



NOBODY EXPECTS THE..

ARTICLE 139, UCMJ, CLAIMS HANDBOOK

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INDEBTEDNESS TO INDIVIDUALS AND GOVERNMENT INSTRUMENTALITIES AND AGENTS							
R U L E	A	B	C	D	E	F	G
	If	of	is indebted to	for	and	then collect from current pay	at monthly rate not to exceed that shown below or in rule cited
1	an officer or enlisted member	any Military Service	any person	willfully damaging or wrongfully taking property of that person	the commander has convened a board to investigate complaint, and board has assessed damages, and commander has approved an amount of assessment	involuntarily	★amount approved by commander not to exceed disposable pay (see subparagraph 500103.D)
2			member's spouse, former spouse or child	court ordered child support or alimony			(see Chapter 50, section 5002).
3		the Army or Air Force	a commissary	uncollectable check which member or member's authorized agent has issued or endorsed to the commissary (notes 1 and 3)			★disposable pay (see subparagraph 500103.D)
4		the Navy or Marine Corps				involuntarily or pursuant to Military Service regulations	Table 50-6, rule 2
5		the Armed Forces	other appropriated fund activity or office	uncollectable check endorsed or issued by member or member's agent (note 1)			
6		any Military Service	a nonappropriated fund activity	any indebtedness by member or member's agent	the custodian of the nonappropriated fund instrumentality has tried all means for direct collection from member, and a request has been sent to member's commander for assistance in obtaining direct payment		
7			the Internal Revenue Service	delinquent income taxes or court ordered child support (note 2)	IRS Notice of Levy is served		(see Chapter 44, section 4402 and Chapter 50, section 5002)

Table 50-5. Indebtedness to Individuals and Government Instrumentalities and Agents

481101. Separation From Service Not Involved

When enlisted members, warrant officers or limited duty officers have been sentenced by court-martial to forfeit all or part of their pay, no part of the forfeiture is creditable to the Armed Forces Retirement Home Trust Fund until amounts equal to all outstanding indebtedness to the government have been withheld. Transfer only those amounts forfeited that are in excess of any government indebtedness or amounts owed any individuals. In addition, for the purposes of this paragraph, the term "amounts owed any individuals" refers to amounts owed from a member's pay by direction of a commanding officer pursuant to Article 139 of the UCMJ.

481102. Members Who Are Being Separated From Service

A court-martial forfeiture of a limited duty officer, warrant officer, or enlisted member is not credited to the Armed Forces Retirement Home Trust Fund when the member has unsatisfied indebtedness at date of separation, except as shown in paragraph 481103. Such forfeitures remain in the military personnel appropriation. If the unsatisfied debt at separation is less than the forfeiture, credit the difference between the aggregate unsatisfied debt and the forfeiture to the Armed Forces Retirement Home Trust Fund. (For example: If the uncollected indebtedness is \$500 and forfeiture is \$600, credit to the Armed Forces Retirement Home Trust Fund the difference of \$100 between the unsatisfied indebtedness and the forfeiture.) Transfer amounts collected afterward to counterbalance the indebtedness not to exceed the aggregate forfeiture, less amounts previously credited to the Armed Forces Retirement Home Trust Fund.

481103. Indebtedness After Forfeiture Becomes Effective

If debts occur to enlisted members, warrant officers or limited duty officers after a court-martial has been executed and before credit of the forfeiture has been made to the Armed Forces Retirement Home Trust Fund, such debts will not affect the disposition of the forfeiture. Credit the forfeiture to the Armed Forces Retirement Home Trust Fund as if the indebtedness did not exist.

481104. Remission of Indebtedness

If a court-martial forfeiture of enlisted members, warrant officers or limited duty officers is not credited to the Armed Forces Retirement Home Trust Fund due to outstanding debts, and the unliquidated portion of the debts are thereafter remitted or cancelled, do not credit the forfeiture that equals the amount of indebtedness remitted or cancelled to the Armed Forces Retirement Home Trust Fund. That amount remains in the military personnel appropriation.

481105. Commissioned Officers

Credit court-martial forfeitures and fines of commissioned officers (except limited duty officers and warrant officers) to the appropriation to which the member's pay is properly chargeable.

ARTICLE 139 CLAIMS

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SOURCES OF LAW

- Art 139, UCMJ
- Chapter 9, AR 27-20 and
DA PAM 27-162
- AR 15-6
- DoD FMR, Vol 7A, Table 50
(Jan 2010).



IMPROPER CLAIMANTS

- Appropriated Fund Entity
- Non Appropriated Fund (NAF) Entity



COGNIZABLE CLAIMS

- *Property Willfully Damaged*
- *Property Wrongfully Taken*



PROBLEM AREAS

- Breach of Fiduciary Duty & Contract Disputes
- Approval of Non Cognizable Claims
- Disapproval of Cognizable Claims
- Payment by DFAS after approval



PROCEDURES

- Time Limit: 90 Days After Incident
- Written Claim
- Legal Review to Determine if Cognizable
- Appoint 15-6 IO
- Review Findings and Recommendations
- Action by SPCMA
- Request for Reconsideration



*LIMITS OF APPROVAL
AUTHORITY*

- SPCMA: \$5,000
- GCMCA: \$10,000
- USARCS: More than \$10,000



NEW REG & PAM

- ✓ All changes intended to Clarify language of Chapter 9 of old Reg and Pam, not to change rules as they were before March 2008



March 2008 Reg & PAM

- ✓ New paragraph 9-3 added, “Proper Claimants”
- ✓ Para 9-5: breach of fiduciary duty cognizable if it constitutes larceny, forgery, etc.
- ✓ Para 9-5: Extreme DWI is cognizable
- ✓ Para 9-7 & 9-8: SPCMCA can forward claim if will convene court martial for same incident (based on change to UCMJ & AR 27-20)
- ✓ Para 9-8: CA not bound by findings of IO



PAYMENT

- **DOD Financial Management
Regulation, DoD 7000.14-R, Volume
7A, Table 50-5**



PAYMENT AFTER COURT MARTIAL

- DoD FMR, Volume 7A, paragraph 4811201
- Soldier paid as E-1 until discharge

Forfeitures go to Armed Forces retirement Trust Fund, unless debts owed



PAYMENT AFTER COURT MARTIAL

- 481201. Separation From Service Not Involved. When enlisted members, warrant officers or limited duty officers have been sentenced by court martial to forfeit all or part of their pay, no part of the forfeiture is creditable to Armed Forces Retirement Home Trust Fund until amounts equal to all outstanding indebtedness to the government have been withheld. Transfer only those amounts forfeited that are in excess of any government indebtedness or amounts owed any individuals. In addition, for the purposes of this paragraph, the term “amounts owed any individuals” refers to amounts owed from a member’s pay by direction of a commanding officer pursuant to **Article 139 of the UCMJ.**



408, proposed for settlement or compromise in a net amount exceeding \$100,000 will be submitted through the Commander, USARCS to the SA for approval and, if in excess of \$500,000, for certification to Congress for final approval.

Chapter 9

Claims Cognizable Under Article 139, Uniform Code of Military Justice

9-1. Statutory authority

The authority for this chapter is Article 139, UCMJ (10 U.S.C. § 939), which provides redress for property willfully damaged or destroyed, or wrongfully taken, by members of the Armed Forces of the United States.

9-2. Purpose

This chapter sets forth the standards to apply and the procedures to follow in processing claims for the wrongful taking or willful damage or destruction of property by military members of DA.

9-3. Proper claimants; unknown accused

a. A proper claimant under this chapter includes any individual (whether civilian or military), a business, charity, or state or local government that owns, has an ownership interest in, or lawfully possesses property.

b. When cognizable claims are presented against a unit because the individual offenders cannot be identified, this chapter sets forth the procedures for approval authorities to direct pay assessments, equivalent to the amount of damages sustained, against the unit members who were present at the scene and to allocate individual liability in such proportion as is just under the circumstances.

9-4. Effect of disciplinary action, voluntary restitution, or contributory negligence

a. Disciplinary action. Administrative action under Article 139, UCMJ, and this chapter is entirely separate and distinct from disciplinary action taken under other sections of the UCMJ or other administrative actions. Because action, under both Article 139, UCMJ, and this chapter, requires independent findings on issues other than guilt or innocence, a Soldier's conviction or acquittal of claim-related charges is not dispositive of liability under Article 139, UCMJ.

b. Voluntary restitution. The approval authority may terminate Article 139 proceedings without findings if the Soldier voluntarily makes full restitution to the claimant.

c. Contributory negligence. A claim otherwise cognizable and meritorious is payable whether or not the claimant was negligent.

9-5. Claims cognizable

Claims cognizable under Article 139, UCMJ (10 U.S.C. § 939), are limited to the following:

a. Requirement that conduct constructively violates Uniform Code of Military Justice. In order to subject a person to liability under Article 139, the Soldier's conduct must be such as would constitute a violation of one or more punitive articles of the UCMJ. However, a referral of charges is not a prerequisite to action under this chapter.

b. Claims for property willfully damaged. Willful damage is damage inflicted intentionally, knowingly, and purposefully without justifiable excuse, as distinguished from damage caused inadvertently, thoughtlessly or negligently. Damage, loss, or destruction of property caused by riotous, violent, or disorderly acts or acts of depredation, or through conduct showing reckless or wanton disregard of the property rights of others, may be considered willful damage.

c. 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. However, mere breach of a fiduciary or contractual duty that does not involve larceny, forgery, embezzlement, fraud, or misappropriation does not constitute wrongful taking.

d. Definition of property. Article 139 provides compensation for loss of or damage to both personal property, whether tangible or intangible, and real property. Contrast this to the PCA and chapter 11 of this regulation, which provides compensation only for tangible personal property. Monetary losses may fall into the category of either tangible property (for example, cash), or intangible property (for example, an obligation incurred by a claimant to a third party as a result of fraudulent conduct by a Soldier), although recovery for losses of intangible property may be limited by other provisions of this regulation, such as the exclusion of theft of services (see para 9-6f) or consequential damages (see para 9-6g).

e. Claims cognizable under more than one statute. Claims cognizable under other claims statutes may be processed under this chapter.

9-6. Claims not cognizable

Claims not cognizable under Article 139, UCMJ, and this chapter, include the following:

- a. Claims resulting from negligent acts.
- b. Claims for personal injury or death.
- c. Claims resulting from acts or omissions of military personnel acting within the scope of their employment, including claims resulting from combat activities or noncombat activities, as those terms are defined in the glossary.
- d. Claims resulting from the conduct of Reserve Component personnel who are not subject to the UCMJ at the time of the offense.
- e. Subrogated claims.
- f. Claims for theft of services, even if such theft constitutes a violation of Article 134, UCMJ.
- g. Claims for indirect, remote, or consequential damages.
- h. Claims by entities in conflict with the United States, or whose interests are hostile to the United States.

9-7. Limitations on assessments

a. Limitations on amount.

(1) A special court-martial convening authority (SPCMCA) has authority to approve a pay assessment in an amount not to exceed \$5,000 per claimant per incident and to deny a claim in any amount. If the Judge Advocate responsible for advising the SPCMCA decides that the SPCMCA's final action under the provisions of Rule for Courts-Martial 1107 in a court martial arising out of the same incident would be compromised, the SPCMCA may forward the Article 139 claim to the general court-martial convening authority (GCMCA) for action.

(2) A GCMCA, or designee, has authority to approve a pay assessment in an amount not to exceed \$10,000 per claimant per incident and to deny a claim in any amount.

(a) If the GCMCA or designee determines that a claim exceeding \$10,000 per claimant per incident is meritorious, that officer will assess the Soldier's pay in the amount of \$10,000 and forward the claim to the Commander, USARCS, with a recommendation to increase the assessment.

(b) If the head of the ACO (usually the GCMCA's Staff Judge Advocate (SJA)) decides that the GCMCA's final action under the provisions of Rule for Courts-Martial 1107 in a court-martial arising out of the same incident would be compromised, that officer may forward the Article 139 claim to USARCS for action.

(3) Only TJAG, DJAG, the Commander, USARCS, or his or her designee has authority to approve assessments in excess of \$10,000 per claimant per incident.

b. *Limitations on type of damages.* Property loss or damage assessments are limited to direct damages. This chapter does not provide redress for indirect, remote, or consequential damages.

9-8. Procedure

a. *Time limitations on submission of a claim.* A claim must be submitted within 90 days of the incident that gave rise to it, unless the SPCMCA acting on the claim determines there is good cause for delay. Lack of knowledge of the existence of Article 139, or lack of knowledge of the identity of the offender, are examples of good cause for delay.

b. *Form and presentment of a claim.* The claimant or authorized agent may present a claim orally or in writing. If presented orally, the claim must be reduced to writing, signed, and seek a definite sum in U.S. dollars within 10 days after oral presentment.

c. *Action upon receipt of a claim.* Any officer receiving a claim will forward it within 2 working days to the SPCMCA exercising jurisdiction over the Soldier or Soldiers against whom the claim is made. If the claim is made against Soldiers under the jurisdiction of two or more convening SPCMCA's who are under the same GCMCA, forward the claim to that GCMCA. That GCMCA will designate one SPCMCA to investigate and act on the claim as to all Soldiers involved. If the claim is made against Soldiers under the jurisdiction of more than one SPCMCA at different locations and not under the same GCMCA, the claim will be forwarded to the SPCMCA whose headquarters is located nearest the situs of the alleged incident. That SPCMCA will investigate and act on the claim as to all Soldiers involved. If a claim is brought against a member of one of the other military Services, forward the claim to the commander of the nearest major command of that Service equivalent to an ACOM or ASCC.

d. Action by the special court-martial convening authority.

(1) If the claim appears to be cognizable, the SPCMCA will appoint an investigating officer within 4 working days of receipt of a claim. The investigating officer will follow the procedures of this chapter, supplemented by DA Pam 27-162, chapter 9, and AR 15-6, chapter 4, which applies to informal investigations. The SPCMCA may appoint the claims officer of a command (if the claims officer is a commissioned officer) as the investigating officer. In cases where the special court-martial convening authority is an inactive duty Soldier of the USAR, the appointment of an investigating officer will be made within 30 calendar days.

(2) If the claim is not brought against a person who is a member of the Armed Forces of the United States at the time the claim is received, or if the claim does not appear otherwise cognizable under Article 139, UCMJ, the SPCMCA may refer it for legal review (see g, below) within 4 working days of receipt. If after legal review the SPCMCA determines that the claim is not cognizable, final action may be taken disapproving the claim (see h, below)

without appointing an investigating officer. In claims where the special court-martial convening authority is an inactive duty Soldier of the USAR, the request for a legal review may be made within 30 calendar days.

e. Expediting payment through Personnel Claims Act and Foreign Claims Act procedures. When assessment action on a particular claim will be unduly delayed, the claims office supporting the SPCMA may consider the claim under the PCA, 31 U.S.C. § 3721, and chapter 11 of this regulation, or under the FCA, 10 U.S.C. § 2734, and chapter 10 of this regulation, as long as it is otherwise cognizable under that authority. If the Article 139 claim is later successful, the claims office will inform the claimant of the obligation to repay to the government any overpayment received under these statutes.

f. Action by the investigating officer. The investigating officer will notify the Soldier against whom the claim is made.

(1) If the Soldier wishes to make voluntary restitution, the investigating officer may, with the SPCMCA's concurrence, delay proceedings until the end of the next pay period to permit restitution. If the Soldier makes payment to the claimant's full satisfaction, the SPCMCA will dismiss the claim.

(2) In the absence of full restitution, the investigating officer will determine whether the claim is cognizable and meritorious under the provisions of Article 139, UCMJ, and this chapter, and the amount to be assessed against each offender. This amount will be reduced by any restitution the claimant accepts from an offender in partial satisfaction. Within 10 working days, or such time as the SPCMCA may determine, the investigating officer will submit written findings and recommendations to the SPCMCA.

(3) If the Soldier is absent without leave and cannot be notified, a claims office may process the Article 139 claim in the Soldier's absence. If an assessment is approved, a copy of the claim and the memorandum authorizing pay assessment will be forwarded by transmittal letter to the servicing Defense Accounting Office (DAO) for offset against the Soldier's pay. If the Soldier is dropped from the rolls, the servicing DAO will forward the assessment documents to: Commander, Defense Finance and Accounting Service (DFAS), ATTN: Military Pay Operations, 8899 E. 56th Street, Indianapolis, IN 46249.

g. Legal review. The SPCMCA will refer the claim for legal review to its servicing legal office upon either completion of the investigating officer's report or the SPCMCA's determination that the claim is not cognizable (see para *d*(2), above).

(1) Within 5 working days or such time as the SPCMCA determines, that office will furnish a written opinion as to:

(a) Whether the claim is cognizable under the provisions of Article 139, UCMJ, and this chapter.

(b) Whether the findings and recommendations are supported by a preponderance of the evidence.

(c) Whether the investigation substantially complies with the procedural requirements of Article 139, UCMJ; this chapter; DA Pam 27-162, chapter 9; and AR 15-6, chapter 4.

(d) Whether the claim is clearly not cognizable (see para *d*(2), above) and final denial action can be taken without appointing an investigating officer.

(2) If the investigating officer's recommended assessment does not exceed \$5,000, the CJA or claims attorney will, upon legal review, forward the claim to the SPCMCA for final action.

(3) If the investigating officer's recommended assessment is more than \$5,000, the CJA or claims attorney will, upon legal review, forward the claim file to the head of the ACO, who will also conduct a legal review within 5 working days.

(a) If the recommended assessment does not exceed \$10,000, the head of the ACO will forward the claim file to the GCMCA for final action.

(b) If the recommended assessment exceeds \$10,000, the head of the ACO will forward the claim file to the GCMCA for approval of an assessment up to \$10,000 and for a recommendation of an additional assessment. The head of the ACO will then forward the claims file and the GCMCA's recommendation to the Commander, USARCS for approval.

h. Final action. After consulting with the legal advisor, the approval authority will disapprove or approve the claim in an amount equal to, or less than, the amount of the assessment limitation. The approval authority is not bound by the findings or recommendations of the investigating officer; AR 15-6, paragraph 2-3a. The approval authority will notify the claimant, and any Soldier subject to that officer's jurisdiction, of the determination and the right of any party to request reconsideration (see para 9-9). A copy of the investigating officer's findings and recommendation will be enclosed with the notice. The approval authority will then suspend action on the claim for 10 working days pending receipt of a request for reconsideration, unless the approval authority determines that this delay will result in substantial injustice. If after this period the approval authority determines that an assessment is still warranted, the approval authority will direct the appropriate Defense Accounting Office (DAO) to withhold such amount from the Soldier's pay account (see para 9-7a). For any Soldier not subject to the approval authority's jurisdiction, the approval authority will forward the claim to the commander who exercises SPCMCA jurisdiction over the Soldier for assessment. The receiving SPCMCA is bound by the determination of the approval authority.

i. Assessment. Subject to any limitations set forth in appropriate regulations, the servicing DAO will withhold the amount directed by the approval authority and pay it to the claimant. The assessment is not subject to appeal and is binding on any finance officer. If the servicing DAO cannot withhold the required amount because it does not have

custody of the Soldier's pay record, the record is missing, or the Soldier is in a no-pay-due status, that office will promptly notify the approval authority of this fact in writing.

j. Remission of indebtedness. 10 U.S.C. § 4837, which authorizes the remission and cancellation of indebtedness of an enlisted person to the United States or its instrumentalities, is not applicable and may not be used to remit and cancel indebtedness determined as a result of action under Article 139, UCMJ.

9-9. Reconsideration

a. General. Although Article 139, UCMJ, does not provide for a right of appeal, either the claimant or a Soldier whose pay is assessed may request the approval authority (SPCMCA or GCMCA, depending on the amount assessed) or successor in command to reconsider the action. Either party must submit such a request for reconsideration in writing and clearly state the factual or legal basis for the relief requested. The approval authority may direct that the matter be reinvestigated.

b. Reconsideration by the original approval authority. The original approval authority may reconsider the action at any time while serving as the approval authority for the claim in question, even after the transfer of the Soldier whose pay was assessed. The original approval authority may modify the action if it was incorrect, subject to paragraph 9-9d. However, the approval authority should modify the action only because of fraud, substantial new evidence, errors in calculation, or mistake of law.

c. Reconsideration by a successor in command. Subject to paragraph 9-9d, a successor in command may modify an action only because of fraud, substantial new evidence, errors in calculation, or mistake of law apparent on the face of the record.

d. Legal review and action. Prior to modifying the original action, the approval authority will have the servicing claims office render a legal opinion and fully explain the basis for modification as part of the file. If the legal review agrees that a return of the assessed pay is appropriate, the approval authority should request in writing that the claimant return the money, setting forth in the letter the basis for the request. There is no authority for repayment from APF.

e. Disposition of files. After completing action on reconsideration, the approval authority will forward the reconsideration action to the servicing claims office, which will then file the action in accordance with paragraph 9-8h.

9-10. Additional claims judge advocate and claims attorney responsibilities

In addition to the duties set forth in this chapter, the CJA or claims attorney is responsible for forwarding copies of completed Article 139 actions to USARCS, maintaining a log, monitoring the time requirements of pending Article 139 actions, and publicizing the Article 139 program to commanders, Soldiers, and the community.

Chapter 10 Foreign Claims Act

Section I General

10-1. Statutory authority

a. The statutory authority for this chapter is the Act of 10 August 1956, 10 U.S.C. § 2734 (70 Stat. 154), commonly referred to as the "Foreign Claims Act (FCA)," as amended by Pub. L. No. 86-223, 1 September 1959 (73 Stat. 453); Pub. L. No. 86-411, 8 April 1960 (74 Stat. 16); Pub. L. No. 90-521, 26 September 1968 (82 Stat. 874); Pub. L. No. 91-312, 8 July 1970 (84 Stat. 412); Pub. L. No. 93-336, 8 July 1974 (88 Stat. 292); Pub. L. No. 96-513, Title V, §511 (95), 12 December 1980 (94 Stat. 2928).

b. Claims arising from the acts or omissions of the Armed Forces of the United States in the Marshall Islands or the Federated States of Micronesia are settled in accordance with Art. XV, Non-Contractual Claims, of the U.S.-Marshall Islands and Micronesian Status of Forces Agreement (the "SOFA") (posted on the USARCS Web site at "Claims Resources," I, a 8(f)). This is pursuant to the "agreed upon minutes" that are appended to the SOFA, pursuant to Section 323 of the Compact of Free Association between the United States and the Marshall Islands and the Federated States of Micronesia, enacted by Pub. L. No. 99-239, January 14, 1986. (The Compact may be viewed at <http://www.fm/jcn/compact/reindex.html>.) The "agreed upon minutes" state that "all claims within the scope of paragraph 1 of Article XV (Claims), (of the Compact) ... shall be processed and settled exclusively pursuant to the Foreign Claims Act, 10 U.S.C. § 2734, and any regulations promulgated in implementation thereof." Therefore, Title I, Article 178 of the Compact, regarding claims processing, is not applicable to claims arising from the acts or omissions of the Armed Forces of the United States, but only to other Federal agencies. Those agencies are required to follow the provisions of the FTCA, 28 U.S.C. § 2672.

10-2. Scope

a. Application. This chapter, which is applicable outside the United States, its commonwealths, territories, and

the claim to the Admiralty Section, DOJ, with a memorandum explaining past recovery efforts, and an opinion stating why those efforts did not succeed.

8-11. Settlement authority

See AR 27-20, paragraph 8-8.

8-12. Demands

See AR 27-20, paragraph 8-12.

Chapter 9

Article 139, Uniform Code of Military Justice

9-1. Statutory authority

Article 139 of the Uniform Code of Military Justice (UCMJ), entitled "Redress of Injuries to Property" (10 U.S.C. §939) states that:

a. Whenever complaint is made to any commanding officer that willful damage has been done to the property of any person or that a person's property has been wrongfully taken by members of the armed forces, he may, under such regulations as the Secretary concerned may prescribe, convene a board to investigate the complaint. The board shall consist of one to three commissioned officers and, for the purpose of that investigation, it has power to summon witnesses and examine them upon oath, to receive depositions or other documentary evidence, and to assess the damages sustained against the responsible parties. The assessment of damages made by the board is subject to the approval of the commanding officer, and in the amount approved by him shall be charged against the pay of the offenders. The order of the commanding officer directing charges herein authorized is conclusive on any disbursing officer for the payment by him to the injured parties of the damages as assessed and approved.

b. If the offenders cannot be ascertained, but the organization or detachment to which they belong is known, charges totaling the amount of damages assessed and approved may be made in such proportion as may be considered just upon the individual members thereof who are shown to have been present at the scene at the time the damages complained of were inflicted, as determined by the approved findings of the board.

9-2. Purpose

a. Scope. Article 139, UCMJ, provides an administrative mechanism for assessing and paying restitution to the victims of certain types of criminal offenses committed by military personnel subject to the UCMJ (see para 9-5). Victims of these offenses often have no other adequate means of obtaining restitution. Article 139 ensures that a victim is compensated directly from the wrongdoer's military pay rather than from the United States Treasury. This serves both to implement the goals embodied in the Victim and Witness Protection Act of 1982 and to promote military discipline and protect the civilian or military community from these types of disorders. Article 139 provides, however, an extraordinary administrative claims settlement authority. In essence, commanders are granted special powers normally reserved to the civil judicial authority. This authority must not be expanded beyond its strict limits; doing so could raise serious constitutional issues.

b. Historical background. Throughout its history, Article 139 has provided redress for the offenses of wasting, spoiling, or destroying nonmilitary property, presently proscribed by Article 109, UCMJ. Because disorderly Soldiers often commit acts of depredation in groups, the Article contains a unique provision allowing a commander to levy against the pay of all members of a unit who were present when damages were inflicted if an individual offender cannot be identified.

9-3. Proper claimants

a. AR 27-20, paragraph 9-3 lists the categories of proper claimants under Article 139.

b. Essentially, any person, business, organization, or other legally recognized entity is a proper claimant. Only the United States and its nonappropriated fund instrumentalities (NAFIs) are ineligible.

9-4. Effect of disciplinary action, voluntary restitution, or contributory negligence

a. Disciplinary action. Disciplinary action taken against an offender is entirely separate from action taken under Article 139. Under no circumstances should the approval authority or anyone acting for, or appointed by, the approval authority to act on the claim delay action under Article 139 pending resolution of disciplinary action. Because different evidence is admissible and a different standard of proof is applied, acquittal on the charges underlying an Article 139 claim is not in itself a basis for dismissal of the claim or for modification on reconsideration. Action under Article 139 requires an independent inquiry. Furthermore, once disciplinary action is imposed, the claimant may be left with no effective remedy due to the discharge, reduction in rank or forfeitures of pay of the Soldier responsible.

b. Voluntary restitution. The approval authority may terminate Article 139 proceedings without findings if the

Soldier voluntarily makes full restitution to the claimant. Any amount paid to the claimant as partial restitution will be deducted from the amount assessed.

c. Contributory negligence. Because an Article 139 claim is founded upon a criminal act, a claim otherwise cognizable and meritorious is payable whether or not the claimant was negligent.

9-5. Claims cognizable

a. Persons against whom claim is cognizable. Article 139 provides compensation only for loss of, or damage to, real or personal property that has been willfully damaged or wrongfully taken by a member of the U.S. armed forces, to include active duty personnel, retired personnel against whom an Article 139 claim was brought while the offender was still serving on active duty, and Reserve and National Guard personnel when their status subjects them to the UCMJ.

b. Willful damage. Willful damage falls into two categories. The first category involves damage caused intentionally without justification. Such damage is essentially the result of vandalism. The second category involves riotous, violent, or disorderly acts, acts of depredation or acts showing a reckless and wanton disregard for the property rights of others. Loss or damage caused thoughtlessly or inadvertently by a Soldier's negligent conduct is not covered.

(1) A claim that a Soldier accidentally broke a lamp during a drunken brawl is cognizable. Even though the Soldier did not intend to break the lamp and the breaking alone may be construed as simple negligence, the Soldier's conduct shows a reckless and wanton disregard for the property rights of others.

(2) Claims involving damage resulting from the operation of a motor vehicle must be carefully examined. While in most situations such damage is the result of conduct that is merely negligent, and hence not cognizable, in some circumstances the conduct of the operator may be so extreme as to constitute reckless and wanton disregard for the property rights of others. Examples are operating a vehicle at an extreme rate of speed (such as driving at 90 miles per hour in a 45 miles per hour zone), or in an extremely high state of intoxication (such as driving with a Blood Alcohol Content of .25, where the legal limit is .08). However, a mere statutory violation, such as exceeding the speed limit by 5 miles per hour, or driving with a blood alcohol content of .10, is not sufficient by itself to give rise to liability under Article 139.

c. Wrongful takings. A wrongful taking is essentially a theft, that is, an unauthorized taking or withholding of property with the intent to deprive the owner of either temporary or permanent possession. Claims for property taken through larceny, forgery, embezzlement, misappropriation, fraud or similar conduct are normally cognizable. Takings that involve a dispute over the conduct of a Soldier acting as the claimant's agent, over the terms of a contract or over ownership of property are not cognizable unless the dispute is merely a cloak for an intent to steal. Article 139 is not a mechanism for the collection of debts, and the Army has no interest in mediating business disputes under the guise of preventing theft.

(1) A claim that a Soldier borrowed a DVD player and did not return it on the promised date is not cognizable unless the Soldier borrowed the DVD player as a pretext and sold it or kept it permanently. This is evidence of an intent to steal.

(2) A claim that a Soldier issued a worthless check and received property in return is cognizable if evidence establishes an intent to defraud. Such intent may be inferred when the Soldier fails to make good on a bad check within a reasonable time after receiving notice of insufficient funds.

(3) A claim that a Soldier stole a check or credit card and used it to obtain items of value is cognizable.

d. Definition of property. Article 139 provides a remedy for "property" willfully damaged or wrongfully taken (see para 9-1). It does not provide a remedy for all types of financial losses (such as theft of services, see subpara 9-6f). Nevertheless the definition of property covered under Article 139 (see AR 27-20, para 9-5d) is broader than the definition of property under the Personnel Claims Act and AR 27-20, chapter 11.

9-6. Claims not cognizable

a. Negligence. Article 139 may not be used to hold a Soldier liable for negligent acts. Negligence is the failure to use the degree of care that a reasonably prudent person would use under the same or similar circumstances. Negligent conduct differs from conduct in which a Soldier clearly sees or should see that his or her actions are likely to cause damage to property but willfully disregards that risk and causes property damage. For example, if a Soldier accidentally breaks a dish in a china shop, that Soldier may not be held liable under Article 139 unless additional facts prove that the act was willful.

b. Personal injuries or wrongful death. Article 139 is designed to compensate victims only for loss of or damage to property. Hence, claims for personal injury and wrongful death are not cognizable and are treated elsewhere.

c. Scope of employment. Soldiers may not be held liable under Article 139 for acts or omissions which are made within the scope of their employment. This includes combat activities and noncombat activities, as defined in the Glossary of AR 27-20. For example, a Soldier who drives a tank through a field during an exercise is not liable under Article 139 for damage to the crops in that field, even though his actions were intentional and he recognized that it was highly likely that the crops would be damaged. Even if the Soldier's acts are later determined to be reckless or otherwise wrongful, he cannot be held personally liable under Article 139, although the government may be held liable to the property owner under other provisions of law.

d. Reserve and National Guard personnel. Claims resulting from the conduct of Reserve component personnel who were not in a Title 10 duty status at the time of the conduct are not cognizable under Article 139.

e. Subrogated (third-party) claims. Subrogated claims are those in which a third party, such as an insurance company, asserts the claimant's rights. Article 139 will not be used to pay subrogated claims, including those brought by insurers. However, an insurance company may be a proper claimant if its property has been willfully damaged or wrongfully taken. For example, when an insurance company has made a settlement payment to a Soldier who has filed a fraudulent insurance claim, the company is a proper party claimant.

f. Theft of services. Because the language of Article 139 provides a remedy only for "property" willfully damaged or wrongfully taken, other types of financial losses are not cognizable, even if the conduct of the Soldier causing the loss is a violation of the UCMJ. The most common example of this is theft of services in violation of Article 134. For example, a claimant alleges that a Soldier houseguest has used the telephone and incurred long distance charges without permission. This is not cognizable because no property has been taken, even though the unauthorized use of the telephone services results in a financial loss.

g. Claims for indirect, remote, or consequential damages. Consequential damages flow indirectly from the wrongful act. They differ from direct damages. Article 139 may be used to recover only direct damages from the wrongdoer. There is no bright line test for distinguishing direct damages from indirect, remote or consequential damages.

(1) The costs of telephone calls, mileage, postage, copies, or attorneys' fees incurred to pursue a claim under Article 139 are consequential damages and are not compensable.

(2) Where expenses are necessary to repair a damaged item, such as the cost of moving it to a repair shop (drayage), such costs directly result from the Soldier's willful damage and are compensable as direct damages.

(3) The cost of a rental car may be considered direct, compensable damage when a Soldier steals or willfully damages a claimant's privately-owned vehicle (POV). Such costs, such as rental of a vehicle comparable in value to the claimant's POV, must be reasonable.

h. Claims by persons or entities in conflict with or hostile to the United States. While in most circumstances damage to the property of such persons or entities would occur as a result of acts done by Soldiers within the scope of their duties, and thus be non-cognizable pursuant to subpara 9-6c, this section makes it clear that claims by such persons or entities are not cognizable regardless of the circumstances under which their property damage or loss may have occurred.

9-7. Limitations on assessments

Limitations on the amount of money that may be paid to a claimant depend on the level of authority at which the claim is handled. The Special Court-Martial Convening Authority (SPCMCA) with jurisdiction over the claim may approve any claim for a single incident up to \$5,000 per claimant. The General Court-Martial Convening Authority (GCMCA) or designee may approve any claim up to \$10,000. Only the Judge Advocate General (TJAG), the Deputy Judge Advocate General (DJAG) and the Commander USARCS, or designee may approve claims for more than \$10,000. Pursuant to Rule for Court-Martial 1107, a convening authority who approves an Article 139 claim may be disqualified from taking final action in a court martial that arises out of the same incident. Consequently, if the judge advocate or head of the area claims office (usually the staff judge advocate (SJA)) advising the convening authority determines that the convening authority will be required to take final action in a court-martial arising out of the same incident as the Article 139 claim, the convening authority should forward the claim to the next higher level for action or approval. If the SPCMCA forwards the claim to the GCMCA for this reason before an investigation pursuant to AR 15-6 has been conducted, the GCMCA must appoint an investigating officer (IO) and follow the other procedures set forth in para 9-8. See para 9-8g and para 9-8h(2) for application of Rule for Courts-Martial (RCM) 1107.

9-8. Procedure

a. Time limitations on submission of a claim. A claim must be submitted within 90 days of the incident that gave rise to it, unless good cause for the delay is shown. The SPCMCA acting on the claim determines what constitutes good cause. Generally, a person who is not aware of Article 139 or does not know the identity of the offender has good cause for delay in submitting a claim.

b. Form of a claim. A claim may be submitted orally, but it must be reduced to writing and signed by the claimant within ten calendar days. Anyone with knowledge of the Article 139 process should encourage the claimant to do this promptly. An oral claim that is not reduced to writing within ten calendar days may be dismissed. The claim must also seek a definite amount. An amount stated in a foreign currency must be converted to U.S. dollars. The claims judge advocate (CJA) or claims attorney should encourage claimants to use the language and format of the sample claim letter posted on the USARCS Web site at "Claims Resources," V, a, but claimants are not required to do so.

c. Action on receipt of a claim. Any Army officer who receives an Article 139 complaint must forward it to the SPCMCA having UCMJ jurisdiction over the alleged offender or offenders within two working days. The SPCMCA is a commander authorized to convene a special court-martial under the UCMJ and Army regulations, including commanders of units in reserve components, regardless of whether the exercise of such jurisdiction has been withheld. Special rules apply if more than one SPCMCA may have authority over the alleged offender or offenders or if the claim is against a member of another military service. If all SPCMCA's who have potential jurisdiction over the alleged

offender or offenders fall under the command of a single GCMCA, the CJA or claims attorney should forward the claim to that GCMCA, who will designate one of the SPCMCA's to process the claim. If the SPCMCA's who have potential jurisdiction fall under the command of different GCMCA's, then the SPCMCA whose headquarters is closest to the place where the incident giving rise to the claim occurred has jurisdiction. Finally, if the claim is brought against a member of one of the other military services, then it should be forwarded to the commander of the nearest command of that military service equivalent to a major Army command (MACOM).

d. Initial action by the SPCMCA. If the claim appears cognizable, the SPCMCA will appoint an IO (see sample appointment letter posted to the USARCS Web site at "Claims Resources," V, b) to conduct an investigation using the informal procedures of AR 27-20, chapter 9, and AR 15-6, chapter 4, within four working days of receiving the claim. If the claim does not appear cognizable, the SPCMCA may refer it for legal review within four days of receipt. If after legal review the SPCMCA determines that the claim is not cognizable, they may disapprove the claim without appointing an IO.

e. Expediting payment through Personnel Claims Act and Foreign Claims Act procedures. There are times when a delayed payment may result in hardship to a claimant. If the Article 139 claim resolution will be unduly delayed, the area claims office may process the claim under the Personnel Claims Act (PCA), 31 U.S.C. § 3721, pursuant to AR 27-20, chapter 11, or under the Foreign Claims Act (FCA), 10 U.S.C. § 2734, pursuant to AR 27-20, chapter 10, if it is otherwise cognizable under that authority. If claims personnel handle the claim under chapter 11 or chapter 10, then the claims office must inform the claimant of the responsibility to repay to the government any overpayment should the Article 139 claim later succeed. Payment of an Article 139 claim under chapters 11 or 10 should be approved only when necessary to prevent financial hardship to the claimant, not merely to avoid an inconvenience.

f. Action by the IO. Within ten working days of appointment, the IO will complete a claims investigation. The SPCMCA may extend this ten-day period for good cause. The CJA or claims attorney should advise the IO before the investigation begins on the scope of the investigation, procedural steps to follow and restrictions on evidence. The IO will promptly notify the Soldier against whom the claim has been brought (see the sample letter posted to the USARCS Web site at "Claims Resources," V, c). In addition, the IO will submit findings of fact and a recommendation based on those findings to the SPCMCA through the claims office and will provide the Soldier against whom the claim is brought with a copy of such findings and recommendations so the Soldier has an opportunity to respond. The IO should contact the CJA or claims attorney for guidance on legal and procedural questions.

(1) *Generally.* The IO should interview all available witnesses and obtain copies of police reports and other relevant documents. Evidence need not be in the form of sworn statements nor need it be admissible under the rules of evidence applicable in a court of law (see AR 15-6, para 3-6). For example, the IO may accept unsworn statements or consider hearsay evidence. When taking oral evidence in person or over the telephone, the IO should contemporaneously summarize the substance of the conversation in a memorandum for record. The IO should physically inspect all damaged items claimed and record findings in the same memorandum.

(2) *Restrictions on evidence.* Although the standards of evidence that apply to this administrative procedure are flexible and permissive, there are some restrictions on the questions that the IO may ask and the evidence that he or she may use. The IO should consult the CJA or claims attorney before asking a witness or suspected offender any question that may be impermissible. When interviewing a Soldier suspected of an offense, the IO must warn the suspect of his or her rights against self-incrimination under Article 31, UCMJ. The IO should use DA 3881 (Rights Warning Procedure/Waiver Certificate) for this purpose. He or she should not consider any evidence specifically prohibited from consideration, listed in AR 15-6, paragraph 3-6.

(3) *Standard of proof.* A preponderance of the evidence is necessary for a finding of pecuniary liability under Article 139. This means that, to recommend liability, the IO must conclude that it is more likely than not that the claim is valid. The IO should base this judgment on the weight of the admissible evidence gathered during the investigation.

(4) *Valuation of a claimant's loss.* Normally, the measure of a loss is either the repair cost or the depreciated replacement cost for the same or a similar item. Most items depreciate at rates that depend on their age and condition. The Military Allowance List-Depreciation Guide (ALDG) may (but is not required to) be used to determine depreciated replacement cost.

(5) *Findings and recommendation.* The IO should submit findings and recommendation to the SPCMCA on DA Form 1574 (Report of Proceedings by Investigating Officer/Board of Officers) and will address each of the following conditions for payment:

- (a) Whether the claim is brought by a proper claimant, in writing, and seeks a definite sum.
- (b) Whether the claim is brought within 90 days of the incident that gave rise to it, or the claimant has shown good cause for the delay.
- (c) Whether the claim seeks compensation for property belonging to the claimant that was wrongfully taken or willfully damaged by a member or members of the U.S. Army.
- (d) Whether the claim is meritorious in a specific amount.
- (6) *Claims against more than one Soldier.* If the claim is brought against more than one Soldier, the IO will make a determination with respect to each named Soldier. Several Soldiers may be present when property is wrongfully taken or willfully damaged. If the IO determines that one or more of them committed the act but cannot determine who, the

IO may recommend that equal amounts be assessed against each Soldier who was present. If a Soldier is in a no pay due status, the Defense Accounting officer will notify the approval authority.

(7) *Processing claims against Soldiers absent without leave.* If a Soldier found liable pursuant to Article 139 is absent without leave (AWOL), and thus cannot be notified of the impending assessment, then the approval authority may act on the claim in the Soldier's absence. If the claim against the AWOL Soldier is approved, the approval authority will ensure that a copy of the claim and a memorandum authorizing a pay assessment against the Soldier is transmitted to the servicing Defense Accounting Office (DAO) to process an offset against the Soldier's pay account.

g. Legal review by the CJA or claims attorney. Within five working days (which the SPCMCA may extend for good cause), the CJA or claims attorney will review the IO's findings and recommendation, and will consider whether or not action by the SPCMCA on the claim would interfere with the SPCMCA's obligations under RCM 1107. The SPCMCA should not take action on the claim if the SPCMCA will be required to take final action on a court martial of the Soldier against whom the claim was filed for offenses arising from the incident which is the subject of the claim. If not, the CJA or claims attorney will advise the SPCMCA whether the findings and recommendations are legally sufficient and supported by the evidence. See the sample review letter posted to the USARCS Web site at "Claims Resources," V, d. If they are not, the CJA or claims attorney will return the claim to the IO for additional findings. The CJA or claims attorney may review the findings and recommendation even after providing earlier legal or procedural advice to the IO. The CJA or claims attorney will prepare letters to the claimant and to the Soldier against whom the claim is brought for signature by the SPCMCA. Samples of letters to the wrongdoer and to the claimant are posted to the USARCS Web site at "Claims Resources," V, e and f. If the claim is legally sufficient, and the SPCMCA determines that the claim should be approved in an amount of \$5,000 or less, the CJA or claims attorney will prepare an action for the SPCMCA's signature, directing the appropriate DAO to withhold pay from the Soldier for disbursement to the claimant. A sample disbursement request letter is posted on the USARCS web site at "Claims Resources," V, g.

h. Final action by the convening authority.

(1) *Action at the SPCMCA level.* The SPCMCA may disapprove the claim regardless of the amount or, if the findings and recommendation are legally sufficient, approve it in an amount equal to or less than \$5,000. The SPCMCA will notify both the Soldier and claimant(s) in writing of the decision and of their right to request reconsideration. The SPCMCA will then delay final action on the claim(s) for ten working days pending receipt of a request for reconsideration unless this delay will result in an injustice (such as the discharge of the liable Soldier from active duty and thus the Army's inability to disburse funds by pay assessment). If either party requests reconsideration within that time, the SPCMCA shall reconsider the claim within five days. If the SPCMCA approves a claim against a Soldier subject to his or her jurisdiction, the SPCMCA will direct the appropriate DAO to withhold pay from that Soldier in an amount up to \$5,000 per claim and to pay that sum to the claimant. The SPCMCA should then return the claim file to the claims office for disposition.

(a) *Soldiers not subject to the SPCMCA's jurisdiction.* For Soldiers not subject to the SPCMCA's jurisdiction, the SPCMCA will forward a copy of the claim to the SPCMCA who does exercise jurisdiction. This SPCMCA is bound by the determination made by the first SPCMCA and will direct the appropriate DAO to withhold pay from that Soldier in an amount up to \$5,000 and pay it to the claimant.

(b) *Forwarding claims to the GCMCA.* If the SPCMCA determines that an assessment in excess of \$5,000 per claimant is warranted, or if action by the SPCMCA on the claim would interfere with the SPCMCA's obligations under RCM 1107, the CJA or claims attorney will forward the file to the head of the area claims office. In most cases, the head of the area claims office will also be the GCMCA's SJA.

(2) *Action at the GCMCA level.* Within five working days of receipt of the claim, the head of the area claims office will review the claim for legal sufficiency and determine whether or not action by the GCMCA on the claim would interfere with the GCMCA's obligations under RCM 1107. The GCMCA should not take action on the claim if the GCMCA will be required to take final action on the court-martial of the Soldier against whom the claim was filed for offenses arising from the incident which is the subject matter of the claim. If the head of the area claims office (usually the GCMCA's SJA) determines such a conflict exists, that officer, on the GCMCA's behalf, will forward the claim with an explanation of the problem to the Commander USARCS for final review. (See AR 27-20, subpara 9-7a(2)(b)). If there is no conflict of interest under RCM 1107, the GCMCA shall disapprove or approve the claim in an amount up to \$10,000 per claimant, within five working days. The GCMCA will notify the Soldier and the claimant in writing of the decision and of their right to request reconsideration. The GCMCA will postpone final action for ten working days to allow either party to request reconsideration. If a request is received within that time, the GCMCA has five working days from the date of receipt to reconsider the claim. If the GCMCA decides to approve the claim in whole or in part, he or she will then take final action by directing the appropriate DAO to withhold an amount up to \$10,000 per claimant from the Soldier's pay. If the GCMCA determines that the claimant is entitled to an amount in excess of \$10,000, then the GCMCA will approve the claim for \$10,000 and forward the claim, along with his or her recommendation, to the Commander USARCS for final action. If, as a result of reconsideration, the GCMCA disapproves the claim the GCMCA will take final action by notifying the parties in writing of the decision.

(3) *Final action by USARCS.* If the Commander USARCS, or a designee, determines that a claim in excess of \$10,000 should be approved, he or she will send a memorandum to the GCMCA approving a cumulative assessment in

an amount over \$10,000 and authorizing the appropriate DAO to withhold additional monies from the offending Soldier's pay and to make restitution to the victim.

i. Assessment. Upon receipt of the Article 139 assessment, the appropriate DAO will withhold the amount directed by the approval authority. The assessment is binding on the DAO. It is not subject to appeal. However, the assessment is subject to the limitations set forth in regulations governing military personnel pay administration. If the DAO to whom the assessment is directed cannot withhold the Soldier's pay because it does not have the Soldier's pay record or the Soldier is in a no-pay-due status, it must promptly notify the approval authority in writing.

j. Post-settlement action. After action on the claim is completed, the servicing claims office will retain the original claim file and forward a complete copy to the SPCMCA. The claim file will be filed locally, per AR 25-400-2. If a personnel claim is filed for the same incident under AR 27-20, chapter 11, the claims office will incorporate a copy of the Article 139 claim into the chapter 11 claim file.

k. Remission of indebtedness. By statute and regulation, an enlisted Soldier is entitled to seek remission of a debt which is owed to the U.S. government. In an Article 139 claim, the debt is owed to the Soldier's victim, not to the United States; therefore, remission of indebtedness procedures do not apply to Article 139 claims. A Soldier may not be relieved of a financial obligation arising under Article 139 through the remission of indebtedness process.

9-9. Reconsideration

Upon receiving a request for reconsideration from either the claimant or a Soldier who has been assessed pecuniary liability, the approval authority or successor in command will direct the legal advisor to provide a recommendation. If the request raises an issue of fact, the approval authority may appoint an IO to make further findings of fact. If the approval authority contemplates modifying the decision, he or she shall provide all parties to the claim with notice and an opportunity to respond. The approval authority will record the basis upon which the decision is modified and notify all parties.

a. Action by the original approval authority. The approval authority should not modify a decision on a request submitted more than ten days after the original decision was issued except on the basis of newly discovered evidence, fraud, or obvious error of fact or law.

b. Action by a successor in command. A successor in command to the original approval authority may not modify a decision on any request except on the basis of newly discovered evidence, fraud, or error of fact or law apparent from the file.

c. Disposition of files. The approval authority will ensure that a copy of the reconsideration is filed with the claim.

9-10. Additional claims judge advocate and claims attorney responsibilities

In addition to conducting legal review of Article 139 claims, the CJA or claims attorney is responsible for:

a. Forwarding copies of completed actions to USARCS. Within ten working days of final action on the claim, the CJA or claims attorney will prepare a cover sheet for the claim and forward it, along with a copy of the claim, to the Commander USARCS, ATTN: JACS-PC. The cover sheet will state the claimant's name, the offender's name, the convening authority, the amount of the assessment, the date approved or disapproved and, if applicable, whether an additional assessment by USARCS is recommended. The CJA or claims attorney must also state whether DAO action was completed if pecuniary liability was recommended.

b. Monitoring time requirements. The CJA or claims attorney will maintain an Article 139 log and monitor time requirements ("suspenses") on pending Article 139 claims, acting to ensure that they are met. Timely completion of Article 139 actions is essential since delays may prevent proper assessment against an offender's pay account. If the offender is separated from active duty it may be impossible to collect anything from his or her pay account. If the offender is tried by court-martial any resulting forfeitures may also preclude proper assessments.

c. Publicizing the Article 139 program. The CJA or claims attorney has a duty to publicize the Article 139 program to commanders, Soldiers and the general public. Methods of disseminating Article 139 information include publishing articles, ensuring that attorneys involved in legal assistance and military justice know about the Article 139 process so they can advise victims, and teaching Article 139 procedures in Army legal classes.

Chapter 10 Foreign Claims Act

Section I General

10-1. Statutory authority

a. The Foreign Claims Act (FCA) (10 U.S.C. § 2734) was enacted on 2 January 1942, retroactive to 27 May 1941, the date on which President Roosevelt proclaimed that the threat of a German advance in western Europe constituted a national emergency for the United States. The FCA was designed to engender good will and promote friendly relations