

FOREIGN CLAIMS SETTLEMENT COMMISSION  
OF THE UNITED STATES  
UNITED STATES DEPARTMENT OF JUSTICE  
WASHINGTON, DC 20579

In the Matter of the Claim of

Personally Identifiable Information  
Redacted under 5 U.S.C. §552(b)(6)

Against the Great Socialist People's  
Libyan Arab Jamahiriya

Claim No. LIB-II-039

Decision No. LIB-II-015

PROPOSED DECISION

This claim against the Great Socialist People's Libyan Arab Jamahiriya ("Libya") is based upon physical injuries said to have been sustained by the claimant near Harrods Department Store in Knightsbridge, London, England on December 17, 1983.

Under subsection 4(a) of Title I of the International Claims Settlement Act of 1949 ("ICSA"), as amended, the Commission has jurisdiction to

receive, examine, adjudicate, and render a final decision with respect to any claim of . . . any national of the United States . . . included in a category of claims against a foreign government which is referred to the Commission by the Secretary of State.

22 U.S.C. § 1623(a)(1)(C) (2006).

On January 15, 2009, pursuant to a delegation of authority from the Secretary of State, the State Department's Legal Adviser referred to the Commission for adjudication six categories of claims of United States nationals against Libya. *January 15, 2009, Letter from the Honorable John B. Bellinger, III, Legal Adviser, Department of State, to*

*Mauricio J. Tamargo, Chairman, Foreign Claims Settlement Commission* (“January Referral Letter”). Category E of the claims referred consists of

claims of U.S. nationals for wrongful death or physical injury resulting from one of the terrorist incidents listed in Attachment 2 (“Covered Incidents”), incidents which formed the basis for Pending Litigation in which a named U.S. plaintiff alleged wrongful death or physical injury, provided that (1) the claimant was not a plaintiff in the Pending Litigation; and (2) the claim meets the standard for physical injury or wrongful death, as appropriate, adopted by the Commission.

*Id.* at ¶ 7. Attachment 1 to the January Referral Letter lists the suits comprising the Pending Litigation and Attachment 2 lists the Covered Incidents.

The January Referral Letter, as well as a December 11, 2008 referral letter from the State Department’s Legal Adviser to the Commission (“December Referral Letter”), followed a number of official actions that were taken with respect to the settlement of claims between the United States and Libya. Specifically, on August 14, 2008, the United States and Libya concluded the *Claims Settlement Agreement Between the United States of America and the Great Socialist People’s Libyan Arab Jamahiriya* (“Claims Settlement Agreement”) 2008 U.S.T. Lexis 72, entered into force Aug. 14, 2008. On October 31, 2008, the Secretary of State certified, pursuant to the Libyan Claims Resolution Act (“LCRA”), Pub. L. No. 110-301, 122 Stat. 2999 (2008), that the United States Government had received funds sufficient to ensure “fair compensation of claims of nationals of the United States for . . . physical injury in cases pending on the date of enactment of this Act against Libya . . . .” On the same day, the President issued Executive Order No. 13,477, 73 Fed. Reg. 65,965 (Oct. 31, 2008), espousing the claims of United States nationals coming within the terms of the Claims Settlement Agreement, barring United States nationals from asserting or maintaining such claims, terminating any pending suit within the terms of the Claims Settlement Agreement, and directing the

Secretary of State to establish procedures governing claims by United States nationals falling within the terms of the Claims Settlement Agreement.

On July 7, 2009, the Commission published notice in the *Federal Register* announcing the commencement of this portion of the Libya Claims Program pursuant to the ICSA and the January Referral Letter. *Notice of Commencement of Claims Adjudication Program*, 74 Fed. Reg. 32,193 (2009).

#### BASIS OF THE PRESENT CLAIM

On September 22, 2009, the Commission received from the claimant a Statement of Claim and accompanying exhibits supporting the elements of the claimant's claim, including evidence of her United States nationality, her presence at the December 17, 1983 vehicle bomb explosion near Harrods Department Store in Knightsbridge, London, England, and her physical injuries. Subsequently, the Commission received from the claimant copies of files provided to the claimant by the London Metropolitan Police, and copies of medical records provided to the claimant by the Westminster Hospital in London.

The claimant, Personally Identifiable Information  
Redacted under 5 U.S.C. §552(b)(6) states that on December 17, 1983, she was injured by the explosion of a car bomb near Harrods Department Store in Knightsbridge, London, England. She further states that her physical injuries required three weeks of medical treatment at the Westminster Hospital in London, England and subsequent treatment in the United States for injuries, including, but not limited to, her eye, knee, hip and face. Claimant also states that the physical injury and the trauma of this incident caused her to miss work and eventually to retire from her position as a flight

attendant for Delta Airlines. Additionally, claimant has provided newspaper clippings and other contemporaneous documents in support of her claim.

## DISCUSSION

### Jurisdiction

As an initial matter, the Commission must consider whether this claim falls within the category of claims referred to it by the Department of State. The Commission's jurisdiction under Category E of the January Referral Letter is limited to claims of individuals: (1) who are United States nationals; and (2) who are filing claims for wrongful death or physical injury resulting from one of the Covered Incidents listed in Attachment 2 to the January Referral Letter, but who were not themselves plaintiffs in the related Pending Litigation. January Referral Letter, *supra*, ¶ 7.

### *Nationality*

In the *Claim of* <sup>Personally Identifiable Information  
Redacted under 5 U.S.C. §552(b)(6)</sup> Claim No. LIB-I-001, Decision No. LIB-I-001 (2009), the Commission held, consistent with its past jurisprudence and generally accepted principles of international law, that in order for a claim to be compensable, the claimant must have been a national of the United States, as that term is defined in the Commission's authorizing statute, from the date the claim arose until the date of the Claims Settlement Agreement. Based on the evidence submitted with this claim, including claimant's birth certificate and current passport, as well as a letter chronicling the different names she has used and accompanying exhibits, the Commission determines that the claimant was a United States national at the time of the injury on which her claim is based and that she has been a United States national continuously thereafter until the effective date of the Claims Settlement Agreement.

*Covered Incident*

To fall within Category E of the January Referral Letter, the claimant must assert a claim for wrongful death or physical injury which resulted from one of the Covered Incidents listed in Attachment 2 to the January Referral Letter, and the claimant must not have been a plaintiff in the related Pending Litigation. January Referral Letter, *supra*, ¶ 7. Listed in Attachment 2 to the January Referral Letter are the "Covered Incidents" for purposes of Category E, including the "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." January Referral Letter, *supra*, Attachment 2, ¶ 2. The claimant here is asserting a claim for physical injury as a result of the December 17, 1983 vehicle bomb explosion. In support of this assertion she has provided substantial documentation referencing her injuries from the December 17, 1983 bombing, including, but not limited to, reports by the London Metropolitan Police; records of Westminster Hospital; contemporaneous newspaper articles; correspondence between the claimant and the Criminal Injuries Compensation Board in Scotland; correspondence between the claimant and the Knightsbridge Fund; and contemporaneous letters to claimant from the president and vice president of Delta Air Lines, claimant's employer at the time of the bombing. In addition, the claimant asserts that she was not a plaintiff in *McDonald v. Socialist People's Arab Jamahiriya* (D.D.C.) 06-cv-729. Having carefully reviewed the record before it, the Commission therefore finds that the claimant has demonstrated that her claim for physical injury resulted from one of the Covered Incidents listed in Attachment 2 to the January Referral Letter, and that she was not a plaintiff in the related Pending Litigation.

In summary, therefore, the Commission concludes, on the basis of the foregoing, that this claim is within the Commission's jurisdiction pursuant to the January Referral Letter and is entitled to adjudication on the merits.

### Merits

#### *Standard for Physical Injury*

The January Referral Letter states that to qualify for compensation under Category E, a claimant asserting a claim for physical injury must meet a threshold standard for physical injury adopted by the Commission. In order to develop such a threshold standard for compensability, the Commission has considered both its own jurisprudence and pertinent sources in international and domestic law. The Commission notes that the December Referral Letter similarly requires that, in order to qualify for compensation, a claimant asserting a claim for physical injury pursuant to the December Referral Letter must meet a threshold standard for physical injury adopted by the Commission. After careful and thorough analysis, the Commission held in the *Claim of* Personally Identifiable Information  
Redacted under 5 U.S.C. §552(b)(6) *supra*, that in order for a claim for physical injury pursuant to the December Referral Letter to be considered compensable, a claimant: (1) must have suffered a discernible physical injury, more significant than a superficial injury, as a result of an incident related to the Pending Litigation; and (2) must have received medical treatment for the physical injury within a reasonable time; and (3) must verify the injury by medical records. The Commission now holds that this standard, with minor modification, shall also apply to claims for physical injury pursuant to Category E of the January Referral Letter, and that in order for a claim for physical injury pursuant to Category E of the January Referral Letter to be considered compensable, a claimant:

- (1) must have suffered a discernible physical injury, more significant than a superficial injury, as a result of a Covered Incident; and
- (2) must have received medical treatment for the physical injury within a reasonable time; and
- (3) must verify the injury by medical records.

### *Physical Injury*

According to the "Narrative of Events" submitted with her Statement of Claim, the claimant, Personally Identifiable Information  
Redacted under 5 U.S.C. §552(b)(6) suffered physical injuries on December 17, 1983, shortly after exiting Harrods Department Store in Knightsbridge, London, England. In a sworn statement provided to the London Metropolitan Police on December 22, 1983, the claimant states that she saw police activity outside Harrods just before a car bomb exploded, causing the coat she was wearing to catch fire and her hands and face to be covered in blood. She further states that a first responder assisted her until she was taken by ambulance to St. Stephen's Hospital and subsequently, because of her eye injury, to Westminster Hospital. The Westminster Hospital medical records submitted by the claimant indicate that the claimant was admitted on December 17, 1983, with multiple injuries. The hospital records further indicate that the claimant was treated for her injuries and was discharged on January 10, 1984. The hospital records catalog a number of injuries, including, but not limited to, shrapnel injuries, tissue lacerations, entry and exit wounds, and fractures. Claimant has also provided documents from her subsequent medical treatment in the United States, including a letter dated February 15, 1993 from her physician which reflects that the claimant had subsequent surgical procedures; and a



letter dated September 26, 1997, from her physician which notes that she has undergone multiple operations for complications resulting from the bombing.

Based on the evidence submitted, the Commission finds that the claimant's injuries meet the standard for physical injury set forth above. Accordingly, claimant is entitled to compensation in this claim.

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### COMPENSATION

The January Referral Letter recommends that if the Commission decides to award compensation for claims under Category E, it should take into account the fixed amount recommended for physical injury claims in the December Referral Letter. January Referral Letter, *supra*, ¶ 7. The December Referral Letter recommends a fixed amount of \$3,000,000.00 per physical injury claimant. December Referral Letter, *supra*, ¶ 4. In the *Claim of* Personally Identifiable Information Redacted under 5 U.S.C. §552(b)(6) *supra*, the Commission held that \$3,000,000.00 is indeed an appropriate amount of compensation for claims that meet the Commission's standard for physical injuries. The Commission also held that compensable claims in this claims program were not entitled to interest as part of the award. *Id.* Accordingly, the Commission determines that the claimant, Personally Identifiable Information Redacted under 5 U.S.C. §552(b)(6) is entitled herein to an award of \$3,000,000.00 and that this amount constitutes the entirety of the compensation that the claimant is entitled to in the present claim.

The Commission enters the following award, which will be certified to the Secretary of Treasury for payment under sections 7 and 8 of the ICOSA. 22 U.S.C. §§ 1626-27.



AWARD

Claimant

Personally Identifiable Information  
Redacted under 5 U.S.C. §552(b)(6)

is entitled to an award in the amount of

Three Million Dollars (\$3,000,000.00).

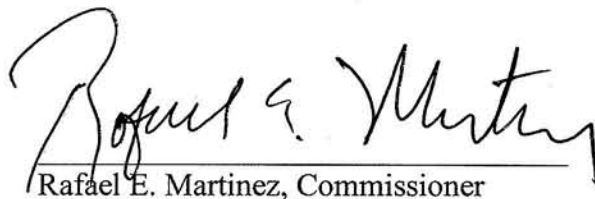
Dated at Washington, DC, and  
Entered as the Proposed Decision  
Of the Commission.

JAN 12 2010

**This decision was entered as the  
Commission's Final Decision on**

FEB 24 2010

  
Mauricio J. Tamargo, Chairman

  
Rafael E. Martinez, Commissioner

NOTICE: Pursuant to the Regulations of the Commission, any objections must be filed within 15 days after service or receipt of notice of this Proposed Decision. Absent objection, this decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. FCSC Regulations, 45 C.F.R. § 509.5 (e), (g) (2008).