

LAW WEEK

COLORADO

Small Claims Court: Fate And Patience



Col. Andrew Efaw
LETTERS FROM AFGHANISTAN

I'M AT Kandahar Air Field in the backseat of some old, decrepit SUV. A military police personnel is driving. The car's suspension is shot, and the seatbelts don't work. Even the steering wheel is on the wrong side — the British side.

The air conditioning doesn't blow cold, so the windows are down, coating us and the car with the same dust that chokes all the roads on base. In places, the dust is inches deep. When you walk, it's like tramping across a beach of sifted flour, a small poof billows with each step.

Today, I am accompanying Lt. Col. Mike Diederich on a claims mission — where U.S. attorneys meet with local nationals who believe the U.S. owes them money for vehicle accidents, loss of life, seized land, etc.

Diederich is riding up front with the military police who helps gather evidence related to the claims. I'm in the back with

Karima, a translator. Another soldier, Staff Sgt. Fisher, will meet us at our destination, Entry Control Point 4. He, with his M-4 rifle and tactical combat casualty care bag, will be our personal security detail.

As we travel, I talk with Karima, who is a small Afghan woman in her late 50s. She speaks with a heavy accent, so I'm surprised when she tells me that she has spent the last 40 years in California as a hair salon owner.

Karima tells me that she is originally from Kandahar. She remembers when the dust-choked Kandahar International Airport — co-located here at the air field — was a lush green place with a swimming pool. Karima married an airline engineer when she was 13.

I raise my eyebrows at this, and she laughs and tells me her mother was married at age 11 to a man with two other wives. Karima left for the U.S. at age 17; she can scarcely believe the dust-choked landscape is the Kandahar of her childhood.

When we arrive at Entry Control Point 4, Bulgarian guards let us into a large gravel corral, which is surrounded by a 10-foot chain-link fence, topped with barbed wire. At the bottom of the fence around the perimeter is triple-strand concertina wire. At the center of the corral is what looks like some kind of modern picnic shelter made of I-beams with a curved aluminum roof. No tables. This is where we will meet the Afghan claimants.

The first claimants arrive at about the

same time that we do, but from the opposite direction — from outside the wire. As they approach, the Bulgarian soldiers yell at them to raise up their loose fitting shirts and pants and to turn around. This is one last check before they see us.

Prior to arriving at this point, the claimants have already navigated a complex labyrinth of T-walls, guard towers and armed checked points that make up an entry control point.

In most places I've been, to get to this point, local nationals will have already gone through multiple pat downs for weapons. They will have walked through a scanner like you would at an airport. Then, they will have walked unescorted down a T-wall corridor while being blasted with a full range of radio frequencies.

If all the checks have missed an electronic suicide bomb, this should set it off. Some soldiers call this "The Gray Mile" or "The Walk of Death," though I've never heard of any detonations happening on one of these walks.

As the Afghans enter the claims corral, they amble over to the shelter and sit in the shade. Several light Pine brand cigarettes. Our personal security detail, Fisher, is a short, slightly built man with the face of a boy. He has brought bottles of Quench₂O water and Yoohoo! chocolate milk boxes for the Afghans.

An old man pulls Fisher in for a hug with Fisher's M-4 pinned awkwardly

between them. Then, the man tries to kiss him. Fisher draws the line here, extracting himself and passing out more milk boxes. The men sit on the ground with their chocolate milk and wait for their turn like wizened kindergarteners.

The first claimant is an old man. He says he's here because a mine-resistant ambush-protected vehicle hit a tractor being driven by his nephew. He says his nephew is dead. He wants 500,000 Afغانis (about \$10,000) for the tractor.

The military police sergeant tells me that the man will likely want less than half that amount for the death. Life is cheap here. The evidence for the accident is thin. The man has a copy of a medical record signed by a Navy corpsman showing that someone was airlifted in September to the Kandahar Air Field hospital, but nothing else.

He has no verification of the accident. He has no pictures, no certificate of death, and nothing showing he is related to the person

named on the one record he has brought. If the death did occur, it's unclear whether he has the legal authority to act as the next of kin.

Karima does a good job translating back and forth, but even so, getting the man's story and getting him to understand the evidence required for a successful claim is tedious.

In the end, we photograph the man and photograph his documents to start a file. He is sent away with instructions to bring more documentation. Diederich will research the issue by checking with the hospital to see if he can find out more about the medical evacuation.

Several of the other men are here about land. As the U.S. established bases throughout Afghanistan, it did so by seizing land — eminent domain by military necessity.

These landowners — most of them farmers here in Kandahar — come to negotiate rental prices for the land. Civilian real-estate specialists from the Corps of Engineers

handle these claims, and they are coming later in the day. We can't help the farmers.

Other men come claiming they used to work on the base for a contractor and were fired. They want their jobs back. The most we can do is promise to discuss it with the contractor.

Another man is here about payment for a valid traffic accident claim, but the money hasn't been released yet. Diederich tells the man he'll get his money soon.

"Inshallah" — if Allah wills it. Every conversation ends this way. Fate and patience. Patience and fate. Inshallah satisfies them, and they shuffle back through a dusty Entry Control Point 4. •

— Col. Andrew Efav, an attorney with Wheeler Trigg O'Donnell, is on active deployment in the Middle East as a military judge. He is writing a periodic dispatch for *Law Week Colorado* about his experiences abroad.

Editor's note: To read this column with accompanying photography visit www.lawweekonline.com.