

DEPARTMENT OF THE ARMY HEADQUARTERS, MULTINATIONAL DIVISION – CENTRAL SOUTH US ARMY G-STAFF AD DIWANIYAH, IRAQ APO AE 09332

REPLY 10

From: Foreign Claims Commission IF9
Re: Claim number 05 IF9 T 0222

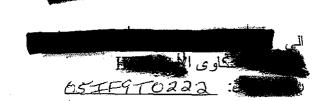
Sir/Ma'am

Your claim, number 051E9T022 filed pursuant to the Foreign Claim Act has been approved in the amount of \$\int_000.06\$. That proposed payment, if accepted, will constitute a full and final satisfaction of your claim against the United States and against any of its entities and a full and final waiver by you of your claim against the United States and against any of its entities.

Foreign Claims Commission IF9:

With regard to my claim number <u>65 TFG T0222</u>, I accept payment in the amount of \$10,000.00 and acknowledge receipt of the same. I agree that my acceptance of said payment constitutes a full and final satisfaction of my claim against the United States or against any of its entities and constitutes a full and final waiver by me of my claim against the United States or against any of its entities.

20 April OC Date





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DEPARTMENT OF THE ARMY HEADQUARTERS, MULTINATIONAL DIVISION – CENTRAL SOUTH US ARMY G-STAFF AD DIWANIYAH, IRAQ APO AE 09332

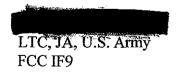
REPLY TO ATTENTION OF

MND-CS-LEGAD

Claim of , 05-IF9-T-0222

ACTION

- 1. Facts: The claimant alleges that on 23 September 2005 his brother and sister-in-law were killed by US forces while driving near Masayyib. His two nephews were wounded and treated at an American medical facility. Medical records were attached. Claimant demanded payment in the sum of \$30,000.00. A review of available US reports established that an Escalation of Force Incident did occur SW of Musayyib at about 2000D on ASR Cleveland on 23 September 2005. The American unit involved was 3/B/1-155IN. The patrol followed established procedures when approached by a civilian vehicle which did not yield to the patrol, including using lights, hand signals and warning shots. When the vehicle continued to approach, the patrol fired on the vehicle with two M249 SAWs firing a total of 200 rounds (100 per weapon). Two adult civilians were killed and two children (ages 9 and 6) were wounded.
- 2. Opinion: The FCA permits compensation for damages caused by the negligent and wrongful acts of US forces. The use of arm signals indicates that there was sufficient daylight for the oncoming driver to observe the convoy, which would indicate that the military personnel were in a position to observe the number of occupants in the vehicle (at least that there were two adults). The number of rounds fired is not proportionate to the need as required by the proportionality requirement of the existing ROE. Therefore, this Foreign Claims Commissioner feels that the patrol's actions were excessive and wrongful under these circumstances.
- 3. Authority: The Foreign Claims Act (10 U.S.C. § 2734) as implemented by AR 27-20, Chapter 10.
- 4. Action: The claim will be paid in the amount of \$10,000.00 as the decedent father was contributorily negligent under the circumstances..



Claims Form

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