



COURT RULES VICTIMS' SUIT AGAINST ISLAMIC TERROR GROUPS CAN PROCEED

For many years we have been urging the victims of terrorist attacks to bring lawsuits against those who devastated their lives and those of their families. Yet, how does an attorney actually go about serving court papers on a terrorist organization as the law requires to commence a civil action? You cannot very well travel into the Gaza Strip to hand Hamas the papers. Its far

affiliated with these underground terror groups. The opinion over turned the decision of a lower court, which had refused to allow the victims to serve process on Hamas and Islamic Jihad through well-known activists affiliated with the Islamic terror groups.

In reversing the lower court, the judge found that a terror organization is in many ways similar to a “corporation,” as defined by the Israeli law and as such it is similarly subject to legal process through its de facto “representatives.”

The ruling involved two lawsuits filed against Hamas and Islamic Jihad on behalf of victims of terror attacks and our efforts to serve the complaints on the Islamic terrorists by delivering them to the well-known activists of the groups. The first lawsuit was brought on behalf of the Weinstein family, who lost their son Adam, in a suicide bombing on Ben Yehuda Street in Jerusalem in December 2001. We filed against Hamas and delivered the papers to Khaled Abu Arfa, the so-called Minister for Jerusalem Affairs from the Hamas government in Gaza, who (rather insanely) lives in East Jerusalem.

The second lawsuit was brought by the families of seventeen terror victims, who were wounded in a suicide bombing at the Meggido Junction in June 2002. The civil action was filed against Islamic Jihad and was served on Bassem Sa’adi, a convicted terrorist who signed on behalf of the organization in the “Prisoner’s Treaty” (a conciliation agreement between rival Palestinian terror groups) and who is serving his sentence in an Israeli jail.

The plaintiffs in these suits argued that these activists were authorized to receive service-of-process on behalf of their terror groups. They claimed that, as they are in constant contact with Hamas and Islamic Jihad, it was certain that they would make them aware of the court papers. However, the lower court rejected this reasoning and found that process was not properly served, as the high-ranking activists were not “officially authorized to receive lawsuits on behalf of the organizations.” As if terror groups appointed agents for service like a reputable business might.

We appealed this decision, and the Israeli appeals court reversed. The appeals court’s ruling stated that, according to the expert opinions brought before it by the plaintiffs, both of these officials are currently in constant contact with their terrorist organizations, and so it was certain that the suits would be brought to their knowledge. The appeals court held that the law governing service-of-process to authorized representatives refers to a “business or place of work,” and although a terror organization is not considered a “business” as that term is commonly defined, the term can also include “businesses” of terrorism, and therefore lawsuits can be served upon them in a similar manner. The court stated, if it were impossible to serve terror organizations through their activists, and if there were no authorized address where they can be served, then they would be, for all practical purposes, immune from suit.

This legal precedent has opened the door to now serve other court complaints on the terror groups.