

CENTCOM 005967

TF Lightning
Foreign Claims Cover Sheet

File #: 7-I41-375

Name: _____

(b)(6)

POA/ATT: _____

Date Received: 26 Feb 07 Date of Incident: 02 Dec 05

Claim Amount: 26150,00\$ Location: Balad

Next Apt: _____ Contact Info: _____

Additional Evidence / Further Investigation:

FOB Paliwada
missing ID card, missing claimant signature, pictures
for the truck.

Check Intsum ☒ Check Sigacts ☒ see inside Attachment
Check Investigation Spreadsheet ☒ _____

Approved ☐ Denied ☒ AK Not wrongful; C/A

☐ Goodwill Payment Recommended: _____

☐ Approved: _____ ☐ Denied: _____

☐ MVA ☐ RAID ☐ LOST ☒ NEG FIRE ☐ REAL ☐ LAND
☐ OTHER: _____

CENTCOM 005968



Three Man Commission



The commission has decided to:

 Approve \$

 X Deny

the claim of

7-141-375

CPT

President

12 APR 07
Date

 X Combat Activity
 Insufficient Evidence
 AIF entanglement
 X Other (explain)

Not wrongful for U.S. forces
actions
Consider for CERP

CPT

Judge Advocate

17 APR 07
Date

 X Combat Activity
 Insufficient Evidence
 AIF entanglement
 Other (explain)

proper EDF procedures
used by USA

LTC

Judge Advocate

20 APR 07
Date

 X Combat Activity
 Insufficient Evidence
 AIF entanglement
 X Other (explain)

EDF Claims processed IAW CERP
procedures. Consider for CERP,
although claimant is a brother
& may lack standing

CENTCOM 005969

CENTCOM 005970

10:1270 Escalation 12/02/05
of Force 08:30

CCIR Event: Escalation of Force reported by: 5-7CAV/1 BCT-3ID as follows: At 020830DEC2005 an EOF was initiated by a 32nd SIG BN convoy on a white truck in the Salah Ad Din province on (b)(2)High 6km southeast of Balad vic (b)(2)High (b)(2)High As the convoy headed north, it came up on a white truc...

CCIR Event: Escalation of Force reported by: 5-7CAV/1 BCT-3ID as follows: At 020830DEC2005 an EOF was initiated by a 32nd SIG BN convoy on a white truck in the Salah Ad Din province on b)(2)High 6km southeast of Balad vic (b)(2)High As the convoy headed north, it came up on a white truck traveling ahead of the convoy and moving slowly. The lead military vehicle waved the truck off the road. As the convoy passed, the truck re-entered the convoy at a high rate of speed, aiming straight at the lead vehicle. The gunner of the lead vehicle fired 4 x .50 cal rounds at the ground near the truck which ricocheted up into the truck. The LN driver was killed. The passenger was uninjured. The 32nd SIG BN convoy continued movement to FOB Paliwoda without stopping. The EOF was not reported until the convoy reached FOB Paliwoda. The convoy did not check in with TF 5-7 when they entered the TF 5-7 battle space. Elements of TF 5-7 and the IP responded to the site to investigate. The IP recovered the body of the LN.

CENTCOM 005971



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
HEADQUARTERS, 25TH INFANTRY DIVISION
MULTI NATIONAL DIVISION NORTH
CONTINGENCY OPERATING BASE SPEICHER, APO AE 09393

APVG-JA-C

12 April 2007

MEMORANDUM OF OPINION

SUBJECT: Claim of (b)(6), 07-I41-375

1. **Identifying Data:** (b)(6)
2. **Date and place the incident occurred giving rise to the claim:** The claim occurred on December 2, 2005 in Balad, Iraq.
3. **Amount of claim and date it was filed:** Claimant filed a claim for \$26,150 on 26 February 2007.
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 his brother was driving a pick up truck on highway when a coalition forces ("CF") convoy shot and killed his brother near Balad. This also caused significant damage to his brother's truck. The Claimant's brother was driving the truck and pulled over to the side of the road as the convoy passed. The truck re-entered the convoy at a high rate of speed and headed straight for the lead vehicle. The CF then conducted escalation of force procedures and killed the Claimant's brother. Claimant provided a death certificate, court documents, a car registration card, a legal expert estimate, and witness statements.
6. **Opinion:** A search of all available resources revealed the incident occurred. Due to the actions of the driver, U.S. Servicemembers properly engaged the vehicle. Consequently, U.S. Servicemembers did not commit a negligent or wrongful act and thus the U.S. is not liable. Alternatively, DA PAM 27-162, paragraph 10-3 states 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 the damage was caused by combat activities. As a result, the claim is not compensable under the FCA.

CENTCOM 005972

APVG-JA-C

SUBJECT: Claim of

(b)(6)

, 07-I41-375

7. Recommendation: Recommend the claim be denied.

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

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

CPT, JA
Chief, Claims

Pages 8 through 9 redacted for the following reasons:

(b)(5)
Foreign Language Text, (b)(5)

TF Lightning Claims Intake Form

Name of Claimant: _____ (b)(6)

- ☒ Iraqi ID Card Seen and Identity Verified ☐ Iraqi Resident
☐ Copy of Iraqi ID Provided (Hometown is _____)

POA/Attorney Name _____

- ☐ Power of Attorney provided ☐ Original Seen
☐ Names Match ☐ If POA, state relation _____

☐ Decedents (if applicable list names below)

1. _____ (b)(6) 2. _____
3. _____ 4. _____

Claim arose at: _____
(Town) (City)

Claim arose on: 02 Dec 2005
Day Month Year

Time of Day: morning

Proof of Ownership: _____

- ☒ Vehicle VIN Number Match ☐ Sales Contract Provided
☐ Land Deed (Name Match) ☐ Other (explain) _____

Death Certificates

- ☒ Original Seen ☐ Cause of Death got shot in the chest and stomach
☒ Name Match ☐ Age of Decedent (b)(6) years old

Medical Report/Legal Expert Opinion

- ☒ Legal Expert Report Attached: (total damages \$ 216150.00)
☐ Medical Report (State type and severity of injury)

Brief statement of the incident on which the claim for damages is based.

The Decedent he was driving his Toyota Pickup Truck on 02, Dec, 05, in his way to Balad to sell (b)(6) when he saw a convoy he just pulled over but the first HAMMUY start shooting at him what led do to cause sever InJury for him what's ended to Bleeding until death.

CENTCOM 005976

Witness Statements1. *Witness #1:* (Name) _____

(b)(6)

yewitness

Synopsis of Testimony: _____

*It's attached*2. *Witness #2:* (Name) _____

(b)(6)

yewitness ☐ Consistent w/ First☒ Same Story as First Witness

Synopsis of Testimony: _____

*It's attached***Itemized expenses/damages resulting from the property damage or personal injury:**

Item	Amount
<i>Decedent</i>	<i>25,000 \$</i>
<i>Damages in the Truck</i>	<i>1150</i>

Total: *26,150.00 \$***I claim these total damages:** (Indicate amount in U.S. dollars and local currency)\$ *26,150.00* Iraqi Dinar _____

→

(Signature of Claimant)

Subscribed before me this *03* day of *April*, 200*7*.

(b)(6)

(Print)

(b)(6)

(Signature)

Total Evidence Provided (Check all that apply)

- ☒ Witness Statements (#*2*) ☒ Proof of Ownership ☐ Medical Documents
☒ Legal Expert Report ☒ Police Report ☒ Photographs
☐ Other _____ ☐ Other _____ ☒ Other *death certificate.*

CENTCOM 005977

Claims Form

To: United Sta

From: Name: _____

(b)(6)

Address: _____

Balad Al-Sooad

I am

- a. A citizen and national of: Iraq
 b. A permanent resident of: Iraq
 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)

Coalition Forces

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 brother who had been killed by the U.S. shoots.

My claim arose at: Channel M/Bahd station Balad Iraq
 (Town) (City) (Country)

My claim arose on: December 02 05
 Month Day 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.)

~~At the morning of 2/12/05 my brother was going out~~
 to Balad station place for selling the fruits, at once
 at his arrival to channel M place the U.S. forces shoot
 him with guns and laid him (knocked) down. My brother was
 leading the car type Toyota /Pick up model (b)(6) white
 owned No. (b)(6) Iraqi. Diesel and ac.w.m. as the car
 damaged greatly.

CENTCOM 005978

Page 14 redacted for the following reason:

Foreign Language Text

property damage or personal injury sustained as a result of

- ① Loss of my brother
- ② Loss of the car

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

- ① The car (As shown in the paper report) 1150
- ② my brother who had been killed 25000

Total: 26150 \$

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)

\$ 26150

local 239000 000

Traqui Dinars.

(b)(6)

(Signature of Claimant)

Subscribed before me this ____ day of _____, 200__.

(Print Name)

(Signature)

CENTCOM 005981

Pages 16 through 18 redacted for the following reasons:

Foreign Language Text
Foreign Language Text, (b)(6)

Foreign Language Text

CENTCOM 005985

Pages 20 through 21 redacted for the following reasons:

Foreign Language Text

Foreign Language

No.: without

Date 8 Dec 2005

Experiences Report

Claimant: (b)(6)

Based upon the decision of Balad investigation judge to elected me as expert to estimate the damages by American forces when the US forces shot his car kind of Toyota model (b)(6) which numbered (b)(6)

After my reading to the file of this claim and the statements of witness I estimate the damages as shown in the following table:-

S	Details	Qty	Price\$	Amount\$
1	Destroyed the tyres	3	50	150
2	Damaged base of Fuses as result of shooting	1	200	200
3	Hole the stern device	1	100	100
4	Shooting in the machine	1	100	100
5	Hole the back supporter	1	50	50
6	Hole the back cover of tyre	1	100	100
7	Destroyed the glass of door	1	50	50
8	Needs to updating	1	200	200
9	needs to painting	1	200	200
Total Prices US\$=				\$1150

(b)(6)

Foreign Language

Legal Expert

(b)(6)

CENTCOM 005988

CENTCOM 00598

Page 24 redacted for the following reason:

Foreign Language Text

Foreign Language Text

CENTCOM 005991

Foreign Language Text

Foreign Language Text

Police
Report

Foreign Language Text

Foreign Language Text

Foreign Language Text, (b)(6)

Plaintiff Statment
at the police
station.

CENTCOM 005993



CENTCOM 005994

PLAINTIF STATEMENT

(b)(6)

IN DEC 2005 I WAS IN MY HOUSE IN ASSAOND AREA NEXT
TO THE FUEL STATION (b)(6) her statement

I DON'T HAVE ANY VISUAL TESTIMONY ~~OFF~~ ABOUT MY HUSBAND
DEATH (b)(6) because on that time

I WAS IN MY HOUSE IN AL SSAOND AREA AND THEY TOLD ME
LATER THAT MY HUSBAND HE'S BEEN KILLED BY C.F WHEN HE
WAS DRIVING HIS TRUCK TOYOTA PICKUP WHITE COLORE PLATE #

(b)(6) 1 DELTA, AND HE WAS LOADED WITH (b)(6) HE WAS DRIVING
ON THE STREET THAT'S LEADS TO SAFED AHMED'S INTERSECTION.
TOWARDS BALAD STATION, AND I HAVE (b)(6) CHILDREN FROM MY HUSBAND
AND MY HUSBAND HE HAD ANOTHER WIFE AND THEY HAD (b)(6) KID.
AND BECAUSE THE INCIDENT THE TRUCK GOT BIG DAMAGES.

CENTCOM 005995

CENTCOM 005996

Foreign Language Text, (b)(6)

~~a~~ plaintiff statement
at Court.

CENTCOM 005997

Plaintiff statement

(b)(6)

she Borned (b)(6)

lives in Balad Al Saoud, Aven.

I don't have any visual testimony about the incident because
on that day I was home and they told that one of the C.F.
Petrols shot my husband's truck which led to kill him, and
his truck was a Toyota white color (b)(6) 'Be'tala, he got
shot on the highway that's led to the station, and I have
two kids, and he's had another wife and they had 8
kids.

CENTCOM 005998

CENTCOM 005999

Foreign Language Text

plaintiff state
at the police
station

Foreign Language Text

Foreign Language Text

Foreign Language Text, (b)(6)



CENTCOM 006001

witness

(b)(6)

Borned

(b)(6)

Lives in Balad

(b)(6)

on the 2, Dec, 2005 I was riding with the Decedent (

(b)(6)

and the second witness

(b)(6)

was with us

To, we were riding a Toyota Pick up (b)(6) Detala we were going

To ~~the~~ Sa'eed Mohammed Intersection Towards the station where

we became close to the Chicken farm that on the highway

that's led to Balad, C-f Convoy show up from four truck

hammer type with animal picture on it, The Decedent he just

Pulled over on the dirt, but the first truck started shooting with

out any reason, which is led to kill the decedent

(b)(6)

(b)(6)

because he got shot in the stomach.

CENTCOM 006002

CENTCOM 006003

White #1

at the Police
Station.

Foreign Language Text
Foreign Language Text

Foreign Language Text

(b)(6), Foreign Language Text

Foreign Language Text, (b)(6)

.. witness

(b)(6)

It's the same

CENTCOM 006005

CENTCOM 006006

Witness #1

at the Police
Station,

Foreign Language Text

Foreign Language Text

Foreign Language Text

Foreign Language Text

Foreign Language Text

Foreign Language Text, (b)(6)

Page 42 redacted for the following reason:

Foreign Language Text, (b)(6)



CENTCOM 006009

Cligram

Foreign Language Text

Foreign Language Text

Foreign Language Text

Foreign Language Text

CENTCOM 006010

CENTCOM 00601

Autopsy

Foreign Language Text, (b)(6)

Foreign Language Text, (b)(6)

CENTCOM 006012

Pages 47 through 49 redacted for the following reasons:

Foreign Language Text
Foreign Language Text, (b)(6)



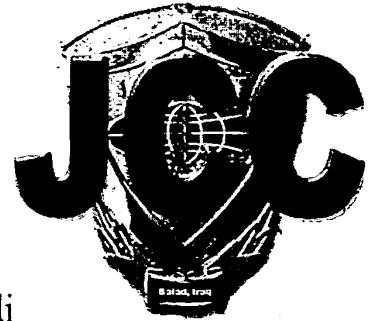
CENTCOM 006016

Page 51 redacted for the following reason:

Foreign Language Text

CENTCOM 006018

Balad jcc



To/ claims committee in salaheldi
Subject/ confirmation

We confirm that (b)(6) has been
wrongly killed by coalition forces
In Dec/2nd/2005 on the high way and there is an official
record kept in the IPS HQ about the accident when he
was driving his vehicle the license plate no.((b)(6) Dialah)
Toyota pickup truck with our respect

Foreign Language

(b)(6)

General
Mohammed toama hasan
BALAD JCC DIRECTOR

CENTCOM 006019

CENTCOM 006020



DEPARTMENT OF THE ARMY
OFFICE OF THE STAFF JUDGE ADVOCATE
HEADQUARTERS, 25TH INFANTRY DIVISION
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 المشتكي 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,م, 162-27, من الفقرة 13-3-3(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.

Claimant Signature: _____

Sworn before _____ (b)(6) _____, on 03 day of April 2007.

CENTCOM 006021