



REPLY TO  
ATTENTION OF

**DEPARTMENT OF THE ARMY**  
OFFICE OF THE COMMAND STAFF JUDGE ADVOCATE  
1<sup>ST</sup> BRIGADE COMBAT TEAM, 101<sup>ST</sup> AIRBORNE DIVISION (AASLT)  
KIRKUK, IRAQ APO AE 09335

IDCV-JA

9 JAN 06  
15 December 2005

SUBJECT: Claim of [REDACTED] FY06-IO6-0079

1. Claimant's name and address: [REDACTED] of Kirkuk, Iraq  
Related claim: NA
2. Date and place the incident occurred giving rise to the claim: 21 September 2005, in Kirkuk, Iraq.
3. Amount of claim and the date it was filed: Claimant filed a claim on the 31 October 2005 for compensation for the death of his son and the damage done to the vehicle by Coalition Forces when his son was shot.
4. Chapter(s) the claim was considered under, and a brief description of the incident or of the issues raised by the claimant on reconsideration: Foreign Claims Act and Chapter 10, AR 27-20; claim filed for compensation for the death of his son and damage done to the vehicle by the Coalition Forces when they fired upon on his son.
5. Facts: 21 September 2005 the claimant's son was approaching a Coalition Forces Convoy at a high rate of speed. He failed to stop when ordered to do so, and the Convoy opened fire to halt the progress of his vehicle. The claimant's son was shot in the head; he was transferred to Balad Air Force Base where he died nineteen (19) days after the incident.
6. Opinion:
  - a. In order to form a basis for a claim under the FCA, the incident must have occurred outside the United States, and have been caused by non-combat activities of the United States Armed Forces or by the negligent or wrongful acts: of military members, of civilian employees, of the Armed Forces. See AR 27-20, para 10-3a.
  - b. The claim is not meritorious. The claimant's son failed to stop when so ordered and his high rate of speed when approaching the Convoy created a sense of imminent danger for the Convoy, they had to employ force in order to ensure their safety.
  - c. The evidence establishes does not establish negligence on the part of Coalition Forces.
7. Recommended action: Deny this claim.

[REDACTED]  
[REDACTED]  
MAJ, JA  
Foreign Claims Commission

001305



9 Jan 06

DEPARTMENT OF THE ARMY  
Office of the Command Judge Advocate  
1st Brigade Combat Team, 101<sup>st</sup> Airborne Division (AASLT)  
Kirkuk, Iraq, APO AE 09335



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IDCV-JA

15 December 2005

MEMORANDUM FOR Commanding Officer, 1<sup>st</sup> Brigade Combat Team, 101<sup>st</sup> Airborne Division  
(AASLT), APO AE 09335

SUBJECT: 1<sup>st</sup> BCT CERP DISCRETIONARY BULK FUND.

1. The purpose of this memorandum is for the use of the 1<sup>st</sup> BCT, 101<sup>st</sup> Abn Div CERP Discretionary Bulk Fund for a condolence payment to [REDACTED]'s son was killed by Coalition Forces when he failed to stop. [REDACTED] does not have a cognizable claim under the Foreign Claims Act (Chapter 10, AR 27-20) because his son approached a Coalition Forces Convoy at a high rate of speed, the Convoy ordered him to stop and when he failed to do so they opened fire upon his vehicle. His son died 19 days later at the Balad Air Force base hospital, the vehicle was also damaged in the incident.

2. Description of how these monies will support the 1<sup>st</sup> BCT, 101<sup>st</sup> Abn Div (AASLT) Commander's intent and spending priorities for CERP funds: This payment will support the strong relationship the 1<sup>st</sup> BCT has with the local populace by expressing our regret for the death of the son of Shaker Ali Saleh.

3. List the specific items or services requested in the table below:

#	Items to be purchased or service rendered	Unit Price	Quantity	Total Price
1	Compensation for the death of the son of [REDACTED]	\$2,500.00	1	\$2,500.00
2	Compensation for the damage to the car of [REDACTED]'s son	\$2,500.0		\$2,500.00
	<b>TOTAL:</b>			<b>\$5,000.00</b>

4. The transaction can be completed at one time with one payment.

5. POC for this action is MAJ [REDACTED], VOIP 242-2624 [REDACTED]

*Recommend approval.*

[REDACTED]  
[REDACTED]  
MAJ, JA  
Command Judge Advocate

I approve/disapprove this purchase.

[REDACTED]  
[REDACTED] AY  
COL, IN  
Commanding

CLAIM FOR DAMAGE OR INJURY DEATH

INSTRUCTION: Please read carefully the instruction on the reverse side and supply information requested on both sides of this form. Use additional sheets (s)

PERSON FROM APPROVE MSC

SITE OF THE ACCIDENT

Near Mugdad police station

2- Name of claimants & Address

[Redacted Name and Address]

0079

GENDER

Male

4. DATE OF BIRTH

1969

5. MARITAL STATUS

Married

6. DATE & DAY OF ACCIDENT

21st Sept 05

TIME:

9:30 PM

The claim:

On 21st Sept 05 at about 9:30 PM his son [Redacted] was driving his vehicle, Mitsubishi VIN [Redacted] AE while CF's open fire to him. He was injured in a white eye. CF's lift him by a Helicopter to Balad Hospital. They made many ~~open~~ surgical operations for him. He die in the hospital 19 day later. He is the claimant asking for compensation for both (the death of his son & The damage of the vehicle).

Drove through Jersey barriers

Property damage

Mitsubishi vehicle damaged totally / Not Repairable.

Dead man's belongings were missing as well / cell phone, golden ring, hand watch + ~~550~~ \$550.

INJURY

Death of claimants son / A [Redacted]

WITNESSES

NAME

ADDRESS

RECEIVED 31 OCT 05

Amount of claim (IN Dollars)

12a PROPERTY

\$4000

12b PERSONAL INJURY

12c WRONGFUL DEATH

death of son

12d

\$4000 + death of son

I CERTIFY THAT AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURY CAUSED BY THE ACCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM

13a. SIGNATURE OF CLAIMANT

[Redacted Signature]

13b. Phone number of signatory

[Redacted Phone Number]

14c. Date of claim

31st Oct 05

CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM

CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS

001307