

06-EAS-084a

V

CENTCOM 002410





DEPARTMENT OF THE ARMY  
Headquarters, 3<sup>rd</sup> Brigade Combat Team  
3<sup>rd</sup> Infantry Division  
FOB Warhorse, Iraq  
APO AE 09397

REPLY TO  
ATTENTION OF:

AFZP-VI-JA

09 November 2005

MEMORANDUM OF OPINION

SUBJECT: Claim of (b)(6) 06-IA5-084a

1. Claimants name and address: (b)(6) Iraq
2. Incident date and place the incident occurred giving rise to the claim: Incident occurred on 24 March 2005 in Baqubah, Iraq
3. Amount of claim and filing date: Claimant filed a claim in the amount of \$6,000.00 on 29 October 2005.
4. Chapter 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; filed for damage to personal property.
5. Facts: U.S. forces tank hit claimant's vehicle causing damages and killing driver.
6. Opinion: In order to form a basis for a claim under the FCA, the incident in question must have arisen outside the United States. In addition, the incident must be caused by either non-combat activity of the United States Armed Forces or by negligent or wrongful acts of military members or civilian employees of the Armed Forces. Based on the facts and investigations, the claimant's vehicle was hit by U.S. tank.
7. Recommended Action: This claim is payable under the FCA for the above-mentioned reasons. Consequently this claim is approved for \$6,000.00.

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

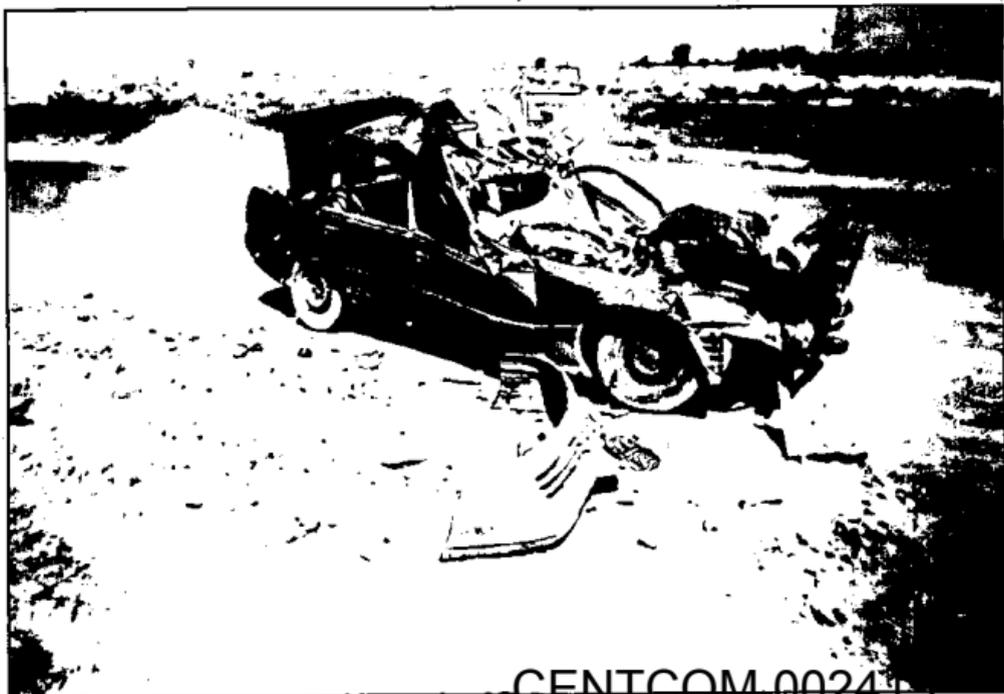
CPT JA  
Claims Judge Advocate

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CLAIMS FORM

To: United States Army Foreign Claims Commission

From: Name: \_\_\_\_\_

Address: \_\_\_\_\_ (b)(6)

I am

a. A citizen and national of: \_\_\_\_\_

b. A permanent resident of: \_\_\_\_\_

I hereby make a claim against the United States Government for damages or injuries caused by: (Name, Organization, Military Department, Address, Telephone Number)

The property damaged is owned by: \_\_\_\_\_

My claim arose at: Baqubah (Town) Baghdad (City) Iraq (Country)

My claim arose on: March Month 24<sup>th</sup> Day 2005 Year

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's husband got into an accident with a U.S. Tank. Husband (b)(6) killed and the car is destroyed.

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
<u>- destroyed vehicle</u>	
<u>- death of husband</u>	

Total: \_\_\_\_\_

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

\$ \_\_\_\_\_ local \_\_\_\_\_

(b)(6)

Subscribed before me this 24 day of Oct 2005

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

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**Al-Khaliss investigation court**  
**26 / 4 / 2005**

**The evidence of the civil claimant the wife of the victim ( (b)(6)**  
**(b)(6) the civilian (b)(6) , born in (b)(6)**  
**her work is a (b)(6) , she lives at (b)(6) , he evidences as**  
**the following :-**

**The victim (b)(6) s my husband . in date 24 / 3 /**  
**2005 he went to Baqubah and a crashing incident happened between**  
**his car Opel and the US military vehicle and this resulted to death of**  
**my husband at Al-Aswad village on the general street . I did not watch**  
**the incident by my eyes . so I demand the complaint and**  
**compensation. His parents are dead and he has (b)(6) children . and this**  
**is my evidence .**

**the civil claimant**  
**(b)(6)**

**Her agent the lawyer**  
**(b)(6)**

**the judge**  
**(b)(6)**  
**9 / 5 / 2005**

**In the name of God**

**Diyala Health Office  
Forensic Medicine**

**NO. (b)(6)  
Date 24/3/2005**

**Anatomy Report Questionnaire**

**To / Al-Khaliss Police Department**

**I am the undersigned Dr. (b)(6) , I made the  
medical anatomy on the corpse of the civilian (b)(6)  
(b)(6) responding to the request of the police message NO.  
(b)(6) dated in 24 / 3 in Baqubah Hospital in date 19 / 4 / 2005  
at 11:00 A.M and the result was :-**

**The external damages :-**

**Bruises and hits in the head and face and chest .  
Wounds in the face and head and the right shoulder .  
Breaks in the skull bones .  
Bleeding in the brain .**

**Conclusion :-**

**the cause of death of the deceased (b)(6) is  
the breaks and tears and bleeding because of the intese hit  
time of death : 3-6 hours .**

**Doctor**

(b)(6)

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In the name of God , more merciful , more gracious

Republic of Iraq  
Ministry of Justice  
The Notary Office in Al-Khaliss  
General NO. / 1550  
Record /  
Date 8 / 5 / 2005

### General Proxy

I am the undersigned (b)(6) Appointed the lawyer (b)(6) as an agent ( General Proxy ) to be authorized according to it to do all the oral and actual and private actions to or on my right in all the general and private trials , the associations and the corporations and he has the right to rise suits or conceal them and to give up the rights related to it and has the right to put the reserved seizure or remove it and has the right to admit and make peace and to elect the experts or refuse them and to send the oath or refuse it and accept it and has the right to approach all the legal appeals and execute the information in the executive offices and has the right to demand to imprison the civilians and put the executive seizure and remove it and to object the executive decisions and appeal them and has the right to approach all the official offices and institutions and to drive the warnings by the notaries and has the right to appoint the other as an agent in part or all that I appointed as agent and he has the right to hand the compensations .

Signature of client :

Full Name : (b)(6)

Permanent address : (b)(6)

ID card NO. : (b)(6)

I approve that the signature (b)(6) the mentioned in this proxy is for (b)(6) Known above and I read upon him its contents and he admitted and undersigned it in front of me in date 8 / 5 / 2005

The Notary :

Full Name : (b)(6)

Signature and seal :

## Death Certificate

**NO. :** (b)(6), (b)(2)Higl

**Organizing date 24/ 3 / 2005**

**Name of the dead :** (b)(6)

**Sex : Male**

**Nationality : Iraqi**

**Religion : Muslim**

**Marital Status : Married**

**Profession : employee**

**Name of mother :** (b)(6)

**Name of father :** (b)(6)

**Police station : Al-Khaliss police station**

**Place of death : Diyala - Khaliss**

**Date of death : 24 / 3 / 2005**

**Date of birth :** (b)(6)

**Place of birth :** (b)(6)

**Cause of Death : breaks in the skull bones and bleeding because of large wounds**

**Doctor**

(b)(6)

Foreign Language Text, (b)(6)

**In the name of God**

**Al-Khalis police station**

**NO. / (b)(6)**

**Date 11 / 5 / 2005**

**To / the constitutional lawyer office in Baqubah**

**Subject / case transferring**

**Executing to the decision of Al-Khaliss investigation judge , we send to you the special investigating papers of the victim ( (b)(6) (b)(6) . we hope that you will receive them with respects .**

**Colonel**

(b)(6)

**The station officer**

**Attaches :-**

**Investigation papers**

**Al-Khaliss police station**  
**9 / 5 / 2005**

**Sir, Al-Khaliss investigation judge**

**Your decision in date 5 / 5 / 2005 .**

- 1. we enclose the statement of the mechanical man on the car No./  
(b)(6) – Diyala – Opel Omeca .. hoping to read it .**
- 2. since the investigation has been ended , we wish to issue your proper decision for transferring the case to the constitutional lawyer office .**

**the investigation officer**

**the officer**

- 1. as we have no right to make the complaint against the coalition forces , so i decided to close the investigation according to the memorandum of the coalition forces No. / 3 department 2 .**
- 2. give a copy of the investigative papers to the complainant and understand him to go to CMOC .**
- 3. record the decision .**

**the judge**

**(b)(6)**

**9 / 5 / 2005**

**In the name of God**

**Al-Khaliss police station  
5 / 5 / 2005**

**The statement minutes**

**We made the statement for the car NO./ (b)(6) . Diyala – Opel – Omeca – Model (b)(6) according to the message of Al-Khaliss police station No./ 2468 in 5 / 5 / 2005 , and appeared the following :-**

**The controls : destroyed because of the accident**

**The damages :-**

- 1. destroy the surface of the car and the front Tikams (frames) .**
- 2. destroy the windscreen and the rear glass .**
- 3. destroy the glasses of the rear and front doors .**
- 4. destroy the front doors and curvatures in the rear doors .**
- 5. damages in the front left and right Chassis of the car .**
- 6. destroy the front bumper and the radiator .**
- 7. destroy the dashboard and the stern of the car .**
- 8. destroy the cover of the engine and the front clay protector .**
- 9. destroy the cover of the trunk .**

**So, all the damages are evaluated according to the person who will repair it and according to the official bills .**

**Mechanical policeman  
(b)(6)**

**I.T.  
(b)(6)**

**Al-Khaliss investigation court  
5 / 5 / 2005**

**The evidence of the witness (b)(6), born in (b)(6), his work is a (b)(6) in (b)(6) village, he evidences as the following :-**

**I do not know the victim (b)(6). In date 24 / 3 / 2005 at 8:00 A.M. I was standing on the side of the street in front of Al-Aswad village indented to go to Al-Khaliss city and during that I watched a group of the vehicles which belong to the coalition forces stopped on the right side of the general street and the other side of the street was open to pass the cars and i watched the car Opel and it was heading to Baqubah direction coming from Al-Khaliss city and during that two US Civil Cars ( Bahbahan ) came and one of them passes the car Opel and the latter satyed behind the Opel where the car Opel became between the US cars and the driver of the civil car Opel tried to be away from these cars so he devialted to the platform of the street but the US big vehicle collided his car and the Opel entered under the US vehicle and the driver died whose name is (b)(6) where i knew his name later and when i tried to help the person, the coalition forces prevented me. and this is my evidence.**

**The witness**

(b)(6)

**the judge**

(b)(6)

**9 / 5 / 2005**