

DEPARTMENT OF THE ARMYHEADQUARTERS, 3RD BRIGADE COMBAT TEAM OPERATION IRAQI FREEDOM, COB SPEICHER TIKRIT, IRAQ APO AE 09393

AFZP-VA-HQ

18 February 2006

MEMORANDUM FOR RECORD

SUBJECT: Commander's Emergency Response Program payment to (Claim Number 06-IR8-274)

- 1. On 16 June 2005, the state of the state o
- 2. I certify that CERP funds are available to pay in the amount of \$2500.00. This is a condolence payment.
- 3. The request to pay the second second in the amount of \$2500.00 from CERP has been legally reviewed. There is no legal objection to this payment and it is accordingly approved.

CPT, EN Project Purchasing Officer



DEPARTMENT OF THE ARMY

OFFICE OF THE STAFF JUDGE ADVOCATE
HEADQUARTERS, 101ST AIRBORNE DIVISION (AIR ASSAULT)
OPERATION IRAQI FREEDOM, COB SPEICHER
TIKRIT, IRAQ APO AE 09393

AFZB-JA-C

15 February 2006

MEMORANDUM OF OPINION

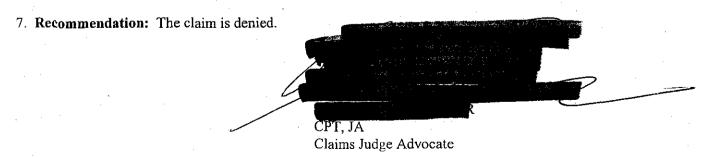
SUBJECT: Claim of

06-IR8-274

1. Identifying Data:

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- 2. Date and place the incident occurred giving rise to the claim: The claim occurred on 16 June 2005 in Balad, Iraq.
- 3. Amount of claim and date it was filed: Claimant filed a claim for \$2,500 on 14 Feb. 2006.
- 4. **Jurisdiction:** This request is presented for consideration under the provisions of the Foreign Claims Act, 10 USC Section 2734, as implemented by Chapter 10, Army Regulation 27-20. This claim was properly filed in a timely manner.
- 5. Facts: The Claimant alleges that her husband, the control point was killed by CF near a traffic control point near the Yethrib police station. The traffic control point was allegedly located on a curve in the road, which did not allow sufficient room for the deceased to stop. The deceased has ten children. A SIGACTS investigation revealed that TF 100-442 established a flash TCP in the area of the accident. Soldiers waved at a dark sedan approaching the CP, but the vehicle did not stop. A warning shot was fired but the vehicle did not stop. The TCP fired at the driver which killed him and caused the vehicle to roll. In support of the claim, the Claimant has produced a court certified death certificate, witness statement, claimant's statement.
- 6. Opinion: "Under AR 27-20, paragraph 10-3, Claims arising "directly or indirectly" from combat activities of the U.S. Armed Forces are not payable. AR 27-20 defines combat activities as, "Activities resulting directly or indirectly from action by the enemy, or by the U.S. Armed Forces engaged in armed conflict, or in immediate preparation for impending armed conflict." Here, the deceased was killed during an escalation of force when the vehicle did not comply with the instructions from the TCP. The escalation of force constitutes a combat activity because the soldiers were responding to a perceived threat.



TF Band of Brothers Claims Intake Form

To: United States. Army Foreign Claims Commission.	
From: Name: POA/ATT: POA/ATT:	
Power of Attorney provided and interpreter approved:	
Decedents:	
Decedents.	
Hometown: Iraqi Resident:	
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My claim arose at: (City) (Country)	<u>, , , , , , , , , , , , , , , , , , , </u>
	6 June 200
My claim arose on: Month Day Year	D JOHR EST
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VIN Match:	
Interpreter Approved:	
Interpreter rappie vee.	
Death Certificates (Name, Cause of Death, Age, and Time of Death Consistent with	ı Claimant
allegations): onginal count death and seen	<u>'. </u>
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Interpreter Approved:	<u></u>
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Medical Report/Legal Expert Opinion:	
Interpreter Approved:	11/1-
Witness Statement (Consistent?) (D) Bystander - saw acal guf	-aracin ser
Without Statement (Commission).	
Interpreter Approved:	
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Evidence: (and death cont (hospital death o	and N/A
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