



ASA DIX LEGAL BRIEF

A PREVENTIVE LAW SERVICE OF THE JOINT READINESS CENTER LEGAL SECTION
UNITED STATES ARMY SUPPORT ACTIVITY DIX
KEEPING YOU INFORMED ON YOUR PERSONAL LEGAL NEEDS

MILITARY CLAIMS ACT

DAMAGE TO SOLDIERS' POV BY GOVERNMENT DRIVER

Q. A Soldier gets into an accident with another vehicle, causing damage to the Soldier's privately owned vehicle (POV). The other vehicle was operated by a government driver. Can the Soldier be compensated for the damage to his POV?

A. The Soldier may be able to file a claim and recover for property damage through the Installation Legal Office (ILO), Claims Division. Under the Military Claims Act (MCA), Title 10 U.S.C. Section 2733 and Army Regulation 27-20, Chapter 3, Soldiers can recover on a claim for POV damage caused by a government driver, such as another Soldier or Department of Defense (DOD) civilian, operating a government owned or leased vehicle, if the government driver was 1) at fault for the accident (negligent and caused the damage) and 2) drove the vehicle during the course and scope of employment with the U.S. Army (in-scope requirement). Soldiers can also file property damage claims with their insurance company instead of with the ILO Claims Division.

Q. How is it determined who was at fault for the accident?

The ASA Dix ILO, Claims Division will determine who was at fault for the accident by applying the negligence laws of the State of New Jersey.

Q. Who determines if the government driver operated the vehicle during the course and scope of employment with the U.S. Army?

The government driver must fill-out an SF-91 (Accident Report); the driver's supervisor will also state on the form whether such driver was authorized to drive the vehicle and serving within the course and scope of his or her employment.

Q. Will the claim be denied if the government driver cannot be identified?

A. The claim will be denied if sufficient information cannot be provided to identify the alleged government driver. For example, the Soldier was following a "military convoy" when debris was ejected from one of the vehicles in the convoy and struck the Soldier's POV. The Soldier is unable to identify the driver or the convoy's military unit. The claim will be denied since the Claims Office will not be able to determine if the driver had operated the vehicle during the course and scope of employment with the U.S. Army.

Q. How does a Soldier file a claim with the ASA Dix ILO Claims Division?

A. The ASA Dix ILO Claims Division will need the following documents to evaluate a property damage claim for a POV: an SF-95 (Claim for Damage, Injury or Death), a copy of the registration for the damaged vehicle, a copy of the insurance declaration page covering the damaged vehicle, two (2) written estimates of repair/damage from reputable auto repair shops, and a copy of the Military Police or civilian police report. It is imperative that the person filing the claim is the registered owner of the damaged vehicle.

Q. Is there an advantage to filing a claim with the ILO Office versus the Soldier's insurance company?

Since MCA claims can take several weeks to months to investigate and process the paperwork, Soldiers may receive faster claims processing with their own insurance company. Soldiers can then file a claim for their insurance policy deductible with the ASA Dix ILO Claims Division. These deductible claims are processed under the MCA and AR 27-20, Chapter 3, as discussed above.

Q. How can I obtain further information on filing a claim through the ILO Office?

A. For further information, contact the ASA Dix ILO, Claims Division at 609-562-3848. The Office is located in Bldg. 5418, Delaware Avenue, third floor.

ASA DIX LEGAL BRIEF is one of a series of Information Papers from the ASA Dix Joint Readiness Legal Section containing general legal information on topics which Legal Assistance Attorneys frequently advise on. Information provided is general in nature and does not constitute formal, specific legal advice. Consult an Attorney for specific legal advice for your particular situation. You may schedule a legal assistance appointment by calling the Joint Base Legal Assistance Division at 609-754-2010. February 2010.