

**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.)	
_____)	

**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. Modiin 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 are also represented in Israel by attorneys Mordechai Haller 80 Nahar Hayarden St. Beit Shemesh 99624 and Michael Deborin Olitzur St. no. 4 P.O.B 68077 Jerusalem 91680. Defendants are the Palestinian Authority and the Palestine Liberation Organization. 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 alleged terrorist acts of the defendants by machine-gun fire on March 24, 2002 near Neve Tzuf, Israel, for damages allegedly directly and proximately caused by the defendants to plaintiffs, and each of them, by reason of alleged acts of unlawful international terrorism, as defined in 18 U.S.C. §2331,

and by reason of related alleged unlawful tortious 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 Yitzhak Ya'akoboff located c/o Israeli National Police Headquarters, Kiryat Menachem Begin, Kiryat HaMemshala, Jerusalem, to appear at the David Citadel Hotel in Jerusalem on [], beginning at 9:30 a.m. to be deposed by counsel for the Plaintiffs and Defendants. This deposition shall be a *de bene esse* deposition of Yitzhak Ya'akoboff. 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 Yitzhak Ya'akoboff. The subject-matter of the *de bene esse* deposition will be (a) the facts and circumstances surrounding the murder of Esther Klieman, including, but not limited to, the Mr. Ya'akoboff 's investigation into the murder of Esther Klieman; and (b) the actual statements made by or obtained from Tamer Rimawi and/or any of the other convicted prisoners who perpetrated the murder of Esther Klieman, made to Mr. Ya'akoboff while acting in his official capacity as an investigating Israeli police officer; and (c) other facts and information related to the allegations asserted by the Plaintiffs in the above captioned civil action. Yitzhak Ya'akoboff 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 under applicable Israeli law; (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.

The assistance of the State of Israel is further requested to compel the concerned state agencies to produce to counsel for the parties, at least fourteen (14) days prior to the depositions, the following documents:

1. Copies of all files, memoranda, notes, and other documents relating to Tamer Rimawi or the shooting of Esther Klieman that Yitzhak Ya'akoboff had and/or reviewed as of the time that he conducted any interrogation of Tamer Rimawi;
2. Copies of all files, memoranda, notes, and other documents relating to Tamer Rimawi or the shooting of Esther Klieman that Yitzhak Ya'akoboff had and/or reviewed as of the time that he drafted any statements or reports regarding any interrogation of Tamer Rimawi;
3. From the ISA, full and authentic copies (in hard copy and in electronic format) of any files, records, reports, notes, papers, summaries and/or recordings (by video or audio technology), relating to the interrogation of the Tamer Rimawi, including any use of physical coercion;
5. From the Attorney General, full and authentic copies (in hard copy and in electronic format) of all complaints, grievances, charges, and/or protests filed by Tamer Rimawi with the Attorney General regarding his mistreatment during interrogation.

This Court further requests that the copies requested in Request # 1-3 above, be produced at the office of the Directorate of Courts at 22 Kanfei Nesharim Street, Jerusalem,

Israel, where they will be collected for delivery to the parties by a representative of the parties.

Yitzhak Ya'akoboff was an Israeli police investigator who interviewed Tamer Rimawi about his admitted involvement in the murder of Esther Klieman. As such, the evidence obtained will aid in the prosecution of this case because it may assist plaintiffs in proving the circumstances of Esther Klieman's murder on March 24, 2002 near Neve Tzuf, Israel and the support allegedly provided by the PA/PLO and its affiliated parties for and to the Al Aqsa Martyrs Brigades.

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 Yitzhak Ya'akoboff appear for *de bene esse* deposition at the David Citadel Hotel on [], beginning at 9:30 a.m. 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, that the above-referenced documents are available, and that the above-referenced individuals will be available for deposition, may be made 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 to 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.

JOHN M. FACCIOLA
UNITED STATES MAGISTRATE JUDGE