

Department of the Air Force, DoD

§ 842.45

(iii) The Chief, Deputy Chief and Branch Chiefs, Claims and Tort Litigation Staff.

(4) The SJA of 9AF for CENTCOM, and the SJAs of PACAF and USAFE have delegated authority to settle claims payable or deny claims filed for \$25,000 or less.

(5) SJAs of single base GCMs, and GCMs in PACAF and USAFE, and each Air Force base, station, or fixed installation have delegated authority to settle claims payable, or deny claims filed for \$15,000 or less.

(b) *Redelegation of authority.* A settlement authority may redelegate his or her authority for claims not exceeding \$25,000, to a subordinate judge advocate or civilian attorney in writing.

(c) *Appellate authority.* Upon appeal, a settlement authority has the same authority specified above. However, no appellate authority below the Office of the Secretary of the Air Force may deny an appeal of a claim it had previously denied.

(d) *Authority to reduce, withdraw, and restore settlement authority.* Any superior settlement authority may reduce, withdraw, or restore delegated authority.

(e) *Settlement negotiations.* A settlement authority may settle a claim in any sum within its delegated settlement authority, regardless of the amount claimed. Send uncompromised claims in excess of the delegated authority to the level with settlement authority. Unsuccessful negotiations at one level do not bind higher authority.

(f) *Special exceptions.* Do not settle claims for the following without HQ USAF/JACC approval:

(1) Legal malpractice.

(2) On the job personal injury or death of an employee of a government contractor or subcontractor.

(3) Assault, battery, false imprisonment, false arrest, abuse of process, or malicious prosecution committed by an investigative or law enforcement officer.

(4) On-base animal bite cases.

(5) Personal injury from asbestos or radon.

(6) Claims based upon an act or omission of an employee of the government,

exercising due care, in the execution of a statute or regulation.

(7) Claims based upon the exercise or performance or the failure to exercise or perform a discretionary function or duty on the part of a federal agency or an employee of the government.

(8) Claims for damage to property of a state, commonwealth, territory, or the District of Columbia caused by ANG personnel engaged in training or duty under 32 U.S.C. 316, 502, 503, 504, or 505 who are assigned to a unit maintained by that state, commonwealth, territory or the District of Columbia.

(9) Claims not payable because payment is not in the best interests of the United States, is contrary to public policy, or is otherwise contrary to the basic intent of the MCA.

(10) Claims presented by a national, or a corporation controlled by a national, of a country at war or engaged in armed conflict with the United States, or any country allied with such enemy country.

(11) Medical malpractice.

[55 FR 2809, Jan. 29, 1990, as amended at 56 FR 1574, Jan. 16, 1991]

§ 842.43 Filing a claim.

(a) *How and when filed.* A claim is filed when a federal military agency receives from a claimant or duly authorized agent a properly completed Standard Form 95 or other signed and written demand for money damages in a sum certain. A claim belonging to another agency is promptly transferred to that agency.

(b) *Amending a claim.* A claimant may amend a claim at any time prior to final action. To amend a claim, the claimant or his or her authorized agent must submit a written, signed demand.

§ 842.44 Advance payments.

Subpart Q sets forth procedures for advance payments.

§ 842.45 Statute of limitations.

(a) A claim must be filed in writing within 2 years after it accrues. It accrues when the claimant discovers or reasonably should have discovered the existence of the act that resulted in the claimed loss. The same rules governing accrual pursuant to the Federal

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Tort Claims Act should be applied with respect to the Military Claims Act.

(b) The statutory time period excludes the day of the incident and includes the day the claim was filed.

(c) Consider claims filed after the statute has run when:

(1) The United States is at war or in an armed conflict when the claim accrues, or

(2) The United States enters a war or armed conflict after the claim accrues, and

(3) Good cause is shown. A claim is barred by the statute of limitations if it is filed more than 2 years after the good cause ceases to exist or the war or armed conflict ends. Congress or the President establishes the beginning and end of war or armed conflict.

§ 842.46 Who may file a claim.

(a) Owners of the property or their authorized agents may file claims for property damage.

(b) Injured persons or their duly authorized agents may file claims for personal injury.

(c) Duly appointed guardians of minor children or any other persons legally entitled to do so under applicable local law may file claims for minors' personal injuries.

(d) Executors or administrators of a decedent's estate or another person legally entitled to do so under applicable local law, may file claims based on:

(1) An individual's death.

(2) A cause of action surviving an individual's death.

(e) Insurers with subrogation rights may file claims for losses paid in full by them. The parties may file claims jointly or individually, to the extent of each party's interest, for losses partially paid by insurers with subrogation rights.

(f) Authorized agents signing claims show their title or legal capacity and present evidence of authority to present the claims.

§ 842.47 Who are proper claimants.

(a) Citizens and inhabitants of the United States.

(b) U.S. military personnel and civilian employees.

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NOTE: These personnel are not proper claimants for personal injury or death incident to service.

(c) Persons in foreign countries who are not inhabitants of the foreign country.

(d) States, state agencies, counties, or municipalities, or their political subdivisions.

(e) Prisoners of war or interned enemy aliens.

NOTE: These individuals are proper claimants for personal property damage but not for personal injury.

(f) Property owners, their representatives, and those with certain legal relationships with the record owner, including mortgagors, mortgagees, trustees, bailees, lessees and conditional vendees.

(g) Subrogees to the extent they have paid for the claim in question.

§ 842.48 Who are not proper claimants.

(a) Governments of foreign nations, their agencies, political subdivisions, or municipalities.

(b) Agencies and departments of the U.S. Government.

(c) Nonappropriated fund instrumentalities.

(d) Subrogees of § 842.48(a), (b), and (c) of this part.

(e) Inhabitants of foreign countries.

§ 842.49 Claims payable.

(a) Claims arising from negligent or wrongful acts or omissions committed by United States military or civilian personnel while acting in the scope of their employment.

(b) Claims arising from noncombat activities of the United States, whether or not such injuries of damages arose out of the negligent or wrongful acts or omissions by United States military or civilian employees acting within the scope of their employment.

(c) Claims for damage to bailed property under § 842.49(a) or (b) of this part, where all of the following are present:

(1) The United States armed forces assumed the duties of a bailee.

(2) The bailor did not assume the risk of loss by express agreement.

(3) Authorized United States armed forces military or civilian personnel acting in their official capacity properly accepted the property.

(d) Claims for loss or damage to: