

CLIENT LEGAL SERVICES
DIVISION



Military Claims Branch



DEPARTMENT OF THE ARMY
HEADQUARTERS, EIGHTH UNITED STATES ARMY
OFFICE OF THE STAFF JUDGE ADVOCATE
UNIT #15237
APO AP 96205-5237

REPLY TO
ATTENTION OF:

EAJA-LS

25 June 2010

MEMORANDUM FOR CLAIMANTS AGAINST THE UNITED STATES GOVERNMENT

SUBJECT: Procedures for Filing Tort Claims

1. Welcome to the Client Legal Services Division, USAG-Yongsan, Korea. Enclosed are instructions and forms explaining how to file a tort claim against the United States for wrongful death, personal injury, and property damage.
2. It is unfortunate that you have suffered a loss or injury. Our goal is to investigate and fairly settle your claim as quickly as possible. Please understand, however, that Congress and the Department of the Army have placed restrictions on our authority to pay claims of this nature. To ensure that we can pay you the full amount of money to which you are entitled under the law, it is important that you read and carefully follow the enclosed instructions, that you carefully complete all applicable claims forms, and that you submit all the required documentation to substantiate your claim.
3. A claims survey form is attached to this letter. We are genuinely interested in your comments regarding our service to you and welcome any suggestions for improvements. Please return this form at the time you file your claim or fold it in half and mail it postage-free through the MPS. If you have additional comments at a later time, extra survey forms are available at the Client Legal Services Division.
4. The Claims Office is open Monday, Tuesday, Wednesday and Friday from 0900 to 1630, and on Thursday from 1300 to 1600. We are closed Thursday mornings for training. If you need assistance at any stage in the claims process, please do not hesitate to contact us at (02) 7918-8212/8108 (commercial) or DSN 315-738-8212/8108.

Encls
as

MARC W. ZELNICK
CPT, JA
Chief, Client Legal Services Division

TORT CLAIM CHECKLIST (POV Damage)

The following is **required** to process a military tort claim for POV damage:

_____ **Original SF 95** (sample form & blank form enclosed).

- Complete blocks 1 – 19 (if not applicable, write “NA”)
- Statements such as “See Attached” are not acceptable as only entries
- Use personal mail address, NOT local residential address

_____ **Original DD Form 1844** (sample form & blank form enclosed).

- Complete blocks 1 – 13 (if not applicable, write “NA”)
- Original cost, year & month purchased must be listed
- Either repair cost or replacement cost must be listed
- Each item claimed must be a separate line item (estimate fee(s) also listed as separate line item)

_____ **MP Blotter/KN or MP Report/Witness Statement(s).**

_____ **Digital Photographs of Vehicle Damage.** Call or bring your vehicle by the claims office.

_____ **Two Original Written Repair Estimates (if repairable), or Written Repair Bill.**

_____ **Replacement Cost (if not repairable).** Before a replacement cost can be given, an estimate of repair is needed to show that the item is not repairable.

_____ **US Military stationed or TDY in Korea (and accompanying dependents): PCS/TDY orders to Korea, with amendments, pinpoint assignment orders, and extensions (FSTE/AIP).**

_____ **US Civilian Employees stationed or TDY (and accompanying dependents): Employment documentation for current position (i.e. SF50 (DoD), DA Form 3434 (NAF), USFK Form 700-19A-E & Accreditation Letter (Invited Contractor), etc), along with extension paperwork, or TDY order. NOTE: If the above document does not reflect that you have a return rights, living quarters allowance, transportation agreement, etc., provide your original passport showing VISA/SOFA status (passport will be immediately returned upon verification).**

_____ **US Personnel visiting Korea (Active Duty: copy of leave form; Civilians: original passport for verification of VISA status (passport will be immediately returned upon verification)).**

_____ **Reassignment documentation (if scheduled to depart).**

_____ **Approval Authorization to Operate POV (Active Duty Army E6 & below).**

_____ **USFK Vehicle Registration or Korean Motor Vehicle Registration Certificate.**

_____ **USFK Vehicle Safety Inspection (USFK personnel) (valid at the time of the incident).**

_____ **USFK Driver's License or Korean Driver's License with USFK Pass/ID.**

_____ **Insurance Policy (valid at the time of the incident).**

_____ **Insurance Settlement (if insurance company paid any funds associated with damage).**

_____ **Original Electronic Fund Transfer Worksheet** (blank form enclosed).

_____ **Original Power of Attorney.** You must have this if you are filing for your sponsor, spouse, or someone else.

NOTE: Additional documentation or information may be required in the course of the investigation. Failure to provide necessary documentation will result in action based available information.

You have **two years** from the **date of the incident, date damaged discovered, or date you should have know the damage to exist, whichever is later**, to file a claim.

If you desire copies of any forms or documents pertaining to your claim, you should make copies prior to coming to the Client Legal Services Division. If you need assistance, feel free to come by our office during normal office hours or call to speak to one of our representative.

SAMPLE

CLAIM FOR DAMAGE, INJURY, OR DEATH		INSTRUCTIONS: Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.			FORM APPROVED OMB NO. 1105-0008	
1. Submit to Appropriate Federal Agency: U.S. Armed Forces Claims Service-Korea ATTN: Military Tort Claims Unit 15311 APO AP 96205-5311			2. Name, address of claimant, and claimant's personal representative if any. (See instructions on reverse). Number, Street, City, State and Zip code. Self Explanatory			
3. TYPE OF EMPLOYMENT MILITARY CIVILIAN	4. DATE OF BIRTH Self Explanatory	5. MARITAL STATUS Self Explanatory	6. DATE AND DAY OF ACCIDENT Self Explanatory	7. TIME (A.M. OR P.M.) Self Explanatory		
8. BASIS OF CLAIM (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages if necessary). A tort allegation is based on the negligent action(s) of military personnel or civilian employees acting within the scope of their employment. Therefore, your basis for a claim must clearly identify: 1) Who committed a negligent act (i.e. US Soldier, KATUSA, DoD/AAFES/MWR Civilian Employee, Medical Personnel, etc.) 2) What negligent act occurred (what specifically did the above individual do that was negligence) General statements such as "my car was damaged" or "see attached MP report" are not sufficient.						
9. PROPERTY DAMAGE						
NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, Street, City, State, and Zip Code). Complete if applicable, otherwise enter "NA".						
BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF THE DAMAGE AND THE LOCATION OF WHERE THE PROPERTY MAY BE INSPECTED. (See instructions on reverse side). Complete if applicable, otherwise enter "NA".						
10. PERSONAL INJURY/WRONGFUL DEATH						
STATE THE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE THE NAME OF THE INJURED PERSON OR DECEDENT. Complete if applicable, otherwise enter "NA".						
11. WITNESSES						
NAME			ADDRESS (Number, Street, City, State, and Zip Code)			
Complete if applicable, otherwise enter "NA".			Complete if applicable, otherwise enter "NA".			
12. (See instructions on reverse). AMOUNT OF CLAIM (in dollars)						
12a. PROPERTY DAMAGE US or Korean Currency	12b. PERSONAL INJURY US or Korean Currency	12c. WRONGFUL DEATH US or Korean Currency	12d. TOTAL (Failure to specify may cause forfeiture of your rights). Don't forget to total blocks 12a-12c.			
I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE INCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM.						
13a. SIGNATURE OF CLAIMANT (See instructions on reverse side).			13b. PHONE NUMBER OF PERSON SIGNING FORM Self Explanatory	14. DATE OF SIGNATURE Self Explanatory		
CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM The claimant is liable to the United States Government for a civil penalty of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages sustained by the Government. (See 31 U.S.C. 3729).			CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS Fine, imprisonment, or both. (See 18 U.S.C. 287, 1001.)			

INSURANCE COVERAGE

In order that subrogation claims may be adjudicated, it is essential that the claimant provide the following information regarding the insurance coverage of the vehicle or property.

15. Do you carry accident Insurance? Yes If yes, give name and address of insurance company (Number, Street, City, State, and Zip Code) and policy number. No
 If you have private insurance, you must enter the complete address of the insurance company. You are NOT required to file a claim with your insurance company, but may file through your insurance company first, and then file a claim for the deductible.

16. Have you filed a claim with your insurance carrier in this instance, and if so, is it full coverage or deductible? <input type="checkbox"/> Yes <input type="checkbox"/> No	17. If deductible, state amount.
Self Explanatory	Self Explanatory

18. If a claim has been filed with your carrier, what action has your insurer taken or proposed to take with reference to your claim? (It is necessary that you ascertain these facts).
 If you filed a claim with your insurance company, you must annotate what action your insurance company took regarding your claim, and provide documentary evidence to support the action they took.

19. Do you carry public liability and property damage insurance? Yes If yes, give name and address of insurance carrier (Number, Street, City, State, and Zip Code). No
 If you have private insurance, you must enter the complete address of the insurance company. You are NOT required to file a claim with your insurance company, but may file through your insurance company first, and then file a claim for the deductible.

INSTRUCTIONS

Claims presented under the Federal Tort Claims Act should be submitted directly to the "appropriate Federal agency" whose employee(s) was involved in the incident. If the incident involves more than one claimant, each claimant should submit a separate claim form.

Complete all items - Insert the word NONE where applicable.

A CLAIM SHALL BE DEEMED TO HAVE BEEN PRESENTED WHEN A FEDERAL AGENCY RECEIVES FROM A CLAIMANT, HIS DULY AUTHORIZED AGENT, OR LEGAL REPRESENTATIVE, AN EXECUTED STANDARD FORM 95 OR OTHER WRITTEN NOTIFICATION OF AN INCIDENT, ACCOMPANIED BY A CLAIM FOR MONEY

Failure to completely execute this form or to supply the requested material within two years from the date the claim accrued may render your claim invalid. A claim is deemed presented when it is received by the appropriate agency, not when it is mailed.

If instruction is needed in completing this form, the agency listed in item #1 on the reverse side may be contacted. Complete regulations pertaining to claims asserted under the Federal Tort Claims Act can be found in Title 28, Code of Federal Regulations, Part 14. Many agencies have published supplementing regulations. If more than one agency is involved, please state each agency.

The claim may be filled by a duly authorized agent or other legal representative, provided evidence satisfactory to the Government is submitted with the claim establishing express authority to act for the claimant. A claim presented by an agent or legal representative must be presented in the name of the claimant. If the claim is signed by the agent or legal representative, it must show the title or legal capacity of the person signing and be accompanied by evidence of his/her authority to present a claim on behalf of the claimant as agent, executor, administrator, parent, guardian or other representative.

If claimant intends to file for both personal injury and property damage, the amount for each must be shown in item number 12 of this form.

DAMAGES IN A **SUM CERTAIN** FOR INJURY TO OR LOSS OF PROPERTY, PERSONAL INJURY, OR DEATH ALLEGED TO HAVE OCCURRED BY REASON OF THE INCIDENT. THE CLAIM MUST BE PRESENTED TO THE APPROPRIATE FEDERAL AGENCY WITHIN **TWO YEARS** AFTER THE CLAIM ACCRUES.

The amount claimed should be substantiated by competent evidence as follows:

- (a) In support of the claim for personal injury or death, the claimant should submit a written report by the attending physician, showing the nature and extent of the injury, the nature and extent of treatment, the degree of permanent disability, if any, the prognosis, and the period of hospitalization, or incapacitation, attaching itemized bills for medical, hospital, or burial expenses actually incurred.
- (b) In support of claims for damage to property, which has been or can be economically repaired, the claimant should submit at least two itemized signed statements or estimates by reliable, disinterested concerns, or, if payment has been made, the itemized signed receipts evidencing payment.
- (c) In support of claims for damage to property which is not economically repairable, or if the property is lost or destroyed, the claimant should submit statements as to the original cost of the property, the date of purchase, and the value of the property, both before and after the accident. Such statements should be by disinterested competent persons, preferably reputable dealers or officials familiar with the type of property damaged, or by two or more competitive bidders, and should be certified as being just and correct.
- (d) **Failure to specify a sum certain will render your claim invalid and may result in forfeiture of your rights.**

PRIVACY ACT NOTICE

This Notice is provided in accordance with the Privacy Act, 5 U.S.C. 552a(e)(3), and concerns the information requested in the letter to which this Notice is attached.
 A. **Authority:** The requested information is solicited pursuant to one or more of the following: 5 U.S.C. 301, 28 U.S.C. 501 et seq., 28 U.S.C. 2671 et seq., 28 C.F.R. Part 14.

- B. **Principal Purpose:** The information requested is to be used in evaluating claims.
- C. **Routine Use:** See the Notices of Systems of Records for the agency to whom you are submitting this form for this information.
- D. **Effect of Failure to Respond:** Disclosure is voluntary. However, failure to supply the requested information or to execute the form may render your claim "invalid."

PAPERWORK REDUCTION ACT NOTICE

This notice is solely for the purpose of the Paperwork Reduction Act, 44 U.S.C. 3501. Public reporting burden for this collection of information is estimated to average 6 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Director, Torts Branch, Attention: Paperwork Reduction Staff, Civil Division, U.S. Department of Justice, Washington, DC 20530 or to the Office of Management and Budget. Do not mail completed form(s) to these addresses.

**CLAIM FOR DAMAGE,
INJURY, OR DEATH****INSTRUCTIONS:** Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.FORM APPROVED
OMB NO. 1105-0008

1. Submit to Appropriate Federal Agency:

HQ, EUSA, Office of the SJA
ATTN: Military Tort Claims
Unit 15237
APO AP 96205-5237

2. Name, address of claimant, and claimant's personal representative if any. (See instructions on reverse). Number, Street, City, State and Zip code.

3. TYPE OF EMPLOYMENT

 MILITARY CIVILIAN

4. DATE OF BIRTH

5. MARITAL STATUS

6. DATE AND DAY OF ACCIDENT

7. TIME (A.M. OR P.M.)

8. BASIS OF CLAIM (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages if necessary).

9. **PROPERTY DAMAGE**

NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, Street, City, State, and Zip Code).

BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF THE DAMAGE AND THE LOCATION OF WHERE THE PROPERTY MAY BE INSPECTED.
(See instructions on reverse side).10. **PERSONAL INJURY/WRONGFUL DEATH**

STATE THE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE THE NAME OF THE INJURED PERSON OR DECEDENT.

11. **WITNESSES**

NAME

ADDRESS (Number, Street, City, State, and Zip Code)

12. (See instructions on reverse).

AMOUNT OF CLAIM (in dollars)

12a. PROPERTY DAMAGE

12b. PERSONAL INJURY

12c. WRONGFUL DEATH

12d. TOTAL (Failure to specify may cause forfeiture of your rights).

\$

\$

\$

\$

I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE INCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM.

13a. SIGNATURE OF CLAIMANT (See instructions on reverse side).

13b. PHONE NUMBER OF PERSON SIGNING FORM

14. DATE OF SIGNATURE

**CIVIL PENALTY FOR PRESENTING
FRAUDULENT CLAIM**

The claimant is liable to the United States Government for a civil penalty of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages sustained by the Government. (See 31 U.S.C. 3729).

**CRIMINAL PENALTY FOR PRESENTING FRAUDULENT
CLAIM OR MAKING FALSE STATEMENTS**

Fine, imprisonment, or both. (See 18 U.S.C. 287, 1001.)

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15. Do you carry accident Insurance? Yes If yes, give name and address of insurance company (Number, Street, City, State, and Zip Code) and policy number. No

16. Have you filed a claim with your insurance carrier in this instance, and if so, is it full coverage or deductible? Yes No

17. If deductible, state amount.

18. If a claim has been filed with your carrier, what action has your insurer taken or proposed to take with reference to your claim? (It is necessary that you ascertain these facts).

19. Do you carry public liability and property damage insurance? Yes If yes, give name and address of insurance carrier (Number, Street, City, State, and Zip Code). No

INSTRUCTIONS

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Complete all items - Insert the word NONE where applicable.

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(a) In support of the claim for personal injury or death, the claimant should submit a written report by the attending physician, showing the nature and extent of the injury, the nature and extent of treatment, the degree of permanent disability, if any, the prognosis, and the period of hospitalization, or incapacitation, attaching itemized bills for medical, hospital, or burial expenses actually incurred.

The claim may be filed by a duly authorized agent or other legal representative, provided evidence satisfactory to the Government is submitted with the claim establishing express authority to act for the claimant. A claim presented by an agent or legal representative must be presented in the name of the claimant. If the claim is signed by the agent or legal representative, it must show the title or legal capacity of the person signing and be accompanied by evidence of his/her authority to present a claim on behalf of the claimant as agent, executor, administrator, parent, guardian or other representative.

(b) In support of claims for damage to property, which has been or can be economically repaired, the claimant should submit at least two itemized signed statements or estimates by reliable, disinterested concerns, or, if payment has been made, the itemized signed receipts evidencing payment.

If claimant intends to file for both personal injury and property damage, the amount for each must be shown in item number 12 of this form.

(c) In support of claims for damage to property which is not economically repairable, or if the property is lost or destroyed, the claimant should submit statements as to the original cost of the property, the date of purchase, and the value of the property, both before and after the accident. Such statements should be by disinterested competent persons, preferably reputable dealers or officials familiar with the type of property damaged, or by two or more competitive bidders, and should be certified as being just and correct.

(d) **Failure to specify a sum certain will render your claim invalid and may result in forfeiture of your rights.**

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A. *Authority:* The requested information is solicited pursuant to one or more of the following: 5 U.S.C. 301, 28 U.S.C. 501 et seq., 28 U.S.C. 2671 et seq., 28 C.F.R. Part 14.

C. *Routine Use:* See the Notices of Systems of Records for the agency to whom you are submitting this form for this information.

D. *Effect of Failure to Respond:* Disclosure is voluntary. However, failure to supply the requested information or to execute the form may render your claim "invalid."

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1. NAME OF CLAIMANT (Last, First, Middle Initial) Self-Explanatory		3. PICK-UP DATE (YYYYMMDD) NA		LIST OF PROPERTY AND CLAIMS ANALYSIS CHART (Items 14 through 31 to be filled out by Claims Office)											
2. CLAIMANT'S INSURANCE COMPANY (if applicable) a. NAME Self-Explanatory		4. DELIVERY DATE (YYYYMMDD) NA		14. ORIGIN CONTRACTOR		17. 2ND CONTRACTOR		21. CLAIM NUMBER		22. NET WT/MAX CAR LIABLE					
b. POLICY NO. Self-Explanatory		5. 9. ORIGINAL COST		15. INVENTORY DATE (YYYYMMDD)		18. EXCEPTION SHEET DATE (YYYYMMDD)		23. GBL NUMBER		24. LOT NUMBER					
6. 7. LOST OR DAMAGED ITEMS (Describe the item fully, including brand name, model and size. List the nature and extent of damage. If missing, state "MISSING.")		10. MM/YYYY PURCHASED		16. EXCEPTIONS		19. INV NO.		25. AMOUNT ALLOWED		27. ITEM WT		28. HOUSE LIABILITY		29. CARRIER LIABILITY	
1	1	1992 4-Door Hyundai Sonata													
2	1	Dent on trunk lid, dent on drivers side door, deep gouges and scratches on hood. Written repair estimate /Actual repair bill													
3	1	Towing Fee													
12. REMARKS		13. TOTAL	\$	1230.00	30. TOTAL AMOUNT ALLOWED		\$	31. THIRD PARTY LIABILITY		\$	31. THIRD PARTY LIABILITY		\$		

PARTIAL LISTING OF REPAIR SHOPS

The Claims Service has prepared this as a service to USFK Personnel. It is intended as a partial listing only. Listing of a firm does not constitute an endorsement of its products or services by the U.S. Government or the Claims Service. Exclusion of a firm from this list does not imply that such a firm is unreliable or should not be used. All phone numbers listed are off-post Korean civilian numbers unless otherwise noted. If you find any errors in the listings below or if you are aware of any additional firms performing any of the services listed, please let our office know.

AUTOMOTIVE REPAIR

AUTO Craft Shop
TEL: DSN 738-5315/ 5042

Dunlop Body/Repair
TEL: COMM 794-4345

Youngjin Auto Glass
(Windshield/Glass only)
TEL: COMM 793-1990/795-6144

COMPUTERS/TYPEWRITERS/ OFFICE MACHINE

Chin Han Repair Shop
TEL: COMM 749-0692
CELL: 010-6216-5043

Jonny Computer
TEL: COMM 790-8839

Computer repair shop in Gallery
DSN: 723-4030
Bldg # 2209

FUR/LEATHER/SUEDE

Mimi Dry-cleaning
TEL: COMM 793-1879/790-9843

FURNITURE REPAIR

Chin Han Repair Shop
TEL: COMM 749-0692
CELL: 010-6216-5043

GRANDFATHER CLOCKS

Chin Han Repair Shop
TEL: COMM 749-0692
CELL: 010-6216-5043

MUSICAL INSTRUMENTS

Chin Han Repair Shop
TEL: COMM 749-0692
CELL: 010-6216-5043

Yamaha Piano Service Center
TEL: COMM 396-4141

REFRIGERATOR/AIR CONDITIONER

AAFES Concession Repair
TEL: DSN 723-4117

TV/RADIO/STEREO/CAMCORDER REPAIR

AAFES Electronic Repair Shop
TEL: DSN 738-5274

MANUAL CEFT INPUT INFORMATION

Payee Name _____

SSN _____ EIN _____

Corporate Status Code (see attached list) _____ 2J _____

Payee MAILING Address _____

Payee Phone: _____

Payee Email Address _____

EFT Format: CTX

FINANCIAL INSTITUTION INFORMATION

ACH Bank Name _____

ACH Bank Address _____

ACH Bank Telephone Number _____

ACH Nine-Digit Routing Transit Number _____

Depositor Account Number _____

Type of Account (checking or savings) _____

Account Holder's Name _____

Account Holder's Signature _____

NOTE: Failure to annotate legibly, or provide all required information, will delay processing of your claim payment.

MPS

**HQ, Eighth United States Army
Office of the Staff Judge Advocate
ATTN: Chief, Military Claims
Unit #15237
APO AP 96205-5237**