Representing Victims Of Terrorism: Perspectives From The Forefront
By Mark S. Zaid, Esq.

Most people vividly remember where they were and what they were doing when they first heard the news about the September 11, 2001 terrorist attacks. Every generation experiences tragedies that gradually become memories frozen in time—the Challenger explosion, the assassination of President Kennedy, and the attack on Pearl Harbor are some other examples. There have been many such tragedies resulting from terrorism, although none with as many victims as the September 11 attacks. Every terrorist act impacts not only the direct victims, but also the victims' families and friends. To those who have suffered such a loss, their pain continues no matter the gravity of the next attack. While terrorism is not a new phenomenon, in the past decade there has been a new response to terrorism—the civil lawsuit.

On December 21, 1988, I was on winter break during my senior year of college when the first report came in that a Pan Am 747 had crashed in Scotland. To many who heard about the crash, the immediate thought was of a terrible accident. However, within a week, the evidence confirmed that a bomb had brought the plane down.

The previous semester I had been working in London for a member of the British Parliament as part of a University of Rochester overseas program. Each year, thousands of American students spend time in London, and in the 1980s, we primarily flew there and back on Pan Am. Hearing about the crash, I was concerned for friends of mine who I knew to be in Europe. This was the week they would likely be returning home for the holidays. My calls to Pan Am were unsuccessful in obtaining any information, but I eventually learned that none of my close friends were on the flight.

Two of my schoolmates were not so fortunate. Their trip home was never completed.

Though not personally close to the victims, the tragedy of Pan Am 103 struck me in a way I had not experienced before, perhaps because it felt so close to home. Many of those who died were, like me, from the New York City area. It seemed that everyone I talked to had some connection to one of the victims. The memorial ceremony we held at the University of Rochester in January of 1989 solidified my desire to find some way to respond to these tragedies. Starting law school just several months later, I identified the way in which I could contribute. I would work to create a legal remedy for terrorism victims to sue those responsible. While money would never heal the victims' pain, perhaps the terrorists' loss of their money would prevent future attacks. My work started simply as a law review project, but it soon became more of a mission.

While in 1989 the concept of suing terrorists was not entirely new, it was rarely put into practice. Two obstacles defeated these early cases: jurisdiction and sovereign immunity. For example, civil lawsuits had been filed against Iran for the taking of hostages at the U.S. Embassy in 1979-80,[i] against Libya for bombings in Israel,[ii] and—the most prominent case at the time—against the Palestinian Liberation Organization for the 1985 murder of American Leon Klinghoffer during the hijacking of the cruise ship *Achille Lauro*.[iii] All of these lawsuits failed.[iv]

The most significant problem in suing a terrorist state, then and today, is the Foreign Sovereign Immunities Act of 1976 ("FSIA").[v] The statute provides foreign states with complete immunity from suit in the United States unless one or more very narrowly drawn exceptions are met. Essentially, the FSIA codified a restrictive theory

of immunity and established a comprehensive framework for resolving immunity claims in any civil action against a foreign state or its political subdivisions, agencies, or instrumentalities. If you want to sue a foreign state, you have to go through the FSIA or a court will deem the matter beyond its jurisdiction.[vi] Predominantly, the statute was meant to remedy commercial disputes between states and non-states. At literally the last minute of Congressional negotiation, a provision was included in the statute to strip sovereign states of immunity for noncommercial torts, particularly to address automobile accidents caused by foreign diplomats.[vii]

Throughout law school, I researched ways to sue terrorists. At the time, my focus was more on suing individual terrorists in a manner similar to the Alien Torts Claims Act than on suing foreign states.[viii] Directly suing state sponsors of terrorism seemed to offer too remote an opportunity for success.[ix] I met with Congressional staff, talked with attorneys handling the few cases that existed, and organized symposiums and speaking events with victims of terrorism, particularly the families of Pan Am 103. After graduation in 1992, I represented one of the family organizations in an effort to obtain additional information about the bombing from the U.S. government through the Freedom of Information Act.

In July of 1993, I joined forces with Allan Gerson, a former chief counsel for the U.S. Mission to the United Nations, who had embarked upon the noble mission of trying to hold Libya accountable for the bombing of Pan Am 103. Gerson and I had met at one of the terrorism conferences held at my law school, and he had been retained by Bruce Smith, a former Pan Am pilot who had lost his wife in the Pan Am 103 attack. Our objective was simple: to file civil lawsuits in Washington, D.C. and Scotland,

mirroring what had been done two years earlier when two alleged Libyan intelligence officers had been criminally indicted for the bombing. However, we understood the difficulties in pursuing such a suit. Therefore, from the beginning, we set out to increase our odds of success. Although we believed legal arguments existed that would strip Libya of its immunity, there was a way to ensure our client—and all terrorism victims—would have their day in court: new legislation.

Initial Pursuit For Civil Justice

The first U.S. civil lawsuit arising from the bombing of Pan Am 103 was filed in the U.S. District Court for the District of Columbia on December 15, 1993.[x] We pursued several legal arguments for asserting jurisdiction over Libya.[xi] Although it took several months to obtain American counsel (numerous law firms and attorneys declined to suffer the stigma of representing a terrorist state), Libya, to its credit, chose to defend itself in the litigation and entered its appearance in June of 1994. However, before the proceedings could get underway, the case was transferred from Washington to the U.S. District Court for the Eastern District of New York as part of the multi-district litigation, MDL-799, still in existence from the civil lawsuits against Pan American World Airways.[xii]

Libya subsequently claimed sovereign immunity and sought to dismiss the lawsuit. To our dismay, the U.S. government sided with Libya throughout the legal process. In 1995, the court dismissed the lawsuit on the basis of sovereign immunity.[xiii] The following year, the Second Circuit Court of Appeals affirmed the dismissal. Our petition for *certiorari* to the Supreme Court was denied as well, but

Libya's triumph was short-lived.

Legislative Victory

While the litigation was underway, we were making simultaneous efforts in the legislative arena to ensure that the families would have their day in court. Beginning in July of 1993, I set about to seek a legislative amendment to FSIA that would unequivocally permit actions against foreign states, at least with respect to certain types of acts.[xiv] The pace was slow and the task daunting. Different bills were drafted and introduced. Congressional hearings were held.[xv] However, the Executive Branch, represented by the Departments of Justice and State, was vehemently against any such amendment. Executive branch officials feared that the proposed amendment to FSIA might cause other nations to respond in kind, thus potentially subjecting the U.S. government to suits in foreign countries for actions taken in the United States. Our response was always the same. If the United States was ever caught undertaking the types of limited acts that we sought to address in the FSIA amendment, then it should be subject to suit. Although we had our supporters in Congress, attempt after attempt failed beneath the strength of the White House. The 1995 Republican takeover of Congress did not help; particularly because, although some of our staunchest supporters were Republican, the "Contract on America" simply did not have any room for international terrorism lawsuits.

Everything changed on April 19, 1995. On that day, the federal building in Oklahoma City was bombed and 168 innocent victims died. Although the perpetrator was soon identified as an American, all initial thoughts were of international terrorism.[xvi] The bombing resulted in a mad rush in Congress for legislation strengthening terrorism

statutes, and we took full advantage of that interest. Ultimately, in April of 1996, the Antiterrorism and Effective Death Penalty Act ("AEDPA") amended the FSIA by adding what is now 28 U.S.C. § 1605(a)(7).[xvii]

Under this new section, foreign states that have been designated as state sponsors of terrorism are denied immunity from damage actions for personal injury or death resulting from aircraft sabotage, hostage taking, torture, extrajudicial killing, and providing material resources or support for these acts. In enacting this provision, Congress fulfilled our objective of creating a judicial forum for compensating terrorism victims, and in so doing, punishing foreign states that have committed or sponsored such acts, and deterring them from doing so in the future.[xviii] Importantly, we included a ten-year statute of limitations that applied retroactively, and all claims that had arisen prior to enactment of the amendment were tolled.[xix]

However, the amendment was not without limitations. In order to assuage as many concerns as possible, we included several narrow requirements that had to be satisfied before such lawsuits could be brought. First, only those foreign states specifically designated by the State Department as a "state sponsor of terrorism" are subject to the loss of their sovereign immunity.[xx] Second, even a foreign state listed as a sponsor of terrorism retains its immunity unless (a) it is afforded a reasonable opportunity to arbitrate any claim based on acts that occurred in that state, and (b) either the victim or the claimant was a U.S. national at the time those acts took place.[xxi]

Revived Pursuit For Civil Justice

With the passage of the 1996 FSIA amendment, the majority of the Pan Am 103 families filed civil lawsuits against Libya. This time around there was no stopping us,

and Libya's attempt to dismiss the lawsuit failed at every judicial level.[xxii] However, as a result of the remarkable transfer in 1999 of the two alleged Libyan intelligence agents for criminal prosecution in the Netherlands (technically, in Scotland, as the proceedings were held before a Scottish court under Scottish rules of evidence and procedure), the civil lawsuit was essentially placed on hold.

With the conviction of Abdel Baset Ali Mohmed Al-Megrahi in January of 2001 (his co-defendant, Lamen Khalifah Fhimah was acquitted), and subsequent denial of his appeal in 2002, the civil litigation against Libya slowly re-emerged. Unfortunately, there has been little progress in the last few years. Reports of a settlement with Libya that received wide-spread publicity in May of 2002 were exaggerated by some of the attorneys involved in the litigation. Thus, at this time, the litigation is at somewhat of a standstill as the numerous plaintiffs and attorneys configure new strategies.

Other Terrorism Lawsuits

The lawsuits that have been filed against terrorist states under the 1996 FSIA amendment have brought a mixed bag of results. Except for a few cases, rarely has a foreign state actually attempted to defend itself in the litigation.[xxiii] Every lawsuit brought against Cuba and Iran has resulted in a default judgment.[xxiv] This result has not been without criticism, particularly because of the manner in which some plaintiffs have collected upon their judgments. In the wake of the 1996 FSIA amendment, the default victories obtained against terrorist states were soon found to be hollow victories. Though most awards ranged from tens of millions to hundreds of millions of dollars, all efforts undertaken to execute and satisfy the judgments were unsuccessful.[xxv] Once again, the victims turned to Congress to correct this deficiency.

On October 28, 2000, President Clinton signed into law the Victims of Trafficking and Violence Protection Act of 2000.[xxvi] The law provided certain terrorism victims the ability to satisfy their recently obtained judgments.[xxvii] Claimants were accorded three options: (1) they could obtain from the U.S. Treasury 110% of their compensatory damage award, plus interest, if they waived all rights to both compensatory and punitive awards; (2) they could obtain 100% of their compensatory damage award, plus interest, if they relinquished all rights to compensatory damages and the ability to execute the judgments against certain categories of property in the United States; or (3) they could decline to obtain any payments and pursue all possible efforts to execute their judgments as they saw fit.[xxviii]

As a result of this payment system, there has recently been a vocal outcry against the 1996 FSIA amendment. For example, the *Washington Post* has twice called for its repeal.[xxix] There have been two main concerns: (1) interference with foreign relations, and (2) executing judgments against the U.S. Treasury. The latter concern has caused a significant amount of debate. The purpose of the 1996 FSIA amendment was to punish the terrorists, not simply to financially enrich the victims, and certainly not their attorneys. It was designed to siphon available funds from terrorist organizations and to deter future attacks. The message was to be clear: If you attack Americans, you will suffer military consequences led by the United States and financial damages imposed by the victims. An obvious effect of such an objective was, just as in other civil lawsuits, to attempt to make victims as whole as possible under the circumstances. Of course, in wrongful death cases no money can ever truly compensate for the loss that has been suffered—whether the loss was by terrorism or

street crime—but our system is designed to award financial damages in such circumstances. Only time will tell if the latest legislative efforts to facilitate the execution of judgments obtained in terrorist lawsuits will actually serve to destroy the underlying accomplishment that so many fought for years to achieve.

The issue of executing terrorist default judgments has created additional problems. The worst part of these cases is the acrimony that seems inevitable due to the large amounts of money involved. What once was a noble effort to bring terrorists to justice, now appears to have devolved into legal efforts purely for the purposes of obtaining large monetary judgments. Rather than combating the terrorists that caused the harm, fights are now more common between victims, their attorneys, and each other.[xxx]

Nevertheless, representing victims of terrorism is one of the most rewarding endeavors I have ever pursued. Of course, it can be a pursuit that is fraught with difficulties. There are emotional roller coasters that accompany terrorism cases that are unlike those experienced in other cases. Because of the international aspect of terrorism lawsuits, attorneys will face unique obstacles in dealing with various governments, international organizations, and the world media. Many of these obstacles will be hostile. But in the end, the effort may be well worth it.

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1. *See, e.g., Persinger v. Islamic Republic of Iran*, 729 F.2d 835 (D.C.Cir. 1984); *McKeel v. Islamic Republic of Iran*, 722 F.2d 582 (9th Cir. 1983); *Ledgerwood v. State of Iran*,
617 F.Supp. 311 (D.D.C. 1985).

2. *Tel-Oren v. Libyan Arab Republic*, 726 F.2d 774 (D.C. Cir. 1984).

3. *Klinghoffer v. S.N.C. Achille Lauro*, 937 F.2d 44, 47 (2d Cir. 1991).

4. Prior to the 1996 FSIA amendment, there were only two instances where a foreign state was denied sovereign immunity for a tortuous act. In 1980, the Republic of Chile defaulted in litigation filed against it for the assassination of Orlando de Letelier, its former Foreign Minister, in Washington, D.C. *See Letelier et al. v. Republic of Chile et al.*, 488 F.Supp. 665 (1980). In 1989, the Republic of China (Taiwan) was denied immunity for assassinating a dissident in California. *Liu v. Rep. of China*, 892 F.2d 1419 (9th Cir. 1989). The key distinction was that these acts occurred in the United States.

5. *See* 28 USC § 1602 *et seq* (1994).

6. *See Argentine Republic v. Amerada Hess Shipping Corp.*, 488 U.S. 428 (1989).

7. The pertinent section, § 1605(a)(5), reads, in part, that immunity shall not be conferred in any case "in which money damages are sought against a foreign state for personal injury or death, or damage to or loss of property, occurring in the United States and caused by the tortuous act or omission of that foreign state of any official or employee of that foreign state while acting within the scope of his office or employment." In *Wolf v. Federal Republic of Germany*, 95 F.3d 536 (7th Cir. 1996), the court explained that "[t]he House Report stated that the principle reason for including § 1605(a)(5) was to solve the problem of traffic accidents involving diplomats, even though the language was concededly broad enough to reach all tort actions for money damages that did not fall within the discretionary act or intentional tort exceptions. *See* H.R. Rep. No. 1487 at 20-21, Sen. Rep. No. 1310 at 20 (94th Cong. , 2d Sess., 1976)."

8. The Alien Tort Claims Act (ATCA), 28 U.S.C. § 1350, is a 1789 statute under which "[t]he district courts shall have original jurisdiction of any civil action by an alien for a tort only, committed in violation of the law of nations or a treaty of the United States." Its use to combat human rights violations first emerged in the landmark case of *Filartiga v. Pena-Irala*, 630 F.2d 876 (2d Cir. 1980). In 1992, Congress enacted the Torture Victim Protection Act (TVPA), Pub. L. No. 102-256,

106 stat. 78 (1992)(codified at 28 U.S.C.
§ 1350 app), which permits actions for torture and extrajudicial killing to be brought by aliens and U.S. citizens against individual defendants.

9. The original FSIA was not intended as human rights legislation. *See* Jennifer A. Gergen, *Human Rights and the Foreign Sovereign Immunities Act*, 36 VA. J. INT'L L. 765, 771 (1996); *see also* Mathias Reimann, *A Human Rights Exception to Sovereign Immunity: Some Thoughts on Princz v. Federal Republic of Germany*, 16 MICH. J. INT'L L. 403, 417- 18 (1995)(observing that under the unamended FSIA "efforts to persuade the courts to recognize a human rights exception to sovereign immunity" had failed). Thus, no matter how egregious a foreign state's conduct, suits that did not fit into one of the statute's discrete and limited exceptions invariably were rejected. *See, e.g.*, *Saudi Arabia v. Nelson*, 507 U.S. 349 (1993)(holding that a claim arising from the detention and torture of an American citizen in Saudi Arabia was not "based upon a commercial activity carried on in the United States"); *Princz v. Fed. Republic of Germany*, 26 F.3d 1166 (D.C.Cir. 1994)(holding that the plaintiff could not recover for slave labor performed at Nazi concentration camps, because Germany's conduct was not commercial activity causing a "direct effect in the United States" and did not constitute an implied waiver of sovereign immunity); *Siderman de Blake v. Republic of Argentina*, 965 F.2d 699 (9th Cir. 1992)(holding that Argentina was immune from liability for acts of torture committed by the ruling junta); *Tel-Oren*, 726 F.2d at 775 n.1 (FSIA precludes jurisdiction over Libya for armed attack on civilian bus in Israel).

10. A parallel Scottish lawsuit had been filed in October of 1993, but was voluntarily dismissed so as not to interfere with the U.S. action. The defendants were The Socialist People's Libyan Arab Jamahiriya, the Libyan External Security Organization, Libyan Arab Airlines, Abdel Basset Ali Al-Megrahi, and Lamen Kalifa Fhimah.

11. The primary claims were for (1) an implied waiver under § 1605(a)(1) arising from Libya's alleged participation in actions that violated fundamental norms of international law; (2) an implied waiver under § 1605(a)(1) arising from Libya's alleged guaranty of any damage judgment against the individual defendants; (3) the occurrence of the alleged bombing on "territory" of the United States as falling within § 1605(a)(5); and (4) a conflict with the United Nations Charter under § 1604.

12. *In re Air Disaster at Lockerbie Scotland on December 21, 1988*, 37 F.3d 804 (2d Cir. 1994). Surprisingly, the transfer was caused by attorneys representing other Pan Am 103 families who chose not to initially pursue legal action against Libya. They believed that the existence of litigation against Libya would cause the appellate court considering their negligence claims against the airlines to lower the damage awards. Indeed, sadly, the biggest battles we fought in the years prior to the 1996 FSIA amendments were with other Pan Am 103 victims and their

attorneys, rather than Libya.

13. *Smith v. Socialist People's Libyan Arab Jamahiriya*, 886 F. Supp. 306 (E.D.N.Y. 1995), *aff'd Smith v. Socialist People's Libyan Arab Jamahiriya*, 101 F.3d 239 (2d Cir. 1996), *cert. denied*, 117 S. Ct. 1569 (1997).

14. For a more detailed account of the significant undertaking that was necessary to amend FSIA, s*ee* Allan Gerson & Jerry Adler, *The Price of Terror: Lessons of Lockerbie for a World on the Brink* (2001).

15. *See Foreign Terrorism and U.S. Courts: Hearing on the Foreign Sovereign Immunity Act*, 103d Cong. (1994).

16. However, there are those who believe that Timothy McVeigh received assistance from a terrorist state. Recently, several victims of the bombing filed suit against the Republic of Iraq. *Lawton et al. v. Republic of Iraq*, Case No. 02-____ (D.D.C. Mar. 14, 2002). A copy of the complaint is available online at *http://www.judicialwatch.org/cases/86/ complaint.html*.

17. Pub. L. No. 104-132, § 221(a), 110 Stat. 1214 (Apr. 24, 1996). *See* John F. Murphy, *Civil Liability for the Commission of International Crimes as an Alternative to Criminal Prosecution*, 12 HARV. HUM. RTS. J. 1, 34 (1999).

18. *See* Molora Vadnais, *The Terrorism Exception to the Foreign Sovereign Immunities Act*, 5 UCLA J. INT'L L. & FOREIGN AFF. 199, 216 (2000).

19. Thus, any cognizable claim that predated the 1996 amendment can be brought through 2006, while any claim that occurs subsequent to the amendment has ten years in which to be filed.

20. Of course, this was not our original objective. Almost until the very end of the legislative process, we were pursuing an amendment that would have applied to all foreign states. Indeed, the House bill offered such a broad amendment. However, the Senate version adopted the more restrictive limitation and that language ultimately prevailed. Thus, the 1996 FSIA amendment only applies, for now, to Libya, Iran, Iraq, Cuba, North Korea, Syria, and Sudan.

21. *See* 28 U.S.C. § 1605(a)(7)(B). This provision was included to ensure that Bruce Smith, who is an American, could bring a claim on behalf of his deceased wife, who was a British citizen. Additional amendments to FSIA continued to occur as additional obstacles arose. The 1997 "Flatow Amendment" to FSIA conferred a right of action for torture and hostage-taking against an "official, employee, or agent of a foreign state," Pub. L. No. 104-208, Div. A, Title I, § 101(c) (Sept. 30, 1996), *codified at* 28 U.S.C. § 1605 (note). This amendment provided for the availability of

punitive damages.

22. *Rein v. Socialist People's Libyan Arab Jamahiriya*, 995 F. Supp. 325, 327 (E.D.N.Y. 1998), *aff'd* 162 F.3d 748 (2d Cir. 1998), *cert. denied*, 525 U.S. 1003 (1999).

23. Libya has been the only foreign state to consistently defend itself. Occasionally, Iraq appears to defend itself, but usually abandons the effort following an unfavorable decision against it. *See, e.g., Hill v. Republic of Iraq*, 175 F.Supp.2d 36 (D.D.C. 2001); *Daliberti v. Republic of Iraq*, 97 F.Supp.2d 38 (D.D.C. 2000).

24. A foreign state may have a default judgment entered against it if the claimant "establishes his claim or right to relief by evidence satisfactory to the court." *See* 28 U.S.C. § 1608(e). For lawsuits against Cuba, s*ee e.g. Alejandre v. Republic of Cuba*, 996 F.Supp. 1239 (S.D.Fla. 1997). For lawsuits against Iran, *see, e.g.*, *Ungar et al. v. Islamic Republic of Iran et al.*, Civil Action No. 00-2606, slip op. (D.D.C. June 26, 2002); *Stethem v. Islamic Republic of Iran*, Civil Action No. 00-159, 2002 WL 745776 (D.D.C. April 19, 2002); *Weinstein v. Islamic Republic of Iran*, 184 F.Supp.2d 13 (D.D.C. 2002); *Mousa v. Islamic Republic of Iran*, Civil Action No. 00-2096, slip op. (D.D.C. Sept. 19, 2001); *Wagner v. Islamic Republic of Iran*, 172 F.Supp.2d 128 (D.D.C. 2001); *Eisenfeld v. Islamic Republic of Iran*, 172 F.Supp.2d 1 (D.D.C. 2001); *Jenco v. Islamic Republic of Iran*, 154 F.Supp.2d 27 (D.D.C. 2001); *Sutherland v. Islamic Republic of Iran*, 151 F.Supp.2d 27 (D.D.C. 2001); *Higgins v. Islamic Republic of Iran*, Civil Action No. 99-377, slip op. (D.D.C. Sept. 21, 2000); *Anderson v. Islamic Republic of Iran*, 90 F.Supp.2d 107 (D.D.C. 2000); *Cicippio v. Islamic Republic of Iran*, 18 F.Supp. 2d 62 (D.D.C. 1998); *Flatow v. Islamic Republic of Iran*, 999 F. Supp. 1, 12-13 (D.D.C. 1998). The claims against Iran are typically based on providing material resources or support for the terrorist organizations Hamas or Hizbollah. *See also, Roeder et al. v. Islamic Republic of Iran*, Civil Action No. 00-3110, slip op. (D.D.C. April 18, 2002)(suit arising from 1979 capture of U.S. Embassy personnel that resulted in default judgment against Iran dismissed due to U.S. government intervention).

25. *See, e.g., Alejandre v. Republic of Cuba*, 183 F.3d 1277 (11th Cir. 1999)(debts owed to Cuban telecommunications company could not be attached); *Flatow v. Islamic Republic of Iran*, 76 F.Supp.2d 28 (D.D.C. 1999)(Iranian arbitration award could not be used to satisfy judgment); *Flatow v. Islamic Republic of Iran*, 76 F.Supp.2d 16 (D.D.C. 1999)(Iranian bank accounts and real estate immune from attachment); *Flatow v. Islamic Republic of Iran*, 67 F.Supp.2d 535 (D.Md. 1999)(judgment could not be enforced against non-profit organization allegedly tied to Iran), *aff'd Flatow v. Alavi Foundation*, No. 99-2409, 2000 U.S. App. LEXIS 17753 (4th Cir. July 24, 2000). In each case, the failure of the victims to execute their

judgments occurred because of the intervention of the U.S. government, not the terrorist-defendant.

26. Pub.L.No. 106-386, § 2002, 114 Stat. 1464, 1542-43.

27. The legislation applied to those claimants who had obtained final judgments against Iran or Cuba as of July 20, 2000, or who had filed suit against Iran or Cuba on one of five specified dates and would receive a final judgment thereafter. Any other judgments—for example, one which the Pan Am 103 families might obtain—would require new legislation to take advantage of these payment options. *See* Sean Murphy, *Contemporary Practice of the United States*, 95 A.J.I.L. 134, 138 (2001).

28. The law also amended FSIA to ensure that it was clear that certain foreign-state property would be immune from attachment. Any payments satisfied from the U.S. Treasury gave the U.S. government subrogation rights to pursue reimbursement from the foreign state defendant.

29. *See, e.g., Compensate Out of Court*, WASHINGTON POST, July 22, 2002, at A14.

30. *See Jacobson et al. v. Oliver et al.*, Civil Action No. 01-1810, slip op. (D.D.C. Apr. 29, 2002)(victims of Iranian terrorism claim legal malpractice against attorneys). *See also, Lawyers' Okla. Compensation Bid Sinks*, WASHINGTON POST, Aug. 4, 2002 (detailing how efforts by two politically connected lawyers to help victims of the Oklahoma City bombing get money from a terrorism compensation fund have dissolved into lawsuits and acrimony); *Terrorism Lawyers See Motives Changing*, L.A. TIMES, July 7, 2002 (detailing concerns that some lawyers are pursuing terrorism cases solely for profit).