

## § 750.35

of the Navy, Office of the Judge Advocate General, Tort Claims Unit Norfolk, 9620 Maryland Avenue Suite 100, Norfolk, VA 23511-2989.

(3) *Funding.* Claims approved for \$2,500.00 or less are paid from DON appropriations. Claims approved in excess of \$2,500.00 are paid from the judgment fund and must be forwarded to the United States General Accounting Office (GAO) for payment. 28 CFR 14.10(a). Claims arising out of the operation of nonappropriated-fund activities and approved for payment shall be forwarded to the appropriate non-appropriated-fund activity for payment.

[57 FR 4722, Feb. 7, 1992, as amended at 72 FR 53420, Sept. 19, 2007]

### § 750.35 Attorney's fees.

Attorney's fees are limited to 20 percent of any compromise or settlement of an administrative claim, and are limited to 25 percent of any judgment rendered in favor of a plaintiff, or of any settlement accomplished after suit is filed. These amounts are to be paid out of the amount awarded and not in addition to the award. 28 U.S.C. 2678.

### § 750.36 Time limitations.

(a) *Administrative claim.* Every claim filed against the United States under the FTCA must be presented in writing within 2 years after the claim accrues. 28 U.S.C. 2401(b). Federal law determines the date of accrual. A claim accrues when the claimant discovers or reasonably should have discovered the existence of the act giving rise to the claim. In computing the statutory time period, the day of the incident is excluded and the day the claim was presented included.

(b) *Amendments.* Upon timely filing of an amendment to a pending claim, the DON shall have 6 months to make a final disposition of the claim as amended, and the claimant's option to file suit under 28 U.S.C. 2675(a) shall not accrue until 6 months after the presentation of an amendment. 28 CFR 14.2(c).

(c) *Suits.* A civil action is barred unless suit is filed against the United States not later than 6 months after the date of mailing of notice of final denial of the claim. 28 U.S.C. 2401(b).

## 32 CFR Ch. VI (7-1-11 Edition)

The failure of the DON to make final disposition of a claim within 6 months after it is presented shall, at the option of the claimant any time thereafter, be deemed a final denial of the claim. 28 U.S.C. 2675(a).

### §§ 750.37-750.40 [Reserved]

## Subpart C—Military Claims Act

### § 750.41 Scope of subpart C.

This section prescribes the substantive bases and special procedural requirements for the settlement of claims against the United States for death, personal injury, or damage, loss, or destruction of property:

(a) *Caused by military personnel or civilian employees of the Department of the Navy (DON) (hereinafter DON personnel).* For the purposes of this section, DON personnel include all military personnel of the Navy and Marine Corps, volunteer workers, and others serving as employees of the DON with or without compensation, and members of the National Oceanic and Atmospheric Administration or of the Public Health Service when serving with the DON. DON personnel does not include DON contractors or their employees.

(b) *Incident to noncombat activities of the DON.* Claims for personal injury or death of a member of the Armed Forces or Coast Guard, or civilian officer or employee of the U.S. Government whose injury or death is incident to service, however, are not payable.

(c) *Territorial limitation.* There is no geographical limitation on the application of the MCA, but if a claim arising in a foreign country is cognizable under the Foreign Claims Act (10 U.S.C. 2734), the claim shall be processed under that statute. See 10 U.S.C. 2733(b)(2).

(d) *Suit.* The MCA authorizes the administrative settlement and payment of certain claims. The United States has not consented to be sued.

### § 750.42 Statutory authority.

10 U.S.C. 2733, as amended, commonly referred to as the Military Claims Act (MCA).