



DEPARTMENT OF THE ARMY  
HEADQUARTERS, 101<sup>ST</sup> 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 [REDACTED] 6-IT6-044

1. **Identifying Data:** [REDACTED], 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.

[REDACTED]  
CPT, JA  
FCC

000410

## TF Band of Brothers Claims Intake Form

To: United States Army Foreign Claims Commission.

From: Name: [REDACTED]

POA/ATT: [REDACTED]

Power of Attorney provided and interpreter approved: \_\_\_\_\_

Decedents:  \_\_\_\_\_

Hometown: Samarra Iraqi Resident: Affirmative

My claim arose at: Samarra (Town) (ASIRAH) (City) (Country)

My claim arose on: Feb (Month) 3rd (Day) 2006 (Year)

Proof of Ownership: \_\_\_\_\_

VIN Match: \_\_\_\_\_

Interpreter Approved: \_\_\_\_\_

Death Certificates (Name, Cause of Death, Age, and Time of Death Consistent with Claimant allegations): [REDACTED] Shot fire, 10 year old 15 years old, 1230 pm

Interpreter Approved:  \_\_\_\_\_

Medical Report/Legal Expert Opinion: While the Convoy come through out road cross. It was mine exploded Convoy members were shot randomly suddenly

Interpreter Approved: I \_\_\_\_\_

Witness Statement (Consistent?): While the Convoy come through out road cross. It was an (IED) explosion Convoy members were shot randomly suddenly I saw the 5 or kids ( [REDACTED] ) died and 1 yed on the ground.

Interpreter Approved: 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 ( [REDACTED] ) 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), (roadside pump) to that Convoy happened. The Convoy's members had ~~the~~ opened fire randomly, some striking bullets ridded their heads and other ~~the~~ bodies parts immediately they have been dead according to the death certificates and witnesses statements.

Evidence: \_\_\_\_\_

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.)

<u>Item</u>	<u>Amount</u>

Total: \$ 10,2000

I claim as damages: (Indicate amount in U.S. dollars and local currency)

\$ 10,000 local

(Signature of Claimant)

Subscribed before me this 24 day of June, 2006.

(Print Name)

(Signature)