

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

ESTATE OF ESTHER KLIEMAN, et al.,)	
)	
Plaintiffs,)	Civil Action No. 04-1173 (PLF)(JMF)
)	
v.)	
)	
THE PALESTINIAN AUTHORITY et. al.,)	
)	
Defendants.)	
<hr/>		

**LETTER OF REQUEST FOR INTERNATIONAL JUDICIAL ASSISTANCE
PURSUANT TO THE HAGUE CONVENTION OF 18 MARCH 1970 ON THE
TAKING OF EVIDENCE ABROAD IN CIVIL OR COMMERCIAL MATTERS**

From:

United States Magistrate Judge John M. Facciola
The United States District Court for the District of Columbia
333 Constitution Avenue, N.W.
Washington, D.C. 20001
United States of America

To:

The Directorate of Courts
Legal Assistance to Foreign Countries
22 Kanfei Nesharim
POB 34142
Jerusalem 95464
Israel

In conformity with Article 3 of the Convention, the undersigned applicant has the
honor to submit the following request:

The United States District Court for the District of Columbia presents its compliments to the Directorate of Courts of the State of Israel and requests assistance in obtaining evidence to be used in proceedings before this Court in the above-captioned matter.

Plaintiffs in the above-captioned matter are the Estate of Esther Klieman by and through its Administrator, Aaron Kesner of 4840 W. Foster, Skokie, IL 60077 USA, Nachman Klieman of Halamish 359, D.N. Modi'in 71945, Israel, Ruanne Klieman of Halamish 359, D.N. Modi'in 71945, Israel, Dov Klieman of Kiryat Netafim, D.N. Ephraim 44815, Israel, Yosef Klieman of Nahaliel 101A, D.N. Modi'in 71938 Israel, and the Estate of Gavriel Klieman by and through its Administrator, Nachman Klieman of Halamish 359, D.N. Modi'in 71945, Israel. Plaintiffs are represented by attorneys Richard D. Heideman, Noel J. Nudelman and Tracy Reichman Kalik of Heideman Nudelman & Kalik, P.C., 1146 19th Street, N.W., 5th Floor, Washington, D.C. 20036, USA and Steven R. Perles and Edward MacAllister of The Perles Law Firm, P.C, 1146 19th Street, N.W., 5th Floor, Washington, D.C. 20036, USA. Plaintiffs' Israeli Counsel is Michael Deborin, Esq, of Bam, Deborin, Cohen & Co., Hillel Street 6, Jerusalem, Israel. Defendants are the Palestinian Authority of The Muquata'a, Ramallah, West Bank, and the Palestine Liberation Organization of The Muquata'a, West Bank. Defendants are represented by Richard Hibey, Mark Rochon and Chas McAleer, Miller & Chevalier Chartered, 655 Fifteenth St., N.W., Suite 900, Washington, D.C. 20005, USA.

The above-captioned matter is a civil suit brought by plaintiffs pursuant to US Federal counterterrorism statutes, Antiterrorism Act of 1991, 18 U.S.C. §§2331 *et seq.*, and supplemental causes of action by the Estate, survivors and heirs of Esther Klieman who the plaintiffs allege was murdered by the terrorist acts of the defendants by machine-gun fire on March 24, 2002 near Neve Tzuf, Israel, for damages directly and proximately caused by the defendants to plaintiffs, and each of them, by reason of acts of unlawful international terrorism, as defined in 18 U.S.C. §2331, and by reason of related unlawful tortuous behavior and conduct. Defendants deny that they are liable to Plaintiffs for the injuries they have alleged.

The assistance requested of the State of Israel consists of the following: To permit and cause the persons listed below to appear to be deposed by counsel for Plaintiffs and Defendants before a duly appointed commissioner for the purpose of administering oaths and recording testimony in this action:

1. Fuad Shubaki
ID no. 410026173
In the custody of the Israeli Prison Service
2. Marwan Bin Khatib Barghouti
ID no. 959251745
In the custody of the Israeli Prison Service

These depositions shall be *de bene esse*. As such, testimony will be elicited under oath and by oral examination by counsel for the Plaintiffs. Counsel for the Defendants will also have an opportunity to cross examine each respective witness. The subject-matter of the *de bene esse* depositions will be (a) the Palestinian Authority and Palestine Liberation Organization's support and funding of terrorism and/or terrorist organizations including, but not limited to, the Al Aqsa Martyrs Brigades; and (b) other facts and information related to the allegations asserted by the Plaintiffs in the above captioned civil action. Each respective witness shall be deposed under oath and according to the United States Federal Rules of Civil Procedure.

It is requested that: (1) the parties' counsel or their designees, interpreters, and a stenographer be permitted to be present during the examination; (2) there be excluded from the examination, if permitted under Israeli law, all persons other than those described directly above, except those as required by the Israeli Prison Service; (3) a stenographer be permitted to record verbatim the oral examination of the aforementioned witnesses; and (4) a videographer be permitted to record on video the oral examination of the aforementioned witnesses .

Pursuant to Article 10 of the Convention, in executing this Letter of Request the Israeli authorities are respectfully requested to apply the appropriate measures of compulsion in the instances and to the same extent as are provided by Israeli law for the execution of orders issued by Israeli authorities or of requests made by parties in internal proceedings.

Accordingly, it is hereby requested that, in the interest of justice, you cause by your expedited and proper process such orders to be entered as Israeli law permits directing that one of the aforementioned witnesses appear for *de bene esse* deposition at a location to be determined by the authorities at the Israel Prison Service on February 1, 2011, beginning at 9:30 a.m., or at another mutually agreeable time, to be deposed by counsel for Plaintiffs and Defendants and the other aforementioned witness appear for *de bene esse* deposition at a location to be determined by the authorities at the Israel Prison Service on February 2, 2011, beginning at 9:30 a.m., or at another mutually agreeable time, to be deposed by counsel for Plaintiffs and Defendants.

Plaintiffs and/or their counsel, upon whose application this Letter of Request has been issued, shall pay all costs incurred in executing these requests. Notice that this request has been executed and that the above-referenced individuals will be available for *de bene esse* deposition at the time and place indicated may be sent to Richard D. Heideman, Heideman Nudelman & Kalik, P.C., 1146 19th Street, N.W., Fifth Floor, Washington, DC 20036, USA Telephone (202) 463-1818, Telefax (202) 463-2999, Email rdheideman@hnklaw.com. The Court expresses its appreciation of the Directorate of Courts in the State of Israel for its courtesy and assistance in this matter and states that it shall be ready and willing to assist the courts of Israel in a similar manner when required.

DATED this ____ day of ____, 2010.



Digitally signed by John M. Facciola
DN: c=US, st=DC, ou=District of
Columbia,
email=John_M_Facciola@dcd.uscourts.gov, o=U.S. District Court, District of
Columbia, cn=John M. Facciola
Date: 2011.03.07 10:57:03 -05'00'

JOHN M. FACCIOLA
UNITED STATES MAGISTRATE JUDGE