



915 15th St. NW, 2nd Floor
Washington, D.C. 20005
202-457-0800
acludc.org

Via email and certified mail
Col. Earl Matthews
Staff Judge Advocate
District of Columbia National Guard
2001 East Capitol Street SE
Washington, D.C. 20003
earl.g.matthews.mil@mail.mil

October 14, 2020

Lt. Col. Matthew Blue
Joint Force Headquarters (Air) JAG
District of Columbia National Guard
2001 East Capitol Street SE
Washington, D.C. 20003
matthew.blue.3@us.af.mil


Re: Complaint Concerning June 1 Rotor Wash

Col. Matthews and Lt. Col. Blue:

On behalf of my client, Dzhuliya Dashtamirova, I write to submit the enclosed complaint against the D.C. National Guard arising from its use of military helicopters to assault and injure Ms. Dashtamirova while she engaged in a protest on June 1, 2020.

Enclosed, please find a claim authorization form, a Standard Form 95 for Ms. Dashtamirova's claims, and attachments to the Standard Form 95. All information regarding Ms. Dashtamirova's insurance, medical care, and date of birth are confidential and we ask that this information be treated as such. Please do not hesitate to contact me if you have questions or need additional information or records.

Sincerely,


Michael Perloff (D.C. Bar No. 1601047)
Dunn Fellow & Attorney
American Civil Liberties Union Foundation
of the District of Columbia
915 15th Street NW, 2nd Floor
Washington, D.C. 20005
(202) 457-0800
mperloff@acludc.org

AUTHORIZATION TO FILE ADMINISTRATIVE TORT CLAIM

I, Dzhuliya Dashtamirova, authorize Michael Perloff of the American Civil Liberties Union Foundation of the District of Columbia to submit a claim under the Military Claims Act, the National Guard Claims Act, the Federal Torts Claim Act, and any other relevant statute to the District of Columbia National Guard and any other government agency for compensation for the unlawful actions that their employees or agents caused to occur on June 1, 2020 when a helicopter was deployed to disperse me and other protestors.

In accordance with 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Signature: Dzhtamirova

Printed name: Dzhuliya Dashtamirova

Date: 10/13/2020

**CLAIM FOR DAMAGE,
INJURY, OR DEATH**

INSTRUCTIONS: Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.

FORM APPROVED
OMB NO. 1105-0008

1. Submit to Appropriate Federal Agency:

Col. Earl Matthews and Lt. Col. Matthew Blue, D.C. National Guard, 2001 East Capitol Street SE, Washington, D.C. 20003

2. Name, address of claimant, and claimant's personal representative if any. (See instructions on reverse). Number, Street, City, State and Zip code.

Dzhuliya Dashtamirova, c/o Michael Perloff, American Civil Liberties Union Foundation of D.C., 915 15th Street NW, 2nd Floor, Washington, D.C. 20005

3. TYPE OF EMPLOYMENT

MILITARY CIVILIAN

4. DATE OF BIRTH

██████████

5. MARITAL STATUS

Single

6. DATE AND DAY OF ACCIDENT

June 1, 2020 Monday

7. TIME (A.M. OR P.M.)

9:50 p.m.

8. BASIS OF CLAIM (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages if necessary).

See attached document

9. **PROPERTY DAMAGE**

NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, Street, City, State, and Zip Code).

N/A

BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF THE DAMAGE AND THE LOCATION OF WHERE THE PROPERTY MAY BE INSPECTED. (See instructions on reverse side).

N/A

10. **PERSONAL INJURY/WRONGFUL DEATH**

STATE THE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE THE NAME OF THE INJURED PERSON OR DECEDENT.

See attached document

11. **WITNESSES**

NAME

ADDRESS (Number, Street, City, State, and Zip Code)

See attached document

See attached document

12. (See instructions on reverse). **AMOUNT OF CLAIM** (in dollars)

12a. PROPERTY DAMAGE

12b. PERSONAL INJURY

12c. WRONGFUL DEATH

12d. TOTAL (Failure to specify may cause forfeiture of your rights).

N/A

See attached document

N/A

See attached document

I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE INCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM.

13a. SIGNATURE OF CLAIMANT (See instructions on reverse side).

M. Perloff (attorney for claimant)

13b. PHONE NUMBER OF PERSON SIGNING FORM

(202) 457-0800

14. DATE OF SIGNATURE

Oct. 13, 2020

**CIVIL PENALTY FOR PRESENTING
FRAUDULENT CLAIM**

The claimant is liable to the United States Government for a civil penalty of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages sustained by the Government. (See 31 U.S.C. 3729).

**CRIMINAL PENALTY FOR PRESENTING FRAUDULENT
CLAIM OR MAKING FALSE STATEMENTS**

Fine, imprisonment, or both. (See 18 U.S.C. 287, 1001.)

INSURANCE COVERAGE

In order that subrogation claims may be adjudicated, it is essential that the claimant provide the following information regarding the insurance coverage of the vehicle or property.

15. Do you carry accident Insurance? [X] Yes If yes, give name and address of insurance company (Number, Street, City, State, and Zip Code) and policy number. [] No

[Ms. Dashtamirova's health insurance information has been redacted from the public version of this document.]

16. Have you filed a claim with your insurance carrier in this instance, and if so, is it full coverage or deductible? [X] Yes [] No 17. If deductible, state amount.

[Ms. Dashtamirova's health insurance information has been redacted from the public version of this document.]

[Information Redacted]

18. If a claim has been filed with your carrier, what action has your insurer taken or proposed to take with reference to your claim? (It is necessary that you ascertain these facts).

[Ms. Dashtamirova's health insurance information has been redacted.] from the public version of this document.]

19. Do you carry public liability and property damage insurance? [] Yes If yes, give name and address of insurance carrier (Number, Street, City, State, and Zip Code). [X] No

INSTRUCTIONS

Claims presented under the Federal Tort Claims Act should be submitted directly to the "appropriate Federal agency" whose employee(s) was involved in the incident. If the incident involves more than one claimant, each claimant should submit a separate claim form.

Complete all items - Insert the word NONE where applicable.

A CLAIM SHALL BE DEEMED TO HAVE BEEN PRESENTED WHEN A FEDERAL AGENCY RECEIVES FROM A CLAIMANT, HIS DULY AUTHORIZED AGENT, OR LEGAL REPRESENTATIVE, AN EXECUTED STANDARD FORM 95 OR OTHER WRITTEN NOTIFICATION OF AN INCIDENT, ACCOMPANIED BY A CLAIM FOR MONEY

Failure to completely execute this form or to supply the requested material within two years from the date the claim accrued may render your claim invalid. A claim is deemed presented when it is received by the appropriate agency, not when it is mailed.

If instruction is needed in completing this form, the agency listed in item #1 on the reverse side may be contacted. Complete regulations pertaining to claims asserted under the Federal Tort Claims Act can be found in Title 28, Code of Federal Regulations, Part 14. Many agencies have published supplementing regulations. If more than one agency is involved, please state each agency.

The claim may be filled by a duly authorized agent or other legal representative, provided evidence satisfactory to the Government is submitted with the claim establishing express authority to act for the claimant. A claim presented by an agent or legal representative must be presented in the name of the claimant. If the claim is signed by the agent or legal representative, it must show the title or legal capacity of the person signing and be accompanied by evidence of his/her authority to present a claim on behalf of the claimant as agent, executor, administrator, parent, guardian or other representative.

If claimant intends to file for both personal injury and property damage, the amount for each must be shown in item number 12 of this form.

DAMAGES IN A SUM CERTAIN FOR INJURY TO OR LOSS OF PROPERTY, PERSONAL INJURY, OR DEATH ALLEGED TO HAVE OCCURRED BY REASON OF THE INCIDENT. THE CLAIM MUST BE PRESENTED TO THE APPROPRIATE FEDERAL AGENCY WITHIN TWO YEARS AFTER THE CLAIM ACCRUES.

The amount claimed should be substantiated by competent evidence as follows:

(a) In support of the claim for personal injury or death, the claimant should submit a written report by the attending physician, showing the nature and extent of the injury, the nature and extent of treatment, the degree of permanent disability, if any, the prognosis, and the period of hospitalization, or incapacitation, attaching itemized bills for medical, hospital, or burial expenses actually incurred.

(b) In support of claims for damage to property, which has been or can be economically repaired, the claimant should submit at least two itemized signed statements or estimates by reliable, disinterested concerns, or, if payment has been made, the itemized signed receipts evidencing payment.

(c) In support of claims for damage to property which is not economically repairable, or if the property is lost or destroyed, the claimant should submit statements as to the original cost of the property, the date of purchase, and the value of the property, both before and after the accident. Such statements should be by disinterested competent persons, preferably reputable dealers or officials familiar with the type of property damaged, or by two or more competitive bidders, and should be certified as being just and correct.

(d) Failure to specify a sum certain will render your claim invalid and may result in forfeiture of your rights.

PRIVACY ACT NOTICE

This Notice is provided in accordance with the Privacy Act, 5 U.S.C. 552a(e)(3), and concerns the information requested in the letter to which this Notice is attached.

A. Authority: The requested information is solicited pursuant to one or more of the following: 5 U.S.C. 301, 28 U.S.C. 501 et seq., 28 U.S.C. 2671 et seq., 28 C.F.R. Part 14.

- B. Principal Purpose: The information requested is to be used in evaluating claims.
C. Routine Use: See the Notices of Systems of Records for the agency to whom you are submitting this form for this information.
D. Effect of Failure to Respond: Disclosure is voluntary. However, failure to supply the requested information or to execute the form may render your claim "invalid."

PAPERWORK REDUCTION ACT NOTICE

This notice is solely for the purpose of the Paperwork Reduction Act, 44 U.S.C. 3501. Public reporting burden for this collection of information is estimated to average 6 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Director, Torts Branch, Attention: Paperwork Reduction Staff, Civil Division, U.S. Department of Justice, Washington, DC 20530 or to the Office of Management and Budget. Do not mail completed form(s) to these addresses.

Attachment to SF-95 on behalf of Dzhuliya Dashtamirova

Question 8. BASIS OF CLAIM.

(State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages if necessary).

On June 1, 2020, a week after George Floyd's murder, Dzhuliya (alternatively Dahuliya) Dashtamirova and her roommate traveled to Washington, D.C. from their home in Baltimore to participate in a civil rights demonstration. Like countless other Americans, Ms. Dashtamirova and her roommate were outraged by the killing of Mr. Floyd and Breonna Taylor, and sought to engage in peaceful protest as a means of demanding racial justice and an end to police brutality.

Ms. Dashtamirova and her roommate took the Metro to Farragut North Station, where they learned that protestors had been tear gassed at Lafayette Square about a half hour earlier. Committed to voicing their opposition to racism, Ms. Dashtamirova and her roommate decided to march anyway. They headed one block south, where they found a group of protestors standing a couple of blocks from the White House, which was blocked by riot police. Ms. Dashtamirova and her roommate joined the demonstrators and marched with them for several hours, first heading south to the National Mall, then looping around it and heading to U Street, before turning south again and walking toward Chinatown.

Helicopters had hovered high above the crowd for the entire night. But starting at approximately 9:50 p.m., two military helicopters, a Lakota with a red cross medical evacuation insignia and a Blackhawk, flew low over dozens of protestors as they marched near Gallery Place. The helicopters were operated by National Guard pilots, who had received orders to use the vehicles to disperse the demonstrations.

One of the helicopters descended low above a group of protestors on 7th Street that included Ms. Dashtamirova and her roommate. Ms. Dashtamirova did not hear any warning or dispersal orders before the National Guard commenced this tactic. She feared that the helicopter was going to land on the street and that armed officers would jump out and physically harm her. As the helicopter hovered above the demonstrators, it generated powerful gusts of wind, creating a swirl of dirt and debris that got into Ms. Dashtamirova's eyes and mouth and stung her arms. She and her roommate ducked down and put their protest posters over their heads in an attempt to protect themselves from the wind, trash, and shards of glass that the helicopter stirred up.

After a few minutes, the Blackhawk increased its altitude. At that point, Ms. Dashtamirova and the other protestors fled to the intersection of 5th and E Streets NW, near the National Academy of Sciences, Engineering, and Medicine. There, shortly before 10 p.m., again without warning or a dispersal order, the Blackhawk descended low above the protestors and hovered there for approximately four minutes. When the Blackhawk flew away, the Lakota relieved it, flying as low as 45 feet above the ground. The gusts of wind from the helicopters swept up dust and debris, which once again got into Ms. Dashtamirova's mouth and stung her arms. After several minutes, the helicopter flew west down E Street, and Ms. Dashtamirova and her roommate escaped.

The tactic employed by the National Guard, known as a “rotor wash,” is one that the United States Armed Forces has used as an intimidation tactic in Afghanistan, Iraq, and in other conflict zones around the world. When the National Guard employed this tactic in the District, its helicopters generated winds that reached speeds equivalent to those that arise during a tropical storm, snapping a small tree, breaking at least one large branch from another tree, and ripping signs from buildings. Through its use of the rotor wash, the National Guard intentionally put Ms. Dashtamirova in fear of immediate bodily harm, in fact caused harmful or offensive bodily contact, and inflicted severe emotional distress through extreme and outrageous conduct. Her injuries are described in more detail in Question 10.

Question 9. PROPERTY DAMAGE.

N/A.

Question 10. PERSONAL INJURY.

The helicopter attack whipped debris into Ms. Dashtamirova’s body and face, stinging her arms and causing her to experience irritation in her eyes for several days following the incident. The attack also caused Ms. Dashtamirova severe emotional distress. During the weeks that followed, she lost sleep, struggled to concentrate at work, and spent hours trying to process the incident and grapple with her fears that it would occur again. For several weeks, she also almost exclusively protested during the day out of fear of experiencing attacks similar to the one she endured on the night of June 1.

The incident also intensified Ms. Dashtamirova’s migraines. Although she suffered from migraines before the incident, she had worked with her doctor to identify medication that alleviated her symptoms. Her headaches significantly worsened in the days following the attack, forcing her to obtain a new medication that, even now, four months later, still does not fully treat her pain. In addition to the headaches, Ms. Dashtamirova continues to feel anxiety when she sees police officers or helicopters and when she attends protests.

Question 11. WITNESSES

Many individuals observed this incident, including Ms. Dashtamirova’s roommate at the time, Camellia Magness. Ms. Magness now resides at [REDACTED]. Ms. Dashtamirova reserves the right to identify additional witnesses during any future stages of any settlement negotiations or administrative or judicial proceedings on her claims.

Question 12a. Property Damage

N/A

Question 12b. Personal Injury

\$200,000

Question 12c. Wrongful Death

N/A

Question 12d. TOTAL

\$200,000