

FORT MEADE CLAIMS DIVISION

HOW TO FILE A FEDERAL TORT CLAIM

1. FILE AN ADMINISTRATIVE CLAIM WITH THE PROPER AGENCY

The Federal Tort Claims Act (FTCA), Title 28, United States Code (USC), §§ 2671-2680, as implemented by the United States Army in Army Regulation 27-20, provides that the United States Government will process claims or other actions arising from the damage or loss of personal property or from any personal injury or death caused by the negligent or wrongful act or omission of an employee of the United States acting within their scope of employment.

Prior to initiating a lawsuit against the United States, the FTCA requires that a claimant first file an administrative claim with the appropriate federal agency. Please note that the FTCA contains a mandatory six month administrative investigation and settlement period. After six months, a claimant may initiate a lawsuit in federal court. Please note that neither these instructions nor the filing of a claim should be construed as a promise of favorable action on the administrative claim or that it will be processed within six months.

In addition to the FTCA, filing a claim under the Military Claims Act (MCA) can also serve as an avenue to recover damages. Pursuant to Title 28, United States Code (USC), §2733, and as implemented by the United States Army in Army Regulation 27-20, the MCA covers situations where “the FTCA does not apply to the type of claim under consideration or if the claim arose incident to noncombat activities.” To recover damages under either the FTCA or the MCA, you will need to properly fill out the Standard Form 95 (SF95), which is discussed below.

2. WHAT CONSTITUTES A PROPER CLAIM

A proper claim is a writing, signed by a proper claimant or legal representative, seeking a sum certain. All claims must be filed with the appropriate federal agency within two years of the negligent or wrongful act or omission. Alternatively, all claims must be filed within two years of when the negligent or wrongful act or omission reasonably should have been discovered. Filing means the claim is actually received by the agency. Additionally, please note that a postmarked letter does not toll the two year filing requirement.

During this process, you must fully comply with the instructions in the Standard Form 95 (SF95), which is linked on our website. Furthermore, pursuant to The Attorney General's Regulation, Title 28, Code of Federal Regulations, § 14.4, you may be required to provide supporting information during the processing of the administrative claim.

3. WHO CONSTITUTES A PROPER CLAIMANT

An administrative claim must be submitted in the name of, and signed by, the owner of the property AND/OR submitted and signed by the injured party if there are personal injuries. If there are multiple owners of the property, the SF 95 should be submitted in the names of, and signed by, all owners of the property.

Additionally, an administrative claim can be prepared, signed, and presented by an agent or legal representative. If the administrative claim is signed by the agent or legal representative, they must provide their title or capacity and also furnish competent evidence of their authority to act (ex. power of attorney, attorney's retainer agreement, etc). In all cases, the administrative claim must be submitted in the name of the claimant (ex. the person injured).

4. PROVIDE THE REQUIRED INFORMATION

Make sure to fill out the SF95 completely. On the SF95, please include your phone number, fax number, and e-mail address. Additionally, please remember to furnish any police reports, signed statements, witness names, contact information, and the names and addresses of authorities to whom you reported the incident. You will also need to provide a complete description of the incident.

Furthermore, make sure the SF 95 states the damages claimed as a definite (sum certain) sum of money. Failure to provide a sum certain could invalidate the filing of the SF95, and the two-year filing deadline will not be tolled. Finally, please remember that all SF95 forms submitted must have an original signature.

5. PROVIDE DOCUMENTS FOR DAMAGED OR DESTROYED PROPERTY

You must provide proof of ownership for all damaged property (ex. vehicle title or registration). Additionally, remember to provide a copy of a repair estimate or actual repair bill. If a damaged vehicle is outside the State of Maryland, you will need to provide two estimates.

If your property is destroyed—rather than just damaged—you must provide an estimate stating the property is a total loss and another estimate stating the salvage value for the property.

6. PROVIDE MEDICAL RECORDS AND MEDICAL BILLS

You must provide all medical bills (hospital bills, physician bills, physical therapy, chiropractor) that set forth the diagnosis and prognosis of any personal injuries. If you want to prevent a significant delay in processing your claim, please remember to index, number, and provide a table of contents for all of your medical records. An injured claimant may be required to submit to a medical examination at Government expense.

7. LIST ALL RELEVANT INFORMATION OVER INSURANCE

Any portion of expenses covered by any form of insurance or Worker's Compensation provisions should be indicated in the space provided on the reverse side of the SF95. If your automobile insurance company pays you for your damage and now seeks reimbursement (subrogation), the insurance company must either file a joint claim with you (i.e. the company seeks its payment to you and you seek your deductible), or separate claims can be filed for each party's interest (i.e. the company seeks its payment to you and you seek your deductible).

For joint claims, the name of the insurance company and the insured must appear in SF 95, Block "2." If the claim is filed and signed by an insurance company agent, the file must contain written authorization from the insured that the agent can file on their behalf.

8. **CONTACT OUR OFFICE WITH ANY QUESTIONS**

If you have any questions, please feel free to contact our office at either 301-677-9960 or 301-677-9898.