

DEPARTMENT OF THE ARMY

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

## **REPLY TO ATTENTION OF:**

AFZB-KA-CJA

12 MARDGOOS 3 March 2006

## MEMORANDUM OF OPINION

SUBJECT: Claim of 06-IO6-T0302

1. <u>Claimants name and address</u>: **Hawijah**, Hawijah, Iraq.

2. <u>Incident date and place the incident occurred giving rise to the claim</u>: Incident occurred on 13 January 2006, near Hawijah, Iraq.

3. Amount of claim and filing date: Claimant filed a claim for \$12,225 on 27 February 2006.

4. <u>Chapter the claim was considered under and a brief description of the incident or of the issues raised by the claimant on reconsideration:</u> Foreign Claims Act and Chapter 10, AR 27-20; claim filed for a damages to his vehicle.

5. Facts:

a. **Set Control** claims that on 13 January 2006 he was driving home from his Buffalo farm when Coalition Forces opened fire on them as they approached the groceries bazaar. His daughter, **Set Control** was killed and his three other daughters were injured as a result of the incident. His 1984 Toyota Landcruiser was destroyed as a result of the incident.

b. There was an estimate of repair, an ownership documents, a witness statement, a power of attorney and a note from the unit submitted with the claim.

c. Investigation by the unit showed that the incident was a direct result of combat operations.

6. Opinion:

a. In order to form a basis for a claim under the FCA, the incident has to occur outside of the Unites States and be from either non-combat activities of the U.S. Armed Forces or by negligent or wrongful acts of military members or civilian employees of the Armed Forces.

b. There is insufficient evidence to suggest that this incident arose out of the negligence and/or wrongful acts of the United States Armed Forces. This incident is a result of combat operations.

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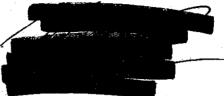
AFZB-KA-CJA SUBJECT: Claim of Salman Naji, 06-IO6-T0302

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7. <u>Action:</u> This claim is not payable under the FCA for the above mentioned reasons. Consequently this claim for \$12,225 is denied.

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CPT, JA Foreign Claims Commissioner

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## OFFICE OF THE COALITION PROVISIONAL AUTHORITY (OCPA) PROJECT WORKSHEET

reference

TYPE OF OPCA PROJECT: Regional Level Quick Impact Fund

MILITARY UNIT COORDINATING PROJECT: HHC/1" BCT/101" Abn Div, Judge Advocate

MILITARY UNIT CONTACT INFO FOR PROJECT NAME: Captain PHONE: VOIP 242-2624

NIPR EMAIL:

NAME THE PROJECT: Condolence Payment for damages to the vehicle of Claim No. 06-106-T0302)

PROJECT LOCATION: Hawijah, Iraq

PROJECT DESCRIPTION: Condolence Payment to

**DESCRIBE DIRECT BENEFIT TO IRAQI POPULATION:** Condolence payments are cash payments to local nationals, or to their family members, who suffer death or injury or property damage caused by US forces in the performance of official duty. US forces make Condolence payments without reference to fault hy either the local national or US forces, as an expression of sympathy and good will and in the best interest of the US Government.

COST (U.S. Dollars) AND JUSTIFICATION: \$2,500.00 and his daughters were mistakenly fired on by coalition forces, resulting in damages to his ventcle.

because the vehicle damage was incident to combat.

NAME AND POSITION OF IRAQI WHO WILL ASSUME <u>RESPONSIBILITY</u> FOR THE COMPLETED PROJECT (Responsible Iraq

ESTIMATED DAYS REQUIRED TO COMPLETE PROJECT: 1

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CLAIM FUR DAMAGE .OR INJURY DEATH			the reverse side and supply7 information requested on both sides of this form .Use additional sheets (s)					
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GENDER Male	4.D 19-	ATE OF BIRTH 46	5MARITAL Married	STATUS.	6.DATE& DAY 13-JAN-2006		DENT	TIME: 19.00.
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