



DEPARTMENT OF THE ARMY  
HEADQUARTERS, 1<sup>ST</sup> BRIGADE, 3<sup>RD</sup> INFANTRY DIVISION (FORWARD)  
TASK FORCE BAND OF BROTHERS, OPERATION IRAQI FREEDOM  
FORWARD OPERATING BASE SPEICHER  
APO AE 09393

AFZP-VA-HQ

23 January 2006

MEMORANDUM FOR RECORD

SUBJECT: Commander's Emergency Response Program payment to [REDACTED]  
(Claim Number 06-IR8-025)

1. On 4 Oct 05, [REDACTED] s husband was shot and killed by U.S. Forces.
2. I certify that funds are available from the CERP to pay [REDACTED] in the amount of \$2,500.00. This is a condolence payment.
3. The request to pay [REDACTED] in the amount of \$2,500.00 from CERP has been legally reviewed. There is no legal objection to this payment and it is accordingly approved.

[REDACTED]  
[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

6 January 2006

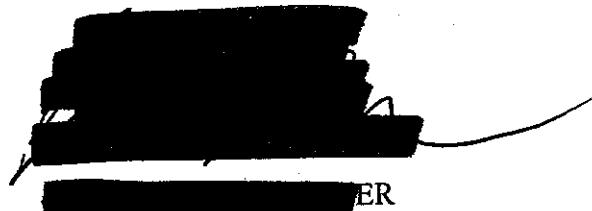
MEMORANDUM OF OPINION

SUBJECT: Claim of [REDACTED] 06-IR8-025

1. **Identifying Data:** [REDACTED] by POA [REDACTED]
2. **Date and place the incident occurred giving rise to the claim:** The claim occurred on 4 October 2005 in Tikrit, Iraq.
3. **Amount of claim and date it was filed:** Claimant filed a claim for \$5,000 on 27 Dec. 2005.
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 that CF shot and killed the decedents, [REDACTED] and [REDACTED]. A SIGACTS investigation (#14140) revealed that TF 2-7 engaged a LN vehicle during a cordon and search and EOD controlled blast. The LN vehicle was attempting to drive on the southbound shoulder toward where the IED was located. The LN vehicle drove through the cordon's lane and CF opened fire. The three local nationals inside the vehicle were killed. The vehicle was searched with nothing to report.
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, Claimant's damage was proximately caused by an escalation of force. Because escalation of force in this instance was immediate preparation for an impending attack, CF actions in this instance constitute combat activity.

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

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[REDACTED] ER  
CPT, JA  
Claims Judge Advocate

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## Claims Form

To: United States Army Foreign Claims Commission

From: Name: [REDACTED]

POA/ATT: [REDACTED]

Power of Attorney provided and interpreter approved: [REDACTED] *Name match*

Decedents: [REDACTED]

Hometown: [REDACTED]

Iraqi Resident: [REDACTED]

My claim arose at:

*Tikrit*

(Town)

(City)

(Country)

My claim arose on:

*4 Oct 05*

Month

Day

Year

Proof of Ownership:

*N/A*

Interpreter Approved:

Death Certificates (Name, Cause of Death, Age, and Time of Death Consistent with Claimant allegations): *COD - bullets in chest*

*Copies seen*

Interpreter Approved:

Legal Expert Opinion:

*N/A*

Interpreter Approved:

Witness Statement (Consistent?): *None*

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.)

*C driving home when CF Humvee shot at car & killed C's husband 1330 in afternoon.*

*Occurred by checkpoint -*

*KIA Civin - white CAR -*

Evidence: *Hospital reports, police report*

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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

Wrongful death	\$2,500
Wrongful death	\$2,500
Total:	\$5,000

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

N/A

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)  
\$ 5,000 local

(Signature of Claimant)

Subscribed before me this 3 day of JAN, 2006.

CPT [REDACTED]  
(Print Name) [REDACTED]  
(Signature) [REDACTED]

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