OUR HOLIDAY ISSUE!!

KAISERSLAUTERN LEGAL SERVICES CENTER

KAISERSLAUTERN LEGAL INFORMER

21st TSC CHIEF PARALEGAL NCO TO RETIRE

MSG Haarer set the mark high on the wall and challenged our paralegals to be the best in the business. He led by example. He will be greatly missed.

by Steve Smith

MSG Scott R. Haarer, who has served as 21st TSC's Chief Paralegal NCO since April 2010, will retire in April 2013, after 21 years of dedicated service to the U.S. Army. His retirement ceremony will take place on Thursday, November 29th, at 1600 hours in the Galaxy Theater on Vogelweh.

A native of Tecumseh, Michigan, he entered the Army in April 1992. His CONUS assignments included: 1/11th Infantry Regiment, Fort Benning, Georgia; 82nd Airborne Division, Fort Bragg, North Carolina; I Corps, Fort Lewis, Washington; 101st Airborne Division (Air Assault), Fort Campbell, Kentucky; and Special Operations Command Central, MacDill Air Force Base, Florida. His overseas assignments included: 16th Medical Logistics Battalion, Camp Carroll, Korea; 101st Airborne Division (Air Assault), Mosul, Iraq; and 3rd Brigade Combat Team, 101st Airborne Division (Air Assault), Camp Speicher, Iraq. His many decorations include the Bronze Star Medal, the Defense Meritorious Service Medal, and four Meritorious Service Medals.

This combat-hardened veteran brought a kinder and gentler touch to his role as the 21st TSC's Chief Paralegal. He organized quarterly Paralegal Warrior competitions that brought the best out of our Soldiers and NCOs. It is no accident that two of them went on to become the USAREUR Paralegal and Paralegal NCO of the Year for 2012 (see page 5). They are a testament to his firm but nurturing leadership.

We wish MSG Haarer and his family all the best. He leaves this office a much better place than he found it.

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United States Army Judge Advocate General's Corps - America's Oldest Law Firm

"Getting Right" with the IRS Gets Easier

IRS announces new "streamlined" filing compliance procedures...

by Steve Smith

It's amazing how many Americans who live overseas don't realize they have an obligation to file a U.S. tax return every year, as long as their income exceeds an annual threshold. And, even though we've published several articles in this newsletter warning Americans who have signature authority over foreign bank accounts that they need to file Form TD F 90-22.1, Report of Foreign Bank & Financial Accounts ("FBAR" for short) with the Treasury Department if the balance in the accounts exceeded $10,000 in the aggregate at any time in the previous year, many taxpayers claim "nobody told me" about that requirement. When they discover they are "out of compliance" with either or both of these filing obligations, many want to know how they can "get right with the Government."

The IRS has made no secret of the fact that they are cracking down on Americans who avoid paying taxes by hiding their assets overseas, but they have also offered a carrot to go along with that stick. In 2009 and again in 2011, the IRS announced their so-called Offshore Voluntary Disclosure Program (OVDP), which was designed to get non-complaint taxpayers to come in from the cold by offering them the opportunity to pay civil penalties in lieu of criminal prosecution. The OVDP was wildly popular, resulting in over 33,000 voluntary disclosures bringing in over $5 billion in back taxes, interest, and penalties. While the IRS caught some really big fish in their net, the net got clogged with a lot of little fish who owed relatively little. The cost of processing these little disclosures was high enough to persuade the IRS to develop a new "streamlined" filing compliance program for those who owe less than $1,500 in tax in each of the last three years and present a "low compliance risk." That program took effect on September 1, 2012. You can read all about it on the IRS webpage. Simply go to http://www.irs.gov and click on the "Offshore Disclosure" tab on the blue box in the center of the page.

Under this new "streamlined" procedure, U.S. taxpayers who have resided outside of the U.S. since January 1, 2009 and who have not filed a U.S. tax return during the same period must file delinquent tax returns for the last three years and delinquent FBARs for the last six years. Payment of tax and interest owed on the delinquent returns must be remitted with the returns. Taxpayers must also submit a questionnaire, which the IRS will use to determine whether the taxpayer qualifies as a "low compliance risk." If the taxpayer qualifies as such, the IRS has indicated they will not assert penalties or pursue follow-up actions.

The new procedures are not without risk* and anyone contemplating using them should first seek the advice of an experienced tax attorney. Not everyone will qualify to use these procedures. Some tax analysts have complained that the criteria determining low-risk status are so narrow that few taxpayers will actually qualify for the "streamlined" program. For the time being, the OVDP is still available as an alternative, although the IRS could end that program at any time. This much is certain: the IRS is serious as a heart attack about cracking down on offshore non-compliance, and if you fall into that category, things are likely to get worse instead of better.

For more information on the risks associated with these procedures, click on http://americansabroad.org/issues/taxation/

Kaiserslautern Tax Team Gears Up for 2013 Tax Season

by Mark Christensen

As the holidays approach, your 21st TSC legal team is busy preparing for the 2013 tax season. We're ordering tax forms, instructions, and publications, reviewing SOPs, testing our software, and gearing up for tax training in anticipation of hiring several civilian tax preparers to work with our full-time staff and Special Duty Soldiers at tax assistance centers on Kleber Kaserne and at Landstuhl Regional Medical Center.

Yes! We're looking for a few good tax preparers! If you know someone who has experience preparing U.S. federal and state tax returns, let them know about this great opportunity. Our civilian tax preparers normally start work right after New Year's Day. Some work through the middle of April while others work through the middle of June. We have IRS training on basic tax preparation scheduled in January, followed by local training on foreign and state-specific tax issues. Anyone interested in a temporary job preparing tax returns should watch for the job announcement to appear in USAJobs, complete their USAJobs application, attach your updated resume and required documents (*e.g.*, DD 214, SF 50, orders), and self-nominate for the position. For additional information on how to apply for these jobs, contact our Tax Program Coordinator, Mr. Donald L. Davis, at DSN 483-8848 or Civilian 0631-413-8848, or shoot him an e-mail at: donald.l.davis2.civ@mail.mil.

Speaking of taxes? Yes, taxes are always on our minds, even during the so-called "off-season." As you head into the holidays, think about some of your tax positions, and whether you want to take advantage of capital gains or losses before December 31. Timing is important, and as you collect and retain your tax documents for us to prepare your return, think about taking losses now to offset income, or collect gains if you have reduced income (due to deployment or some other event). You can save thousands of dollars by timing your receipt of some kinds of income, especially capital gains or losses.

See you next season at the Tax Center!

Kaiserslautern Legal Services Center

Building 3210
Kleber Kaserne

Legal Assistance 483-8848
Tax Assistance 483-8848
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]

NEED TAX HELP?

Free tax services are available all year long at the Kaiserslautern Legal Services Center. If you need help preparing or amending a federal or state income tax return and cannot wait until our tax centers open in late January, or if you have tax questions, call DSN 483-8848 or Civilian 0631-411-8848, and ask to speak to Mr. Donald L. Davis.

POV Shipment Damage Claims Tips

by CPT Dan O'Connor

One of the most stressful and frustrating aspects of a permanent change of duty station move comes from discovering that your POV was damaged during Government shipment. While we at the Claims Office cannot prevent such damage from occurring, we can help ensure that you are properly compensated if it does, as long as you promptly report the damage. Here's some advice on how to avoid having to personally foot the bill for repair costs.

Army guidelines state that claimants are required to note all new damage on DD Form 788 (Private Vehicle Shipping Document for Automobile), or the Vehicle Inspection and Shipping Form (VISF) provided by the carrier, when they pick up their vehicles at the Vehicle Processing Center (VPC). That means that it's on **you** to notice the damage; do not expect the carrier to tell you that he damaged your vehicle!

Obvious external damage (*e.g.*, the graphic above) that you do not list as an exception on the 788 or VISF at time of pick-up may not be payable, so make sure to inspect your POV **very carefully** at pick-up and report any damage you notice on the form. If you could not reasonably be expected to notice the damage at the VPC (*e.g.*, undercarriage damage or scratches that were not visible before you washed your vehicle), **immediately** go back to the VPC to report the damage to VPC personnel. Most denials of POV shipment claims result from the claimant's failure to promptly wash and inspect the vehicle and return to the VPC within a few hours of pick-up to report the newly-discovered damage. If you wait until the following day to report such damage, you will be out of luck.

Don't forget to:

- Take photos of your vehicle before you ship it so that it is easier to prove that the damage is new.
- Pick up your POV in the morning or early afternoon. If you are not able to bring your POV back to the VPC before it closes, it will be more difficult, if not impossible, to prove that the damages did not occur after you left the VPC.
- Thoroughly inspect the inside and outside of your vehicle at the joint pick-up inspection.
- Turn on and test all operating systems, such as wipers, air conditioners, heaters, radios, electric windows, and electric seats, during this inspection. Report anything that is not in good working order.
- Wash your vehicle immediately after you pick it up so that you notice any external damage that was not visible at time of pick-up.
- Be alert for any operating problems during the first few miles of operation and return to the VPC **immediately** if you notice anything wrong with your vehicle.

And, above all:

- ***Contact your local Claims Office if you have any problems or questions!***

The Kaiserslautern Claims Office is located in Room 112 of Building 3210 on Kleber Kaserne.
You can reach us by phone by dialing DSN 483-8855/8856 or Civilian 0631-411-8855/8856.

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

Auf Wiedersehen!

Long-term civilian employees of the 21st TSC Office of the Staff Judge Advocate gathered together to bid a fond farewell to Rüdi Ziegler at the annual office Thanksgiving dinner in Daenner Chapel. From left to right, Karl-Heinz Oberländer, Tahzib Hasnain, Rüdi, Marianne Ehliger, Gary Mathes, Marion Themann, and Martina Berndt. [For "the rest of the story," see the article on page 11.]

K-town's SPC Blair Berry (right) was named USAREUR Paralegal of the Year this fall, while SSG Andrew Hillberry (left), from our Baumholder office, was named USAREUR Paralegal NCO of the Year. "First in Support!"

Ethics & Fiscal Law Attorney Rick Schwartz (left), a regular contributor to this newsletter, was recognized by 21st TSC SJA COL Ralph J. Tremaglio, III with a length-of-service award for five years of federal service.

German Attorney-Advisors Holger Blug (left) and Joerg Moddelmog (right) with their families after receiving medals this fall for their outstanding advocacy and preventive law initiatives.

During a farewell luncheon this fall, USAREUR Chief Military Judge COL Pete Masterton, presented departing Lead Court Reporter Conchita Dunn with a flag that flew on September 11, 2012, at Camp Arifjan, Kuwait.

Military Forbearance for Student Loans:
Not Necessarily the Best Solution...

by MAJ Karin Chelluri

Education is priceless, but given the increasing cost of a college education many Servicemembers are finding themselves burdened with a significant amount of student loan debt. The National Center for Education Statistics reports that the average amount of student loan debt for active duty Servicemembers is $25,500. In addition to the problem of substantial debt, many Servicemembers adopt unfavorable repayment plans resulting in thousands of dollars of additional debt accrued due to the accumulation of unpaid interest. Many Servicemembers entering active duty are advised to utilize the military deferment or forbearance option without being made aware that, while they are not required to make payments while on active duty, at the end of their service the total amount due may have increased by thousands of dollars. While forbearance or deferment can provide short term financial relief, Servicemembers should consider other loan repayment options that can be more advantageous over the life of the loan.

The one protection for Servicemembers we are all familiar with is the Servicemembers Civil Relief Act (SCRA). The SCRA allows Servicemembers to request an interest rate reduction to six percent for financial obligations accrued prior to entering active duty. This applies to private and federal student loans. To demonstrate your eligibility for this benefit you must send a written request to your loan servicer along with a copy of your active duty orders. You may make this request any time during your active duty service and up to 180 days after you ETS. Your student loan servicer, upon receipt of your request, should refund any interest charges in excess of the six percent rate back to the date of your entry into active service. This is a tremendous benefit, especially if you have a considerable amount of private student loan debt. For example, a Servicemember with $39,000 in loans who fails to apply for the interest rate cap will forego $12,000 in savings over a ten year period. While some loan servicers make utilizing this benefit more challenging by requiring you to recertify each year by providing documentation such as orders demonstrating you are still on active duty, this inconvenience is minimal when weighed against the potential benefit you receive through reduced interest payments.

Another benefit available to Servicemembers is the Income Based Repayment (IBR) program. This program permits you to reduce your monthly loan payments based on your income and family size. IBR is often a better solution than loan forbearance as it allows you to make affordable payments while reducing your loan principal. Through IBR you can avoid the crushing increase in interest and principal that may accrue at the end of your forbearance. A further benefit is that the reduced payments you make under IBR will qualify as payments for the Public Service Loan Forgiveness program.

[continued on page 7...]

Student Loan Forbearance (continued)

The Public Service Loan Forgiveness (PSLF) program is another benefit you should examine to offset federal student loan debt. To be eligible, you must maintain full-time employment with a "public service" employer (such as the Department of Defense) when each payment is made. You must submit "certification of public service" such as an enlistment contract, PCS orders, etc. to the loan servicer. PSLF allows Servicemembers who make 120 on-time payments while in a public service position (such as active duty service) to qualify for debt forgiveness for any remainder of their federal direct loans. The only drawback of this program is that it may require you to consolidate older loans into a qualifying federal loan, removing the six percent interest cap you qualified for under the SCRA (as the loan would no longer have originated prior to your entry to active duty).

A final option for Servicemembers who have accumulated debt through federal Perkins loans is the Annual Principal Reduction for Perkins loans. This program allows you to reduce a portion of your debt principal for each year of active duty service. To qualify for this program you must serve 365 consecutive days in an "area of hostility." You must provide documentation such as deployment orders to the loan servicer to obtain this benefit.

In sum, federal law provides Servicemember student loan borrowers unique benefits; however, you must be a savvy consumer to use them effectively. Currently the Consumer Financial Protection Bureau (CFPB) is working to provide better information regarding student loans to Servicemembers and their families. In partnership with the U.S. Department of Education the CFPB created the Student Debt Repayment Assistant. This web-based tool can help you understand your repayment options to better understand the benefits and risks that accompany each product. To contact the CFPB's Office of Servicemember Affairs via e-mail write to military@cfpb.gov. To file a complaint regarding your student loan servicer, go to http://www.consumerfinance.gov/complaint.

Your local ACS Financial Management Office and the Kaiserslautern Legal Services Center's Legal Assistance Office can provide you further information to assist you in utilizing these valuable benefits.

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.

Online Shopping — The Rules Have Changed

by Joerg Moddelmog

The holiday season is upon us, and it's time to shop for presents. Online shopping is quick, easy, and more popular than ever, but if you think it's the "same procedure as last year," think again. The rules have changed.

Online purchases made in Europe are governed by both host nation and European Union (EU) consumer law. The EU came up with a new directive on Consumer Rights that impacts online sales: EU Directive 2011/83/EU.* Although EU Member States do not have to adopt the directive before December 13, 2013, Germany has already implemented portions of it. German consumer law now requires the seller/trader to inform the consumer about the main characteristics of the deal, *i.e.,* to describe the product offered and the full and actual transaction costs (*e.g.*, hidden fees are "*verboten*"). Furthermore, the seller is not allowed to use pre-ticked boxes; instead, the consumer must affirmatively check the box or "opt-in." If you are buying digital products, the seller must provide information on the system requirements. The "final" button to click to place your order needs to display a warning that the order constitutes an obligation to pay. Print out a screenshot when in doubt to document any violations.

While Germany already had a 14-day cancellation right for distance contracts like online orders, the new EU Directive will make that deadline mandatory throughout the EU. [Note: the EU minimum requirement had been seven working days under EU Directive 97/7/EU, which is still applicable in other EU Member States until they implement EU Directive 2011/83/EU.] The deadline starts to run from the date of delivery (if goods are concerned) or the date the contract was concluded (if services are concerned). The consumer also has to send back the goods before the 14-day period has expired. There are some exceptions to the consumer's cancellation right; for example, under the EU Directive no cancellation right exists if the consumer unseals audio or video recordings or computer software. Break the plastic wrap and you're stuck with it.

If you shop online outside the EU (the USA comes to mind) and provide a non-APO address for delivery, the goods you ordered will go through German customs. Here is where things get tricky. Commercial carriers are in the habit of "clearing" the goods with customs (*i.e.,* paying any customs fees before the goods are released for delivery), thinking they are doing you a favor by getting the goods to you faster. That worked fine as long as you could get reimbursed for any customs fees paid by submitting AE Form 550-175A ("Import/Export Certificate & Purchase Permit") after the fact, but that is no longer possible. The German Federal Ministry of Finance has made it clear that you, or another properly-authorized NATO SOFA agent, have to present the AE Form 550-175A in person in order to get goods out of German customs and to preserve your privilege of being exempt from custom fees (codified in Article 66 of the Supplementary Agreement to the NATO SOFA). What to do? If you have a tracking number, you might try to notify the carrier to stop him from clearing the goods. You can also refuse to accept the goods if the carrier cleared them, or better yet, you can avoid the problem altogether by using an APO address.

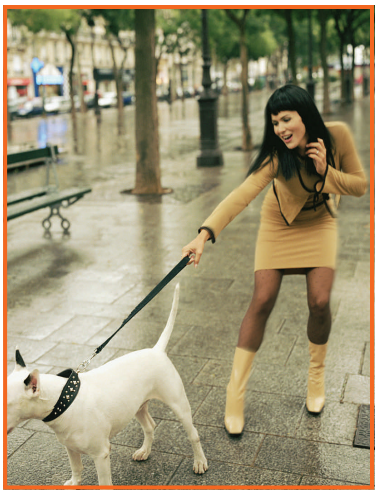
AE Form 550-175A can be obtained at the Customs Office located in Room 215 of Building 3245 on Kleber Kaserne. If you are the sponsor and your spouse has been shopping online, you may also want to have her/his name added to AE Form 550-175A in the "Remarks" section.

For more information on this subject, make an appointment to see a Legal Assistance Attorney by calling the Kaiserslautern Legal Assistance Office at DSN 483-8848 or Civilian 0631-411-8848 or contact your local customs office.

* http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:304:0064:0088:EN:PDF

Private Liability & Dog Owner's Insurance

by Holger Blug



Imagine the following scenario. You go for a walk and are inattentive while crossing the street, or your child loses control of his skateboard and it rolls into the street, or you're taking your dog for a walk when it suddenly breaks away from you and runs into the street. Meanwhile, a vehicle approaching from the opposite direction crashes into a wall to avoid striking you, or your child, or your dog, causing damage to the vehicle, the driver, and/or his passengers. Get the picture? This could be ***very*** expensive…

How can you protect yourself from potential financial disaster in a situation like this? One of the most important kinds of insurance coverage you can have in Germany is third-party private liability insurance ("*Private Haftpflichtversicherung*"). Private liability insurance covers damage which you or an insured member of your family negligently causes to a third party, their property, or their assets. It covers things like causing an accident while walking or cycling, kicking a football through your neighbor's window, knocking over a vase while shopping or visiting a friend, or causing bodily injury while skiing or engaging in other sports.

Under German law, there is no ceiling on the level of damages, even if you acted innocently. So it pays to purchase private liability insurance with a high level of coverage. Trying to save money by purchasing a cheap policy with limited coverage is a bad investment. Not having this kind of insurance at all is downright dangerous.

Another benefit of having such insurance is that the insurer will review any third party's claim and determine whether it is meritorious, so you automatically get a legal opinion on your case. If the claim is meritorious, the insurer will take care of the matter and arrange for a quick and non-bureaucratic payment within the scope and coverage limitations of your policy. If the claimant is demanding a too much in damages or the claim lacks merit, your insurer will act on your behalf and enforce your rights at no expense to you.

The good news is that private liability insurance is relatively inexpensive. It usually costs less than 10 Euros a month, so there is really no reason not to purchase it. It's a small price to pay for some peace of mind.

You should be aware that German third-party private liability insurance policies with a multi-year term cannot be cancelled before the term is up, even if you leave Germany. Therefore, I strongly advise you to only purchase an annually-renewable policy. If you have taken out liability insurance in your home country, you might first want to ask your insurer if that policy also covers you during your tour in Germany before going out and purchasing a German policy.

Private liability insurance covers most small pets, but dogs and horses must be insured separately and are not included in a single or family policy. So if your dog runs out into the street and causes an accident or jumps up on an elderly lady causing her to fall and break a hip, you will only be covered if you bought additional dog owner's insurance. If you have a dog, "don't leave home without it."

If you have questions about private liability or dog owner's insurance, contact the Kaiserslautern Legal Services Center's Legal Assistance Office at DSN 483-8848 or Civilian 0631-411-8848.

Non-U.S. Citizen Spouses and Children Need Immigrant Visas to PCS to U.S.

by CPT Jilliane Jaeger

It is easy to forget that you are residing in a foreign country when you are a service member living and working in the American military community in Germany. Unfortunately, this can cause major complications if you have become the sponsor for non-U.S. citizen dependents, receive orders to PCS to the U.S., and do not already have an I-130 immigrant visa for each of these dependents.

Immigrant visas are required by all non-U.S. citizens seeking to take up indefinite or permanent residence in the U.S. Applying for an immigrant visa is a complex process with seven steps, which are outlined below. At best, the visa application process will take 12 weeks to 6 months. ***If you wait until you receive your PCS orders to begin the application process, you will not have enough time to obtain immigrant visas for your non-citizen dependents before you PCS!***

Step 1: Determine which immigrant visa category your non-citizen dependents qualify for and complete the corresponding visa petition. Non-citizen spouses and minor children of U.S. citizens are categorized as "immediate relatives" and must submit a petition for an I-130 visa. Each non-citizen dependent must complete a separate I-130 visa petition.

Step 2: File the petitions at the correct application center. If your non-citizen dependents' permanent residence is in Germany, they must file their I-130 petitions with the U.S. Citizenship and Immigration Services (USCIS) application center in Frankfurt. If your non-citizen dependents' permanent residence is elsewhere, they must file their petitions in the U.S. Read the instructions on the petition for exact details on how and where to file in the U.S.

Step 3: Once the petitions are approved, the approving office will require your non-citizen dependents to complete additional forms within a certain period of time. Failure to return the requested documentation promptly will delay the application process.

Step 4: Gather the requisite supporting documentation. Each office has its own document checklist. Supporting documents include passports, birth certificates, police certificates, court and prison records, military records, marriage certificates, etc. Documentation checklists are available on the USCIS website. Send the required documentation along with a completed and signed "Request for Visa Interview" form to the specified USCIS application center.

Step 5: Each application center has additional processes applicants must complete after the documentation specified in Step 4 is received and reviewed. Applicants must read through the instructions they receive carefully and follow them closely. More often than not, applicants will be asked to gather additional documentation.

Step 6: Complete the medical examination. Applicants must be examined by an approved physician before their final visa interview can be scheduled. Applicants must bring a valid passport, three photographs, vaccination records, the fee, their medical history, and a statement of pregnancy with them to the examination.

[continued on page 11...]

Rüdi Ziegler Moves On

After More Than 25 Years of Service to the 21st TSC OSJA...

by Steve Smith

Rüdiger Ziegler, who served as the 21st TSC OSJA's courier for over a quarter century, assumed new duties in October at the USAREUR Motor Vehicle Registry on Kapaun Air Station.

Rüdi witnessed a lot of changes at the OSJA over the years, as our military personnel came and went. When he joined our staff in the summer of 1987, the Berlin Wall was still standing and President Ronald Reagan had just called upon "Mr. Gorbachev" to tear it down. Rüdi was one of a small group of dedicated civilians who helped hold the OSJA together through the Cold War, the Gulf War, the Balkans operations, and the wars in Iraq and Afghanistan. While his official job title was "motor vehicle operator," he did much more than clock up hundreds of thousands of kilometers on the Autobahn. He called in work orders and made sure there was follow up. He served as our Government Purchase Card holder and got us what we needed to accomplish the mission. He excelled at special projects like closing down the Mannheim Law Center and acquiring new furniture for our offices.

Rüdi built great working relationships with his counterparts in the TMP, SSSC, DFAS, PBO, the Mail Room, and in other agencies and at higher headquarters. He was the cheerful face of the 21st TSC OSJA, projecting a positive image of our command as he made his appointed rounds. He made friends for us wherever he went, and helped keep us "First in Support!"

We wish Rüdi and his family all the best. We're confident he will enjoy great success in his new position at the Motor Vehicle Registry, where his engaging personality and can-do attitude will be a big plus.

Immigrant Visa Procedures Explained *(continued)*

Step 7: Applicants must meet face-to-face with a consular officer for an interview. All applicants registered for immigration, including children, are required to visit the Consulate in person for a formal visa interview. Applicants must bring their passport(s) and immigrant visa fee with them to the interview.

Once your non-citizen dependents have completed all of these steps, they will receive their I-130 visa. Upon entry into the United States, they will be processed for a Permanent Resident Card, commonly known as a Green Card. Obtaining a Green Card is a necessary prerequisite to naturalization.

For more detailed information on how the immigrant visa process works, visit the USCIS website at http://germany.usembassy.gov/visa. You can also contact the USCIS office at the U.S. Consulate General in Frankfurt by dialing Civilian 069-7535-2237/2298 on Tuesdays and Thursdays from 1400 to 1600 or e-mail your questions to FrankfurtIV@state.gov.

Reprisal: Snatching Defeat from the Jaws of Victory…

by Teresa Robison

It is a fairly common scenario. Employee Jane Doe feels that she is treated unfairly by her supervisor, John Roe. She goes to the Equal Employment Opportunity Office (EEO) and reports that she is the victim of discrimination. She goes to the Inspector General's Office (IG) and reports alleged misconduct by management or her peers. In reality, Jane is somewhat confused, and John's conduct is beyond reproach. However, John has his feelings hurt, and downgrades Jane's next evaluation, or starts assigning her the less glorious tasks in the office. Even though there was no legitimate case of discrimination or misconduct, once John takes action against Jane for reporting, there is now a legitimate case of reprisal for engaging in protected activity.

Reprisal typically occurs in the two scenarios noted above: reprisal against an employee for engaging in EEO activity, and what is known as "Whistleblower Reprisal," which is reprisal for reporting violations, fraud waste and abuse, or dangerous conditions. This article provides a very brief overview of both scenarios.

EEO reprisal takes place when the Agency takes action against an employee for engaging in the EEO process. To qualify for reprisal, the action taken must be one that seems calculated to either deter the person from engaging in EEO activity, or punish someone for engaging in EEO activity. The EEO activity in question does not merely include the filing of a complaint. If action is taken against someone who is a witness in a case, someone who has reported perceived discrimination against themselves or others, or any other participant in the EEO process like the EEO counselor, then that action may be considered reprisal. If an Agency is found to have engaged in EEO reprisal, it is subject to payment of damages and reporting under the No Fear Act. Managers who are found to have engaged in reprisal are subject to disciplinary action, up to and including dismissal, and may be downgraded on the EEO portion of their annual evaluation.

Whistleblower reprisal is a prohibited personnel practice, covered under 5 U.S.C. § 2302. That statute makes it illegal to (among other things) take action against an employee for reporting a violation of law or regulations, for reporting fraud, waste, and abuse, or for reporting anything that constitutes a danger to public health or safety. Allegations of whistleblower reprisal are usually investigated by the Office of Special Counsel (OSC), under 5 U.S.C. § 1213. OSC will investigate, and if they determine that there is a "substantial likelihood" that reprisal has occurred, they report that finding to the head of the Agency. The head of the Agency must then initiate an investigation, and report back to OSC within 60 days. Consequences to the offending supervisor can include the full range of disciplinary action, up to and including dismissal. For more information on whistleblower reprisal, go to: http://www.osc.gov/wbdisc.htm.

The bottom line is that supervisors are human, and will usually have an emotional reaction when an employee engages in EEO or whistleblower activities. Most times, there is no merit to the complaint, and management is always well advised to simply let the process take its course. However, if the supervisor gives in to anger or hurt feelings, and responds by taking action against the employee, however slight, the consequences can be substantial.

Editor's Note: Teresa Robison serves as Labor Law Attorney in the 21st TSC OSJA's Administrative & Civil Law Division.

The Times, They Are A-Changin'

The Army's Flagging Regulation is Revised...

Editor's Note: Recent editions of this newsletter have contained articles on the Qualitative Management Program, the importance of getting rid of unfavorable information in your OMPF (before the Army gets rid of you), and how staying in the Army has become much harder to do. We continue in this vein in this edition with breaking news from our Chief of Military Justice on new ways commanders can flag Soldiers.

by MAJ Brian Owens

"Suspension of Favorable Personnel Action," better known as a flag, is a tool for commanders to limit favorable actions for Soldiers who have been identified as the subject of an adverse action. The U.S. Army's guidance on flags is addressed in Army Regulation 600-8-2, which was recently revised; the revisions took effect on November 23, 2012. The new regulation: authorizes commanders to flag Soldiers who do not have an approved Family Care Plan; expands "referred" Officer Evaluation Report flags to include "relief-for-cause" Non Commissioned Officer Evaluation Reports; directs the flagging authority to counsel the flagged Soldier; creates additional flag categories; updates existing categories; and clarifies when flags are imposed for investigations.

The revised regulation retains some of the old flags but attempts to make all flags easier to understand. A few of the revisions are simply changes to the title, while other revisions are substantive additions that allow for entirely new categories of flags. In addition to the revisions mentioned above, the new regulation includes specific flagging categories for drug and alcohol abuse, for Soldiers not recommended for automatic promotion to PV2, PFC, SPC, 1LT, or CW2, and for both command-directed and law enforcement investigations. The overall effect of these additions is to increase the number and variety of flags available to a commander.

The purpose of a flag is to prevent execution of favorable actions for a Soldier who may be in an unfavorable status (*i.e.*, not in good standing). Flags also preclude movement of a Soldier when it is in the best interests of the Army for the Soldier to remain in his current unit or at his current location until cleared of ongoing actions. Depending on the specific action or investigation, flags can be either non-transferable or transferable (meaning they follow the Soldier to his next unit).

There are several favorable actions that may be impacted by a flag. Most restrictions on favorable actions have either an exception or waiver that may be granted on a case-by-case basis. A flag may impact reassignment; promotion; awards; attendance at schools; payment of bonuses; assumption of command; family member travel or sponsorship; advance or excess leave; unqualified resignation, retirement, or discharge; and appointment, reappointment, reenlistment, or extension.

Commanders often underutilize flags. The regulation requires that a separate flag be initiated for each reason listed in the regulation for flagging a Soldier, if applicable. In other words, if a Soldier fails the Army Physical Fitness Test (APFT) and later is stopped for a DUI offense, the Soldier should have two flags initiated, one for the APFT failure and another one for the DUI. Each type of flag prohibits different favorable actions. In the above example, the Soldier, while flagged for an APFT failure, could still receive an award; however, after being flagged for the DUI the Soldier would not be able to receive an award. If the Soldier passed his next APFT and had the APFT flag removed but the command never initiated an adverse action flag for the DUI, then the Soldier could unintentionally be promoted before the final outcome of the adverse action.

For more information on flagging, commanders should consult their servicing Trial Counsel; Soldiers who have questions about flags should make an appointment to speak with a Legal Assistance Attorney by calling the Kaiserslautern Legal Assistance Office at DSN 483-8848 or Civilian 0631-411-8848.

The Ethics Corner...

by Rick Schwartz

AN OFFICE PARTY EVEN UNCLE SAM WOULD APPROVE OF...

With the holiday season right around the corner, many of us are looking forward to enjoying this time with our family, friends, and colleagues. In many organizations, we will work to put on one or both of two common events—the office holiday party or a unit's holiday ball. Though important to the morale of the office and a great opportunity to interact outside of the daily business setting, we often forget that these gatherings are not official events of the Army or its organizations or activities. The Department of Defense defines an official event as an event conducted in support of an assigned mission. Accordingly, we cannot use the taxpayer's resources to plan or carry out these celebrations. What follows are a few tips to make the event rewarding and enjoyable while still respecting the resource limitations we are bound by.

Use of Government Time. The general rule is that your time during the duty day is an official resource that must be used to complete official business. There are limited authorized exceptions to this general rule, and the best way to plan and hold a holiday celebration is by using the lunch hour or after the duty day is over. A supervisor is limited in the amount of what would otherwise be duty time to allot for planning the event, and planners of unofficial activities should always be volunteers who are not compelled to participate. For example, it is permissible for an employee to volunteer to spend a few minutes on the internet reviewing different menus of various restaurants. However, it would be prohibited for that same person to drive around to various restaurants looking at facilities and menus, and preparing holiday events should never become a significant part of any employee's duties. A supervisor could also authorize the event to take place during the duty day. For example, it would be permissible for an office to have a "pot luck" that extends an hour beyond the normal lunch hour. The exceptions to the general rule are limited and a supervisor should use them sparingly. Wherever you are unsure if it is permissible to have civilian employees away from their normal duties, you should consult your servicing labor counselor for advice.

Use of Other Government Resources. Much like duty time, other government resources are generally only to be used for official business. There are limited exceptions to this rule where a supervisor may authorize limited use for non-official purposes where the added cost is *de minimis*. For example, an e-mail could be sent out to an office or unit notifying all the members of the holiday celebration, since information would be of common interest to all the members. The holiday celebration can also be held in a government conference room at no additional cost. At the same time, common examples of the misuse of government resources would be using government vehicles to travel to and from the event or to examine venues. Another common misuse is the printing of holiday greeting cards, invitations, or flyers/posters advertising the holiday party or ball using government resources. This is a violation even if the greeting cards are not personalized and even if they are sent on behalf of an office.

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OFFICE PARTY GUIDANCE (continued)

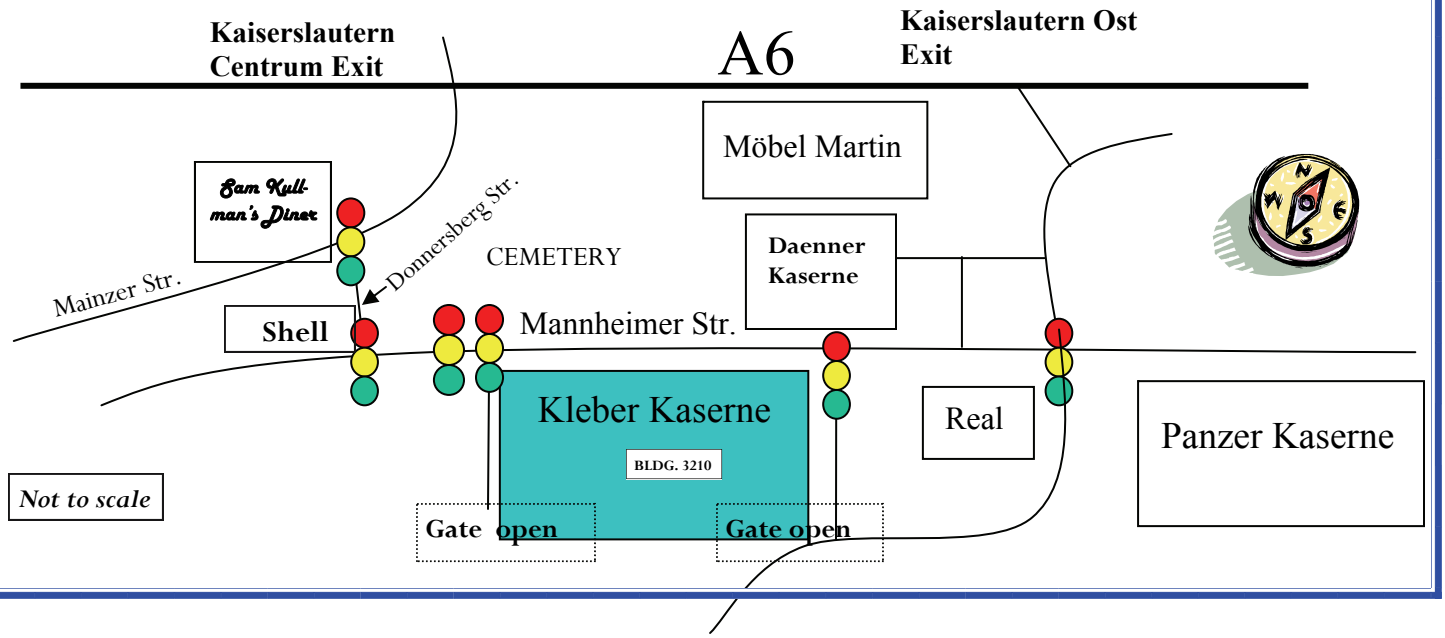
Fundraising. Your office may decide it wants to raise money to reduce the cost of a holiday event. The general rule in USAREUR is "no fundraising in the Federal workplace." However, there is a limited exception that permits employees to raise money among their members for their own benefit when approved by the garrison commander. For more specifics on how to go about this, you may want to pick up a copy of the Ethics Corner article on fundraising that appeared in the Summer 2012 edition of this newsletter, or go right to the source: AER 210-22. Keep in mind that it is prohibited to solicit outside sources, such as contractors or private organizations, as part of this fundraising effort. Also remember that gambling (which includes raffles) on federal installations is generally prohibited, subject to limited exceptions.

Gifts. Gifts among employees may be exchanged during the holiday season. However, be mindful of appearances, and avoid creating the perception of partiality or favoritism. The value of a non-cash holiday gift to a superior is generally limited to $10 and you may not solicit contributions from other employees. There are no restrictions on gifts to peers and subordinates.

Contractor Employees. Contractor employees are valuable members of our team, but different rules apply to them when it comes to holiday celebrations. There should be no official encouragement for contractor employees to leave their workplace. We can let it be known that they may attend and will be a welcome part of the event. Contractor employee time off, and the nature of the time off (leave, personal day, administrative absence) are between the contractor and its employees. When a contractor's employee is absent, the contractor can never bill for services it fails to deliver, and the contractor may have concerns about issues such as contract schedules, delivery dates, and other matters. Accordingly, the contractor must decide if, and under what conditions, its employees may be absent. Contractor employees may never be tasked, or asked to volunteer, to organize holiday events.

Office events can be a great way to connect with those we know professionally, and keeping the above points in mind will ensure your party or ball also stays within the legal guidelines. If you have questions on any of the issues addressed above, contact your local legal office, and ask to speak to their ethics counselor.

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

Legal assistance attorneys and paralegals from all over USAREUR who attended the 2012 USAREUR Legal Assistance Continuing Legal Education (CLE) in Bad Windsheim this fall posed for a group photo before scattering like autumn leaves. 21st TSC attorneys provided over ten hours of instruction at the CLE, covering topics such as German landlord-tenant law and consumer law, international law aspects of legal assistance, early return of dependents, post-marital agreements, FLIPLs, and preventive law initiatives. ***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.