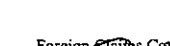
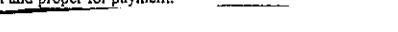


DEPT, BUREAU, OR ESTABLISHMENT AND LOCATION DEPARTMENT OF THE ARMY DFAS-IN INDIANAPOLIS, IN 46249		DATE VOUCHER PREPARED 07-Feb-06	SCHEDULE NO. FOBA4			
		CONTRACT NUMBER AND DATE	PAID BY DFAS-IN INDIANAPOLIS, IN 46249 DSSN: 5570			
		REQUISITION NUMBER AND DATE	DISCOUNT TERMS PAYEE'S ACCT. NUMBER			
YEE'S AME AND DRESS	KABUL, AFGHANISTAN					
SHIPPED FROM		TO	WEIGHT	GOVERNMENT B/L NO.		
NUMBER AND DATE OF ORDER	DATE OF DELIVERY OR SERVICE	ARTICLES OR SERVICES (Enter description, item no. of contract or Federal supply schedule, and other information deemed necessary)	QUAN- TITY	UNIT PRICE		AMOUNT
				COST	PER	
		Foreign Claim Comission CASE NO. #: A1B-05-0387 Date Request Filed: 24 JAN 2005 Exchange Rate: 50.34		151,020.00		151,020 0 0 0 0 0 0 0
CONTINUATION SHEET IF NECESSARY		(Payee must NOT use the space below)			TOTAL	151,020
<input type="checkbox"/> PROVISIONAL <input type="checkbox"/> COMPLETE <input type="checkbox"/> PARTIAL <input checked="" type="checkbox"/> FINAL <input type="checkbox"/> PROGRESS <input type="checkbox"/> ADVANCE		Certified by: Foreign Claims Commission 			DIFFERENCES	
					Amount verified; correct for	\$3,000.00
					(Signature or initials)	
Pursuant to authority vested in me, certify that this voucher is correct and proper for payment.						
7-Feb-06 (Date)					DISBURSING OFFICER (Title)	
ACCOUNTING CLASSIFICATION						
2162020 22-0204 P436099.22-4200 VFRE F3203 S99999 APC: K226(83) A1B						
Accounting Classification Verified by:  ILT, FC, Deputy Disbursing Officer 208th FB (FWD)						
PAID BY	CHECK NUMBER		ON ACCOUNT OF U.S. TREASURY	CHECK NUMBER		ON (Name of bank)
	CASH	DATE		PAYEE		
	\$3,000.00	07-Feb-06				

PRIVACY ACT STATEMENT

Figure

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DEPARTMENT OF DEFENSE
COMBINED/Joint Task Force (CJTF-76)
OFFICE OF THE STAFF JUDGE ADVOCATE
BAGRAM AIRFIELD, AFGHANISTAN APO AE 09354

REPLY TO
ATTENTION OF

CJTF-76-JA-CL

03 February 2006

MEMORANDUM FOR RECORD

SUBJECT: Foreign Claim Investigation, Claim # A1D-05-387

1. Identifying Information.

- a. Claimant: The claimant is a local national, [REDACTED] (hereinafter "the claimant"), living in Kabul, Afghanistan.
- b. Amount: The claimant filed a claim for \$100,000.00USD on 16 Sep 05.
- c. The claimant states on 27 August 2005, his brother and [REDACTED] were riding a motorcycle that was struck by a U.S Government vehicle. [REDACTED] died as a result of that accident and [REDACTED] s brother was seriously injured.
- d. Investigation Completed: 31 January 2006.

2. Jurisdiction. This claim is presented for consideration under the Foreign Claims Act, 10 U.S.C. §2734. The claimant filed his claim in a timely manner in the form of an SF 95. The claimant is a foreign national and the brother of the injured party. The claimant is a proper claimant under the Foreign Claims Act IAW DA PAM 27-162, para. 10-2.

3. Statement of Facts.

a. On 27 August 2005, at approx 1530L [REDACTED] was driving an UAH B-33 in a convoy. His recollection is that the motorcycle approached the B-33 from the rear and got caught between the B-33 and the parked construction vehicle. His vehicle was the last of 5 in this convoy. There were 5 occupants in the vehicle and they were traveling at approx. 30 mph. The road he was traveling on was currently under construction. There was a parked construction vehicle on the right hand side of the road and [REDACTED] moved slightly into the left hand lane to pass the parked vehicle. Based on other statements, it is believed that after the UAH B-33 passed the stopped construction vehicle, [REDACTED] veered back into the right hand lane and that is when the motorcycle and military vehicle collided.

b. On 15 October 2005, three local nationals, [REDACTED], [REDACTED] and [REDACTED] were interviewed. They all stated that they were located behind the B-33 on bicycles as the accident happened. Each of the three stated that the motorcycle was in front of the UAH B-33. Then, just as the UAH B-33 passed the stopped construction vehicle, it made a right turn to get back into the right lane and struck the motorcycle. None of the witnesses actually saw the

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collision, but they all witnessed the events leading up to and after the collision. They all basically stated the same set of facts.

c. [REDACTED] er stated that there was a stopped construction vehicle on the right side of the road and "a motorcycle with a driver and one passenger pulled out from behind the parked construction vehicle and stopped next to the construction vehicle's left side." He yelled to the driver to watch out, but he was unable to maneuver in time and it the motorcycle with the front right corner of the humvee. Thus, [REDACTED] placed the motorcycle in front of the B-33.

d. Further, from photographs (Exhibit #11) of damage, there seems to be nominal damage to the right side of the vehicle and the mirror is not damaged at all. Just the front right portion of the hood and some scratches at the door at the top of the tire level. This would suggest that the impact came when the vehicle and motorcycle impacted if the motorcycle was in front of the UAH B-33.

e. The claimant submitted an SF 95 indicating damages of \$100,000 USD for the injuries sustained by his brother.

4. Legal Analysis.

a. Legal Rules. Under AR 27-20, para. 10-3, the incident that forms the basis for the claim must arise in a foreign country and be a result of either noncombat activities of the U.S. armed forces or the negligent or wrongful acts of civilian employees or military members. "Noncombat activity" is defined in the Glossary of AR 27-20, as "authorized activities essentially military in nature, having little parallel in civilian pursuits, which historically have been considered as furnishing the proper basis for payment of claims. Activities excluded are those incident to combat, whether in time of war or not, and use of military personnel and civilian employees in connection with civil disturbances."

b. Application of Rules. In this case, the claim arose in Afghanistan, a foreign country. The military vehicle driver engaged in negligent conduct by not proceeding in a safe manner, i.e., the driver's speed may have been excessive due to road conditions and did not ensure the right hand lane was clear prior to moving back into that lane.

5. Damages.

a. The claimant's brother was seriously injured as a result of the accident.

b. SF 95. The claimant filed an SF 95 on 6 September 2005. The SF 95 indicates damages in the amount of \$100,000 USD for the injuries of his brother. However, according to the valuation chart for death claims in Afghanistan \$6,000.00 USD is fair and reasonable for the death of a local national; therefore, \$3,000.00 is fair and reasonable for the injuries sustained to the claimant's brother.

6. **Proposed Settlement or Action.** This claim is payable under the Foreign Claims Act because the injuries of the claimant's brother occurred as a result of a U.S. military member's negligent conduct. This claim should be settled \$3,000.00 (151,020 Afghani).

7. Point of contact is the undersigned at (318) 231-4603.

CPT, JA

Foreign Claims Commissioner

CPT, JA

Foreign Claims Commissioner

CPT, JA

Foreign Claims Commissioner

2 Encls

1. SF 95 for \$35,500USD, dated 15 Oct 05
2. Collateral Investigation Report w/attachments

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CLAIM FOR DAMAGE, INJURY, OR DEATH		INSTRUCTIONS: Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.			FORM APPROVED OMB NO. 1105-0008 EXPIRES 5-31-05
1. Submit To Appropriate Federal Agency:		2. Name, Address of claimant and claimant's personal representative, if any. (See instructions on reverse.) (Number, street, city, State and Zip Code)			
<p>Intaki Claim @ Front Gate Bagram, Afghanistan</p>		<p>Kabul, Afghanistan</p>			
3. TYPE OF EMPLOYMENT	4. DATE OF BIRTH	5. MARITAL STATUS	6. DATE AND DAY OF ACCIDENT	7. TIME (A.M. OR P.M.)	
<input type="checkbox"/> MILITARY <input type="checkbox"/> CIVILIAN			27 Aug 05		
8. Basis of Claim (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof) (Use additional pages if necessary.)					
<p>Claims that brother was seriously injured in motor vehicle accident in Logar.</p>					
9. PROPERTY DAMAGE					
NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, street, city, State, and Zip Code)					
BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF DAMAGE AND THE LOCATION WHERE PROPERTY MAY BE INSPECTED. (See instructions on reverse side)					
10. PERSONAL INJURY/WRONGFUL DEATH					
STATE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE NAME OF INJURED PERSON OR DECEDENT					
11. WITNESSES					
NAME		ADDRESS (Number, street, city, State, and Zip Code)			
12. (See instructions on reverse) AMOUNT OF CLAIM (in dollars)					
12a. PROPERTY DAMAGE	12b. PERSONAL INJURY	12c. WRONGFUL DEATH	12d. TOTAL (Failure to specify may cause forfeiture of your rights.)		
	100,000 USD		100,000 USD		
I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE ACCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM					
13. SIGNATURE OF CLAIMANT (See instructions on reverse side.)			13b. Phone number of signatory		14. DATE OF CLAIM
<p>CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM</p> <p>The claimant shall forfeit and pay to the United States the sum of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages sustained by the United States. (See 31 U.S.C. 3729.)</p>			<p>CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS</p> <p>Imprisonment for not more than five years and shall be subject to a fine of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages sustained by the United States. (See 18 U.S.C.A. 287.)</p>		

United States. (See 31 U.S.C.
95-108
Previous editions not usable)

NSN 7540-00-634-4046

STANDARD FORM 95 (Rev. 7-85)
PRESCRIBED BY DEPT. OF JUSTICE
28 CFR 14.2

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