

UNCLASSIFIED

b(3)(b)(6)

UNCLASSIFIED

CENTCOM 020351

08-IH4-T009-00001



DEPARTMENT OF THE ARMY
1st Infantry Brigade Combat Team Command Judge Advocate
1st Infantry Brigade Combat Team
FOB Warrior, Kirkuk, Iraq, APO AE 09338

AFZS-LI-Z-JA

12 October 2007

MEMORANDUM OF OPINION

SUBJECT: Claim of (b)(6) 08-IH4-T009

1. Claimants name and address: (b)(6) Kirkuk, Iraq.
2. Incident date and place the incident occurred giving rise to the claim: Incident occurred on 12 October 2007 in Kirkuk, Iraq.
3. Amount of claim and filing date: Claimant filed a claim in the amount of \$1.00 on 12 October 2007.
4. Chapter the claim was considered under and a brief description of the incident or of the issues raised by the claimant on reconsideration: Foreign Claims Act and Chapter 10, AR 27-20; claim filed for property damage.
5. Facts:
 - a. (b)(6) claims that his son was shot by Coalition Forces while they engaged potential Unknown Enemy forces that had detonated an Improvised Explosive Device. (b)(6) was killed during this incident.
 - b. There were sworn statements, a story board, and pictures included in the submitted claim.
 - c. The incident was verified by the unit.
6. Opinion:
 - a. In order to form a basis for a claim under the FCA, the incident must occur outside of the United States and arise from either non-combat activities of the U.S. Armed Forces or by negligent or wrongful acts of military members or civilian employees of the Armed Forces.
 - b. There is insufficient evidence to suggest that this incident arose out of the negligence and/or wrongful acts of the United States Armed Forces. Any appeal must be submitted within 30 days.

AFZS-LI-Z-JA

SUBJECT: Claim of

(b)(6)

08-IH4-T009

7. Action: This claim is not payable under the FCA for the above mentioned reasons. Consequently this claim for \$1.00 is denied.

(b)(3), b(6)

CPT, JA

Foreign Claims Commissioner

SWORN STATEMENT

For use of this form, see AR 190-45; the proponent agency is PMG.

PRIVACY ACT STATEMENT

AUTHORITY: Title 10 USC Section 301; Title 5 USC Section 2951; E.O. 9397 dated November 22, 1943 (SSN)
PRINCIPAL PURPOSE: To provide commanders and law enforcement officials with means by which information may be accurately identified.
ROUTINE USES: Your social security number is used as an additional/alternate means of identification to facilitate filing and retrieval.
DISCLOSURE: Disclosure of your social security number is voluntary.

1. LOCATION FOB Warrior, Kirkuk, Iraq	2. DATE (YYYYMMDD) 2007/10/12	3. TIME 2030	4. FILE NUMBER
5. LAST NAME, FIRST NAME, MIDDLE NAME (b)(3), b(6)	6. SSN (b)(3), b(6)	7. GRADE/STATUS CPT	
8. ORGANIZATION OR ADDRESS HHC, 2-22 IN 1st BCT 10th MTN DIV			

9. I, CPT (b)(3), b(6), WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

On 12 October 2007 at 0700 I along with ISG (b)(3), b(6) and Third Platoon Delta Company departed the Forward Operating Base Warrior. At approximately 0720 on (b)(2) Highway the convoy encountered an IED. The first vehicle (D31) was struck by the IED on the left side of the vehicle. As soon as the IED went off I called up a contact report to our company TOC and let them know that we would have casualties. As I was calling the report the next two trucks (D36 and D35) started firing. I called D36 and asked what they were shooting at. D36 said they were shooting at a man in black that was behind a bunker and was trying to exfil the site. After this report I ordered a cease fire. As soon as I ordered a cease fire the gunners stopped firing. We then started our CASEVAC procedures. After casualties were taken back to FOB Warrior and QRF arrived on scene I took dismounts out to clear the bunkers and ID the body that the scout weapons team located. I was surprised to find the body of a (b)(6) year old boy with a white shirt because all the reports I had received from my personnel were of a man in black. I found a local boy nearby and asked him to go get the Muktar of the village. The Muktar of the village came and we informed him of the deceased boy and asked if he could get the mother and others to help claim the body. The mother claimed the body and 4-5 others helped get the body back to the village. I then handed the IED site over to B26 (QRF patrol leader) and returned to FOB Warrior.

Nothing Follows

(b)(3), b(6)

(b)(3), b(6)

(b)(3), b(6)

(b)(3), b(6)

10. EXHIBIT	11. INITIALS OF (b)(3), b(6)	(b)(6)	PAGE 1 OF 2 PAGES
ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT OF _____ AT _____ DATED _____"			

THE BOTTOM OF EACH ADDITIONAL PAGE MUST BEAR THE INITIALS OF THE PERSON MAKING THE STATEMENT, AND PAGE NUMBER MUST BE INDICATED.

STATEMENT OF CPT (b)(3), b(6) TAKEN AT 2030 DATED 2007/10/12

9. STATEMENT (Continued)

Nothing Follows

(b)(3), b(6)

(b)(3), b(6)

(b)(3), b(6)

(b)(3), b(6)

1. CPT

(b)(3), b(6)

AFFIDAVIT

HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE 1, AND ENDS ON PAGE 2. I FULLY UNDERSTAND THE CONTENTS OF THE ENTIRE STATEMENT MADE BY ME. THE STATEMENT IS TRUE. I HAVE INITIALED ALL CORRECTIONS CONTAINING THE STATEMENT. I HAVE MADE THIS STATEMENT FREELY, WITHOUT THREAT OF PUNISHMENT, AND WITHOUT COERCION, UNLAWFUL INFLUENCE, OR UNLAWFUL INDUCEMENT.

(b)(3), b(6)

WITNESSES:

Subscribed and sworn to before me, a person authorized by law to administer oaths, this 12th day of October, 2007 at FOB Warrior

ORGANIZATION OR ADDRESS

(Signature of Person Administering Oath)

(Typed Name of Person Administering Oath)

ORGANIZATION OR ADDRESS

(Authority To Administer Oaths)

INITIALS OF PERSON MAKING STATEMENT

(b)(3), b(6)

PAGE 2 OF 2 PAGES

SWORN STATEMENT

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1. LOCATION FOB Warrior	2. DATE (YYYYMMDD) 2007 10 12	3. TIME 1345	4. FILE NUMBER
5. LAST NAME FIRST NAME MIDDLE NAME (b)(3), b(6)	6. SSN (b)(3), b(6)		7. GRADE/STATUS D-2

8. ORGANIZATION OR ADDRESS
31012-22 IN BN

9. I, (b)(3), b(6), WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

At 0800 we left FOB Warrior out of gate S. Approximately 10 minutes later my first truck (D31) hit a pressure wire and 2 mortar rounds on (b)(2) High My gunner (D36) said he had PID on two individuals behind a bunker in the prone and after the JEP exploded both began to run in opposite directions. I gave the order to engage an individual wearing a black dark colored robe. Once that individual went down I called cease fire because we did not have any PID any other targets. We then pulled our truck up to D31 which was already receiving aid from D35 and H6. I tried to help provide aid to D31's gunner (CPL (b)(3), b(6)) who had received shrapnel to his lower left back. Simultaneously, D35 started to take SPL (b)(3), b(6) who was injured to

10. EXHIBIT	(b)(3), b(6)	MENT	PAGE 1 OF 3 PAGES
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ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT OF (b)(3), b(6)" DATED

THE BOTTOM OF EACH ADDITIONAL PAGE MUST BEAR THE INITIALS OF THE PERSON MAKING THE STATEMENT, AND PAGE NUMBER MUST BE INDICATED.

STATEMENT OF

(b)(3), b(6)

TAKEN AT

1345

DATED

12 Oct 07

9. STATEMENT (Continued)

received injuries to his face to EMEDS. After applying aid to CPL (b)(3), b(6) I applied aid to SPC (b)(3), b(6) who received shrapnel to his left forearm. I then tried to talk Avenger II onto the individuals we engaged. After several moments I told H6 (CPT (b)(3), b(6)) I needed to (ASEVAC CPL (b)(3), b(6) and SPC (b)(3), b(6) to EMEDS. H6 took control of my patrol and I then went immediately to EMEDS.

We also tried to get PVT (b)(3), b(6) out of D31 but the truck was already on fire, and then the (b)(2)High rounds began to go off so we had to move ourselves and our casualties to cover.

Furthermore, I gave the go-ahead to engage the target because for some reason today there was no one out of their houses which they usually are moving about. Also, the target we engaged

INITIALS

(b)(3), b(6)

PAGE 2 OF 3 PAGES

STATEMENT OF

(b)(3), b(6)

TAKEN AT

LB 45

DATED

12 Oct 07

9. STATEMENT (Continued)

was approximately (b)(2)High to my 9 o'clock. hiding behind a bunker in an open field; and once the IED exploded the target started to run. The IED blast was not that big so the individual running could not have felt he was in any danger.

AFFIDAVIT

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

HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE 1, AND ENDS ON PAGE 3. I FULLY UNDERSTAND THE CONTENTS OF THE ENTIRE STATEMENT MADE BY ME. THE STATEMENT IS TRUE. I HAVE INITIALED ALL CORRECTIONS AND HAVE INITIALED THE BOTTOM OF EACH PAGE CONTAINING THE STATEMENT. I HAVE MADE THIS STATEMENT FREELY WITHOUT HOPE OF BENEFIT OR REWARD, WITHOUT THREAT OF PUNISHMENT, AND WITHOUT COERCION, UNLAWFUL INFLUENCE, OR UNLAWFUL INDUCEMENT.

(b)(3), b(6)

(Signature of Person Making Statement)

(b)(3), b(6)

Subscribed and sworn to before me, a person authorized by law to administer oaths, this 12 day of Oct 07 at LB 45

(b)(3), b(6)

(Signature of Person Administering Oath)

(b)(3), b(6)

(Signature of Person Administering Oath)

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

(Authority to Administer Oaths)

ORGANIZATION OR ADDRESS

ORGANIZATION OR ADDRESS

INITIALS OF PERSON MAKING STATEMENT

(b)(3), b(6)

PAGE: 7 OF 3 PAGES

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1. LOCATION Kirkuk Iraq	2. DATE (YYYYMMDD) 2007/10/12	3. TIME 2040 hrs	4. FILE NUMBER
5. LAST NAME, FIRST NAME, MIDDLE NAME (b)(3), b(6)		6. SSN	7. GRADE/STATUS E-8 / 1SG
8. ORGANIZATION OR ADDRESS HHC 2-22 IN			

9. I, 1SG (b)(3), b(6), WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

On the morning of 12 October 2007 at 0700 I along with CPT (b)(3), b(6) and Third Platoon Delta Company led by 1LT (b)(3), b(6) departed the Forward Operating Base Warrior. At approximately 0730 and (b)(2)High from the FOB the convoy encountered an IED along the route. The Vehicle in the lead was struck with the full force of the blast as it traveled under the powerlines that crossed the road. On seeing the blast I started looking for a trigger man on the left side of the road. I saw a man dressed in black stand up and run away. The man was several hundred meters south of the convoy and road. The man was engaged with small arms fire from two vehicles at which time I saw the man fall or kneel down.

After the man went down a signal to cease fire was passed back from the commanders vehicle.

After the cease fire my vehicle went forward to assess the situation. Once forward my vehicle stopped beside the lead vehicle where SGT (b)(3), b(6) was trying to get the other wounded soldiers out of the burning vehicle. The vehicle was on fire due to the fuel leaking out of the vehicle and the fuel cans strapped to its rear. Within two or three minutes all Soldiers were removed from the vehicle except PVT (b)(3), b(6) PVT (b)(3), b(6) door was jammed from the explosion. We tried to extinguish the fire with fire extinguishers and dirt until the fire became too hot and the fumes too noxious to breath. Once ammunition in the vehicle started cooking off we had to stop and move a safe distance away. PVT (b)(3), b(6) was deceased in the right rear seat due to the massive head trauma incurred in the IED blast.

Once fire rescue arrived some 30 minutes later the fire was extinguished and cooled off then PVT (b)(3), b(6) remains were removed and placed in a recovery container and brought back to FOB Warrior.

It was told to me that there was a body on the field adjacent to the road and in close proximity to the path the man in black used. I did not see this person at any time during the event. *nothing follows*

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

10. EXHIBIT	11. INITIALS OF PERSON MAKING STATEMENT (b)(3), b(6)	PAGE 1 OF _____ PAGES
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ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT OF _____ TAKEN AT _____ DATED _____"

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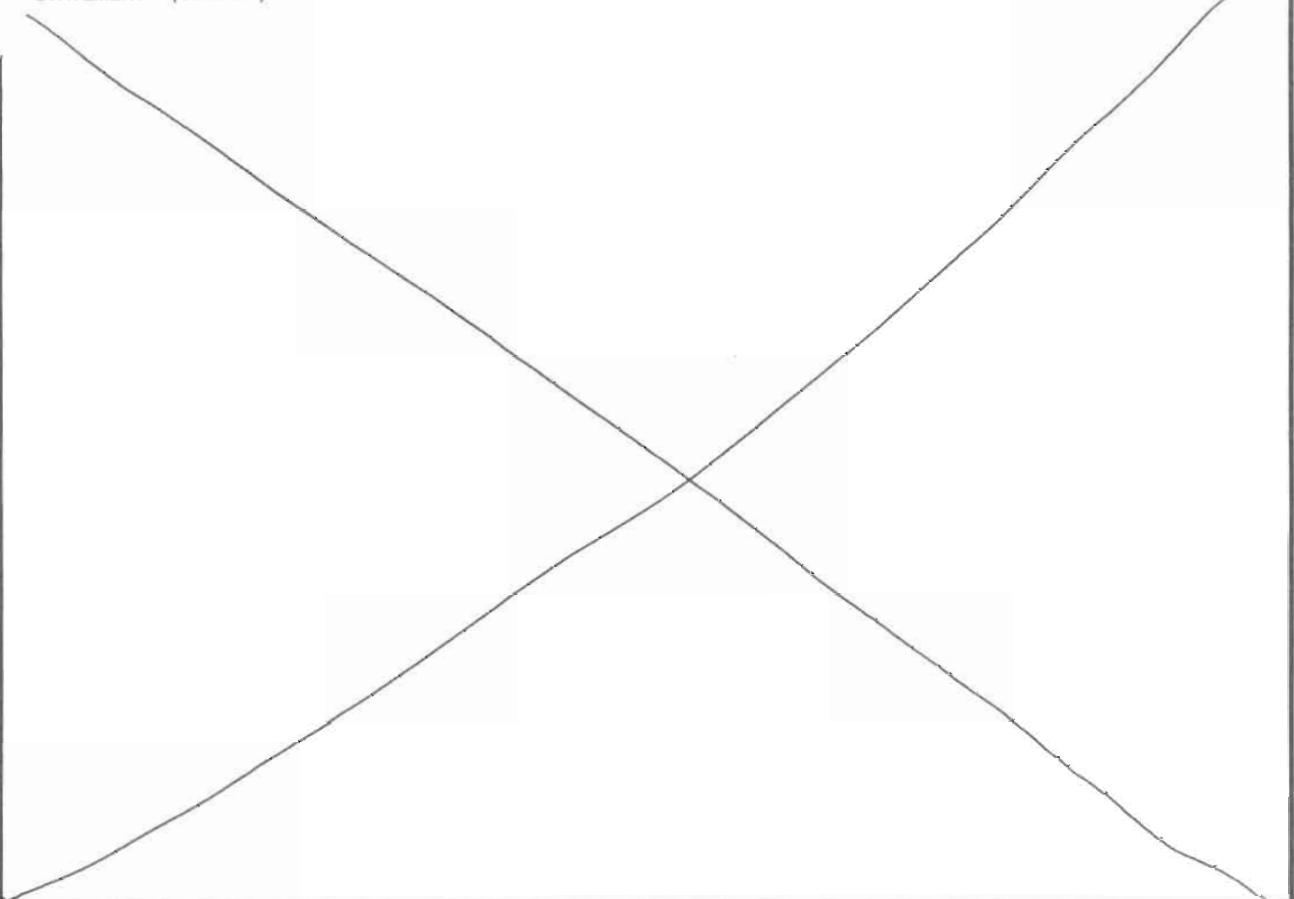
MENT OF

(b)(3), b(6)

TAKEN AT Kirkuk Iraq

DATED 2007/10/12

STATEMENT (Continued)



AFFIDAVIT

I, (b)(3), b(6), HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE 1, AND ENDS ON PAGE 1. I FULLY UNDERSTAND THE STATEMENT MADE BY ME. THE STATEMENT IS TRUE. I HAVE INITIALED ALL CORRECTIONS CONTAINING THE STATEMENT. I HAVE MADE THIS STATEMENT FREELY WITHOUT THREAT OF PUNISHMENT, AND WITHOUT COERCION, UNLAWFUL INFLUENCE, OR UNLAWFUL INDUCEMENT.

(b)(3), b(6)

(Signature of Person Making Statement)

WITNESSES:

Subscribed and sworn to before me, a person authorized by law to administer oaths, this _____ day of _____, 2007, at _____.

ORGANIZATION OR ADDRESS

(Signature of Person Administering Oath)

(Typed Name of Person Administering Oath)

ORGANIZATION OR ADDRESS

(Authority To Administer Oaths)

INITIALS OF PERSON MAKING STATEMENT

PAGE _____ OF _____ PAGES

STORY BOARD

Who: 3/D/2-22 IN

What: IED

Where: (b)(2)H of FOB Warrior

When: 120727COCT07

CF Cas 1 US KIA, 4 US WIA

Narrative:

While exiting Gate 5 of FOB WARRIOR KIRKUK 3/D/2-22 IN was struck by an IED. During the incident the HHC commander reported that a LN wearing black clothing had been seen fleeing the immediate area and was engaged with small arms fire. (b)(2)H (b)(2)H

(b)(2)H Four Soldiers were able to dismount and get clear of the truck however, one casualty was reported trapped in the burning vehicle and was unable to be freed. One WIA was immediately CASEVAC'd to FOB WARRIOR EMEDS. The QRF arrived at (b)(2)H and CASEVAC'd two casualties to EMEDS. During the immediate follow up the QRF moved to secure the position of the LN seen wearing black; upon arrival they found one LN KIA that did not fit the original description. The LN KIA was a year old boy; (b)(6) (b)(6)

SHADOW then reported following the individual wearing black into a house. At 0957 the IP arrive to help secure and search the area under the command and control of 2/B/2-22 IN. Prior to the cordon going into position, shadow observed an individual in black clothing fleeing the house. 1/B/2-22 IN pursued the individual but did not capture him. By 1005 the cordon was set and the search began; nothing significant was found. The FIDO results were negative in the house. Follow up reporting from the HHC Commander indicates that five minutes prior to the IED detonation a (b)(2)H was seen in the area the IED detonated.

(b)(2)High

(b)(2)High

SECRET//REL TO USA, MCF//201709XX

(b)(2)High

A relative of the Mukhtar (b)(6)

informed 1/B/2-22 that a five minutes prior to the IED detonation a (b)(2) H was seen in the area that the IED detonated. This is similar to the story that the HHC Commander received when talking to villagers after the detonation. 1/B/2-22 pursued a (b)(2) H and caught up (b)(2) H hear the PJCC believing that (b)(2) H might be the one that emplaced the IED. The SWT guided 1/B/2-22 IN onto the vehicle. The vehicle turned out to be a (b)(2) H (b)(2) H with a family (b)(2) H The family was not connected with the events in any way. After reviewing

(b)(2) High

LOCATION (b)(2) H

UNIT: 3/D/2-22 IN, HHC 2-22 IN

TIME: 0727

CASUALTIES: 4 X WIA, 1 X KIA

(b)(2)High

(b)(2)High

(b)(2)High

(b)(2)High



(2) Hi

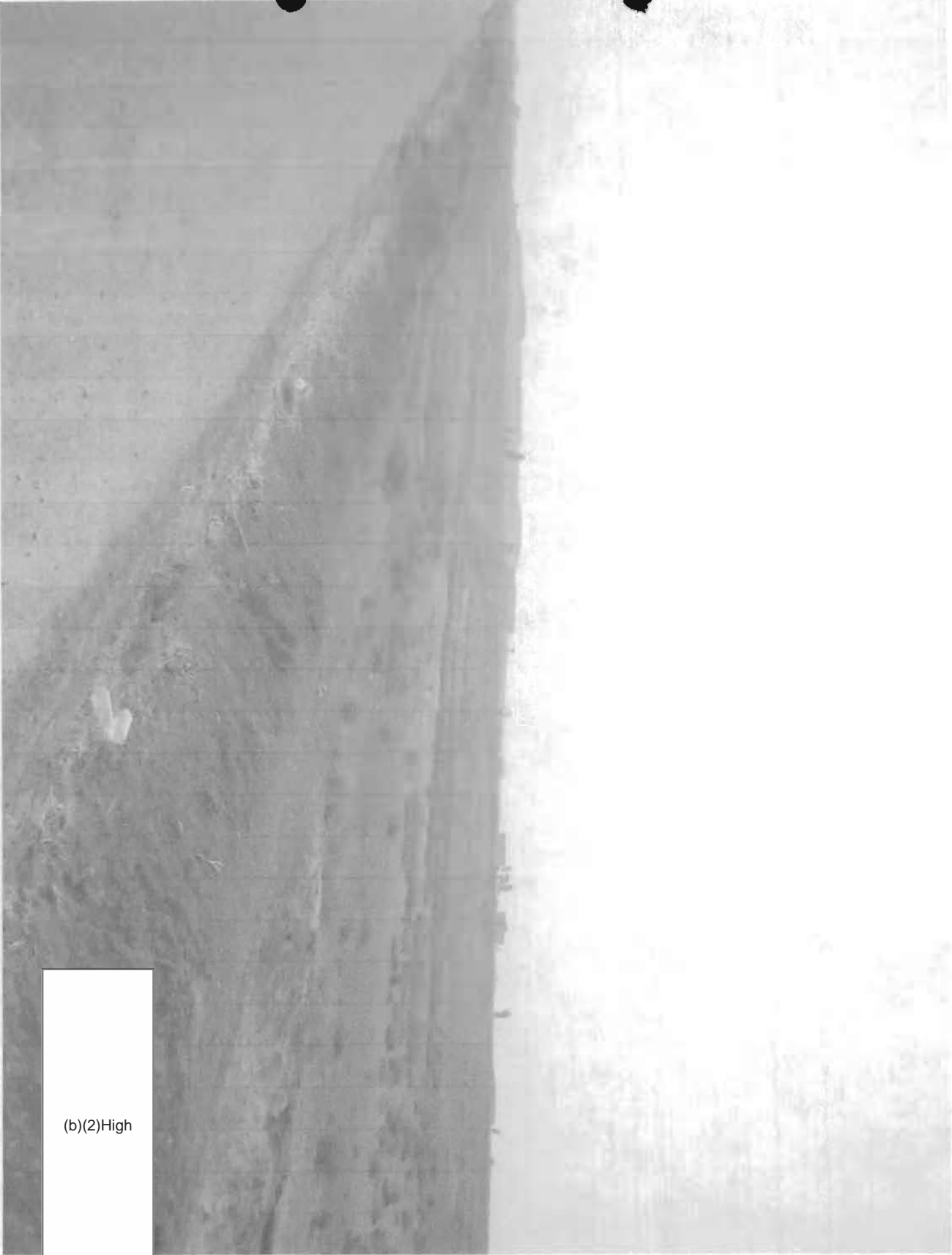
(b)(2)High

(b)(2)High

(b)(6)

(b)(2)High

(b)(2)High, (b)(6)



(b)(2)High

DATE OF ORDER		12-Oct-07		ORDER NO.		(b)(2)High	
PRINT NAME AND ADDRESS OF SELLER (Number, Street, and State)*							
P A Mr. (b)(6) Y Kirkuk, Iraq E E							
Furnish Supplies or Services to (Name and Address)							
COMMANDERS CONDOLENCE FUND				1BCT X 7008			
SUPPLIES OR SERVICES		QTY		UNIT PRICE		AMOUNT	
Condolance Payment		1 EA.		\$2,500.00		\$2,500.00	
AGENCY NAME AND BILLING ADDRESS*				TOTAL			
P 15th Finance A F Detachment, FOB Warrior Y Kirkuk, Iraq R APO AE 09335				\$2,500.00 DISCOUNT TERMS0.% Net 30 DAYS DATE INVOICE RECEIVED			
				12-Oct-07			
ORDERED BY (Signature and Title)							
PPO: 1LT (b)(3), b(6)							
PURPOSE AND ACCOUNTING DATA							
(b)(2) High							
To sign below for over-the-counter deliver of items							
Received by							
Witness		(b)(3), b(6)					
TITLE:		DATE					
		12-Oct-07					
SELLER - Please read instruction on Copy 2							
PAYMENT RECEIVED		PAYMENT REQUESTED					
\$2,500.00		\$2,500.00					
NO FURTHER INVOICE NEED BE SUBMITTED							
Seller: Mr.		12-Oct-07					
(b)(6)							
Signature		Today's date					
(b)(6)							
I certify that this account is correct and proper for payment in the amount of				DIFFERENCES			
\$2,500.00							
PA: 1LT (b)(3), b(6)				ACCOUNT VERIFIED			
(b)(3), b(6)				CORRECT FOR			
				BY			
PAID BY		CASH		DATE PAID		VOUCHER NO	
				12-Oct-07			
OR:							

DEPARTMENT OF THE ARMY
1st Infantry Brigade Combat Team Command Judge Advocate
1st Infantry Brigade Combat Team
FOB Warrior, Kirkuk, Iraq, APO AE 09338

AFZS-LI-Z

15
13 October 2007

MEMORANDUM FOR Commander, 1st Brigade Combat Team, 10th Mountain Division (Light Infantry), FOB Warrior, Iraq, APO AE 09338

SUBJECT: 1st BCT CERP CONDOLENCE FUND

1. The purpose of this memorandum is to request a condolence payment be made to (b)(6) (b)(6) using the 1st BCT, 10th MTN DIV (LI) CERP Condolence Fund for the death of his son, (b)(6). On 120730OCT07, Mr. (b)(6) claims that his son was shot by Coalition Forces while they engaged unknown enemy forces that had detonated an Improvised Explosive Device. (b)(6) was killed during this incident.

2. Description of how these monies will support the 1st BCT, 10th MTN DIV (LI) Commander's intent and spending priorities for CERP funds: This payment will support the strong relationship the 1st BCT has with the local populace by expressing our regret for the death of (b)(6) (b)(6) son.

3. List the specific items or services requested in the table below:

#	Items to be purchased or service rendered	Unit Price	Quantity	Total Price
1	Payment for death	\$2,500.00	1	\$2,500.00
	Total:			\$2,500.00

4. The transaction will be completed at one time with one payment.

5. POC for this action is CPT (b)(3), b(6) VOIP 242-2624. (b)(3), b(6), (b)(2)High

This condolence payment is legally sufficient / insufficient.

(b)(3), b(6)

CPT, JA
Foreign Claims Commissioner

(b)(3), b(6)

COL, IN
Commanding

I approve / disapprove this condolence payment.

UNCLASSIFIED

CERP CONDOLENCE PAYMENT WORKSHEET

TYPE OF OPCA PROJECT: Regional Level Quick Impact Fund

MILITARY UNIT COORDINATING PROJECT: HHC, 1BCT, 10th MTN DIV, Judge Advocate

MILITARY UNIT CONTACT INFO FOR PROJECT

NAME: CPT (b)(3), b(6)

PHONE: VOIP 242-2624

NIPR EMAIL: (b)(3), b(6), (b)(2)High

NAME THE PROJECT: CERP Condolence Fund Payment to Mr. (b)(6)
the father of (b)(6) for his son's death.

PROJECT LOCATION: Kirkuk, Iraq

PROJECT DESCRIPTION: Condolence Payment to Mr. (b)(6)

DESCRIBE DIRECT BENEFIT TO IRAQI POPULATION: Condolence payments are designed to promote and maintain friendly relationships with local nationals. A condolence payment is intended to express sympathy for death, injury, or property damage caused by U.S. or Coalition Forces during combat activity. It is not an admission of guilt.

COST (U.S. Dollars) AND JUSTIFICATION: \$2,500.00. On 120730OCT07, Mr. (b)(6) (b)(6) claims that his son was shot by coalition forces while they engaged unknown enemy forces that had detonated an Improvised Explosive Device. Mr. (b)(6) was killed during this incident.

NAME AND POSITION OF IRAQI WHO WILL ASSUME RESPONSIBILITY FOR THE COMPLETED PROJECT (Responsible Iraqi): Mr. (b)(6)

ESTIMATED NUMBER OF DAYS REQUIRED TO COMPLETE THIS PROJECT: 1

CENTCOM 020369

08-IH4-T009-00019

UNCLASSIFIED