

### DEPARTMENT OF THE ARMY HEADQUARTERS, 3<sup>RD</sup> BRIGADE COMBAT TEAM OPERATION IRAQI FREEDOM, COB SPEICHER TIKRIT, IRAQ APO AE 09393

AFZP-VA-HQ

28 January 2006

#### MEMORANDUM FOR RECORD

SUBJECT: Commander's Emergency Response Program payment to (Claim Number 06-IA3-266)

1. On 21 Nov 05, was short by a Coalition Forces patrol during a wedding celebration moving in cars, after the patrol heard shooting coming from the celebration.

2. I certify that funds are available from the CERP to pay \$2,500.00. This is a condolence payment.

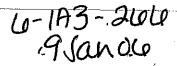
in the amount of

\$3500,00 PEC

3. The request to pay 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

## HEADQUARTERS, 101<sup>ST</sup> AIRBORNE DIVISION (AIR ASSAULT) TASK FORCE BAND OF BROTHERS FORWARD OPERATING BASE SPEICHER APO AE 09393

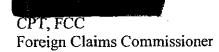
AFZB-JA-C

MEMORANDUM FOR Claimant

SUBJECT: Claim 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.

- 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 proving your claim. If the appeal is sent after 30 days has passed, or does not provided 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.



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### 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

30 December 2005

MEMORANDUM OF OPINION

SUBJECT: Claim of

1, 06-IA3-266

1. Identifying Data:

by Attorney

- 2. Date and place the incident occurred giving rise to the claim: The claim occurred on 21 November 2005 in Al Deloyia, Iraq.
- 3. Amount of claim and date it was filed: Claimant filed a claim for \$7,500 on 27 Dec. 2005.
- 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 at a wedding celebration moving in cars near the police station in Al Deloyia, after the patrol heard shooting coming from the celebration. The Claimant alleges that the CF patrol shot the decedent and then they stopped and gave him treatment. A SIGACTS investigation for the relevant time period revealed that TF 1-15 received small arms fire from an AIF position. The patrol then fired and maneuvered. Later, wounded were found with Iraqi police headed to the Balad hospital.
- 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 Claimant's damage was caused from the exchange between CF and AIF. Accordingly, this claim is non compensable because it is incident to a combat activity.

7. **Recommendation:** The claim is denied.



Claims Judge Advocate

Claims 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)  (Country)  (Country)
My claim arose on: Z DD NOU  Month Day Year
Proof of Ownership:  Interpreter Approved:
Death Certificates (Name, Cause of Death, Age, and Time of Death Consistent with Claimant allegations): (Our Soc CO)
Interpreter Approved:
Legal Expert Opinion: 7,500
Witness Statement (Consistent?): 7- PASCUBY - (1)  Interpreter Approved: 3- Rother - spry star).
Interpreter Approved. 3-11376 titles - Spread Joseph
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.)  New Police Station - CF say congrutulation.
Wedding in Al-Delogia - Wed ding celebration - significan
shooting in celebration. CF patrol heard shooting
& shot Be the Decedant C was nearby -not
In wedding-just passaby. / Weddin celebration was mounting in celebration.  CF patrol stopped & gave him trustness.
29 April 1993
Evidence: Witnesser, Photos

wedneg 2 500 m.

		property damage and itemized expenses resulting from	the proper	rty
	0	(Attach bills and receipts, if applicable.)		
	Item	Amount 7.00		
	Wrongful Death	W 1,380		
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		4		
-		Total: \$ 7,500		
			•	
	I was insured to the following	ng extent against the damage or injuries I have sustained	d:	
-				
	The name and address of m	y insurer (if any) is:	•	
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		te amount in U.S. dollars and local currency)		1
	\$ 7,580	local		,
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	•	(Signature of Claimant)		ý.
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		(Signature)		