



Recovering compensation from Soldiers after misconduct

by OSJA, Client Services Division

Did you know, if a Soldier deliberately damages or destroys your property, you are entitled to compensation directly from the Soldier? Article 139, Uniform Code of Military Justice (UCMJ), provides an effective means for victims of deliberate misconduct to obtain compensation for their losses – for instance, vandalism or theft.

To start the recovery process

To initiate recovery, the victim makes a written demand for a specific dollar amount to the commander of the accused Soldier – a simple letter is enough. The letter should identify the guilty Soldier and explain how the loss occurred. If there are any witnesses, it is helpful to have a statement from them as well (or at least provide their names and phone numbers). The amount of the loss or damage should be substantiated with estimates of repair or estimates of the replacement cost.

You must submit your claim promptly

An unreasonable delay in submitting your claim may result in the claim being denied. An Article 139 claim is an administrative action and is independent of any other criminal action against a Soldier. There is no reason to delay filing or processing the Article 139 claim, even if criminal charges may be pending. The claim must be for personal property damage only. Bodily injuries, damage to real estate, contract disputes - such as arguments over a Family Child Care contract or sale of a car – are not payable under Article 139.

Claims for property willfully damaged

Willful damage is damage inflicted intentionally, knowingly, and purposefully without justifiable excuse, as distinguished from damage caused inadvertently or thoughtlessly in a negligent manner. Damage, loss, or destruction of property caused by riotous, violent, or disorderly acts, or through conduct showing reckless or wanton disregard of the property rights of others, may be considered willful damage.

Claims for property wrongfully taken

A wrongful taking is any unauthorized taking or withholding of property with the intent to deprive, temporarily or permanently, the owner or person lawfully in possession of the property. Damage, loss, or destruction of property through larceny, forgery, embezzlement, fraud, misappropriation or similar offense may be considered wrongful taking.

Claims not payable under Article 139, UCMJ, include:

- Claims resulting from negligent acts.
- Claims for personal injury, death, and theft of services.
- Claims resulting from acts or omissions of military personnel acting within the scope of their employment.
- Claims resulting from the conduct of Reserve Component personnel who are not subject to the UCMJ at the time of the incident.
- Subrogated claims, including claims by insurers.
- Claims involving only contractual and fiduciary disputes.
- Claims for consequential damages.

If you feel you may be entitled to compensation under an Article 139 Claim, contact the Client Services Division, Office of the Staff Judge Advocate, by calling 410-278-1583 or visiting building 4305, 3rd floor, room 317.