



DEPARTMENT OF THE ARMY  
Office of the Command Judge Advocate  
1st Brigade Combat Team, 101<sup>st</sup> Airborne Division (AASLT)  
Kirkuk, Iraq, APO AE 09335



REPLY TO  
ATTENTION OF

2 JAN 06

IDCV-JA

20 December 2005

MEMORANDUM FOR Commanding Officer, 1<sup>st</sup> Brigade Combat Team, 101<sup>st</sup> Airborne Division (AASLT), APO AE 09335

SUBJECT: 1<sup>st</sup> BCT CERP DISCRETIONARY BULK FUND.

1. The purpose of this memorandum is for the use of the 1<sup>st</sup> BCT, 101<sup>st</sup> Abn Div CERP Discretionary Bulk Fund for a condolence payment to [REDACTED] er. Mr. [REDACTED]'s brother ([REDACTED] er) was killed and his car damaged by Coalition Forces. Mr. [REDACTED] brother was shot when he was caught in a firefight between Anti Iraqi Insurgents and Coalition Forces. Mr. [REDACTED] does not have a cognizable claim under the Foreign Claims Act (Chapter 10, AR 27-20) because his brother's death and damages are incident to combat.

2. Description of how these monies will support the 1<sup>st</sup> BCT, 101<sup>st</sup> Abn Div (AASLT) Commander's intent and spending priorities for CERP funds: This payment will support the strong relationship the 1<sup>st</sup> BCT has with the local populace by expressing our regret for the damages to the vehicle and wrongful death of [REDACTED].

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 the wrongful death of [REDACTED]        | \$2,500.00 | 1        | \$2,500.00  |
|   | Payment for battle damage to the claimant's vehicle | \$1,565.00 | 1        | \$1,565.00  |
|   | <b>Total:</b>                                       |            |          | \$4,065.00  |

4. The transaction can be completed at one-time with one payment.

5. POC for this action is MAJ [REDACTED], VOIP 242-2624 [REDACTED]

*- recommend approval*

[REDACTED]  
[REDACTED]  
MAJ, JA  
Command Judge Advocate

I approve/disapprove this purchase.

[REDACTED]  
[REDACTED] AY  
COL, IN  
Commanding



REPLY TO  
ATTENTION OF

**DEPARTMENT OF THE ARMY**  
OFFICE OF THE COMMAND STAFF JUDGE ADVOCATE  
1<sup>ST</sup> BRIGADE COMBAT TEAM, 101<sup>ST</sup> AIRBORNE DIVISION (AASLT)  
KIRKUK, IRAQ APO AE 09335

IDCV-JA

20 December 2005

SUBJECT: Claim of Hussein Ali Omer FY06-IO6-0128

1. Claimant's name and address: [REDACTED] of Kirkuk, Iraq  
Related claim: NA
2. Date and place the incident occurred giving rise to the claim: 16 November 2005, in Kirkuk, Iraq.
3. Amount of claim and the date it was filed: Claimant filed a claim for the wrongful death of his brother [REDACTED] and his vehicle.
4. Chapter(s) 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 the wrongful death of his brother, and the said vehicle.
5. Facts: The claimant's brother was wrongfully killed and vehicle damaged, during a fire fight between Coalition Forces and Anti Iraq Insurgents.
6. Opinion:
  - a. In order to form a basis for a claim under the FCA, the incident must have occurred outside the United States, and have been caused by non-combat activities of the United States Armed Forces or by the negligent or wrongful acts of military members, of civilian employees, of the Armed Forces. See AR 27-20, para 10-3a.
  - b. The claim is not meritorious. The death and damage were incident to combat, therefore the claim is not compensable under Foreign Claims Act.
  - c. The evidence establishes does not establish negligence on the part of Coalition Forces.
7. Recommended action: Deny this claim.

[REDACTED]  
[REDACTED] S  
MAJ, JA  
Foreign Claims Commission

001309

**CLAIM FOR DAMAGE .OR INJURY DEATH**

**INSTRUCTION:** Please read carefully the instruction on the reverse side and supply information requested on both sides of this form .Use additional sheets (s)

person  
From  
approve  
MBC

|             |   |   |
|-------------|---|---|
| <b>AMER</b> | <b>SITE OF THE ACCIDENT</b><br>On the bridge which leads to Arroba sector | <b>2-Name of claimants &amp;Address</b><br>[REDACTED] er<br>Kirkuk-Arafa sector |
|-------------|---|---|

|                       |                                |                                     |   |                      |
|-----------------------|--------------------------------|-------------------------------------|---|----------------------|
| <b>GENDER</b><br>male | <b>4.DATE OF BIRTH</b><br>1977 | <b>5.MARITAL STATUS.</b><br>Married | <b>6.DATE &amp; DAY OF ACCIDENT</b><br>16-11-2005 | <b>TIME:</b><br>8 pm |
|-----------------------|--------------------------------|-------------------------------------|---|----------------------|

**The claim**  
According to the witness statement the victim was driving his van on the mention location an explosion happened while the CF convoy was passing through that street, they began to shoot randomly and killing the victim ([REDACTED]) with three bullets penetrated his body, and his van was exposed to damages.

**Note:** the claimant is the brother of the victim and he is the guardian of his family, the victim was not married.

**Property damage**

Entire front body, all the seats were and dashboard damaged, front and rear windshield with the entire right side of the van, rear right fender

**INJURY**

Wrongfully killing

**WITNESSES**

| NAME       | ADDRESS    |
|------------|------------|
| [REDACTED] | [REDACTED] |
| [REDACTED] | [REDACTED] |

**Amount of claim (IN Dollars)**

|  |                            |                                      |  |
|--|----------------------------|--------------------------------------|--|
| <b>12A PROPERTY</b><br>He will bring the receipts later <del>1500.00</del> + 1505.00 | <b>12b PERSONAL INJURY</b> | <b>12c WRONGFUL DEATH</b><br>2500 \$ | <b>12A</b> \$, 505.00<br>2500\$+damages on the car |
|--|----------------------------|--------------------------------------|--|

**I CERTIFY THAT AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURY CAUSED BY THE ACCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM**

|  |                                      |  |
|--|--------------------------------------|--|
| <b>13a.SIGNATURE OF CLAIMANT</b><br>[REDACTED] | <b>13b.Phone number of signatory</b> | <b>14c.Date of claim</b><br>22-11-2005 |
|--|--------------------------------------|--|

|  |  |
|--|--|
| <b>CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM</b> | <b>CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS</b> |
|--|--|

001310