



DEPARTMENT OF THE ARMY  
HEADQUARTERS, 3<sup>RD</sup> BRIGADE COMBAT TEAM  
OPERATION IRAQI FREEDOM, COB SPEICHER  
TIKRIT, IRAQ APO AE 09393

AFZP-VA-HQ

4 May 2006

CP3AAS60940401-10  
MEMORANDUM FOR RECORD

SUBJECT: Commander's Emergency Response Program payment to [REDACTED]  
(Claim Number 06-IR8-481)

1. On 10 January 2006, [REDACTED]'s father, [REDACTED], was killed by CF when he came upon a CF blockade and they started shooting at his car until it was engulfed in flames.
2. I certify that CERP funds are available to pay [REDACTED] in the amount of \$2,500.00. This is a condolence payment.
3. The request to pay [REDACTED] in the amount of \$2,500.00 from CERP has been legally reviewed. There is no legal objection to this payment and it is accordingly approved.

[REDACTED]  
CPT, EN  
Project Purchasing Officer

001681



DEPARTMENT OF THE ARMY  
OFFICE OF THE STAFF JUDGE ADVOCATE  
HEADQUARTERS, 101ST AIRBORNE DIVISION (AIR ASSAULT)  
OPERATION IRAQI FREEDOM, COB SPEICHER  
TIKRIT, IRAQ APO AE 09393

AFZB-JA-C

1 April 2006

MEMORANDUM OF OPINION

SUBJECT: Claim of [REDACTED]; 06-IR8-481

- 1. Identifying Data:** [REDACTED]
- 2. Date and place the incident occurred giving rise to the claim:** The claim occurred on 10 January 2006 in Samarra, Iraq.
- 3. Amount of claim and date it was filed:** Claimant filed a claim for \$15,000 on 25 March 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 his father, [REDACTED], was killed by CF when the deceased was driving the vehicle from Tikrit to Samarra. CF were allegedly blocking the street and started shooting at the vehicle. The vehicle allegedly began to burn and was completely destroyed. Several persons inside the vehicle were killed and injured. A SIGACTS investigation revealed that a CF patrol had blocked traffic while a possible IED was being investigated. Traffic had stopped behind a tractor trailer when a SUV went around the front vehicle and began traveling on the median strip towards the halted patrol. The patrol fired warning/disabling shots, but the vehicle appeared to accelerate. The CF patrol, fearing that the vehicle was a VBIED opened fire. The vehicle quickly became engulfed with fire. The patrol noticed that several women and children were inside the vehicle and tried to exit the vehicle as it burned. The incident is confirmed by CPT Ortega, the CATA-22 team leader.
- 6. Opinion:** "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." Here, the deceased was killed during an escalation of force. This constitutes combat activity because the troops in contact feared the vehicle was a VBIED and were acting in self defense.
- 7. Recommendation:** The claim is denied.

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
CPT, JA  
Claims Judge Advocate

001682

# TF Band of Brothers Claims Intake Form

To: United States Army Foreign Claims Commission

From: Name: [REDACTED]

POA/ATT: \_\_\_\_\_

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

Decedents: Father [REDACTED]

Hometown: Mosul  Iraqi Resident: \_\_\_\_\_

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

My claim arose on: Jan 10 2006  
Month Day Year

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

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

Interpreter Approved: NA

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

Yes - Samarra  
Bullets - body burned  
 Interpreter Approved: Yes

Medical Report/Legal Expert Opinion: \_\_\_\_\_

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

Witness Statement (Consistent?): W1 - (driver on road) eyewitness saw CF shoot at vehicle while it

Interpreter Approved: Yes same as above

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.)

Claimant alleges his father was driving ~~from~~ Baghdad  
from Mosul when he came to a CF checkpoint  
near Samarra.

Driving vehicle claimed in Claim # 6-ILB-490

Evidence: Photos/ Death Cert/ Witness/ IP Address

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

Wrongful Death -

Total: \$5000

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

\$5000

local

(Signature of Claimant)

Subscribed before me this 25 day of Mar, 2006

(Print Name)

(Signature)

001684