

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

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| DEBORAH D. PETERSON, et. al., |) | |
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| Plaintiffs, |) | Consolidated Civil Actions: |
| |) | 01-2094 (RCL) |
| v. |) | 01-2684 (RCL) |
| |) | |
| THE ISLAMIC REPUBLIC OF IRAN, et al., |) | |
| |) | |
| Defendants. |) | |
| |) | |

MEMORANDUM OPINION AND ORDER

Plaintiffs in these consolidated actions are family members of the 241 servicemen who died in the Marine barracks bombing in Beirut, Lebanon on October 23, 1983 and the injured survivors of the attack. *Peterson v. Islamic Republic of Iran*, 264 F. Supp.2d 46, 48 (D. D.C. 2003) In three separate motions filed between April and May 2008, plaintiffs move this Court for an order for payment of Special Masters Loraine Ray, John Swanson, and Karen Krueger [Dkt. Nos. 242, 243, and 253]. Each of the Special Masters assisted the Court in this case by making recommendations with respect to the amount of damages awarded the plaintiffs. In support of these motions for payment of the special masters, plaintiffs rely on 28 U.S.C. § 1605A(e).

On June 25, 2008, this Court directed the United States to file a file a memorandum in response to the Plaintiffs' motions. [Dkt. No.365]. The United States filed a response with the Court on July 25, 2008 [Dk. No. 389] and expresses the opinion that payment of the special

masters is not authorized in this instance [Dk. No. 389]. After considering the Plaintiffs' motions and the response filed by the United States, this Court holds that the three motions for payment of the special masters must be denied.

The Court agrees with the sound reasoning set forth in the response filed by the United States. As the United States correctly observes, these consolidated cases are maintained under 28 U.S.C. § 1605(a)(7), rather than the new terrorism exception, Section 1605A, which was enacted last year as part of the National Defense Authorization Act (NDAA). *See* NDAA, Pub. L. No. 110-181, 122 Stat 3 (Jan. 28, 2008). Accordingly, the new provisions in 28 U.S.C. § 1605A(e) are not applicable to these particular cases because § 1605A(e)(2) provides for the payment of special masters only in those cases brought or maintained pursuant to the new enactment, 1605A. This conclusion is also compelled by the case of *Simon v. Republic of Iraq*, 529 F.3d 1187 (D.C. 2008). As the D.C. Circuit observed: “[A] plaintiff in a case pending under § 1605(a)(7) may not maintain that action based upon the jurisdiction conferred by § 1605A; in order to claim the benefits of § 1605A, the plaintiff must file a new action under that new provision.” *Id* at 1192. The plaintiffs in these actions have not filed under that new enactment, and therefore they cannot avail themselves the special masters provisions.

For the foregoing reasons, the motions for payment of the special masters are hereby DENIED.

Dated: January 5, 2008

**Signed by Royce C. Lamberth
Chief Judge**