

## Department of the Navy, DoD

## § 750.7

other person having title for security purposes only.

(b) *Personal injury and death cases.* A claim for personal injury shall be presented by the person injured or a duly authorized agent or legal representative, or, in the case of death, by the properly appointed legal representative of the deceased's estate or survivor where authorized by State law.

(c) *Subrogation.* A subrogor and a subrogee may file claims jointly or separately. When separate claims are filed and each claim individually is within local adjudicating authority limits, they may be processed locally, even if the aggregate of such claims exceeds local monetary jurisdiction, if they do not exceed the sum for which approval of the Department of Justice is required (currently, \$100,000.00) under the Federal Tort Claims Act. Where they exceed this amount, they shall be referred to the Claims and Tort Litigation Division.

(d) *Limitation on transfers and assignment.* All transfers and assignments made of any claim upon the United States, and all powers of attorney, orders, or other authorities for receiving payment of any such claim, are absolutely null and void unless they are made after the allowance of such a claim, the ascertainment of the amount due, and the issuing of a warrant for the payment thereof. 31 U.S.C. 203. This statutory provision does not apply to the assignment of a claim by operation of law, as in the case of a receiver or trustee in bankruptcy appointed for an individual, firm, or corporation, or the case of an administrator or executor of the estate of a person deceased, or an insurer subrogated to the rights of the insured.

### § 750.6 Claims: Presentment.

(a) *Written demand and Standard Form 95.* A claim shall be submitted by presenting a written statement with the amount of the claim expressed in a sum certain, and, as far as possible, describing the detailed facts and circumstances surrounding the incident from which the claim arose. The Claim for Damage or Injury, Standard Form 95, shall be used whenever practical for claims under the Federal Tort and Military Claims Acts. Claims under the

Personnel Claims Act shall be submitted on DD Form 1842. The claim and all other papers requiring the signature of the claimant shall be signed by the claimant personally or by a duly authorized agent. If signed by an agent or legal representative, the claim shall indicate the title or capacity of the person signing and be accompanied by evidence of appointment. When more than one person has a claim arising from the same incident, each person shall file a claim separately. A subrogor and a subrogee may file a claim jointly or separately.

(b) *To whom submitted.* Claims under the Federal Tort and Military Claims Acts shall be submitted to the commanding officer of the Navy or Marine Corps activity involved, if known. Otherwise, they shall be submitted to the commanding officer of any Navy or Marine Corps activity, preferably the one nearest to where the accident occurred, the local Naval Legal Service Command activity, or to the Judge Advocate General, 200 Stovall Street, Alexandria, VA 22332-2400.

### § 750.7 Claims: Action by receiving command.

(a) *Record date of receipt.* The first command receiving a claim shall stamp or mark the date of receipt on the letter or claim form. The envelope in which the claim was received shall be preserved.

(b) *Determine the military activity involved.* The receiving command shall determine the Navy or Marine Corps activity most directly involved with the claim—usually the command where the incident is alleged to have occurred—and forward a copy of the claim to that activity. The original claim (and the transmittal letter, if a copy is forwarded to a more appropriate activity) should immediately be sent to the servicing Naval Legal Service Command activity claims office.

(c) *Initiate an investigation.* An investigation under this part shall be commenced immediately by the command most directly involved with the claim. Once the investigation has been completed, an advance copy shall be forwarded by the convening authority to

the Naval Legal Service Command activity providing claims support. Waiting until endorsements have been obtained before providing a copy of the investigation to the cognizant claims adjudicating authority is neither required nor desirable. The facts of the incident must be made known to cognizant claims personnel as soon as possible.

**§ 750.8 Claims: Responsibility of the adjudicating authority.**

(a) *Reviewing prior actions.* The adjudicating authority determines whether an adequate investigation has been conducted, whether the initial receipt date is recorded on the face of the claim, and whether all holders of the investigation, if completed, are advised of the receipt of the claim.

(b) *Determining sufficiency of the claim.* The claim should be reviewed and a determination of its sufficiency made. If the claim is not sufficient as received, it shall be returned to the party who submitted it along with an explanation of the insufficiency. This does not constitute denial of the claim. The claim shall not be considered "presented" until it is received in proper form.

(c) *Adjudicating the claim.* (1) The adjudicating authority shall evaluate and either approve or disapprove all claims within its authority, except where the payment of multiple Federal Torts Claims Act claims arising from the same incident will exceed \$100,000.00 in the aggregate and thereby require approval of the Department of Justice. In this latter instance, the claims and the investigative report shall be forwarded to the Judge Advocate General for action.

(2) The adjudicating authority shall evaluate and, where liability is established, attempt to settle claims for amounts within its adjudicating authority. Permission of higher authority to conduct settlement negotiations to effect such settlements is not necessary. Negotiation at settlement figures above the adjudicating authority's payment limits may be attempted if the claimant is informed that the final decision on the claim will be made at a higher level.

(3) If a claim cannot be approved, settled, compromised, or denied within

the adjudicating authority limits established in this instruction, the claim shall be referred promptly to the Judge Advocate General. The following materials shall be forwarded with the claim:

(i) An official endorsement or letter of transmittal containing a recommendation on resolution of the claim.

(ii) A memorandum of law containing a review of applicable law, an evaluation of liability, and recommendation on the settlement value of the case. This memorandum should concentrate on the unusual aspects of applicable law, chronicle the attempts to resolve the claim at the local level, provide information about the availability of witnesses, and outline any other information material to a resolution of the claim, *i.e.*, prior dealings with the claimant's attorney, local procedural rules, or peculiarities that may make trial difficult. The memorandum should not repeat information readily obtained from the investigative report and should be tailored to the complexity of the issues presented. An abbreviated memorandum should be submitted if the claim is statutorily barred because of the statute of limitations or Federal Employees' Compensation Act or otherwise barred because of the *Feres* doctrine.

(iii) The original investigative report and all allied papers.

(iv) The original claim filed by the claimant (and the envelope in which it arrived, if preserved). The adjudicating authority shall retain at least one copy of all papers forwarded to the Judge Advocate General under this section.

(d) *Preparing litigation reports.* A litigation report is prepared when a lawsuit is filed and a complaint received. The report is addressed to the Department of Justice official or the U.S. Attorney having cognizance of the matter. The report is a narrative summary of the facts upon which the suit is based and has as enclosures the claims file and a memorandum of law on the issues presented.

(1) When the claim has been forwarded to the Judge Advocate General prior to the initiation of a suit, litigation reports originate in the Claims and Tort Litigation Division of the Office of the Judge Advocate General.