

**FOREIGN CLAIMS SETTLEMENT COMMISSION  
IRAQ CLAIMS PROGRAM (Referral Dated November 14, 2012)  
INSTRUCTIONS FOR COMPLETING STATEMENT OF CLAIM  
FCSC FORM 1-12**

**Please read these guidelines and instructions carefully.**

**WHICH CLAIMS ARE ELIGIBLE FOR ADJUDICATION?**

Pursuant to the discretionary authority of the Secretary of State under 22 U.S.C. § 1623(a)(1)(C), on November 14, 2012 the Department of State Legal Adviser referred to the Foreign Claims Settlement Commission (the Commission) one category of claims of United States nationals against the Government of Iraq:

This category shall consist of claims of U.S. nationals for compensation for serious personal injuries knowingly inflicted upon them by Iraq<sup>1</sup> in addition to amounts already recovered under the Claims Settlement Agreement for claims of hostage-taking<sup>2</sup> provided that (1) the claimant has already received compensation under the Claims Settlement Agreement from the Department of State<sup>3</sup> for his or her claim of hostage-taking, and such compensation did not include economic loss based on a judgment against Iraq, and (2) the Commission determines that the severity of the serious personal injury suffered is a special circumstance warranting additional compensation. For purposes of this referral, “serious personal injury” may include instances of serious physical, mental, or emotional injury arising from sexual assault, coercive interrogation, mock execution, or aggravated physical assault.

**WHAT IS THE CLAIM FILING PERIOD?**

Claims must be filed by submitting the Statement of Claim FCSC Form 1-12 and documentary evidence to the Commission on or before \_\_\_\_\_. If a claimant is delayed in collecting all of his or her documentary evidence before the filing period expires, the claimant must nevertheless file the Statement of Claim FCSC Form 1-12 and any available evidence by the filing deadline. The claimant must then submit the additional evidence promptly when it is obtained.

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<sup>1</sup> For purposes of this referral, “Iraq” shall mean the Republic of Iraq, the Government of the Republic of Iraq, any agency or instrumentality of the Republic of Iraq, and any official, employee or agent of the Republic of Iraq acting within the scope of his or her office, employment or agency.

<sup>2</sup> Hostage-taking, in this instance, would include unlawful detention by Iraq that resulted in an inability to leave Iraq or Kuwait after Iraq invaded Kuwait on August 2, 1990.

<sup>3</sup> The payment already received by the claimant under the Claims Settlement Agreement compensated the claimant for his or her experience for the entire duration of the period in which the claimant was held hostage or was subject to unlawful detention and encompassed physical, mental, and emotional injuries generally associated with such captivity or detention.

A claimant must file Statement of Claim FCSC Form 1-12 even if he or she has filed, at any other time, other papers, forms, or documents with the Commission, the Department of State, or any other agency or government with respect to the injuries or other wrongful acts suffered by the claimant.

## **HOW TO FILE A CLAIM WITH THE COMMISSION**

An original Statement of Claim must be prepared and filed on FCSC Form 1-12, signed by the claimant and the claimant's legal representative (if he or she has one), and delivered or forwarded by mail to the Foreign Claims Settlement Commission, 600 E Street N.W., Room 6002, Washington, D.C. 20579. A copy of the signed Statement of Claim should also be sent to the Commission by email to [Info.Fcsc@usdoj.gov](mailto:Info.Fcsc@usdoj.gov). The instructions and requirements for completing the Statement of Claim are described in more detail below, but the basic requirement is that the Statement of Claims should identify and describe all the wrongful acts and injuries suffered that are alleged to form the basis of the claim.

## **PENALTIES FOR SUBMITTING FALSE OR MISLEADING INFORMATION**

In completing the Statement of Claim, and in making any submissions to the Commission, it must be borne in mind that 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.

## **WHAT EXHIBITS AND DOCUMENTS SHOULD BE FILED IN SUPPORT OF CLAIM?**

Claimants are encouraged to submit with the Statement of Claim all documents and other evidence necessary to support the claim for compensation. Claimants should submit originals of any such documentation and evidence, as well as electronic copies. If any documentary or other evidence is not available for filing by the deadline established by the Commission, the claimant must nevertheless file the Statement of Claim FCSC Form 1-12 and submit additional documentary and other evidence promptly thereafter when it is obtained.

All sworn statements which may be 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)

### **WHAT ARE THE ELEMENTS REQUIRED TO ESTABLISH A VALID CLAIM?**

To make a valid claim for serious personal injury under this referral, the claimant must establish by documentary or other evidence:

1. That he or she was a United States national on the date of the incident;
2. That he or she has been a United States national continuously from the date the claim arose until the date of the Claims Settlement Agreement (September 2, 2010);
3. That he or she received compensation from the Department of State pursuant to the Claims Settlement Agreement;
4. That such compensation from the Department of State did not include compensation for economic loss based on a judgment against Iraq; and
5. That he or she sustained serious personal injury that constitutes a special circumstance (including serious physical, mental, or emotional injury arising from sexual assault, coercive interrogation, mock execution, or aggravated physical assault). In this regard, the claimant should also describe: (i) the nature and extent of the injury; (ii) any impact that the injury has had on the claimant’s ability to perform major life activities, both on a temporary and a permanent basis; and (iii) the degree to which the injury has disfigured the claimant’s appearance, if applicable.

### **HOW CAN A CLAIMANT ESTABLISH CONTINUOUS U.S. NATIONALITY?**

There are several ways to establish that the claimant or another person important to the claim meets the requirement of continuous U.S. nationality (i.e., continuous U.S. citizenship) of the claimant or of another person whose nationality is important.

• **If the person whose citizenship must be established was born in the United States**, such person must provide:

- (1) A copy of either his or her birth certificate, or a copy of his or her U.S. passport stating that he or she was born in the United States. (If such evidence is not available, the Commission may consider as evidence of birth in the United States a copy of the person’s

baptismal certificate or similar document submitted with a sworn explanation as to why the individual's birth certificate and United States passport are not available); and

(2) A copy of a United States passport, or other official United States government document evidencing United States citizenship (such as certain voting cards), which substantiates the continuity of the person's United States nationality from the date of injury through the date of the Claims Settlement Agreement.

• **If the person whose citizenship must be established was a derivative U.S. citizen at birth,** such person must provide:

(1) A copy of an official U.S. government document that states the person was born a United States citizen; and

(2) A copy of a United States passport, or other official United States government document evidencing United States citizenship (such as certain voting cards), which substantiates the continuity of the person's United States nationality from the date of injury through the date of the Claims Settlement Agreement.

• **If the person whose citizenship must be established was naturalized as a United States citizen,** such person must provide:

(1) A copy of the certificate of naturalization; and

(2) A copy of a United States passport, or other official United States government document evidencing United States citizenship (such as certain voting cards), which substantiates the continuity of the person's United States nationality from the date of injury through the date of the Claims Settlement Agreement.

## **WHAT IS "A SERIOUS PERSONAL INJURY THAT CONSTITUTES A SPECIAL CIRCUMSTANCE"?**

The Commission has not yet established the standard that will meet the criteria contained in the November 14, 2012 Referral Letter and which will be applied to the claims submitted. It will only do so upon receipt of all the claims and evidence and its consideration of those claims and the evidence proffered. Claimants are encouraged, therefore, to submit all of the evidence considered relevant to the Commission's determination of the claim, including, in particular, medical evidence contemporaneous to the injury for which compensation is claimed.

## **HOW CLAIMS ARE PRESENTED BEFORE THE COMMISSION**

A claimant may represent himself or herself before the Commission, or may be represented by an attorney, or other legal representative. 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.

## **ATTORNEY'S FEES**

Commission rules and applicable law limit attorney's fees to 10% of the total amount paid on any award certified by the Commission. All legal representatives are required to certify that they have read 22 U.S.C. § 1623(f), and that they agree to, and are bound by, its terms. 22 U.S.C. § 1623(f) states:

No remuneration on account of services rendered on behalf of any claimant in connection with any claim filed with the Commission under this title shall exceed 10 per centum of the total amount paid pursuant to any award certified under the provisions of this title, on account of such claim. Any agreement to the contrary shall be unlawful and void.

## **HOW CLAIMS ARE PROCESSED**

The Commission will review the Statement of Claim in due course and a Commission staff member 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 and his or her attorney. Any objections must be filed within 15 days after service or receipt of notice of the Proposed Decision. Absent objection, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice.

If the claimant files an objection, such objection should explain why the claimant does not agree with the Proposed Decision. The objection may also include additional supporting evidence not otherwise available to the claimant prior to the Proposed Decision, 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 and testimony by sworn witnesses. The Commission will consider the objection as well as the testimony presented at the hearing, if a hearing was 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 his or her claim if new evidence is discovered that was not previously available and that could change the result reached in the Final Decision. A claimant must request the Commission to reopen a claim immediately upon obtaining the new evidence.

## **HOW CLAIMS ARE PAID**

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 in accordance with 22 U.S.C. §§1626-1627.

## **HOW THE CLAIMANT CAN OBTAIN ADDITIONAL 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 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. Suite 6002  
Washington, D.C. 20579**