

THE LEGAL ADVISER

DEPARTMENT OF STATE

WASHINGTON

DECEMBER 11, 2008

The Honorable Mauricio J. Tamargo,
Chairman,
Foreign Claims Settlement Commission of the U.S.
Department of Justice
Washington, DC 20579

Dear Mr. Tamargo:

On August 14, 2008, the United States entered into the Claims Settlement Agreement Between the United States of America and the Great Socialist People's Libyan Arab Jamahiriya ("Claims Settlement Agreement"). On October 31, the Secretary of State certified, pursuant to the Libyan Claims Resolution Act ("LCRA"), that the United States Government "has received funds pursuant to the claims agreement that are sufficient to ensure . . . payment of the settlements referred to in section 654(b) of division J of the Consolidated Appropriations Act, 2008 (Public Law 110-161; 121 Stat. 2342); and . . . fair compensation of claims of nationals of the United States for wrongful death or physical injury in cases pending on the date of enactment of this Act against Libya. . .". Also on October 31, 2008, in Executive Order 13477, the President ordered that claims of United States nationals coming within the terms of the Claims Settlement Agreement "are espoused by the United States." Executive Order 13477 directed the Secretary of State to establish procedures governing applications by United States nationals with claims coming within the terms of the Claims Settlement Agreement, and it prohibited United States nationals from asserting or maintaining such claims "except under the procedures provided for by the Secretary of State." Following receipt of the settlement amount provided for in the Claims Settlement Agreement, the Department of State has undertaken to distribute payments for certain claims within the scope of Article I of the Agreement: the Pan Am 103 and LaBelle Discotheque settlement claims, as well as death claims set forth by named parties in cases pending in U.S. courts on the date of enactment of the LCRA.

Pursuant to the discretionary authority under 22 U.S.C. § 1623(a)(1)(C) delegated to me by the Secretary of State, I am referring another category of claims within the scope of Article I of the Agreement to the Foreign Claims Settlement Commission of the United States ("Commission") for adjudication and certification. We believe the Commission is particularly well-suited to undertake this task. The Commission is requested to make determinations with respect to the claims described below, in accordance with the provisions of 22 U.S.C. § 1621 et seq., the Claims Settlement Agreement and the LCRA. I have enclosed at Attachment 1 a list of cases pending in U.S. courts on the date of enactment of the LCRA in which plaintiffs allege an injury that may fall into this category ("Pending Litigation").

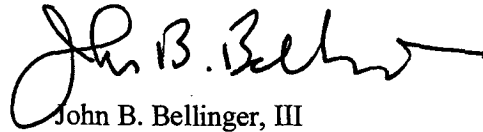
Category of Referred Claims: This category shall consist of claims of U.S. nationals for physical injury, provided that (1) the claim meets the standard for physical injury adopted by the Commission; (2) the claim is set forth as a claim for injury other than emotional distress alone by a named party in the Pending Litigation; and (3) the Pending Litigation 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 persons) has been dismissed before the claim is submitted to the Commission.

As contemplated in the LCRA, claimants with "physical injury" claims in Pending Litigation are to receive "fair compensation." For such claims, the Administration assured Congress that "fair compensation" would include amounts comparable to what was provided for physical injuries in the

LaBelle Discotheque settlement – a fixed amount of \$3 million per physical injury claimant. We recommend that the Commission award this fixed amount for a claim that meets the criteria described above for this category.

Please direct any inquiries you may have to the Department of State's Office of International Claims and Investment Disputes, Suite 203, South Building, 2430 E Street, NW, Washington, DC, 20037-2800.

Sincerely,

A handwritten signature in black ink, appearing to read "John B. Bellinger, III". The signature is fluid and cursive, with a long horizontal stroke extending to the right from the end of the name.

John B. Bellinger, III

Attachment 1

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.) 08-505.

Clay v. Socialist People's Libyan Arab Jamahiriya (D.D.C.) 06-cv-707.

Estate of John Buonocore III v. Socialist Libyan Arab Jamahiriya (D.D.C.) 06-cv-727;
Simpson v. Socialist People's Libyan Arab Jamahiriya (D.D.C.) 08-529.

Franqui v. Socialist People's Libyan Arab Jamahiriya (D.D.C.) 06-cv-734.

Harris v. Socialist People's Libyan Arab Jamahiriya (D.D.C.) 06-cv-732.

Knowland v. Socialist People's Libyan Arab Jamahiriya (D.D.C.) 08-cv-1309.

McDonald v. Socialist People's Arab Jamahiriya (D.D.C.) 06-cv-729.

Patel v. Socialist People's Libyan Arab Jamahiriya (D.D.C.) 06-cv-626.

Simpson v. Socialist People's Libyan Arab Jamahiriya (D.D.C.) 00-cv-1722.