

CLAIM FOR DAMAGE, INJURY, OR DEATH		INSTRUCTIONS: Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.		FORM APPROVED OMB NO. 1105-0008	
1. Submit To Appropriate Federal Agency: Robert M. Gates, Secretary of Defense U.S. Department of Defense 4000 Defense Pentagon Washington, DC			2. Name, Address of claimant and claimant's personal representative, if any. (See instructions on reverse.) (Number, Street, City, State and Zip Code) Talal Al-Zahrani Kingdom of Saudi Arabia Pardiss Kebriaei, Esq. 666 Broadway, 7th Floor New York, NY 10012 USA		
3. TYPE OF EMPLOYMENT <input type="checkbox"/> MILITARY <input checked="" type="checkbox"/> CIVILIAN	4. DATE OF BIRTH See attached claim.	5. MARITAL STATUS Married	6. DATE AND DAY OF ACCIDENT See attached claim.	7. TIME (A.M. OR P.M.) See attached claim.	
8. Basis of Claim (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages if necessary.) See attached claim.					
9. PROPERTY DAMAGE					
NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, Street, City, State, and Zip Code). N/A					
BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF DAMAGE AND THE LOCATION WHERE PROPERTY MAY BE INSPECTED. (See instructions on reverse side.) See attached claim.					
10. PERSONAL INJURY/WRONGFUL DEATH					
STATE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE NAME OF INJURED PERSON OR DECEDENT. See attached claim.					
11. WITNESSES					
NAME		ADDRESS (Number, Street, City, State, and Zip Code)			
12. (See instructions on reverse.) AMOUNT OF CLAIM (in dollars)					
12a. PROPERTY DAMAGE	12b. PERSONAL INJURY	12c. WRONGFUL DEATH	12d. TOTAL (Failure to specify may cause forfeiture of your rights.)		
		\$5,000,000.00	\$5,000,000.00		
I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE INCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM					
13a. SIGNATURE OF CLAIMANT (See instructions on reverse side.) <i>Pardiss Kebriaei Counsel for Claimant</i>		13b. Phone number of person signing form (212) 614-6452		14. DATE OF SIGNATURE 06/10/08	
CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM The claimant is liable to the United States Government for the civil penalty of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages sustained by the Government. (See 31 U.S.C. 3729.)		CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS Fine, imprisonment, or both. (See 18 U.S.C. 287, 1001.)			

95-109

NSN 7540-00-634-4046

STANDARD FORM 95
PRESCRIBED BY DEPT. OF JUSTICE
28 CFR 14.2

INSURANCE COVERAGE

In order that subrogation claims may be adjudicated, it is essential that the claimant provide the following information regarding the insurance coverage of his vehicle or property.

15. Do you carry accident insurance? ☐ Yes If yes, give name and address of insurance company (Number, Street, City, State, and Zip Code) and policy number. ☐ No
Not applicable.

16. Have you filed a claim on your insurance carrier in this instance, and if so, is it full coverage or deductible? ☐ Yes ☐ No
Not applicable.

17. If deductible, state amount.
Not applicable.

18. If a claim has been filed with your carrier, what action has your insurer taken or proposed to take with reference to your claim? (It is necessary that you ascertain these facts.)
Not applicable.

19. Do you carry public liability and property damage insurance? ☐ Yes If yes, give name and address of insurance carrier (Number, Street, City, State, and Zip Code). ☐ No
Not applicable.

INSTRUCTIONS

Claims presented under the Federal Tort Claims Act should be submitted directly to the "appropriate Federal agency" whose employee(s) was involved in the incident. If the incident involves more than one claimant, each claimant should submit a separate claim form.

Complete all items - Insert the word NONE where applicable.

A CLAIM SHALL BE DEEMED TO HAVE BEEN PRESENTED WHEN A FEDERAL AGENCY RECEIVES FROM A CLAIMANT, HIS DULY AUTHORIZED AGENT, OR LEGAL REPRESENTATIVE, AN EXECUTED STANDARD FORM 95 OR OTHER WRITTEN NOTIFICATION OF AN INCIDENT, ACCOMPANIED BY A CLAIM FOR MONEY

Failure to completely execute this form or to supply the requested material within two years from the date the claim accrued may render your claim invalid. A claim is deemed presented when it is received by the appropriate agency, not when it is mailed.

If instruction is needed in completing this form, the agency listed in item #1 on the reverse side may be contacted. Complete regulations pertaining to claims asserted under the Federal Tort Claims Act can be found in Title 28, Code of Federal Regulations, Part 14. Many agencies have published supplementing regulations. If more than one agency is involved, please state each agency.

The claim may be filed by a duly authorized agent or other legal representative, provided evidence satisfactory to the Government is submitted with the claim establishing express authority to act for the claimant. A claim presented by an agent or legal representative must be presented in the name of the claimant. If the claim is signed by the agent or legal representative, it must show the title or legal capacity of the person signing and be accompanied by evidence of his/her authority to present a claim on behalf of the claimant as agent, executor, administrator, parent, guardian or other representative.

If claimant intends to file for both personal injury and property damage, the amount for each must be shown in item #12 of this form.

DAMAGES IN A **SUM CERTAIN** FOR INJURY TO OR LOSS OF PROPERTY, PERSONAL INJURY, OR DEATH ALLEGED TO HAVE OCCURRED BY REASON OF THE INCIDENT. THE CLAIM MUST BE PRESENTED TO THE APPROPRIATE FEDERAL AGENCY WITHIN **TWO YEARS** AFTER THE CLAIM ACCRUES.

The amount claimed should be substantiated by competent evidence as follows:

(a) In support of the claim for personal injury or death, the claimant should submit a written report by the attending physician, showing the nature and extent of injury, the nature and extent of treatment, the degree of permanent disability, if any, the prognosis, and the period of hospitalization, or incapacitation, attaching itemized bills for medical, hospital, or burial expenses actually incurred.

(b) In support of claims for damage to property, which has been or can be economically repaired, the claimant should submit at least two itemized signed statements or estimates by reliable, disinterested concerns, or, if payment has been made, the itemized signed receipts evidencing payment.

(c) In support of claims for damage to property which is not economically repairable, or if the property is lost or destroyed, the claimant should submit statements as to the original cost of the property, the date of purchase, and the value of the property, both before and after the accident. Such statements should be by disinterested competent persons, preferably reputable dealers or officials familiar with the type of property damaged, or by two or more competitive bidders, and should be certified as being just and correct.

(d) **Failure to specify a sum certain will render your claim invalid and may result in forfeiture of your rights.**

PRIVACY ACT NOTICE

This Notice is provided in accordance with the Privacy Act, 5 U.S.C. 552a(e)(3), and concerns the information requested in the letter to which this Notice is attached.

A. **Authority:** The requested information is solicited pursuant to one or more of the following: 5 U.S.C. 301, 28 U.S.C. 501 et seq., 28 U.S.C. 2671 et seq., 28 C.F.R. Part 14.

B. **Principal Purpose:** The information requested is to be used in evaluating claims.
C. **Routine Use:** See the Notices of Systems of Records for the agency to whom you are submitting this form for this information.
D. **Effect of Failure to Respond:** Disclosure is voluntary. However, failure to supply the requested information or to execute the form may render your claim "invalid".

PAPERWORK REDUCTION ACT NOTICE

This notice is solely for the purpose of the Paperwork Reduction Act, 44 U.S.C. 3501. Public reporting burden for this collection of information is estimated to average 6 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Director, Torts Branch, Attention: Paperwork Reduction Staff, Civil Division, U.S. Department of Justice, Washington, D.C. 20530 or to the Office of Management and Budget. Do not mail completed form(s) to these addresses.

INTRODUCTION

Talal Al-Zahrani, a citizen of Saudi Arabia, hereby provides notice of a tort claim against the Department of Defense (“DoD”) for damages he suffered as a result of the unlawful and tortious conduct of employees or agents of the DoD resulting in the death of his son, Yasser Al-Zahrani. Yasser Al-Zahrani was, at the time of his death, a detainee at the U.S. Naval Station at Guantánamo Bay, Cuba and, as such, was under the exclusive control of employees or agents of the DoD. His Internment Serial Number (ISN) was 93. According to the DoD, Yasser Al-Zahrani died on June 10, 2006, along with two other Guantánamo prisoners, Salah Al-Salami (ISN 693) and Mani Al-Utaybi (ISN 588).¹

Government spokespersons described the three deaths as suicides immediately after they were reported and have continued to characterize them as such.² No evidence confirming these representations has been released by the DoD, notwithstanding that an investigation by the Naval Criminal Investigative Service (“NCIS”) into the deaths reportedly commenced on or about June 10, 2006, and that employees or agents of the DoD conducted autopsies immediately. To date, the DoD has failed to release any information that explains the cause and circumstances surrounding Yasser Al-Zahrani’s death and the deaths of the other two prisoners.

Talal Al-Zahrani has suffered severe emotional distress as a result of the death of his son in the hands of the U.S. government at Guantánamo. He has doubly suffered as a result of the callous behavior of the government following his son’s death.

As a result of the failure of the U.S. government to disclose any, or any adequate, information pertaining to either the cause of Yasser Al-Zahrani’s death or the circumstances in which it occurred, Talal Al-Zahrani is not able to particularize his claim. He reserves his right to amend this claim when the DoD has provided full disclosure. In particular, Talal Al-Zahrani reserves his right to claim for an award of damages that reflects any pain and suffering suffered by Yasser Al-Zahrani prior to his death.

¹ A total of five prisoners have died in U.S. custody at Guantánamo to date.

² U.S. Department of State Daily Press Briefing, Sean McCormack, June 12, 2006 at ¶ 1 (“QUESTION: Could you talk about the response by the official in Public Diplomacy calling the suicides at Guantanamo a—basically a PR gambit? MR. MCCORMACK: Well... we have serious concern anytime anybody takes their own life. The—what happened over the weekend at Guantanamo is being fully investigated by the Department of Defense...”). In a White House Press Briefing by Tony Snow, June 29, 2006 at ¶ 8, a reference was made to the efforts to strengthen procedures at Guantánamo “in the wake of the recent suicides”.

DESCRIPTION OF CLAIM

Yasser Khaliel Al-Zahrani was born on September 22, 1984 in Yanbo, Saudi Arabia. He was 17 years old when captured in Afghanistan by anti-Taliban forces in late 2001. While detained at Guantánamo, Yasser Al-Zahrani participated in hunger-strikes. The U.S. government force-fed him continuously from the end of June 2005 until his death a year later, with the exception of a few weeks.³

Yasser Al-Zahrani was never charged with a criminal offence during his years at Guantánamo. In press releases after his death, the U.S. government accused him of fighting, facilitating weapons purchases for the Taliban and participating in a prison uprising that occurred at Mazar-i-Sharif, Afghanistan in November 2001.⁴ Yet the government has never released any evidence substantiating these claims, nor did Yasser Al-Zahrani have any meaningful opportunity to challenge these claims or his detention when he was alive.

On June 10, 2006, Yasser Al-Zahrani was found dead in his cell, as were Mani Al-Utaybi and Salah Al-Salami. He was only 21 years old.

In describing the cause of death of the three detainees, the DoD stated that each was found with a wad of cloth in his mouth and hanging from a noose made of bed-sheets that was woven through the men's mesh cell walls. Colonel Mike Bumgarner, former commander of the Joint Detention Group at Camp Delta at Guantánamo, stated that the three detainees appeared to have slowly choked to death.⁵ Yet, almost two years after the deaths, the U.S. government has failed to substantiate these comments and confirm the cause of Yasser Al-Zahrani's death and the circumstances in which it occurred. Indeed, the DoD has failed to provide his family with any pertinent information regarding his death. In particular:

1. On or about June 10, 2006, the U.S. government announced that the NCIS would commence an investigation into the deaths of Salah Al-Salami, Mani Al-Utaybi and Yasser Al-Zahrani. Almost two years later, the NCIS has yet to issue any findings.
2. Immediately after his death, an autopsy was conducted on Yasser Al-Zahrani by employees or agents of the DoD, but the autopsy report has not been released (to Talal Al-Zahrani or at all).

³ Clive Stafford Smith, *Suicides at Guantánamo 1*, Reprieve, June 13, 2006, available at <http://reprieve.org.uk/documents/06.06.13ReprieveInterimSuicideReport.pdf> at pages 1-3.

⁴ Mark Denbeaux, *June 10th Suicides at Guantánamo: Government Words and Deeds Compared*, Seton Hall University School of Law, August 21, 2006, at p.9.

⁵ Clive Stafford Smith, *Suicides at Guantánamo 1*, Reprieve, June 13, 2006, available at <http://reprieve.org.uk/documents/06.06.13ReprieveInterimSuicideReport.pdf> at page6.

3. The U.S. government has refused to provide Yasser Al-Zahrani's family with copies of his medical records.
4. The U.S. government has failed to answer questions posed by an independent physician who conducted a second autopsy on Yasser Al-Zahrani after his remains were repatriated to Saudi Arabia. Without these responses, the second autopsy is inconclusive.
5. The Inter-American Commission on Human Rights requested that the U.S. government provide information about the deaths of Salah Al-Salami, Mani Al-Utaybi and Yasser Al-Zahrani within ten days of being reported. Four months later, the government submitted to the Commission only a packet of press releases, briefings and interviews that did nothing to illuminate the circumstances of the deaths.

The failure of the DoD to confirm the cause of death and provide information as to the circumstances in which it occurred lead to particular concerns in light of the condition of his body upon its return to his family. Talal Al-Zahrani stated that his son's upper chest was injured, that his face showed signs of trauma and that his larynx was removed and not returned with the body.⁶ The DoD has provided no explanation for this.

Exacerbating the lack of transparency outlined above has been the callous behavior of the DoD, namely:

1. The U.S. government failed to provide adequate notice of Yasser Zahrani's death to his family. His family was not notified of his death by U.S. government officials. Rather, some extended family members heard the name "Zahrani" as one of the dead at Guantánamo on satellite television and notified his immediate family.⁷ Talal Al-Zahrani called the Saudi Ministry of the Interior on June 10, and on June 11, he was notified by his own government that Yasser Al-Zahrani was one of the men who had died.⁸
2. That although Islamic law requires that bodies be buried within 24 hours of death where possible, Yasser Al-Zahtani's body was not returned to Saudi Arabia until June 16, 2006, six days after his death.
3. The DoD performed an autopsy on Yasser Al-Zahtani without the consent of his family. Further, as noted above, when his remains were returned to Saudi Arabia, his

⁶ Declaration of Talal Al-Zahrani at ¶¶ 19-20.

⁷ *Id.* at ¶ 8.

⁸ *Id.* at ¶¶ 9-10.

larynx was missing from his body. Islamic law generally prohibits the performance of an autopsy and requires a dead body to be “returned to God” as it was given.

4. Government spokespersons and military officials made a number of derisive comments about Salah Al-Salami, Mani Al-Utaybi and Yasser Al-Zahrani following their deaths. A Pentagon official stated that the deaths were “not an act of desperation, but an act of asymmetric warfare aimed at us here in Guantánamo.”⁹ Another official referred to the deaths as “a good PR move to draw attention.”¹⁰ In a press conference following the deaths, the Deputy Assistant Secretary of Defense Cully Stimson repeatedly compared all Guantánamo detainees to Nazis during World War II and made multiple unfounded statements that such detainees are all terrorists.¹¹ Col. Mike Bumgarner stated in reaction to the deaths, “They [Guantánamo detainees] have shown time and time again that we can't trust them any farther than we can throw them. There is not a trustworthy son of a ... in the entire bunch.”

CLAIM FOR RELIEF

Talal Al-Zahtani has suffered emotional distress as a result of the death of his son in the custody of the U.S. government at Guantánamo. He has also suffered emotional distress as a result of the callous behavior of the government following his son's death. Due to the emotional distress suffered, he seeks damages in the amount of \$5,000,000.00.

⁹ See Sgt. Sara Wood, *Three Guantánamo Bay Detainees Die of Apparent Suicide*, AMERICAN FORCES INFORMATION SERVICE, June 10, 2006 (citing Navy Rear Adm. Harry B. Harris).

¹⁰ Michael Rowland, *US Official Calls Guantánamo Suicides a PR Tactic*, ABC (Australia), June 13, 2006.

¹¹ U.S. Department of State Daily Press Briefing, June 12, 2006 at page 2.