

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

1 March 2006

MEMORANDUM OF OPINION

SUBJECT: Claim of

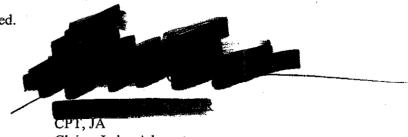
06-IR8-330

1. Identifying Data:

by Attorney

- 2. Date and place the incident occurred giving rise to the claim: The claim occurred on 5 October 2006 in Tikrit, Iraq.
- 3. Amount of claim and date it was filed: Claimant filed a claim for \$2,500 on 28 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 CF shot her son, while he was driving on the Tikrit/Tuz highway. The Claimant allegedly frequently used the road to hunt. A SIGACTS investigation revealed that 13 CSB 101 SB CLP was traveling west on the Tikrit/Tuz highway and initiated escalation of force procedures on a blue vehicle. The LN vehiclew was approaching at a rapid rate of speed and the CLP gunner did not have sufficient time to load flares so a warning shot was shot in front of the vehicle. The driver swerved at went off the road. The patrol found that the driver had sustained major head wounds from the incident. The SIGACT was unclear whether the deceased's injuries were due to CF gunfire or from the trauma associated with the trauma of the motor vehicle crash.
- 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 decedant was killed during an escalation of force, a combat activity because the troops in contact were reacting to a perceived threat to their security.

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



Claims Judge Advocate



DEPARTMENT OF THE ARMY

HEADQUARTERS, 101ST AIRBORNE DIVISION (AIR ASSAULT)

TASK FORCE BAND OF BROTHERS FORWARD OPERATING BASE SPEICHER APO AE 09393 6-110 -330

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.

Other:					
	Other:	Other:	Other:	Other:	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 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 101st Airborne Division (Air Assault) Claims Office at DSN 318-845-1022.

CPT, FCC

Foreign Claims Commissioner

TF Band of Brothers Claims Intake Form

	To: United States Army Foreign Claims Commission From: Name: A A S
	POA/ATT:POWER of Attorney provided and interpreter approved:
	Decedents:
	Hometown: Iraqi Resident:
	My claim arose at: Tikri+
	My claim arose on: (City) (Country)
	Month Day Year Proof of Ownership:
	VIN Match: Interpreter Approved:
	Death Certificates (Name, Cause of Death, Age, and Time of Death Consistent with Claimant allegations): Many mafet
	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.) \[\text{WAS} & \text{Divisor} & \text{Toz} & \text{He} & \text{world} & \text{50} & \text{bac/C} \]
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moul	Claimand is decepted mother.
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Man .	Evidence:

	ifury: (Attach bills and receipts, if applicable.)
	Amount
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	Total: \$\frac{1}{2}500
	101111.
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was insured to the to	Mowing extent against the damage of injuries t have sustained.
	
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	indicate amount in U.S. dollars and local currency
2,500	local
•	A.
	(Signature of Claimant)
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ubscribed before me	this <u>28</u> day of <u>766</u> , 200 <u>6</u> .
	(Print Name)
	Signature)
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2 Same	