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U.S. Terror Victims Win Battle Over Syrian State Funds

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After eight years of litigation in Washington, D.C. and Chicago, families of two Americans who were beheaded in 2004 by members of an al-Qaida splinter group are finally on the verge of receiving about \$82 million in frozen Syrian bank funds.

The payment would mark the first major U.S. recovery for terror victims involving assets once controlled by Syria's government. But it could still be derailed by rival victims of Syrian-sponsored terror, who insist that the frozen funds should be given to them instead.

The underlying lawsuit was filed in Washington, D.C., in 2006 by John Salter of Marietta, Ga.-based Barnes Law Group and Steven Perles of Washington, D.C.'s Perles Law Firm. It sought to hold Syria liable for the deaths of Olin "Jack" Armstrong and Jack Hensley, two U.S. contractors assassinated in Iraq in videotaped beheadings by an al-Qaida spinoff led by Abu Musab al-Zarqawi.

In 2008 a judge concluded that Syria's government had indeed provided the group with financial and logistical support, ruling that Syria was liable for compensatory and punitive damages totaling \$413 million. The decision was upheld on appeal in 2011. (Syria tapped former Attorney General Ramsey Clark, a human rights lawyer, for the appeal; last year, Clark famously [met with Syrian President Bashar al-Assad](#) during the crisis over that government's possible use of chemical weapons against civilians.)

The group responsible for Armstrong's and Hensley's murders, al-Qaida in Iraq, recently morphed into the radical militant movement known as the Islamic State in Iraq and Syria. Because ISIS is now fighting the Syrian government and because Syria isn't linked to the more recent [torture and murder](#) of James Foley and Steven Sotloff, those victims' families won't be able to go after Syria under federal terror sanctions laws.

In 2011, Perles and Salter learned from the U.S. Treasury that JPMorgan Chase Bank N.A. and AT&T Corporation were sitting on \$82 million in Syrian assets. The funds previously belonged to Syria's national bank but had been frozen in compliance with U.S. sanctions laws. Ever since then, the lawyers have been fighting to enforce their 2008 judgment in Chicago federal district court. Under long-established creditor law, the first judgment creditors to file a lien have priority over later filers under a "winner takes all" system.

Perles and Salter weren't the only ones who took notice of the Syrian funds, however. As their clients, known as the Gates plaintiffs, have come within a hair's breadth of turnover, they've had to fend off competing claims by other victims of terror holding similarly large judgments against Syria.

The first rival group, known as the Baker plaintiffs, include families of three Americans executed during the brutal 1985 hijacking of an EgyptAir flight by Libyan agents. The Baker group, represented by Michael Dockterman of Edwards Wildman, [won a \\$602 million judgment](#), and has collected \$20 million as part of a lawsuit against Libya.

In August, the U.S. Court of Appeals for the Seventh Circuit [rejected](#) Dockterman's effort to tap the Syrian funds. "We are mindful of the fact that the Baker plaintiffs, like the Gates plaintiffs, are the victims of horrific terrorist acts for which Syria is responsible," the panel wrote. "We also understand that the current statutory scheme pushes the holders of judgments based on state-sponsored terrorism to pursue all possible avenues to secure even partial justice."

After the Seventh Circuit decision, a second claimant group, including families of two Americans kidnapped in 1991 in Turkey by the formerly Syrian-sponsored Kurdistan Workers Party, tried to stop the release of the Syrian funds. Lawyers for the group, known as the Wyatt plaintiffs, argued that the Gates plaintiffs didn't provide sufficient notice of default judgments to sovereign nations, and so forfeited their priority on the lien. The rival group holds [a \\$338 million judgment against Syria](#) from December 2012.

The Wyatt plaintiffs hit a dead end before U.S. District Judge Virginia Kendall in Chicago, who [dismissed](#) their claim to the Syrian funds on Oct. 22. She noted that the Seventh Circuit had already found the original judgment in compliance with notice provisions, and once again granted the original claimants group a release of the funds. The Wyatt plaintiffs asked the judge to stay her release order until they can appeal.

If Kendall refuses to grant the stay, just one step—a judicial order signing over the money—stands between the original group of claimants and the \$82 million.

"While no amount of money will bring either man back, our clients feel vindicated that, after 10 years, they can seize significant sums from this brutal state sponsor of terrorism," said Salter.

The Syrian terror judgment enforcement cases, with each side trying to undercut the other, contrasts sharply with similar litigation involving Iran. Recently, for instance, in cases related to [\\$2 billion in frozen Iranian bank assets](#) in New York and a commercial office tower [seized by federal authorities](#) in Manhattan, victims' lawyers have set aside their differences and presented judges with negotiated "sharing agreements."

In those agreements, terror victim claimants will be eligible to receive a share of turnover proceeds based on their compensatory damage awards against Iran. (The \$2 billion in frozen Citigroup assets is now held in trust, and lawyers expect it to be turned over early next year pending a last-ditch appeal by Iran's government.)

For the Syria claimants, meanwhile, there are far fewer easily identifiable assets to go after in the United States. According to the U.S. Department of the Treasury's Office of Foreign Assets Control, [some \\$77.6 million](#) in Syrian funds were blocked in 2013 under regulations that require banks to freeze assets they have reason to believe are held on behalf of state sponsors of terror.

There may be other Syrian assets in other countries, said Perles. But it will take some digging, and a lot of lawyer investment, to enforce the judgments abroad. Perles said he's hoping that competing groups of terror victims and their counsel will find a way to work together to hold Syria accountable.

"There are \$10 billion to \$15 billion in Assad assets that have been hidden," he said. "Instead of fighting, we should be out looking in Monaco, in China, in Moscow to enforce our judgments."