MEMORANDUM OF OPINION

AFZB-JA-C

1 February 2006

MEMORANDUM OF OPINION

1. Identifying Data: 

2. Date and place the incident occurred giving rise to the claim: The claim occurred on 6 August, 2005 in Samarra, Iraq.

3. Amount of claim and date it was filed: Claimant filed a claim for $5,000 on 31 Jan. 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 properly filed in a timely manner.

5. Facts: The Claimant alleges that a convoy of US contractors driving GMC vehicles parked along side of the road. The convoy did not block traffic and permitted cars to pass the convoy. The convoy allegedly shot at the vehicle of Ali Mahdi Salih, the husband of the Claimants. This man was killed by the contractor's gunfire.

6. Opinion: “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.” Here, the alleged damage was committed by US contractors. These private contractors are not qualified governmental employees as enumerated in paragraph 2-2c(4), and as such, their acts are not within the scope of the Foreign Claims Act.

7. Recommendation: The claim is denied.

CPT, JA
Claims Judge Advocate
TF Band of Brothers Claims Intake Form

To: United States Army Foreign Claims Commission.
From: Name: [redacted]
POA/AT: [redacted]

Power of Attorney provided and interpreter approved: original scene

Hometown: [redacted]  □ Iraqi Resident: [redacted]

My claim arose at: Alam [redacted]
(Town)  [redacted] (City)  [redacted] (Country)

My claim arose on: 4 Nov 05
Month  Day  Year

Proof of Ownership: original scene

VIN Match: [redacted]
Interpreter Approved: [redacted]

Death Certificates (Name, Cause of Death, Age, and Time of Death Consistent with Claimant allegations): [redacted]

□ Interpreter Approved: [redacted]

Medical Report/Legal Expert Opinion: 2500 - car 2500 - Wrongful death

□ Interpreter Approved: [redacted]

Witness Statement (Consistent?): Police man

□ Interpreter Approved: [redacted]

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.)

[redacted] had 2 wives. - Husband killed.

GMC convoy parked main road -didn't block road - traffic passing through & fade.

50 m away

Red car - contractors - civilian clothes

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.)

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wrongful death</td>
<td>$2,500</td>
</tr>
</tbody>
</table>

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 31st day of JAN, 2006.