



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

AFZP-VA-HQ

13 February 2006

MEMORANDUM FOR RECORD

SUBJECT: Commander's Emergency Response Program payment to [REDACTED]
(Claim Number 06-IR8-151)

1. On 7 July 2005, [REDACTED] family vehicle was destroyed while traveling to the market when an artillery shell landed near their vehicle. The claimant's son was killed, his wife and daughter were injured and the car was completely destroyed.
2. I certify that CERP funds are available to pay [REDACTED] in the amount of \$5200.00. This payment consists of \$2500.00 as a condolence payment for the death, \$1200 and \$1000 as condolence for injuries to the wife and daughter, and \$500.00 for battle damage to the vehicle.
3. The request to pay [REDACTED] in the amount of \$5200.00 from CERP has been legally reviewed. There is no legal objection to this payment and it is accordingly approved.

[REDACTED]
[REDACTED]
CPT, EN
Project Purchasing Officer

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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

25 January 2006

MEMORANDUM OF OPINION

SUBJECT: Claim of [REDACTED] 06-IR8-151

1. **Identifying Data:** [REDACTED] by Attorney [REDACTED]
2. **Date and place the incident occurred giving rise to the claim:** The claim occurred on July 7, 2005 in Ad Duloyia, Iraq.
3. **Amount of claim and date it was filed:** Claimant filed a claim for \$4,600 on 23 Jan 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:** Claimant alleges that CF fired artillery in their field when their were traveling to market with fruit. One artillery round allegedly landed next to the car and killed Claimant's son, [REDACTED]. The car was thoroughly perforated with artillery fragmentation. A SIGACTS investigation revealed no activity similar to the Claimant's description of events.
6. **Opinion:** "Under AR 27-20, paragraph 10-3, liability under the FCA may be based on acts or omissions of U.S. soldiers or civilian employees of a U.S. military department only if they are considered negligent or wrongful." Here, an artillery strike clearly constitutes combat activity. CF regularly conduct artillery strikes on orchards such as Claimant's orchard
7. **Recommendation:** This claim is denied.

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

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Claims Form

To: United States Army Foreign Claims Commission.

From: Name: [Redacted]

Address: Salah Dein - Al-Dulayehai - city center

I am

- a. A citizen and national of: Iraq
- b. A permanent resident of: Al-Dulayehai
- c. Employed by: _____
- d. Check one () An insurer () Not an insurer
- e. Check one () A subrogee () Not a subrogee

I hereby make a claim against the United States Government for damages or injuries caused by: (Name, Organization, Military Department, Address, Telephone Number)

U.S. Army

The property damaged is owned by: (If the claim is made as an agent, parent, or guardian, attach a power of attorney or other evidence of authority and fill in the form below for party sustaining the damage or injuries.)

My claim arose at: Al-Dulayehai (Town) Salah Dein (City) Iraq (Country)

My claim arose on: July (Month) 7 (Day) 2005 (Year)

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.)

In the date mentioned above my family went to our field which lies in Al-Dulayehai at that time the American forces shot the field by mortar which led to destroy the car with my family inside it. This led to cause big damage to the car as shown in the legal expert report and picture and statement of witnesses.

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Describe nature and extent of property damage or personal injury sustained as a result of the above incident.

big damage

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
as shown in the legal expert report.	2100 \$

Total: 2100 \$

I was insured to the following extent against the damage or injuries I have sustained:

The name and address of my insurer (if any) is:

(Name) (Address)

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

\$ 2100 local

(Signature of Claimant)

Subscribed before me this 11 day of Aug 2005.

Khaled Ibrahim Jassin
(Print Name)

(Signature)

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