§ 842.119 Nonassertable claims.

(a) The following are considered nonassertable claims and should not be asserted:

(1) Claims against any department, agency, or instrumentality of the United States. “Agency or instrumentality” includes any self-insured non-appropriated fund activity whether revenue producing, welfare, or sundry. The term does not include private associations.

(2) Claims for care furnished a veteran by the Department of Veterans Affairs (VA) for service connected disability. However, claims may be asserted for the reasonable value of medical care an Air Force member receives prior to his or her discharge and transfer to the VA facility.

(3) Claims for care furnished a merchant seaman under 42 U.S.C. 249. A claim against the seaman’s employer should not be filed.

(b) Claims should not be asserted without HQ USAF/JACC’s approval against:

(1) Government contractors. In claims in which the United States must reimburse the contractor for a claim according to the terms of the contract, an investigation into the claim is sent to HQ USAF/JACC by the base SJA. The file should contain recommendations regarding assertion and include citations to the specific contract clauses involved.

(2) Foreign governments. An investigation is made regarding any claim against foreign governments, their political subdivisions, armed forces members, or civilian employees. The claims files containing the investigation are sent to HQ USAF/JACC along with the base SJA’s recommendations regarding assertion.

(3) US personnel. Claims are not asserted against members of the uniformed services; employees of the US, its agencies or instrumentalities; or an individual who is a dependent of a service member or employee at the time of assertion unless liability insurance will pay the claim.

(4) Manufacturers of products in products liability cases.