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|---|-----------------------------|--|----------|--|-------------------|--|--|
| Standard Form 1039 Revised October 1987 Department of the Treasury FD-1039-2000 | | PUBLIC VOUCHER FOR PURCHASES AND SERVICES OTHER THAN PERSONAL | | | | VOUCHER NO. FOKU5-206893 | |
| U.S. DEPARTMENT BUREAU, OR ESTABLISHMENT AND LOCATION TF PHOENIX FINANCE OFFICE CAMP PHOENIX, AFGHANISTAN APO AE 09320 | | | | DATE VOUCHER PREPARED 7-Feb-05 | | SCHEDULE NO. | |
| PAYEE'S NAME AND ADDRESS KABUL AFGHANISTAN JAG | | | | CONTRACT NUMBER AND DATE CJTF76-SJA | | PAID BY TF PHOENIX APO AE 09320 DSSN: 5570 | |
| | | | | REQUISITION NUMBER AND DATE Claim No. A1B-06-002 | | DATE INVOICE RECEIVED | |
| | | | | | | DISCOUNT TERMS | |
| | | | | | | PAYEE'S ACCOUNT NUMBER | |
| SHIPPED FROM | | TO | | WEIGHT | | GOVERNMENT B/L NUMBER | |
| NUMBER AND DATE OF ORDER | DATE OF DELIVERY OR SERVICE | ARTICLES OR SERVICES <small>(Description, item number of contract or Federal supply schedule, and other information deemed necessary)</small> | QUANTITY | UNIT PRICE COST PER | AMOUNT (1) | | |
| 2/7/2005 | | AGENT RETURN-WINSTON CLAIMS-NAFS GUL CASE No. A1B-06-002 DATE FILED 01 FEBRUARY LEGAL ADMINISTRATOR | | | 302,040 AFS | | |
| Use continuation sheet(s) if necessary (Payee must NOT use the space below) | | | | | | TOTAL 302,040 AFS | |
| PAYMENT: <input type="checkbox"/> PROVISIONAL <input type="checkbox"/> COMPLETE <input type="checkbox"/> PARTIAL <input checked="" type="checkbox"/> FINAL <input type="checkbox"/> PROGRESS <input type="checkbox"/> ADVANCE | | APPROVED FOR BY FOR: J [Signature] TITLE GS-15, DFAS-IN, DSSN: 5570 | | EXCHANGE RATE 49.41946 = \$1.00 | | DIFFERENCES | |
| | | | | Amount verified; correct for | | \$6,111.76 | |
| | | | | (Signature or initials) | | | |
| Pursuant to authority vested in me, I certify that this voucher is correct and amount for payment. | | | | | | | |
| 7-Feb-05 (Date) | | [Signature] Authorized Certifying Officer 2 | | SFC, DISBURSING NCOIC (Title) | | | |
| ACCOUNTING CLASSIFICATION | | | | | | | |
| 2162020 22-0204 P1 16099 22 4200 VFRE F320: 09 APC: K226(83) A1B | | | | | | | |
| PAID BY | CHECK NUMBER | ON ACCOUNT OF U.S. TREASURY | | CHECK NUMBER | ON (Name of bank) | | |
| | CASH | DATE | | PAYEE | | | |
| | \$ 6,111.76 | 7-Feb-05 | | [Fingerprint] | | | |
| 1 When stated in foreign currency insert name of currency. 2 If the ability to certify and authority to approve are combined in one person, one signature only is necessary; otherwise the approving officer will sign in the space provided over his official title. 3 When a voucher is receipted in the name of a company or corporation, the name of the person writing the company | | | | | PER | | |
| | | | | | TITLE | | |

MS Excel Version

PRIVACY ACT STATEMENT

The information requested on this form is required under the provisions of 31 U.S.C 82b and 82c, for the purpose of disbursing Federal money. The information requested is to identify the particular creditor and the amounts to be paid. Failure to furnish this information will hinder discharge of the payment obligation.

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DEPARTMENT OF DEFENSE
COMBINED/JOINT TASK FORCE (CJTF-76)
OFFICE OF THE STAFF JUDGE ADVOCATE
BAGRAM AIRFIELD, AFGHANISTAN APO AE 09354

REPLY TO
ATTENTION OF

CJTF-76-JA-CL

03 February 2006

MEMORANDUM FOR RECORD

SUBJECT: Foreign Claim Investigation, Claim # A1D-06-002 [REDACTED]

1. Identifying Information.

a. Claimant: The claimant is a local national, [REDACTED] hereinafter "the claimant"), living in Pol'e Alam, Afghanistan.

b. Amount: The claimant filed a claim for \$35,500.00USD on 15 October 2005

c. The claimant states on 27 August 2005, her husband ([REDACTED]) was riding a motorcycle that was struck by a U.S Government vehicle. [REDACTED] died as a result of that accident.

d. Investigation Completed: 31 January 2006.

2. Jurisdiction. This claim is presented for consideration under the Foreign Claims Act, 10 U.S.C. §2734. The claimant filed her claim in a timely manner in the form of an SF 95. The claimant is a foreign national and the spouse of the deceased. The claimant is a proper claimant under the Foreign Claims Act IAW DA PAM 27-162, para. 10-2.

3. Statement of Facts.

a. On 27 August 2005, at approx 1530L, [REDACTED] ty was driving an UAH B-33 in a convoy. His recollection is that the motorcycle approached the B-33 from the rear and got caught between the B-33 and the parked construction vehicle. His vehicle was the last of 5 in this convoy. There were 5 occupants in the vehicle and they were traveling at approx. 30 mph. The road he was traveling on was currently under construction. There was a parked construction vehicle on the right hand side of the road and [REDACTED] moved slightly into the left hand lane to pass the parked vehicle. Based on other statements, it is believed that after the UAH B-33 passed the stopped construction vehicle, [REDACTED] veered back into the right hand lane and that is when the motorcycle and military vehicle collided.

b. On 15 October 2005, three local nationals, [REDACTED] and [REDACTED] were interviewed. They all stated that they were located behind the B-33 on bicycles as the accident happened. Each of the three stated that the motorcycle was in front of the UAH B-33. Then, just as the UAH B-33 passed the stopped construction vehicle, it made a right turn to get back into the right lane and struck the motorcycle. None of the witnesses actually saw the

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collision, but they all witnessed the events leading up to and after the collision. They all basically stated the same set of facts.

c. [REDACTED] stated that there was a stopped construction vehicle on the right side of the road and "a motorcycle with a driver and one passenger pulled out from behind the parked construction vehicle and stopped next to the construction vehicle's left side." He yelled to the driver to watch out, but he was unable to maneuver in time and it the motorcycle with the front right corner of the humvee. Thus, [REDACTED] placed the motorcycle in front of the B-33.

d. Further, from photographs (Exhibit #11) of damage, there seems to be nominal damage to the right side of the vehicle and the mirror is not damaged at all. Just the front right portion of the hood and some scratches at the door at the top of the tire level. This would suggest that the impact came when the vehicle and motorcycle impacted if the motorcycle was in front of the UAH B-33.

e. The claimant submitted an SF 95 indicating damages of \$35,500USD for the wrongful death of her spouse.

4. Legal Analysis.

a. Legal Rules. Under AR 27-20, para. 10-3, the incident that forms the basis for the claim must arise in a foreign country and be a result of either noncombat activities of the U.S. armed forces or the negligent or wrongful acts of civilian employees or military members. "Noncombat activity" is defined in the Glossary of AR 27-20, as "authorized activities essentially military in nature, having little parallel in civilian pursuits, which historically have been considered as furnishing the proper basis for payment of claims. Activities excluded are those incident to combat, whether in time of war or not, and use of military personnel and civilian employees in connection with civil disturbances."

b. Application of Rules. In this case, the claim arose in Afghanistan, a foreign country. The military vehicle driver engaged in negligent conduct by not proceeding in a safe manner, i.e., the driver's speed may have been excessive due to road conditions and did not ensure the right hand lane was clear prior to moving back into that lane.

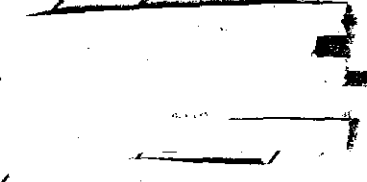
5. Damages.

a. The claimant's husband was killed as a result of the accident.

b. SF 95. The claimant filed an SF 95 on 15 October 2005. The SF 95 indicates damages in the amount of \$35,500.00 USD for the wrongful death of her spouse. However, according to the valuation chart for death claims in Afghanistan \$6,000.00 USD is fair and reasonable in this case.

6. **Proposed Settlement or Action.** This claim is payable under the Foreign Claims Act because the death of the claimant's spouse occurred as a result of a U.S. military member's negligent conduct. This claim should be settled \$6000.00 (302,040.00 Afghani).

7. Point of contact is the undersigned at (318) 231-4603.



CPT, JA Foreign Claims Commissioner CPT, JA Foreign Claims Commissioner CPT, JA Foreign Claims Commissioner

- 2 Encls
- 1. SF 95 for \$35,500USD, dated 15 Oct 05
- 2. Collateral Investigation Report w/attachments

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[redacted signature]

CPT. JA

Foreign Claims Commissioner

[redacted signature]

CPT. JA

Foreign Claims Commissioner

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Foreign Claims Commissioner

2 Encls

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FOREIGN CLAIMS COMMISSION DECISION MEMORANDUM

1. CASE No. #: **A1D-06-002** 2. DATE REQUEST FILED: **1 February 2006**
3. NAME AND ADDRESS OF CLAIMANT: [REDACTED]
4. NAME AND ADDRESS OF REPRESENTATIVE: **N/A**
5. DATE AND PLACE OF INCIDENT: **27 August 2005, Pol'e Alam, Afghanistan**
6. AMOUNT REQUESTED: **\$35,500USD**
7. EQUIVALENT IN US CURRENCY: **Current Exchange Rate**
8. FACTS: **See investigation memo**
9. LIABILITY: **The request is cognizable and considered meritorious**
10. QUANTUM:

Amount requested: **\$35,500 (1,787,070 Afghani)**

Amount Approved: **\$6,000 (302,040 Afghani)**

11. FUND CITE # **2162020 22-0204 P436099.22-4200 VFRE F3203 S99999 APC: K226(83) A1B**

12. ACTION: **Claimant paid for substantiated loss**

13 PAYMENT AMOUNT: **\$6,000 (302,040 Afghani)**

14. EQUIVALENT IN US CURRENCY: **Current exchange rate**

15. COMMISSIONER'S SIGNATURE/DATE:


CPT, JA
Foreign Claims Commissioner

**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.

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.)

27 AUG 05 SATURDAY

1530

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.)

_____ while driving a motorcycle was struck and killed by an US military up-armored HMMWV.

The US military investigation that followed did not state who was at fault for the accident.

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 DAMAGE AND THE LOCATION WHERE PROPERTY MAY BE INSPECTED. (See instructions on reverse side.)

10. PERSONAL INJURY/WRONGFUL DEATH

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

_____ as killed in the accident

11. WITNESSES

ADDRESS (Number, street, city, State, and Zip Code)
205 Corp GI Advisor

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.)

\$35,500

\$35,500

I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE ACCIDENT 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 signatory

14. DATE OF CLAIM

15 OCT 05

CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM

The claimant shall forfeit and pay to the United States the sum of \$2,000, plus double the amount of damages sustained by the United States. (See 31 U.S.C. 3729.)

CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS

Fine of not more than \$10,000 or imprisonment for not more than 5 years or both. (See 18 U.S.C. 287, 1001.)

95-109

Previous editions not usable.

NSN 7540-00-634-4046

This form was electronically produced by National Production Services Staff

STANDARD FORM 95 (Rev. 7-85)
PRESCRIBED BY DEPT. OF JUSTICE
28 CFR 14.2

000088/16
Hous & Bagram Airfield Afghanistan Jan 16 Jan 06 JF

Claim # 110-06-002