

6-1R8-439  
25 Mar 02



**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

MEMORANDUM FOR Record

SUBJECT: Claimant Denial

1. This is in response to your claim against the United States Government. Your claim has been reviewed under the Foreign Claims Act, 10 U.S.C. 2734, as implemented by Army Regulation 27-20, Chapter 10. I regret to inform you that your claim has been denied.

2. Your claim has been denied for the following reasons:

- a. There is not enough evidence to prove your claim.
- b. The evidence shows that United States Forces did not cause the damage.
- c. The evidence shows that the damage was caused during combat.
- d. The evidence shows that the damage was caused by your own negligence or wrongdoing.
- e. The evidence shows that your claim was fraudulent.
- f. Other: \_\_\_\_\_

3. If this is the first time your claim has been viewed by this office, you may submit an appeal. This office must receive the appeal no later than 30 days after receipt of this message. The appeal must also contain additional evidence supporting your claim. If the appeal is sent after 30 days have passed, or does not provide additional evidence, then the appeal will be denied.

4. POC is the 101<sup>st</sup> Airborne Division (Air Assault) Claims Office at DSN 318-845-1022.

████████████████████  
CPT, JA  
Chief of Claims

000918



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

22 March 2006

MEMORANDUM OF OPINION

SUBJECT: Claim of [REDACTED]; 06-IR8-439

1. **Identifying Data:** [REDACTED] by Attorney [REDACTED]
2. **Date and place the incident occurred giving rise to the claim:** The claim occurred on 16 January 2006 in Samarra, Iraq.
3. **Amount of claim and date it was filed:** Claimant filed a claim for \$2,500 on 18 March, 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 a CF patrol fired on a tomato truck and killed his brother [REDACTED]. A SIGACTS investigation revealed that a tractor trailer carrying tomatoes approached a CF observation post. The OP tried to get the truck to stop with hand and arm signals and disabling shots. The truck continued to accelerate and the passenger of the vehicle began to shoot a handgun at the CF with 6 rounds impacting the HUMVEE. The patrol engaged the vehicle with crew served weapons and killed the two persons in the vehicle.
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, claimant's damage was caused by CF engaged in combat with AIF. The claim is clearly not compensable.
7. **Recommendation:** The claim is denied.

[REDACTED]  
[REDACTED]  
CPT, JA  
Claims Judge Advocate

000919

**TF Band of Brothers Claims Intake Form**

To: United States Army Foreign Claims Commission.

From: Name: \_\_\_\_\_

POA/ATT: \_\_\_\_\_

Power of Attorney provided and interpreter approved: \_\_\_\_\_

Decedents: \_\_\_\_\_

Hometown: \_\_\_\_\_  Iraqi Resident: \_\_\_\_\_

My claim arose at: \_\_\_\_\_  
(Town) (City) (Country)

My claim arose on: Jan 16 2006  
Month Day Year

Proof of Ownership: \_\_\_\_\_

LVIN Match: \_\_\_\_\_

Interpreter Approved: \_\_\_\_\_

Death Certificates (Name, Cause of Death, Age, and Time of Death Consistent with Claimant allegations): \_\_\_\_\_  
\_\_\_\_\_ ; 16 Jan 06 ; DOB: Jan 1977 ; Cause of Death  
Bullet to various parts of the body ; Samarra Hospital

Interpreter Approved: \_\_\_\_\_

Medical Report/Legal Expert Opinion: \_\_\_\_\_

Interpreter Approved: \_\_\_\_\_

Witness Statement (Consistent?): \_\_\_\_\_

Interpreter Approved: \_\_\_\_\_

Give a brief statement of the accident or incident on which the claim for damages to property or for personal injury is based. (Use back of this sheet if necessary.)

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Evidence: Death Certificate

000920

List in detail the amount of property damage and itemized expenses resulting from the property damage or personal injury: (Attach bills and receipts, if applicable.)

Item

Amount

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Total: \_\_\_\_\_

I claim as damages: (Indicate amount in U.S. dollars and local currency)

\$ \_\_\_\_\_ local \_\_\_\_\_

\_\_\_\_\_  
(Signature of Claimant)

Subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_.

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
(Signature)

000921