

**FOREIGN CLAIMS SETTLEMENT COMMISSION  
LIBYA CLAIMS PROGRAM (Referral Dated January 15, 2009)  
INSTRUCTIONS FOR COMPLETING  
STATEMENT OF CLAIM (FCSC 1-09)**

**Please read these instructions carefully.**

**ELIGIBLE CLAIMS**

Pursuant to the discretionary authority of the Secretary of State, under 22 U.S.C. 1623(a)(1)(C), on January 15, 2009, the Department of State Legal Adviser referred to the Foreign Claims Settlement Commission (the Commission) six categories of claims of United States nationals against the Government of Libya. These categories are defined as claims of U.S. nationals against Libya and its agencies or instrumentalities; officials, employees, and agents of Libya or Libya's agencies or instrumentalities; and any Libyan national (including natural and juridical person) (collectively Libya) for (A) hostage taking or unlawful detention, (B) intentional infliction of emotional distress, (C) special circumstances in cases of wrongful death, (D) special circumstances in cases of physical injury, (E) physical injury or wrongful death (not previously filed in U.S. court), and (F) commercial claims as more fully discussed below.

**CLAIM FILING PERIOD**

Claims must be filed by submitting the Statement of Claim (FCSC 1-09) and documentary evidence to the Commission on or before July 7, 2010. If a claimant is delayed in collecting all of the documentary evidence before the filing period expires, the claimant must nevertheless file the Statement of Claim (FCSC 1-09) and any available evidence by the filing deadline. The claimant must submit the additional evidence promptly when it is obtained.

A claimant must file the Statement of Claim (FCSC 1-09) even if other papers, forms, or documents have been filed previously with the Commission, the Department of State, or any other agency or government with respect to the claim.

**STATEMENT OF CLAIM**

A Statement of Claim must be prepared and filed in triplicate on (FCSC 1-09), signed by the claimant and the claimant's attorney, if the claimant will be represented before the Commission, and delivered or forwarded by mail to the Foreign Claims Settlement Commission, 600 E Street N.W., Room 6002, Washington, D.C. 20579. A Statement of Claim should identify and describe all the wrongful acts alleged to form the basis of the claim.

Any claimant, or any person filing any claim on behalf of a claimant, who knowingly and willfully conceals a material fact or makes a false statement or representation with respect to any matter before the Commission shall, under law, forfeit all rights to any award or payment on account of this claim, and shall also be subject to the criminal penalties provided in Title 18, United States Code, Section 1001.

**EXHIBITS AND DOCUMENTS IN SUPPORT OF CLAIM**

Originals and two copies of all exhibits and documents should be submitted with the Statement of Claim. If such documentary evidence is not available by the final date for filing, the claimant must nevertheless file the Statement of Claim (FCSC 1-09) and submit additional documentary evidence promptly thereafter when it is obtained.

All sworn statements submitted in support of the claim shall include the following language:

"The undersigned is aware that this statement is to be submitted to the Foreign Claims Settlement Commission of the United States in connection with the claim of (Name of claimant) and that any willfully false statement herein may subject the undersigned to the criminal penalties provided by law in such cases."

Verified translations into English must accompany all documents written in a foreign language. The person making the translation shall sign a certificate similar to the following:

"I hereby certify that I am thoroughly familiar with the [-----] language; that I have read the attached document written in said language; and that the attached English translation thereof was made by me and is a true and accurate translation."

Signed -----  
(Translator's Name)

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(Translator's Address)

## **ELEMENTS REQUIRED TO ESTABLISH A VALID CLAIM**

With respect to all categories of claims under this referral, in order to make a valid claim the claimant must establish (1) the claimant or the claimant's predecessor in interest was a United States national on the date of the incident; and (2) the claim has been continuously held by United States nationals from the date the claim arose until the date of the Settlement Agreement (August 14, 2008).

In addition to the above elements claimants will be required to further prove the following elements based on the type of claim submitted.

**Category A - Claim of Hostage Taking and/or Unlawful Detention:** (1) the claimant was held hostage or detained in violation of law; (2) the claim was set forth as a claim for injury other than emotional distress alone by the claimant in the Pending Litigation (as listed below); (3) the Pending Litigation against Libya has been dismissed before the claim is submitted to the Commission; and (4) the claimant did not receive an award in a claim filed pursuant to the Department of State's referral of December 11, 2008.

**Category B - Claim for Intentional Infliction of Emotional Distress:** (1) the claimant is a living close relative of a decedent whose death formed the basis of a death claim compensated by the Department of State; (2) the claim was set forth as a claim for emotional distress, solatium, or similar emotional injury by the claimant in the Pending Litigation; (3) the claimant is not eligible for compensation as part of the associated wrongful death claim, and the claimant did not receive any compensation as part of the wrongful death claim; (4) the claimant has not received or the claimant, aside from this category, is not eligible to receive compensation directly from the Department of State or from the Commission pursuant to the Department of State's referrals dated December 11, 2008 and January 15, 2009; and (5) the Pending Litigation against Libya has been dismissed before the claim is submitted to the Commission.

**Category C - Claim for Special Circumstances in Cases of Wrongful Death:** (1) the claimant had obtained a prior U.S. court judgment for wrongful death in the Pending Litigation which warrants compensation in addition to the amount already recovered from the Department of State for wrongful death; and (2) the judgment in the Pending Litigation against Libya has been vacated before the claim is submitted to the Commission.

**Category D - Claim for Special Circumstances in Cases of Physical Injury:** (1) the claimant has received an award from the Commission in a claim filed pursuant to the Department of State's referral of December 11, 2008; (2) the severity of claimant's injury is a special circumstance warranting additional compensation or that additional compensation is warranted because the injury resulted in the victim's death; and (3) the Pending Litigation against Libya has been dismissed before the claim is submitted to the Commission.

**Category E - Claim for Physical Injury or Wrongful Death (not previously filed in U.S. court):** (1) the wrongful death or injury resulted from one of the Covered Incidents listed below; (2) the claimant was not a plaintiff in the Pending Litigation; and (3) the claimant's decedent was killed or the claimant was physically injured in the incident which has been alleged to form the basis of the claim.

**Category F - Commercial Claims:** (1) the claim was set forth by the claimant in the Pending Litigation; (2) the claimant can establish the value of the actual loss incurred directly by the claimant (if the claimant is part of a risk pool, documents must be provided establishing claimant's interest relative to other members of the pool); and (3) the Pending Litigation against Libya has been dismissed before the claim is submitted to the Commission.

## **METHODS OF ESTABLISHING UNITED STATES NATIONALITY**

There are several ways to establish the United States nationality (i.e., U.S. citizenship) of the claimant or of another person whose nationality is important, such as a claimant's decedent who was the injured party.

- If the person whose citizenship must be established was born in the United States, a copy of that person's birth certificate or U.S. passport should be submitted. If neither of these is available, a copy of his or her baptismal certificate or similar document may be submitted instead.
- If the person whose citizenship must be established was naturalized as a United States citizen, a copy of the certificate of naturalization should be submitted.
- If the claimant is a corporation or other legal entity, evidence of organization under the laws of the United States, its States and territories, the District of Columbia or Puerto Rico must be provided<sup>1</sup>. Further, the corporation or entity must certify that natural persons who are nationals of the United States<sup>2</sup> hold, directly or indirectly, an interest in the corporation or entity equivalent to 50 percent or more of its capital stock.

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<sup>1</sup> Foreign corporations are not considered nationals of the United States even if they are subsidiaries of U.S. corporations or they are owned in whole or in part by U.S. nationals. If a loss was suffered by a foreign corporation owned in whole or in part by U.S. nationals, whether natural persons or legal entities, the claim should be made in the name of the U.S. nationals that hold the ownership interest in the foreign corporation.

<sup>2</sup> Aliens, including those admitted to the United States for permanent residence, are not considered nationals of the United States.

## PENDING LITIGATION

In order to be eligible for compensation under all categories except category E, the claimant must have been a party and made a claim for injury other than emotional distress in one of the below identified lawsuits:

1. *Baker v. Socialist People's Libyan Arab Jamahiriya* (D.D.C.) 03-cv-749.
2. *Pflug v. Socialist People's Libyan Arab Jamahiriya* (D.D.C.) 08-cv-505.
3. *Certain Underwriters at Lloyds London v. Great Socialist People's Libyan Arab Jamahiriya* (D.D.C.) 06-cv-731.
4. *Clay v. Socialist People's Libyan Arab Jamahiriya* (D.D.C.) 06-cv-707.
5. *Collett v. Socialist People's Libyan Arab Jamahiriya* (D.D.C.) 01-cv-2103.
6. *Cummock v. Socialist People's Libyan Arab Jamahiriya* (D.D.C.) 02-cv-2134.
7. *Estate of John Buonocore III v. Great Socialist Libyan Arab Jamahiriya* (D.D.C.) 06-cv-727.
8. *Simpson v. Great Socialist People's Libyan Arab Jamahiriya* (D.D.C.) 08-cv-529.
9. *Fisher v. Great Socialist People's Libyan Arab Jamahiriya* (D.D.C.) 04-cv-2055.
10. *Franqui v. Syrian Arab Republic, et al.* (D.D.C.) 06-cv-734.
11. *Hagerman v. Socialist People's Libyan Arab Jamahiriya* (D.D.C.) 02-cv-2147.
12. *Harris v. Socialist People's Libyan Arab Jamahiriya* (D.D.C.) 06-cv-732.
13. *Hartford Fire Insurance Company v. Socialist People's Libyan Arab Jamahiriya* (D.D.C.) 98-cv-3096.
14. *Kilburn v. Islamic Republic of Iran, et al.* (D.D.C.) 01-cv-1301.
15. *Knowland v. Great Socialist People's Libyan Arab Jamahiriya* (D.D.C.) 08-cv-1309.
16. *La Reunion Aérienne v. Socialist People's Libyan Arab Jamahiriya* (D.D.C.) 05-cv-1932.
17. *McDonald v. Socialist People's Arab Jamahiriya* (D.D.C.) 06-cv-729.
18. *MacQuarrie v. Socialist People's Libyan Arab Jamahiriya* (D.D.C.) 04-cv-176.
19. *Patel v. Socialist People's Libyan Arab Jamahiriya* (D.D.C.) 06-cv-626.
20. *Pugh v. Socialist People's Libyan Arab Jamahiriya* (D.D.C.) 02-cv-2026.
21. *Simpson v. Socialist People's Libyan Arab Jamahiriya* (D.D.C.) 00-cv-1722.

## COVERED INCIDENTS

In order to be eligible for compensation under category E, the claimant must have been injured or killed in one of the below identified incidents:

1. May 30, 1972 attack at Lod Airport in Israel, as alleged in *Franqui v. Syrian Arab Republic, et al.* (D.D.C.) 06-cv-734.
2. December 17, 1983 vehicle bomb explosion near Harrods Department Store in Knightsbridge, London, England, as alleged in *McDonald v. Socialist People's Arab Jamahiriya* (D.D.C.) 06-cv-729.
3. November 30, 1984 (approximate) kidnapping and subsequent death of Peter C. Kilburn, as alleged in *Kilburn v. Socialist People's Libyan Arab Jamahiriya* (D.D.C.) 01-cv-1301.
4. March 25, 1985 (approximate) kidnapping and subsequent death of Alec L. Collett, as alleged in *Collett v. Socialist People's Libyan Arab Jamahiriya* (D.D.C.) 01-cv-2103.
5. November 23, 1985 hijacking of Egypt Air flight 648, as alleged in *Certain Underwriters at Lloyds London v. Great Socialist People's Libyan Arab Jamahiriya* (D.D.C.) 06-cv-731, and *Baker v. Socialist People's Libyan Arab Jamahiriya* (D.D.C.) 03-cv-749/*Pflug v. Socialist People's Libyan Arab Jamahiriya* (D.D.C.) 08-cv-505.

6. December 27, 1985 attack at the Leonardo da Vinci Airport in Rome, Italy, as alleged in *Estate of John Buonocore III v. Great Socialist Libyan Arab Jamahiriya* (D.D.C.) 06-cv-727/*Simpson v. Great Socialist People's Libyan Arab Jamahiriya* (D.D.C.) 08-cv-529.
7. December 27, 1985 attack at the Schwechat Airport in Vienna, Austria, as alleged in *Knowland v. Great Socialist People's Libyan Arab Jamahiriya* (D.D.C.) 08-cv-1309.
8. April 5, 1986 bombing of the La Belle Discotheque in Berlin, Germany, as alleged in *Clay v. Socialist People's Libyan Arab Jamahiriya* (D.D.C.) 06-cv-707, and *Harris v. Socialist People's Libyan Arab Jamahiriya* (D.D.C.) 06-cv-732.
9. September 5, 1986 hijacking of Pan Am flight 73, as alleged in *Patel v. Socialist People's Libyan Arab Jamahiriya* (D.D.C.) 06-cv-626.
10. Detention beginning February 10, 1987 of the passengers and crew of the private yacht "Carin II," as alleged in *Simpson v. Socialist People's Libyan Arab Jamahiriya* (D.D.C.) 00-cv-1722.
11. December 21, 1988 bombing of Pan Am flight 103, as alleged in *Cummock v. Socialist People's Libyan Arab Jamahiriya* (D.D.C.) 02-cv-2134, *Fisher v. Great Socialist People's Libyan Arab Jamahiriya* (D.D.C.) 04-cv-2055, *Hagerman v. Socialist People's Libyan Arab Jamahiriya* (D.D.C.) 02-cv-2147, *Hartford Fire Insurance Company v. Socialist People's Libyan Arab Jamahiriya* (D.D.C.) 98-cv-3096, and *MacQuarrie v. Socialist People's Libyan Arab Jamahiriya* (D.D.C.) 04-cv-176.
12. September 19, 1989 bombing of UTA flight 772, as alleged in *La Reunion Aerienne v. Socialist People's Libyan Arab Jamahiriya* (D.D.C.) 05-cv-1932, and *Pugh v. Socialist People's Libyan Arab Jamahiriya* (D.D.C.) 02-cv-2026.

## **REPRESENTATION BEFORE THE COMMISSION**

A claimant may represent himself or herself before the Commission, or may be represented by an attorney. Commission rules do not require claimants to have legal representation.

If a claimant chooses to be represented by an attorney, the attorney must be licensed to practice law in a State or Territory of the United States, or in the District of Columbia.

It should be noted that Commission rules and applicable law limit an attorney's fees to 10% of the total amount paid on any award certified by the Commission.

## **CLAIMS PROCESS**

The Commission will review the Statement of Claim as soon as it is filed. The Commission will advise claimants if more information is needed. After all information is submitted, the Commission will issue a Proposed Decision on the claim. A copy of the Proposed Decision will be sent to the claimant or, if the claimant is represented by an attorney, to the claimant's attorney. Unless an Objection is filed with the Commission within 30 days from the date the Commission issued the Proposed Decision, the Proposed Decision becomes the Final Decision of the Commission.

A claimant may file an Objection within 30 days of receipt of the Proposed Decision. The Objection should explain why the claimant does not agree with the Proposed Decision. The Objection should also include additional supporting evidence to be considered by the Commission. A claimant is entitled to an oral hearing if the claimant so requests. At a hearing, the claimant or claimant's attorney may present arguments, more evidence, and live statements by witnesses. The Commission will consider the Objection as well as the testimony and evidence presented at the hearing, if a hearing is held. The Commission will then issue its Final Decision on the claim. A copy of the Final Decision will be sent to the claimant or claimant's attorney, as applicable.

After the Final Decision is issued, a claimant may request that the Commission reopen the claim if new evidence is discovered that could change the result reached in the Final Decision and must do so immediately upon obtaining the new evidence.

### **PAYMENT OF CLAIMS**

If the Commission finds that a claim is compensable, it will certify the amount of the claim to the Secretary of the Treasury, who will make payment from the funds available under this referral. Payments made by the Secretary of the Treasury will be governed by 22 U.S.C. §1627(e) which designates the order of priority of payment of claims.

### **FOR MORE INFORMATION**

If a claimant has questions or needs help completing the Statement of Claim form, the claimant may call the offices of the Commission at (202) 616-6975, Monday through Friday, 9:00 a.m. to 5:30 p.m. Claimants may also contact the Commission by fax at (202) 616-6993, or by e-mail addressed to [Info.Fcsc@usdoj.gov](mailto:Info.Fcsc@usdoj.gov). The Commission's mailing address is:

**Foreign Claims Settlement Commission  
600 E Street, N.W. Room 6002  
Washington, D.C. 20579**