



DEPARTMENT OF THE ARMY
HEADQUARTERS, 101ST AIRBORNE DIVISION (AIR ASSAULT)
TASK FORCE BAND OF BROTHERS
COB SPEICHER, IRAQ APO AE 09393

AFZB-JA-C

25 June 2006

MEMORANDUM OF OPINION

SUBJECT: Claim of (b)(6) 6-IT6-044

1. **Identifying Data:** (b)(6) Samarra, Iraq
2. **Date and place the incident occurred giving rise to the claim:** The claim occurred on 3 February 2006, in Samarra, Iraq.
3. **Amount of claim and date it was filed:** Claimant filed a claim for \$10,000 on 24 June 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 filed in a timely manner.
5. **Facts:** The Claimant alleges an IED detonated on a CF convoy and they started shooting randomly, killing his two children. The Claimant provided witness statements and death certificates to substantiate the claim. A SIGACTS investigation revealed two IED attacks in Samarra during the two previous days, but none on the alleged day.
6. **Opinion:** This claim is non-compensable under the FCA.
 - a. 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. There is insufficient evidence to prove this claim.
 - b. 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." Facts as alleged show CF were reacting to an IED, a combat activity.
7. **Recommendation:** The claim is denied

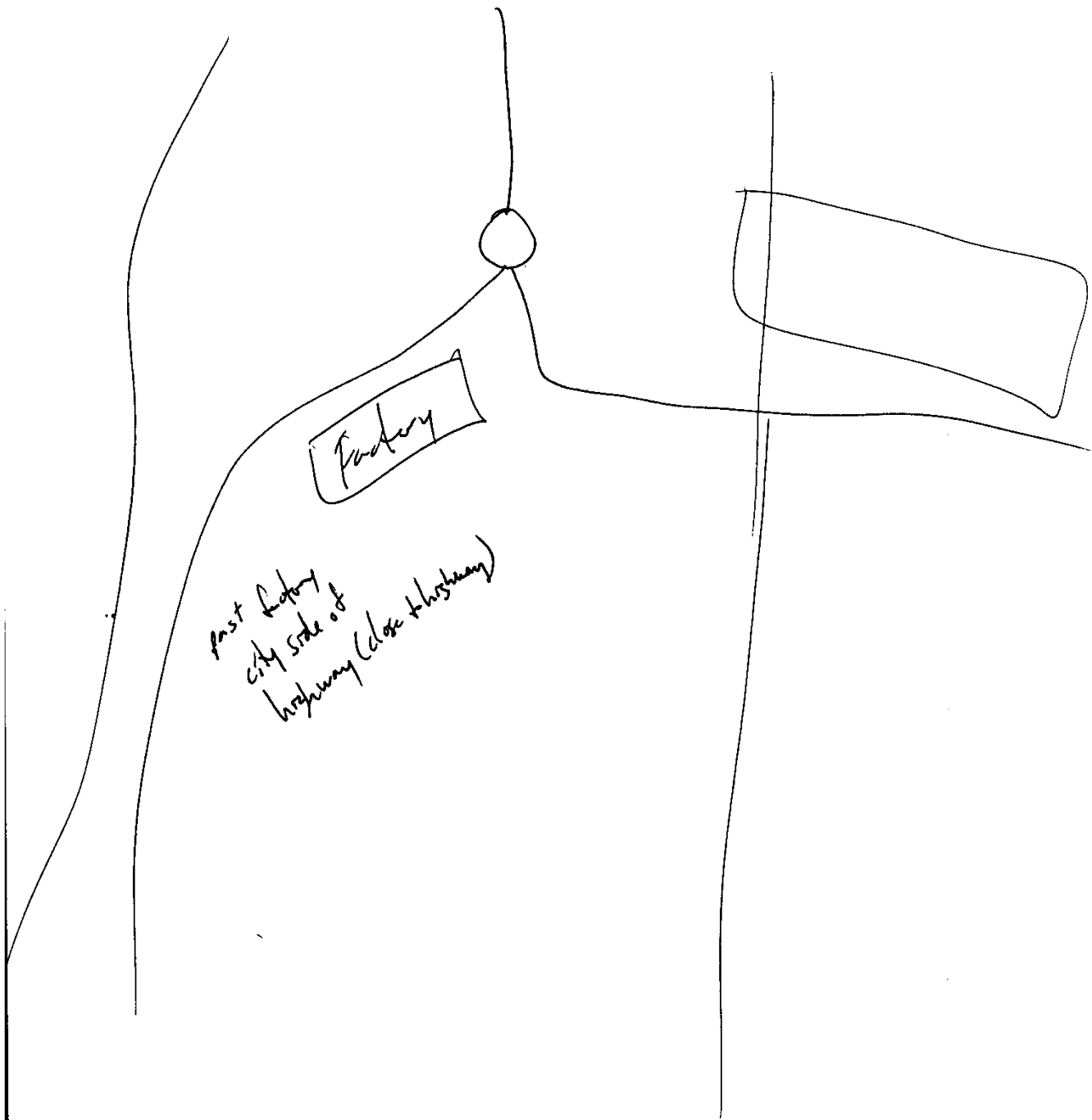
(b)(3),(b)(6)

CPT, JA
FCC

CENTCOM 005404

6-

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CENTCOM 005405

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TF Band of Brothers Claims Intake Form

To: United States Army Foreign Claims Commission.

From: Name: _____ (b)(6)

POA/ATT: _____ (b)(6)

† Power of Attorney provided and interpreter approved: _____

Decedents: _____

Hometown: Samarra † Iraqi Resident: Affirmative

My claim arose at: _____
(Town) (City) (Country)

My claim arose on: Feb 3rd 2006
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) (b)(6) Shut fire, 10 ~~year~~ (b)(6) years old, 12:30 pm

† Interpreter Approved: _____

Medical Report/Legal Expert Opinion: ① while the convoy came through out road cross. It was mine exploded. Convoy members were shot randomly suddenly

† Interpreter Approved: I

Witness Statement (Consistent?): ① While the convoy came through out road cross. It was an (IED) explosion. Convoy members were shot randomly suddenly I saw the 6 or kids (b)(6) died and lay on the ground.

† Interpreter Approved: ② Same story

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 Feb 2006, the died persons (b)(6) were came back home from their schools. One of ~~the~~ Convoy moved through out the quarter where the died persons lived. An explosion of mine (IED), (road side bomb) to that Convoy happened. The Convoy's members had ~~the~~ opened fire randomly. Some stray bullets ridden their heads and other ~~the~~ bodies parts immediately they have been dead. according to the death certificates and witnesses statements.

Evidence: _____

CENTCOM 005406

(b)(6)

Date ²² 29 July الاسم

Claim No. 6-IT6-44 التاريخ

Reason C/S on Appeal رقم المعاملة

Appointment with CIV السبب

Sign

(b)(6)

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*Dooby
Check
Research*

TF Band of Brothers
Foreign Claims Cover Sheet

File #: 6-IT6-044

Name: (b)(6) _____

POA/ATT: (b)(6) _____

Date Received: 24 June 2006 **Date of Incident:** 2nd Feb 2006

Claim Amount: \$10,000 **Location:** Samarra city

Next Apt: 8th July 2006 **Con:** _____

Translation: (b)(3),(b)(6) _____

*Said this incident
was in the news.
check INTSUMS*

Further Investigation:

Contact S-2 **Check Sigacts** Nothing on 3 Feb 06 - 4 Feb 06 (b)(2)High
IEP 01115 FEB 06

Approved **Denied** 1/E 25 Jun 06 (b)(3),(b)(6)
021715 FEB 06 (b)(2)High market area, NICE

Goodwill Payment recommended: _____
 Approved: _____ **Denied:** _____

MVA **RAID** **LOST** **NEG FIRE** **REAL**
 OTHER: _____

CENTCOM 005409

- Redchecked 4igacts - nothing
- Did Google News search for ~~for~~ samarra Feb 3, 2006 - Nothing
- Did advanced search on Aljazeera for Feb 3-6 on samarra. Nothing
- probably combat related, so deny FC
- up to you on CERP.

(b)(6)

Appeal

Denied

~~and find anything~~

If

(b)(3),(b)(6)

says

this was on the

news, tell him

to bring me a

newspaper clipping

CENTCOM 005410

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26073

Name	(b)(6)	الاسم
Date	5 Aug 06	التاريخ
Claim No.	6-176-044	رقم المعاملة
Reason	Appeal	السبب
Appointment with	CMUC	الموعد مع
Signature	(b)(6)	التوقيع

CENTCOM 005411

6- *سد*

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6-IT6-044-00009

Na

(b)(6)

.....

Date. 8 July 2006.....

التاريخ

Claim No. 6-IT6-0AA.....

رقم المعاملة

Reason ... 6/6.....

السبب

Appointment with... C.M.A.C.....

المو

.....
Signatur

التوقي

(b)(6), Foreign Language Text

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26076

6-176-044
8 Jul 06



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 101st Airborne Division (Air Assault) Claims Office at DSN (b)(2)High

(b)(3),(b)(6)

CPT, JA
FCC

CENTCOM 005418

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Foreign Language Text

CENTCOM 005421

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(b)(6), Foreign Language Text

Foreign Language Text

Foreign Language Text

Claimant statement in police station
(The death Son; we said)

Foreign Language Text

Foreign Language Text, (b)(6)

CENTCOM 005423

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(b)(6), Foreign Language Text

6-IT6-044-00021

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Foreign Language Text

Foreign Language Text

CENTCOM 005425

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6-IT6-044-00023

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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

MEMORANDUM FOR RECORD

SUBJECT: Waiver of Notification

1. I, the Claimant, hereby agree that if I fail to provide any requested evidence to the CMOC Claims Office within sixty (60) days of the date below or to request a written extension of the sixty (60) day period, such inaction shall constitute an affirmative act of abandonment of my claim, and my claim shall be administratively closed in accordance with the provisions of DA PAM 27-162, paragraph 13-3(f).

2. I further agree that if I wait longer than sixty (60) days from the date below to return to the CMOC to receive notification of the final disposition of my claim or to request a written extension of the sixty (60) days period, this failure will result in denial of the claim. The claim will be administratively closed in accordance with the guidance above.

1. انا المشتكى هنا اوافق على اني اذا فشلت في اثبات طلبي بالادلة الكافية الى دائرة الشكاوي (السيماك) خلال مدة (60) ستون يوما من تاريخ اليوم او طلب التمديد (الاستئناف) خلال فترة ستون (60) يوما , هذا سوف يسبب عدم تكوين تأكيد لقضيتي , وبسبب ذلك قضيتي سوف تترك و تغلق اداريا طبقا للقانون (د,ا,ب,ا,م 162-27, من الفقرة 13-3(ف)).

2. وانا كذلك اوافق على اني اذا انتظرت اكثر من (60) ستون يوما من التاريخ المحدد من دائرة (السيماك) لاستلام النتيجة للقرار النهائي لقضيتي او لطلب التمديد خلال الفترة المحددة وهي (60) ستون يوما , هذا سوف يتسبب برفض قضيتي . و القضية سوف تغلق اداريا وفقا للقانون.

(b)(6)

Claimant Signature: _____

Sworn before _____, on ____ day of _____ 200 ____.

CENTCOM 005427