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Families Sue Over Fallujah Ambush

The News and Observer

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Relatives of four men massacred last year in Fallujah in [Iraq](#) sued a North Carolina security company Wednesday, accusing it of denying the men machine guns and armored vehicles in an effort to boost profits.

Blackwater Security Consulting of Moyock sent the four contractors into Iraq's most dangerous region shorthanded and without even a map, according to the suit filed in Wake Superior Court.

Insurgents ambushed Jerry Zovko, Scott Helvenston, Michael Teague and Wesley Batalona on March 31 while they escorted a convoy for ESS, a European company that runs dining halls on U.S. military bases. A mob beat and burned them in front of television cameras, then lashed the scorched remains of two to a bridge.

The incident touched off what was then the bloodiest month for U.S. troops in Iraq.

"Last March, Blackwater was deeply saddened by the tragic loss of our four colleagues as a result of a terrorist act," spokesman Chris Bertelli said Wednesday in an e-mail statement. "Our thoughts and prayers were with them and their families then and are with them now. Blackwater hopes that the honor and dignity of our fallen comrades are not diminished by the use of the legal process."

He said in a telephone interview that the company hadn't been served with the lawsuit.

The suit also names two men who were Blackwater supervisors at the time of the ambush, Thomas Powell of Lynn Haven, Fla., and Justin McQuown of Virginia Beach, Va. Powell headed the Baghdad office of Blackwater's ESS project and was fired shortly after the killings, the suit says. McQuown was Blackwater's overseas manager for the ESS contract.

Efforts to reach them failed Wednesday.

The News & Observer reported in a series last year that Blackwater had violated the

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standards of the ESS contract when it dispatched the men without armored vehicles. In that contract, Blackwater said that because of the danger of cities such as Fallujah, it would need six security contractors for each mission.

The four dead men were being paid \$160,000 apiece a year for work once performed by soldiers, and they were at the bottom rung of a complex ladder of contracts and subcontracts. Four contracts above them -- and several layers of profit and overhead -- the Pentagon was paying Houston-based Halliburton to feed the troops.

The lawsuit claims that Blackwater violated its contracts with ESS, a Kuwaiti partner called Regency Hotels and the contractors themselves in these ways:

- * Blackwater did not conduct a required risk assessment before the mission and fabricated one after the ambush.
- * Blackwater intentionally sent four men on a mission requiring six. Two more men were available but were kept behind to do clerical work in the Baghdad office.
- * Blackwater and Regency signed a primary contract with ESS, and Blackwater then drew up a subcontract with Regency but kept it secret from ESS, and from the four men. This subcontract omitted the requirement for armored vehicles -- even though the primary contract required them. This omission saved Blackwater \$1.5 million.
- * Blackwater ran the mission days before the ESS contract began, in an attempt to impress ESS and win further security jobs on ESS construction. McQuown, the suit claims, wouldn't make time for the contractors to ride with the security company it was replacing to learn their routes.
- * Blackwater refused to buy machine guns that could fire 850 rounds per minute, as required by the contracts, and instead issued lighter, cheaper semiautomatic M-4 carbines. The company didn't allow the contractors time to test-fire the weapons or adjust their sights.

After the attack, the suit says, Powell boasted that he had saved two lives by not sending a full team of six men.

"Had they been provided with the protections, tools and information that they were promised when they signed up for their job at Blackwater, Helvenston, Teague, Zovko and Batalona would be alive today," the suit says.

Dan Callahan, a California lawyer representing the families, said the attackers walked up from behind and used only small arms. That meant that the missing third man in each of the two Blackwater vehicles -- a rear-facing guard -- would have seen them coming, he said. Had that man been equipped with one of the missing machine guns, he could have ended the attack, Callahan said.

An armored vehicle would have withstood the small-arms fire, allowing the men to escape, Callahan said; a proper map would have shown the normal route around Fallujah and kept the men from driving through the center of town.

The families have hired two high-profile law firms. Callahan in 2004 was named

California's litigation attorney of the year by one legal publication and among the nation's top 10 by another. In Raleigh, where state law allows the families to sue the North Carolina company, they're represented by Kirby & Holt. One of the lawyers on the case is David Kirby, the former law partner of John Edwards, the 2004 Democratic vice presidential nominee.

Blackwater's owner, former Navy SEAL Erik Prince, has deep pockets. In 1996, his family sold an automotive parts business for \$1.35 billion.

But several members of the dead men's families said the suit isn't about money.

Danica Zovko, Jerry Zovko's mother, said in a telephone interview from Cleveland that she wants the truth. The military doesn't investigate such incidents, and 10 months after the attack, the families say they haven't gotten basic information from Blackwater about what happened.

In the fall, the Zovko family traveled to the Blackwater compound in Moyock, in rural Currituck County in the state's northeastern corner, for a memorial service.

Danica Zovko said the company refused to answer questions about the ambush. "They said we would have to sue them for answers, because it was all classified," she said.

"I don't intend to receive a penny of that blood money," she said. "I am doing this so they do not mistreat others like they did my son and the other men."

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