the more expensive administrative fine once it is issued. It is irrelevant if or when you received any warning notice. The mere fact that the administrative fine order was issued before you actually paid the warning notice is considered sufficient to justify the higher administrative procedural costs of the administrative fine.

Administrative fine tickets, with their increased fine amounts, are processed through the local JAG office’s legal liaison section. Normally, the JAG office sends the administrative traffic tickets to the individual’s commander to serve the ticket on the offender and sign the certificate proving that the ticket has been served.

Why does it cost more to pay at the parking lot than to pay an illegal parking fine? The answer is simple: the Administrative Fine Catalog section concerning illegal parking fees has basically remained unchanged since 1990. As a result, parking in some big city parking lots has become more expensive than the cost of paying a warning notice for illegal parking. This cost saving measure will soon be a thing of the past. **As of April 1, 2013 (and this is no April Fool’s Day joke), the fines for traffic violations along with the fines for illegal parking will be increased by anywhere from €5 to €30!**

Bottom line: Don’t violate German traffic laws. If you do, pay the warning fine as quickly as you can to avoid incurring additional fines.

If you have questions concerning your specific case, see our legal liaison personnel (Amanda Martins-Gonçalves or Karl-Heinz Oberlaender) in Room 124 of the Kaiserslautern Legal Services Center, or schedule an appointment to speak with one of our German Attorney-Advisors by calling DSN 483-8848 or Civilian 0631-411-8848.

Leaving the Scene of an Accident

by Holger Blug

You strike a guardrail or tree after sliding on an icy road, or scratch another vehicle while backing out of a parking space. There are no witnesses. What do you do? The temptation to simply drive away is understandable, but fraught with peril. "Hit and run" is one of the most common criminal offenses in Germany. Leaving the scene of an accident is a serious violation of host nation law with serious consequences.

Imagine coming back to your car after buying some groceries and discovering several scratches on your brand-new vehicle. Because the driver who caused these scratches fled the scene, there is probably no one who will pay for the damage, which means you could end up paying for the repairs yourself. A paint job on a new vehicle can easily cost over €1,000!

Severe financial consequences caused by hit and run incidents explain why German courts are very strict about this offense. The potential penalty for leaving the scene of an accident is a fine or imprisonment for up to three years. In addition, the court can suspend your driving privileges or even revoke your driver's license. The punishment will depend on the circumstances of the case, such as personal injuries or the amount of damage. Only if the damage is relatively minor (e.g., a dented license plate) with repairs costing less than €25 will the court refrain from imposing criminal charges.

If you are involved in a road traffic accident, you have two basic obligations. You have to admit that you were involved in the accident and you have to release your personal information, as well as information on your vehicle and the nature of your involvement, but you should stop short of saying that the accident was your fault. If no one is present to receive this information you have to wait for a reasonable period of time. The time span depends on the circumstances (e.g., how serious the accident was, where it happened, whether it happened by day or at night). It also depends on the density of traffic and the weather. Normally you are obliged to wait for about 30 minutes. To reduce the waiting period you should call the police. If they respond, they will take down your information.

If you've waited a reasonable period of time without finding anyone who is willing to take down your information, you are allowed to leave the scene, but you must contact and inform the police right away. Putting a slip of paper or your business card under the windshield wipers of the car you damaged is usually not sufficient, as the wind could blow it away or someone else could remove it. Remember, the burden of proof is on you!

Hitting a guardrail or a tree is a road traffic accident, too, and don't think that there is no third party damage. The German government can be an injured party, and damage to a guardrail or a tree is usually not considered minor. It can cost you a small fortune.

You can also be involved in an accident even if you didn't drive a vehicle (e.g., as a passenger distracting the driver or as a pedestrian crossing the street on red and causing an accident). In such cases, you also have an obligation to wait. Even if you hit a parked car with a shopping cart, it might be considered a traffic accident, as several courts have held that loading and unloading a vehicle is part of operating the vehicle.

In addition to the criminal consequences, there can also be civil ones. If you are convicted of a hit and run, your liability insurance will pay the adverse party for the damage you caused, but they can turn around and subrogate against you (up to €5,000). If there is damage to your own vehicle as a result of a hit and run, your full coverage insurance will usually refuse to pay for the repairs.



If you have questions about hit and run accidents or related issues, contact the Kaiserslautern Legal Services Center's Legal Assistance Office at DSN 483-8848 or Civilian 0631-411-8848, and schedule an appointment to meet with one of our German Attorney-Advisors.

How to Meet the 75-Day Notice Requirement

by CPT Dan O'Connor

A common frustration for claimants is when they are up against the 75-day notice period required after the delivery of household goods or unaccompanied baggage. When your goods are delivered and you identify missing or damaged items of personal property, you have 75 days to provide the carrier (the moving company, also referred to as the Transportation Service Provider or TSP) with notice of the loss or damage. If this contractual notice period is missed, you may not be able to recover the full cost of those lost or damaged items. A claim for the lost or damaged property might be denied altogether or payment of the claim might be reduced as a result of the missed 75-day notice deadline. While the deadline for filing the claim itself is nine months from the date of delivery (if you are filing with the carrier) or two years from the date of delivery (if you are filing with the Army), the critical first step is to give notice within 75 days.



Here are the best ways to give proper notice to maximize your claim recovery options:

1. **At the time of delivery.** Note lost or damaged goods on DD Form 1840 or on a similar form called “Notice of Loss or Damage at Delivery.” Items noted as lost or damaged on DD Form 1840 or the Notice of Loss or Damage at Delivery before the movers depart satisfies the 75-day notice requirement.
2. **After the date of delivery.** Lost or damaged items discovered after the movers have departed is noted on either DD Form 1840R or a similar form called “Notice of Loss or Damage After Delivery.” Once DD Form 1840R (or the form called “Notice of Loss or Damage After Delivery”) is completed, it must be provided to the TSP within 75 days of delivery or any claim may be reduced or denied. Fax and mail the form (don’t forget to scan both sides when faxing) to the TSP using the name and contact information listed on DD Form 1840/1840R or the Notice of Loss or Damage forms.
3. **Within the first 70 days after delivery, go to the servicing U.S. Army Claims Office!!!** Claims personnel will dispatch the notice to the TSP and help you file your claim, whether you need to file online or directly with the carrier. There is a computerized claims kiosk available at the Kaiserslautern Legal Services Center’s Claims Office to help claimants understand and complete the filing process with the help of claims professionals. Our claims personnel ensure notice has been properly sent and can answer your questions to clear up any confusion. Call our claims examiners at DSN 483-8855/8856 or Civilian 0631-411-8855/8856 for more information.

The 75-day notice period can be extended if you were deployed, TDY, or hospitalized during the 75 days after delivery. Other requests to have the 75-day notice period waived require claimants to request an extension from U.S. Army Claims Service at Fort Meade, Maryland. Claimants are best advised to put the TSP on notice as soon as possible to avoid claim reduction or denial. Keep track of the 75-day notice period and make the most of your claim!

Editor’s Note: CPT O’Connor serves as the Claims Judge Advocate for the Kaiserslautern Legal Services Center.

Additional Benefits Extended to Service Members' Same-Sex Domestic Partners

by CPT Jilliane Jaeger

In a memorandum dated February 11, 2013, outgoing Secretary of Defense Leon Panetta announced that additional benefits will be extended to same-sex domestic partners of military service members sometime between August 31 and October 1, 2013. This announcement comes about a year and a half after the repeal of the "Don't Ask, Don't Tell" law as part of the DoD's ongoing commitment to change policies and practices to ensure fairness and equal treatment of gay and lesbian service members and to take care of all service members and their families, to the extent allowable under law.



The Defense of Marriage Act (DOMA) is a federal law that defines "marriage" as a legal union between a man and a woman and "spouse" as a person of the opposite sex who is a husband or wife. Certain military benefits are controlled by the DOMA's definition of "marriage" and "spouse" and cannot be extended to same-sex domestic partners until the DOMA is repealed or no longer applies to the DoD. These benefits include health care, housing allowances, on-base housing, burial, and benefits related to command sponsorship overseas. The Supreme Court of the United States is scheduled to rule on the constitutionality of the DOMA later this year when it considers *Windsor v. U.S.*, 699 F.3d 169 (2d Cir. 2012). The memorandum states that "[i]n the event that the DOMA is no longer applicable to the DoD, it will be the policy of the Department to construe the words 'spouse' and 'marriage' without regard to sexual orientation, and married couples, irrespective of sexual orientation, and their dependents, will be granted full military benefits."

For now, the benefits allowable to same-sex domestic partners under current laws are outlined in the memorandum's three attachments. One outlines the benefits that have already been extended to same-sex domestic partners. Another attachment outlines the 22 new benefits that will be implemented this autumn. Of note, same-sex domestic partners will now qualify for dependent ID cards, commissary and exchange privileges, joint duty assignments, emergency leave, child care, and legal assistance. The last attachment is a blank copy of a proposed Declaration of Domestic Partnership form. The federal government does not recognize state same-sex marriages because of the DOMA. Therefore, the DoD cannot recognize a state same-sex marriage certificate as proof of a same-sex marriage. The DoD will instead implement this new declaration process for same-sex couples so that same-sex domestic partners can qualify for benefits. However, it is important to note that the memorandum states that if DOMA no longer applies to the DoD, then "the benefits changes directed by this memorandum will be re-assessed...to determine whether other changes are needed or appropriate, to include whether unmarried same-sex domestic partnerships should be a basis for eligibility for benefits in the future."

It is too soon to know precisely how these benefits will be implemented. The memorandum acknowledges that the "implementation of these benefit changes will require substantial policy revision, training, and in the case of identification cards, technical upgrades." However, the memorandum does state that "[t]he Department will immediately proceed with planning and implementation of these changes and [will] provide the Secretary of Defense an implementation plan within 60 days" of February 11, 2013. Go to <http://www.defense.gov/news/Same-SexBenefitsMemo.pdf> to read the memorandum and its attachments in their entirety.

Military Court Reporters: Unsung Heros of the Courtroom...

by COL Pete Masterton

Over the past several months, the Kaiserslautern Legal Services Center has hosted a number of hotly contested criminal trials. These trials involve work by many people: prosecutors, defense attorneys, paralegals, and support staff. However, one of the most critical participants in these trials, the court reporter, is often overlooked.

Court reporters work tirelessly to ensure that trials run smoothly. They handle all of the evidence, keep track of the trial, and record everything that happens in the courtroom. Our military rules require word-for-word transcripts be produced of nearly every criminal trial. Court reporters are specially trained on computer software that enables them to record the trial and produce these transcripts. Without court reporters, our criminal justice system would quickly grind to a halt.



*Kaiserslautern-based military court reporters
SGT Tamika Tutt (left) and SFC Danielle Bernabe.*

In Kaiserslautern, we are blessed with two of the best court reporters in the Army: Sergeant First Class Danielle Bernabe and Sergeant Tamika Tutt. Sergeant Bernabe has been a court reporter for nine years. She joined the Army in 1998 and served with distinction at Fort Campbell, Fort Drum, Fort Benning, Heidelberg, and Wiesbaden. She became a court reporter in 2004 and deployed with V Corps to Camp Victory, where she was one of the few court reporters in Iraq. Sergeant Tutt has been a court reporter since 2010. She initially entered the Army Reserve in 1996. She joined the Active Duty Army in 2009 as a paralegal and deployed to Camp Liberty, Iraq, in 2010. Assigned to the 18th Military Police Brigade, Kaiserslautern is her second assignment as a court reporter.

Sergeant Bernabe and Sergeant Tutt reflect great credit upon the 21st TSC Office of the Staff Judge Advocate. The records they produce are reviewed by the 21st TSC Commanding General and sent to the Office of The Judge Advocate General where they are carefully analyzed by appellate lawyers and judges. The high quality of their records enhances the reputation of the OSJA within the Army JAG Corps and highlights the great work done by all involved in military justice.

Because of recent shortages in civilian court reporters, Sergeant Bernabe and Sergeant Tutt have been called on to cover trials throughout Western Europe. They have handled the work normally assigned to five court reporters. Despite this daunting workload, they have managed to cover every trial while producing perfect transcripts. They are routinely recognized as among the best in the Army and have earned a reputation as consummate professionals.

Editor's Note: COL Masterton is the Chief Military Judge of the Fifth Judicial Circuit.

European Travel Restrictions Relaxed **For those spouses who need German visas...**

by Joe Hall

One of the special things about being stationed in Germany is the ease with which you can travel to other foreign countries. France is only an hour away. Paris is a mere two-and-a-half hour train ride. You can be in Switzerland in two hours; Rome or London are only an hour or so away by air.

Most European Union member states, and some other countries such as Switzerland, made such travel even easier when they reached agreement in the city of Schengen in the Grand Duchy of Luxembourg to generally do away with internal passport controls between and among their countries. One passport check upon initial arrival in one of the agreement countries, and the visitor was free to travel throughout all the Schengen Agreement countries.

The U.S. is not a signatory to the Schengen Agreement, but those of us stationed in Europe pursuant to the NATO Status of Forces Agreement (SoFA) and living in a country given visa-free tourist privileges for the Schengen area have benefited from this relaxation in internal travel controls. We tend to take it for granted. We shouldn't.

A small but important percentage of our family member spouses come from countries for which the Schengen Treaty countries (such as Germany) require an entry visa. These countries generally include the countries of the former Soviet Union, many African countries, and the Philippines. Before those spouses can join their U.S. Forces-affiliated husbands or wives in Germany, they must comply with the procedures found in AER 600-77.

Once they comply with those procedures, and are permitted to enter Germany, they have the same NATO SoFA status in Germany as all other military and civilian component spouses. However, up until recently, it was difficult for them to travel outside of Germany. Generally, they were required to obtain a visa for any Schengen country they wanted to visit, and depending on the country, obtaining the visa could be burdensome. Some had to return to their country of origin and apply while there to the consulate of the country they wanted to visit. Others had to correspond with the consulate in Berlin of the country they wanted to visit to obtain a tourist visa.

That has now changed. Under a change in German law (*Allg. VwVorschriften zum AufenthG*) and through the diligence of our German legal assistance attorneys and the Foreign Law Branch at the USAREUR Office of the Judge Advocate, spouses coming from "entry visa required countries" are now eligible to obtain a German identity document confirming that they are residing in Germany. That document is a recognized travel document throughout the Schengen group, so from now on no additional or specific tourist visa will be required for those spouses who have the German confirmation of residence document.



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The Ethics Corner...**ETHICS TIPS FOR SPONSORS**

by Rick Schwartz

How to welcome new arrivals legally...

I remember a groggy walk around Smith Barracks in Baumholder to get oriented on the day I arrived in Germany to begin my initial permanent assignment. Exciting as it was, I didn't think twice about settling in on my own during those first weeks while my unit was in the field. Years later and with more than just myself to think about, I can appreciate the impact of a good sponsor on the transition to living and working here and how daunting that first day would have been with kids, pets, strollers, and enough stuff to make a temporary home for them all, not to mention the stress and preoccupation with ensuring they make a successful start in a foreign country! While there's no limit to what a caring, proactive, and experienced sponsor can do, it's worth mentioning a few Government Ethics considerations on how they go about it.

NTVs and Reimbursement for POV Use. I got to Baumholder that day on the bus that remains the primary and expected method of transit from the airport. AER 58-1 says that an NTV (which is synonymous with reimbursement for POV use for purposes of this discussion) can only be used if "other means of transportation are not available or cannot meet mission requirements." It specifically prohibits using the rank or position of the traveler to make a determination and my jet-lagged children's discomfort in sitting through all the other stops before Smith Barracks doesn't come into play.

The regulation sets the same standard for getting to in-processing appointments, so unless there are unique circumstances that allow my unit to justify a mission requirement to use an NTV, new arrivals are dependent on the kindness of their colleagues or the punctuality of the city and post shuttle buses.

Speaking of kindness and the impact caring leaders have, a lot of the support that's most meaningful isn't official. Buying a car, choosing a place to live, filling the refrigerator, signing up for a phone plan, finding childcare, doing the laundry, and getting a driver's license are all examples of personal business that the Government expects me to take care of on my own. These errands might be more difficult to do in a foreign country, but official resources are no more available here than they were in CONUS for the purpose. AER 600-8-8 makes clear that the sponsor who takes his new arrival to yet another unheard-of village in search of the perfect half-timbered German house is making a personal commitment to the newcomer and to the organization that benefits from the sponsor's gesture of goodwill.

Also keep in mind that, by statute, official resources can't be used to transport an individual between their domicile (even a temporary one) and place of duty. Though personnel in a travel status have an exception, one doesn't exist for the transition period we think of as in-processing and getting acclimated to the new community.

Duty Time. The general rule is that time during the duty day, especially that of civilian employees, is an official resource that must be used to complete official business. It follows, then, that the personal errands associated with setting up a new household and working environment (or assisting someone in doing so) are subject to the rules on accounting for absences. While there is a lot more flexibility with uniformed personnel, wherever you are unsure of the ability to have civilian employees away from their normal duties, you should consult your servicing labor counselor for advice.



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ETHICS TIPS FOR SPONSORS (continued)

Endorsement. Sharing information prior to the move is a great way to acquaint incoming personnel with the availability of schools, job prospects for family members, and garrison facilities and services. While personal experience and insight can again be invaluable to those who are navigating Germany for the first time, keep in mind that official communications and sponsorship packets must comply with the Joint Ethics Regulation (JER). It specifically prohibits the appearance of favoritism toward, or endorsement of, any non-Federal entity or enterprise. So, a list of area pre-schools might be a good idea, but a flyer your church puts out to market its particular program by itself may not. It goes without saying, then, that packaging the whole thing in a promotional tote bag from an area business along with the salesman's card isn't permissible under the JER. (Not that I'm suggesting you buy the tote bag instead—welcoming as that would be to the new arrival, the normal rules on use of appropriated funds apply).

The quality of an organization's sponsorship program is a key factor in individuals' and families' introduction to Germany, which is why it's a commander's program. With the above concepts in mind, there's no reason we can't all do our part to make sure colleagues can look back on their first days here fondly! As always, if you have questions about how to apply this in practice, please contact your local legal office.

Editor's Note: Rick Schwartz serves as Ethics & Fiscal Law Attorney for the 21st TSC Office of the Staff Judge Advocate.

European Travel Restrictions Relaxed (continued)

The German confirmation of residence document (*eine deklaratorische Aufenthaltserlaubnis*, with the annotation, "*Inhaber unterliegen dem NATO-Truppenstatut*") can be obtained at the Foreign Residents Office (*Ausländeramt*) in the town where you live. You should take the following documentation with you to the *Ausländeramt*:

- proof of the applicant's identity (*e.g.*, U.S. Forces dependent ID, passport, and SoFA stamp/card);
- proof of marriage to the member of the military or civilian component of the Force who has NATO SoFA status (*e.g.*, marriage certificate);
- proof that the applicant's spouse is a member of either the military or civilian component of the Force as set out in Article I of the NATO SoFA (*e.g.*, copy of assignment orders, and SoFA stamp or card for civilian component members);
- a copy of the applicant's dependent travel orders;
- proof of current residence (*e.g.*, rental contract or housing assignment document).

Those who do not need an entry visa to come to Germany (*e.g.*, U.S. citizens), still need to carry their passport (with SoFA stamp/card for civilians) and a copy of their DA Form 31 leave form (for military personnel) when leaving Germany to tour other Schengen countries. In most cases, you will not be stopped or checked, but it can happen, and sitting at a French police station – or any police station, waiting to be expelled from that country, is not a fun-filled travel experience.

There are still some non-Schengen European countries that may require tourist visas prior to entry, so it is a good idea to check the DoD Foreign Clearance Guide at <https://www.fcg.pentagon.mil> for entry/visa requirements of the specific country you intend to visit.

Editor's Note: Joe Hall is Chief of International Law for the 21st TSC Office of the Staff Judge Advocate.



21st TSC Commanding General, MG Aundre F. Piggee [back row, center], presented the FY11 TJAG Award for Excellence in Claims to [front row] CPT Mike Gilbertson (Kaiserslautern) and CPT Stephen Bishop (Stuttgart), and the Army Chief of Staff Award for Excellence in Legal Assistance to [back row] John Matlock (SHAPE), Donald Davis (Kaiserslautern) and Walter Linden (Netherlands). Also pictured, 21st TSC Staff Judge Advocate COL Ralph J. Tremaglio, III [back left] and 21st TSC Chief of Client Services Steve Smith. **First in Support!**

Directions to Kleber Kaserne: From Vogelweh, Ramstein, or Landstuhl take the A6 direction Mannheim. On your right you will see a large store called Möbel Martin. Make sure you are in the right lane as you take the Kaiserslautern Ost Ausfahrt (exit). Turn right as you leave the exit ramp and drive downhill until you reach the stop light. Turn right and proceed straight until the next stoplight. Turn left and you will be beside Kleber Kaserne. Follow the perimeter until you come to an open gate. Parking on Kleber Kaserne is difficult—allow a few extra minutes to circulate until you find an open spot. Bldg. 3210 is directly across from the former site of the Kleber Shoppette. Enter Bldg. 3210 from the door on the east end of the building.

