

6-IA3-112

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29 Nov



DEPARTMENT OF THE ARMY
HEADQUARTERS, 1ST BRIGADE, 3D INFANTRY DIVISION (FORWARD)
TASK FORCE LIBERTY, OPERATION IRAQI FREEDOM
FORWARD OPERATING BASE SPEICHER
APO AE 09393

DHFT-JA

MEMORANDUM FOR Claimant

SUBJECT: Claim Denial

1. This is in response to your claim against the United States Government. Your claim has been reviewed under the Foreign Claims Act, 10 U.S.C. 2734, as implemented by Army Regulation 27-20, Chapter 10. I regret to inform you that your claim has been denied.

2. Your claim has been denied for the following reasons:

- a. There is not enough evidence to prove your claim.
- b. The evidence shows that United States Forces did not cause the damage.
- c. The evidence shows that the damage was caused during combat.
- d. The evidence shows that the damage was caused by your own negligence or wrongdoing.
- e. The evidence shows that your claim was fraudulent.
- f. Other: _____

3. If this is the first time your claim has been viewed by this office, you may submit an appeal. This office must receive the appeal no later than 30 days after receipt of this message. The appeal must also contain additional evidence proving your claim. If the appeal is sent after 30 days has passed, or does not provided additional evidence, then the appeal will be denied.

4. POC is the Tikrit Claims Office at DNVT (b)(2)High

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

CPT, FCC
Foreign Claims Commissioner

MEMORANDUM FOR RECORD

SUBJECT: Claim of [REDACTED] (b)(6) 6-IA3-112, UP AR 27-20, Chapter 11

1. IDENTIFYING DATA:

- a. CLAIMANT: [REDACTED] (b)(6) Iraqi resident.
- b. PRESENT ADDRESS: Bayji, Iraq.
- c. ATTORNEY: [REDACTED] (b)(6)
- d. DATE OF INCIDENT: 8 August 2005.
- e. PLACE OF INCIDENT: Tikrit
- f. DATE AND AMOUNT OF CLAIM: 22 November 2005, \$9,000.
- f. SUMMARY: Negligent shooting
- g. COMPANION CASES: None

2. JURISDICTION: This claim was filed by an Iraqi resident. He is a proper party claimant, and the claim is cognizable under the Foreign Claims Act (10 U.S.C. § 2734) and Chapter 10, AR 27-20. This claim was properly presented, contains factually specific allegations, is dated, states a sum certain and is signed by Claimant.

3. FACTS: Claimant was driving in Tikrit when CF convoy came up from behind and shot at the car. Incident occurred on the Baghdad-Mosul road, about 3 km from the CF FOB Omaha.

4. LEGAL ANALYSIS:

a. 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."

b. There is insufficient evidence to show that CF forces committed a negligent or wrongful act. Even if the witness statements and Claimant's oral testimony is true, then this claim is barred because CF actions constitute combat activity.

AFZB-JA-C

Claim of ADNAN AWWAD BUDIWI, 6-IA3-112, UP AR 27-20, Chapter 11

5. DAMAGES: The claimants has claimed damages associated with the wrongful death of their respective husbands in the amount of \$2,500 per man. Fawzi Jassim Hussein has claimed \$1,500 for his personal injuries. In support of the claim, the Claimants have presented an original death certificates, one witness statement, and an estimate of repair.

6. RECOMMENDATION: Based upon the investigation by this FCC, it is reasonable to conclude that the CF activity can be characterized as combat activity. I recommend this claim be denied.

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

CPT, JA
FCC IT6

CENTCOM 002324

Claims Form

To: United States Army Foreign Claims Commission.

From: Name: _____ (b)(6)

POA/ATT: _____ (b)(6)

Power of Attorney provided and interpreter approved: _____

Decedents: N/A

Hometown: _____ Iraqi Resident: _____

My claim arose at: Tikrit
(Town) _____ (City) _____ (Country)

My claim arose on: 8 AUG 2005
Month _____ Day _____ Year

Proof of Ownership: Original car seen

Interpreter Approved: _____

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

Interpreter Approved: _____

Legal Expert Opinion: Damages on the shell

Interpreter Approved: _____

Witness Statement (Consistent?): ~~was~~ (1) driving behind C - saw CF shot

Interpreter Approved: _____

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.)

Owner of car wanted to go to fuel station. CF vehicle driving behind him, & shot the car up.

Occurred on highway from Baghdad - Mosul Road. Occurred about 3 km from CF base, FOB Orzaba

Evidence: photos, 1 witness statement, estimate of repair judge report, estimate

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> |
|-------------|---------------|
| | 2,684,000 ID |
| | |
| | |
| | |
| | |

Total: 2,684,000 ID

I was insured to the following extent against the damage or injuries I have sustained:

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)

\$ _____ local 2,684,000 ID

(b)(6)

Subscribed before me this 22 day of NOV, 2005.

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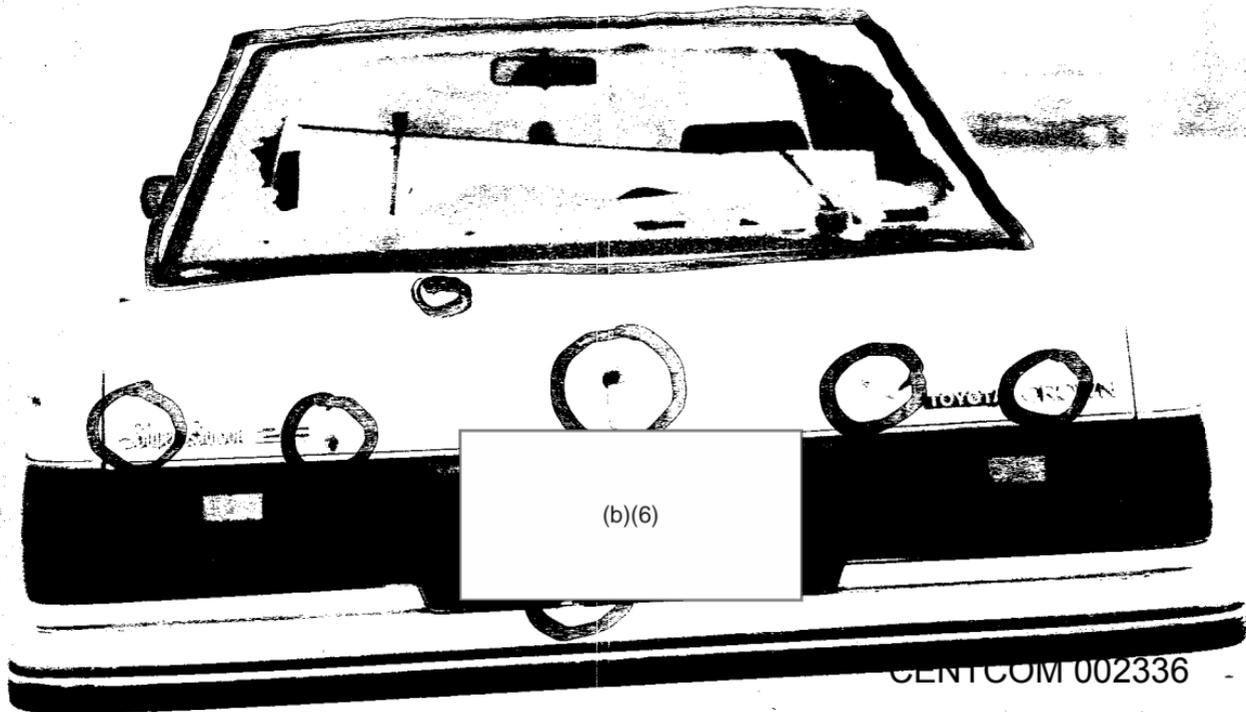
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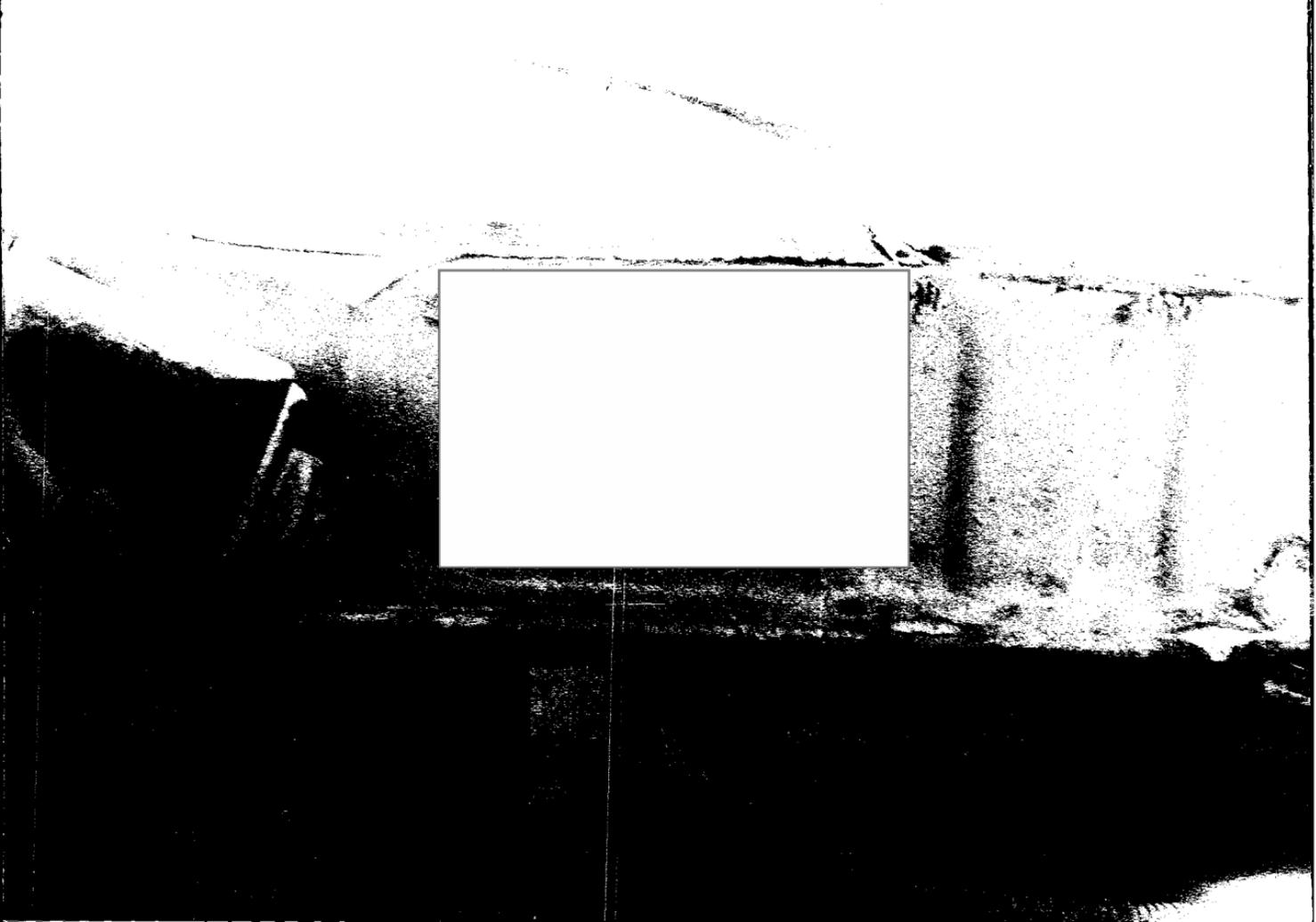
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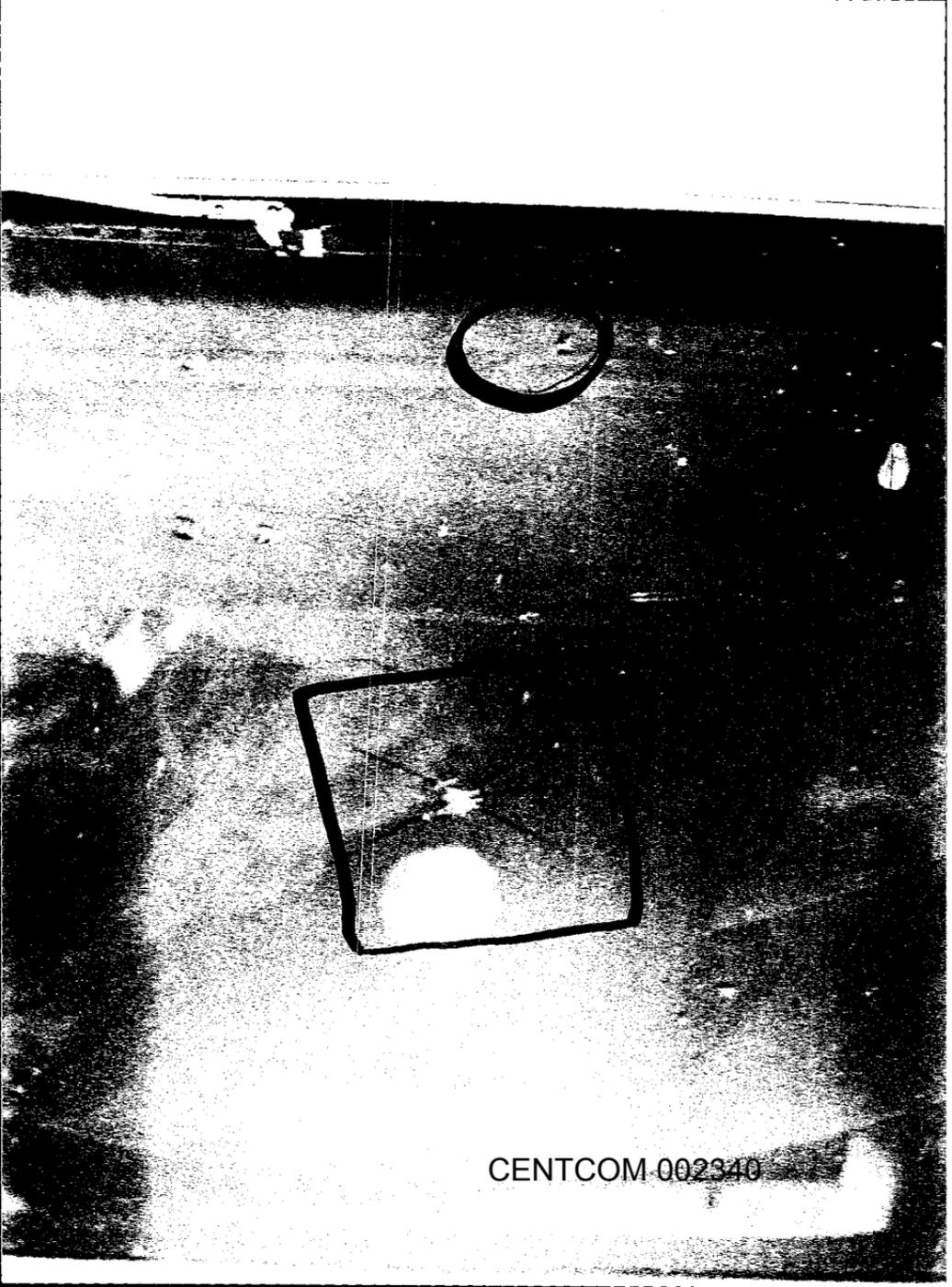




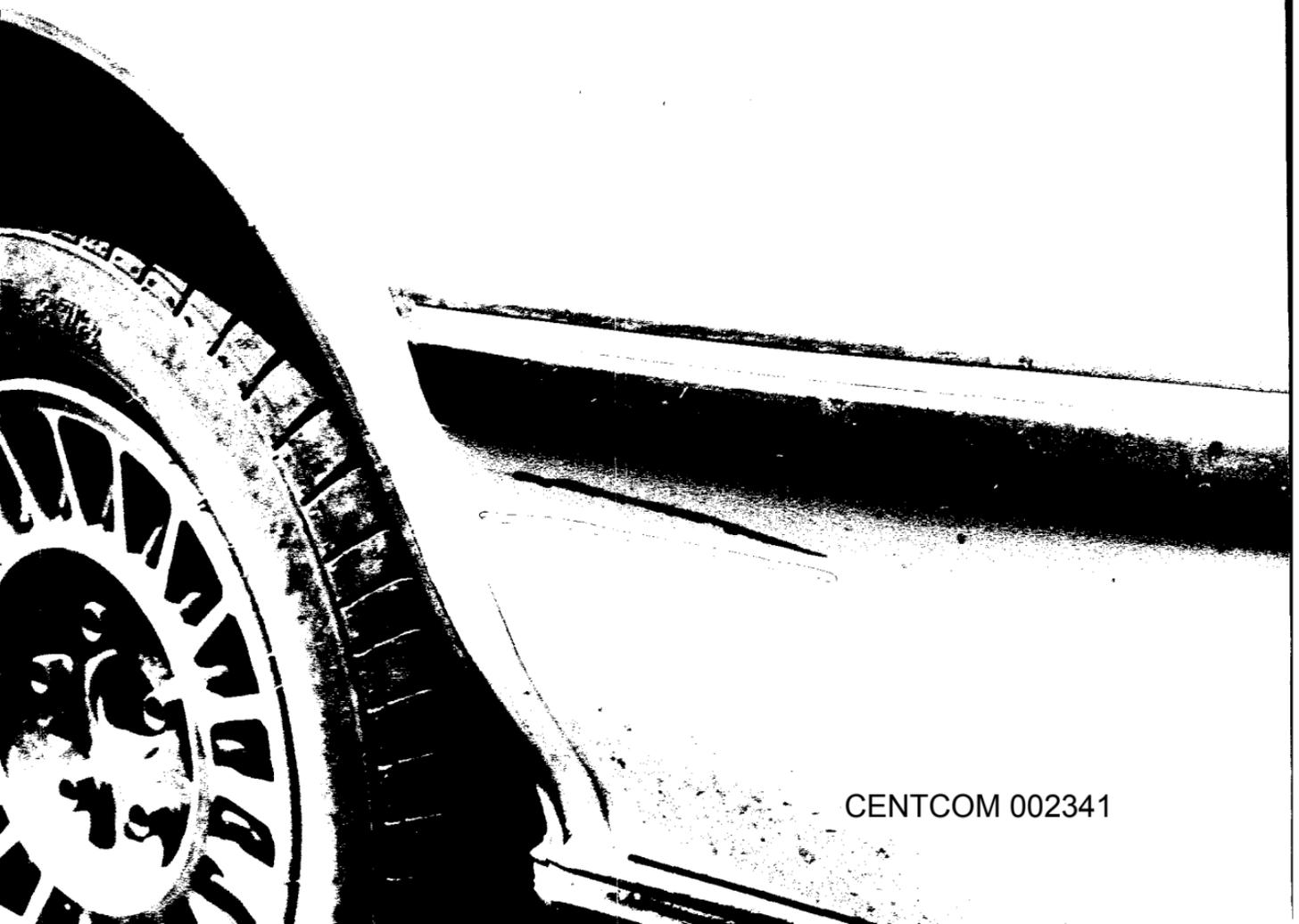
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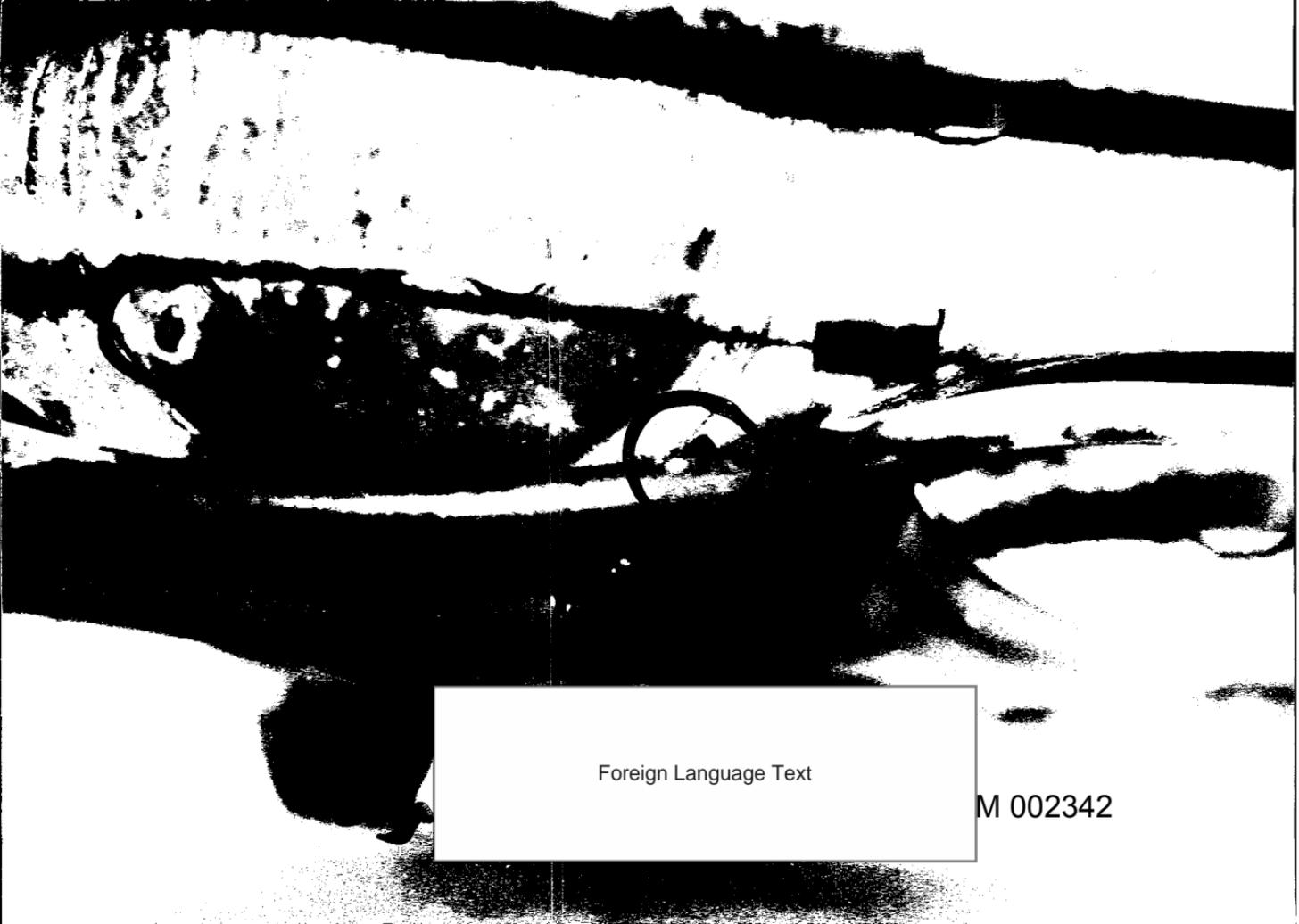
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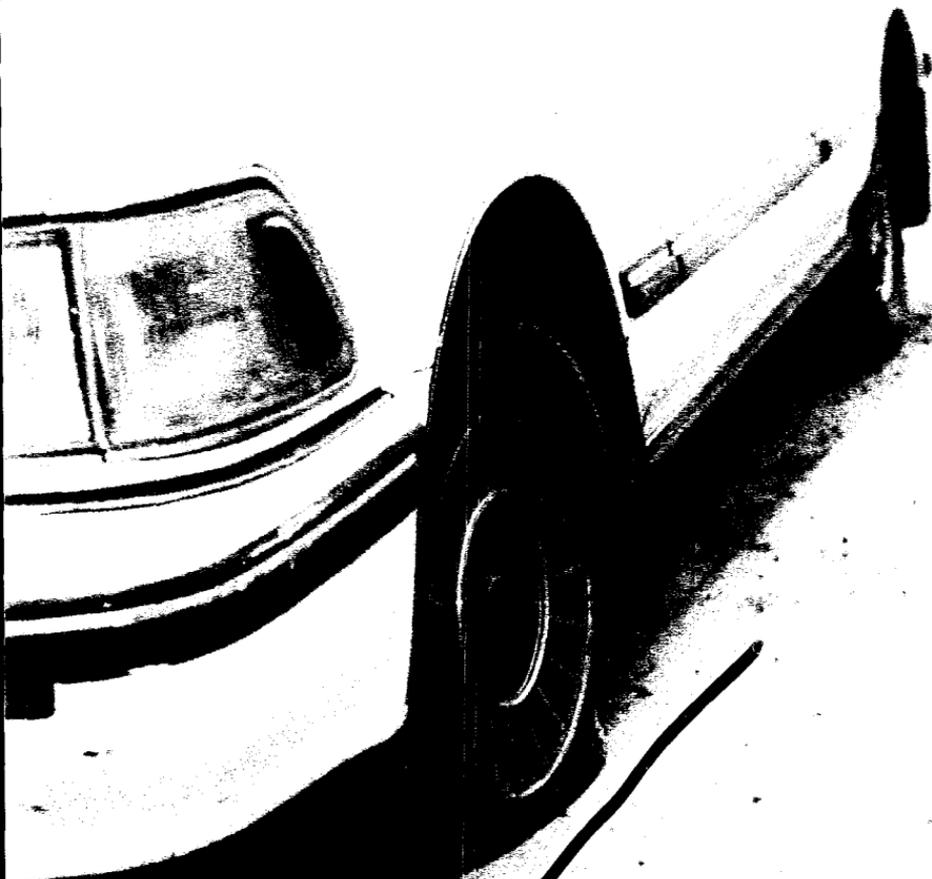


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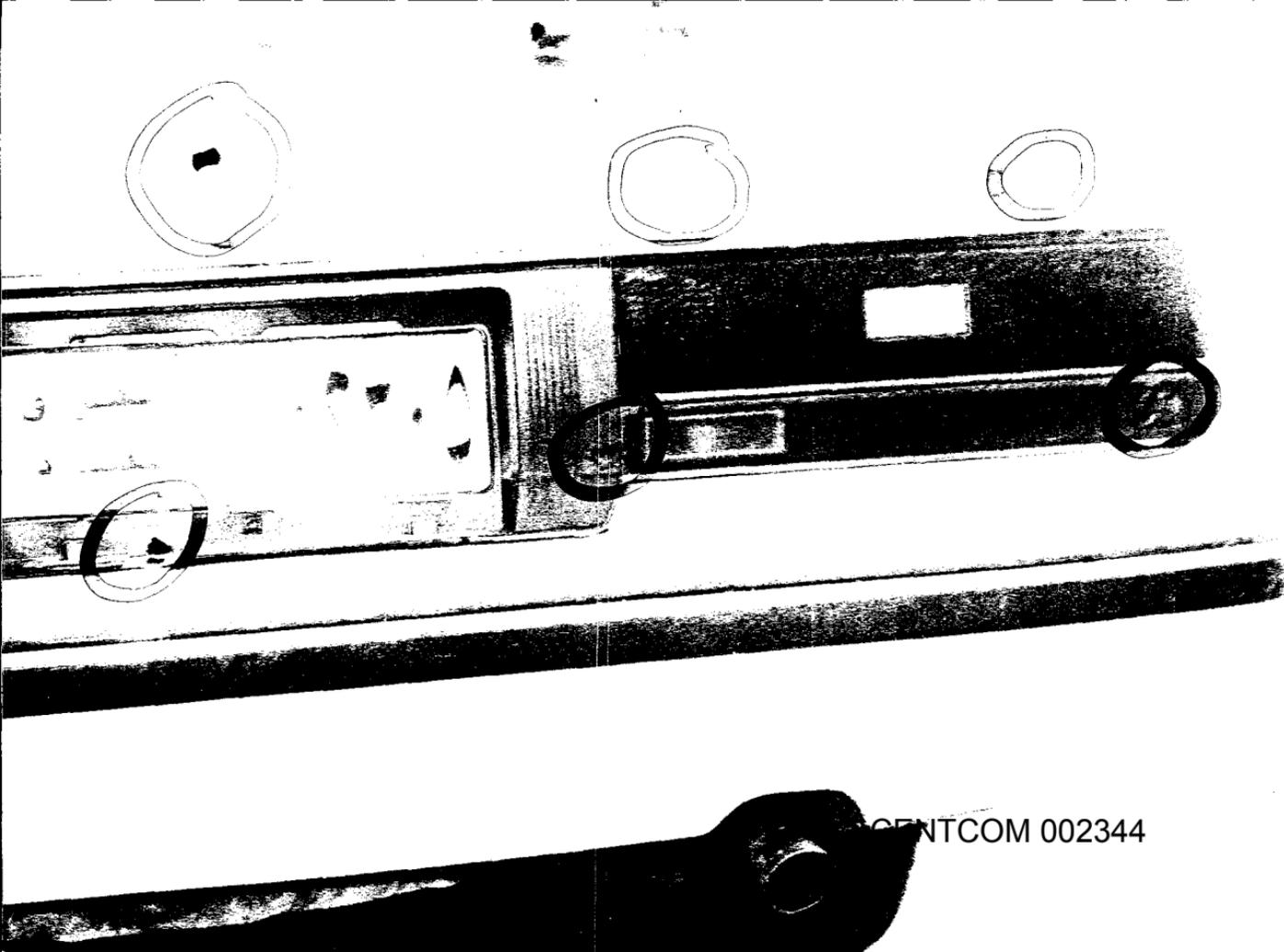


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