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In the aftermath of the attack, the crowd began a chant: "We sacrifice our blood and souls for Islam," they sang.

The Day the War Turned

On **March 31, 2004,** four private contractors working for Blackwater Security drove straight into the Sunni hotbed of Fallujah. Minutes later, all four were dead and two were strung up from a bridge, surrounded by a furious mob. Now the families of those Americans have filed a suit that could hold Blackwater responsible for their deaths—and have a powerful effect on our government's dependence on private companies that go to war like rogue states, with no laws, no oversight, and no accountability

By Sean Flynn

EARLY MORNING on Highway 10, and Wes Batalona is steering a Mitsubishi Pajero west across the desert, the rising sun and Baghdad at his back, empty desert and the city of Fallujah ahead. He's an old soldier, twenty years in the Army Rangers. Took an airfield in Panama in '89, fought the first gulf war, did time in Somalia. Then he faded away. This time last year, he was pulling night security at the Hilton Waikoloa, chasing local kids out of the pool and smiling at drunk tourists. Almost lost his mind with boredom.

He's got armor plates under his shirt and the strap of an automatic weapon around his neck. On his right, in the passenger seat, is Jerry Zovko, built like a sequoia and squeezed into a blue vest that's supposed to be able to stop a rifle shot. Jerry's another Ranger vet, seven years in uniform, and a friend, even though Wes, at 48, has fifteen years on him. This is their second tour in Iraq together. Jerry's one of the reasons Wes came back after their first job in-country, training Iraqi soldiers, collapsed under its own futility. Jerry's got his eyes on the road ahead and the flat, packed dust on both sides of the highway. He's got a carbine looped around his neck, too, but loose so he can get the muzzle up in a reflex.

Behind the Pajero are three flatbed trucks with Mercedes cabs, operated by a catering company called ESS Support Services Worldwide. The beds are empty, and the drivers are Iraqis. Jerry's the guy giving them instructions—*follow close, stay in line*—because he's in charge of the mission and because he speaks Arabic.

Scott Helvenston is driving the red Pajero behind the flatbeds. He doesn't know the men up front, Wes and Jerry, only met them two days before. Hell, he barely knows the guy riding shotgun, Mike Teague, a big bald Tennessean out of the Army Special Forces. Scott's never worked with any of these guys, never practiced with them, never bonded with them the way men should before they wander into a war zone.

Scott can handle himself. He was a Navy SEAL for eleven years, and he's still in SEAL shape ten years later. But this mission's been a pooch-screw from the beginning. Not the way he likes to work. Four nights ago, he was in a Kuwaiti hookah bar, dizzy from apple tobacco, when the boss pulled him off his assigned team, told him he was shipping out for Baghdad at 0500. Scott said he was sick, said he wasn't ready, couldn't be ready by dawn. The boss called him a coward, took his gun away, told him he was fired. It got ugly, but it didn't matter: He's here, isn't he?

There are supposed to be three men in each Pajero: one driving, one riding shotgun, one in the back with a heavy machine gun to grease anyone attacking from the rear. But then two guys got pulled off the team at the last minute. Something about clerical work in Baghdad.

There's a lot of things that are *supposed* to be if you really want to be a stickler for things like contracts. Like those Pajeros: They're supposed to be fully armored, not jerry-rigged with scrap metal. The operatives—Wes, Jerry, Scott, and Mike—were supposed to have at least a day to plan, to plot their route and do a risk assessment. Scott got only hours. What's he going to do, complain? Blackwater can fire him at any time for any reason, including for being a pussy. Scott's not a complainer, anyway. "That all you *got,* Bubba?" he would've said.

Two of the four Americans were dragged through town and hung, like trophies, from this trestle bridge.

They're under heavy fire now, from behind and at close range. Two rounds rip through the driver's seat, catching Wes in the small of his back.

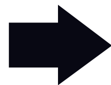
"I'm just damned glad to be here." Truth is, there's worse things an ex-SEAL could be doing than following empty trucks through the desert for $600 a day.

There's a cloverleaf ahead, an asphalt bow that ties Highway 10 into what the Marines call Route Mobile, a road that runs along the edge of Fallujah like a four-lane fence to keep the city from seeping eastward. Fallujah needs to be penned in. The 82nd Airborne had spent seven months trying to pacify the Saddamists and jihadists and suicidal wack jobs running their insurgency from the cover of a quarter million poor Sunnis, and they suffered almost one hundred casualties for their trouble. The Marines took over last week, and they've already had two killed. No one throws flowers or chocolates in Fallujah.

Jerry's convoy is headed for an old airfield on the far side of the city that the Marines call Camp Taqaddum—or TQ, for short—where the flatbeds will pick up some kitchen equipment. There are two ways to get there. One is to take the exit for Route Mobile, follow it north and west through the desert, cross the Euphrates, then cut south to TQ. It's relatively safe in the daylight, but long, almost an extra three hours. Plus, it would likely require a map. Yeah, a map would've been nice. They got sent out without one of those, too.

The other way is to stay on Highway 10 straight through the middle of Fallujah and over the main bridge, then pick up Route Boston and follow it to Camp TQ. It's much quicker, even in the sludge of morning traffic. But the odds of getting ambushed, of getting shot or rocketed—of getting fucking *dead*—increase exponentially. Slow targets are easy targets.

A shadow passes over Scott's Pajero. They're going under the cloverleaf, skipping Route Mobile. Looks like Jerry's taking the shortcut through Fallujah. Four civilians in SUVs are driving into an insurgency.



THE BUILDINGS IN FALLUJAH begin to close in around Highway 10 just past the cloverleaf. They are low and flat and the color of dried mud, and they press tighter on the north side of the road, Jerry's right, than on the south, where there are intermittent patches of open dirt. Jerry scans the buildings on both sides of the road, the rooftops and the windows and doorways. He eyes the men on the street in their dishdashas, watches their hands, looks for AKs and RPGs and small gadgets that could be remote triggers for roadside bombs. That's his job, riding shotgun.

In the rear Pajero, Scott is scanning the Fallujah streets, too. On most missions, the rear driver focuses his field of vision perhaps ninety degrees to each side—"9 to 3," they call it—but with only two of them riding, Scott has to concentrate on an even wider area. *The bad guys seem to be getting a bit more organized,* he e-mailed some friends in the States a few days earlier. *So needless to say, my head will be on a swivel.*

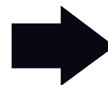
Scott believed in the war, believed Saddam Hussein had stocks of poison gas and biological weapons and that he wanted nukes if he didn't have them already. But that's not why he's here. Scott's not a warrior, not anymore. He doesn't pretend to be some international humanitarian, either. *As for what I think of the people in this region of the world,* he wrote in that same e-mail, *I have never seen so much hypocrisy in my life. This chump Muhammad must of been a smooth talker to get people to think and behave the way they do.*

No, Scott was there for the cash. That does not, however, make him any more of a mercenary than the guy assembling Humvees on a factory line. It's a matter of simple economics: If someone were offering plumbers six bills a day in Baghdad, every guy with a pipe wrench would overrun the place. Scott just happens to have skills that are more valuable in a war zone than in the States. And that's the way modern war is waged. In the first gulf war, there was one private contractor for every hundred soldiers; in this gulf war, it's more like one to four. Civilians swab latrines and serve lunch and protect everything the military can't or won't. Without those private contractors—without an extra division of de facto soldiers at the Pentagon's disposal, a group that amounts to the second-largest contingent in the Coalition of the Willing—the war in Iraq could not have been fought.

This is Scott's first mission in Iraq; if he counts back to when he landed in Kuwait, he has only forty-six more days in-country. That's one of the reasons he signed with Blackwater—the short tours, sixty days and out. Even that's an awful long time to be away from his kids. *I should be back first of the summer...ALIVE,* he wrote in that e-mail. *I want to spend this money on a fat, fat parteee.* Then maybe he'll take the rest of it and open a rock-climbing gym.

The flatbeds in front of Scott's Pajero are crawling through Fallujah. The Marines have roads choked off all through the city, gumming up traffic, but Scott doesn't know that. Contractors don't have formal access to military intelligence, and the military doesn't keep track of contractors, either. In fact, the Marines trying to pacify the Anbar province have no idea that four American civilians are moving through the middle of Fallujah. No one does, except for the Iraqis watching from the sidewalks and the shopfronts.

That's when the shooting starts.



THE FIRST ROUNDS come from the rear. Scott stomps on the gas pedal, jerks the wheel to the right, accelerates alongside the flatbeds for cover.

More shots. From behind, from the sides, maybe from the front. Bullets spiral through the doors, shatter the windows. Scott and Mike are shot dead. The Pajero stalls, stops.

PREVIOUS PAGE: KARIM SAHIB/GETTY IMAGES.
THIS PAGE: PATRICK BAZ/GETTY IMAGES.

Before...

***Clockwise from top left,* Mike Teague, 38, a former member of the Night Stalkers, a division of the Army Special Forces; Scott Helvenston, a onetime Navy SEAL instructor who signed on with Blackwater because he had the skills and the money was good; Wes Batalona—a former Ranger, who was 48 when he went to Iraq—at home with his nephew; Jerry Zovko, 32, with his mother, Donna. Jerry, too, was a former Ranger, six feet three, multilingual, with arms like dock posts.**

Jerry and Wes, three truck lengths ahead, hear the gunfire. Wes hits the accelerator. He wants to drive straight, escape the kill zone—standard procedure in an ambush—but the highway's blocked up ahead. He turns hard to the left, bumps over the median, bangs a U-turn into the eastbound lanes. They're under heavy fire now, from behind and at close range. Two rounds rip through the driver's seat, catching Wes in the small of his back. He slumps over onto Jerry, whose head is already tipped back and leaking blood. Jerry's mouth and eyes are open. He's dead. Seconds after the shooting started, they're all dead.

Then the looters swarm, pouring out of alleys and shops and apartments. Wes's carbine is yanked off his neck. A teenager in white trousers vaults the hood of the lead Pajero, reaches through the passenger window, grabs Jerry's gun, jerks the strap over his lolling head. More hands reach in, taking bullets and radios and a sheet of Blackwater stationery with a list of the bosses' e-mail addresses. Kids bring cans of gasoline, soak the Pajeros, light them on fire. A body burns on the pavement, right arm up and bent as if reaching for an assassin to throttle.

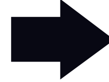
There's a mob on the highway now, people streaming toward the oily smoke. No Iraqi police stop them. No Iraqi firefighters come with hoses and water.

The flames die down, and the crowd pulls the other three bodies into the street. A young man in a green shirt swings a pole into one of the blackened bodies, beating it to pieces. Someone grabs a severed leg, ties it to a cinder block, and loops it over a power line. A man in a plaid shirt stands under it, his arm raised in triumph.

When the Pajeros cool, Fallujahns dance on them. "We sacrifice our blood and souls for Islam," they chant.

A yellow rope is knotted around the neck of a body that's still in one piece. The other end of the rope is lashed to the bumper of a maroon sedan that begins moving north into the souk. A crowd follows, jubilant, giddy, shouting about Allah's benevolence and his vengeance. A boy smacks the corpse with his shoe, the gravest of insults: *You are lower than the scum on my sandal.* The parade ends at the trestle bridge, the one the Marines call Brooklyn. The bodies of Mike and Scott are strung up at the near end, one on each side. They will stay up there for almost ten hours before Iraqi police cut them down.

All of this is captured on film and video. The whole world watches. And now the war in Iraq looks nothing at all like a liberation. It looks like Mogadishu all over again.



EXCEPT IT WAS fundamentally different from Mogadishu. When two Black Hawk helicopters were shot down in the Somalian capital in 1993, the men who were killed and whose bodies were desecrated were American *soldiers*. They were employed by the United States government and were operating under a military chain of command; as such, they were ostensibly acting in the collective national interest.

The four men murdered in Fallujah, on the other hand, were civilians working for a private company based in Moyock, North Carolina, that has reaped millions from the war in Iraq. Blackwater USA and its subsidiary, Blackwater Security Consulting, does not exist to defend America. Its motive in Iraq, or anywhere else for that matter, is to make a profit. When the company dovetails its purposes with public policy, that is because it has been paid to do so. And when it does things that complicate American interests—like, say, sending a bunch of private contractors into an insurgent stronghold that the U.S. Marine Corps would prefer not be provoked into a barbarous frenzy—that is also because it has been paid to do so.

Blackwater is hardly alone in this. Last summer the Department of Defense estimated that up to 25,000 men and women were employed by at least sixty private security companies in Iraq, which is only a guess because there is no way to count them. Men such as Wes and Jerry and Scott and Mike were part of a business—an industry, really, considering the hundreds of millions of dollars changing hands in Iraq, to say nothing of the billions globally—that is effectively unregulated. Foreign security contractors are not required to be licensed or to register with either the American military or the Iraqi government. They may be required to carry a weapons permit, but those are dispensed with the rigor of take-a-number tickets at the Safeway deli counter.[1] They are explicitly exempt from the Iraqi criminal-justice system. The U.S. Code of Military Justice has no authority over them, nor do the soldiers and Marines have any responsibility toward them. As a practical matter, there are no extraterritorial laws that apply to them, which means prosecutors in the United States (or South Africa or Chile or Nepal) do not monitor them,

All of it is captured on film and video. The whole world watches. And suddenly the war in Iraq looks nothing at all like a liberation. It looks like Mogadishu all over again.

either. Indeed, in the nearly three years since George W. Bush announced that major combat had ended and private contractors began pouring into Iraq, not one has been charged with any crime whatsoever, a statistic that defies the laws of common sense and probability. "We either have to conclude that we've found the Stepford Village of Iraq," says P. W. Singer, a Brookings Institution senior fellow who has studied private military companies since 1996, "or we've clearly got a problem when it comes to political will and jurisdictional questions."

Among those 25,000 or so private security operatives are a legion of Iraqis, hired cheap and posted on defensive perimeters like so many pylons with guns. Subtract the locals, says Doug Brooks, the president of the International Peace Operations Association (IPOA), and there are probably between 5,000 and 8,000 foreigners. Most of those are competent professionals. Certain companies, Blackwater among them, boast of hiring the best freelancers on the market, men retired from the Special Forces and Army Rangers and the like. Still, there are only so many former elite warriors to go around. So standards vary.[2]

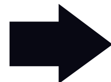
Given the nature of the trade, there is also a smattering of lunatics, bullies, and *Soldier of Fortune* fantasists who are both a moral scandal and a strategic disaster. In November 2005, to cite just one example, a Web site frequented by contractors employed by the British firm Aegis briefly hosted a video, shot from the rear of an SUV, of five Iraqi motorists being machine-gunned off the road. Perhaps one or more of those was a necessary tactical maneuver, but when they're spliced together, overdubbed with Elvis's "Mystery Train," and displayed as entertainment, the burden of proof shifts to the shooter. The strategic disaster is that the Iraqi who's had his Opel shot to pieces and his wife's skull splattered across the backseat doesn't particularly care whether a sociopathic misfit pulled the trigger. All that matters to him is that a foreigner in an SUV just rained misery and grief upon him. The moral scandal is that such things occur with absolute impunity in Iraq, and often with anonymity, too.

Just as individual contractors in Iraq face no real accountability, neither do the companies that pay them. The ones that work directly for the departments of Defense or State typically enjoy oversight so lax as to be virtually nonexistent, and the rest are working under so many convoluted subcontracts that they're impossible to scrutinize. Moreover, many if not most of the civilian operatives in Iraq are independent contractors, as opposed to *employees,* which, in theory, protects a company from the bad acts of the people working for it. In other words, if Joe Smith massacres an innocent family in Erbil, he's on his own.

But what about a *company's* bad acts? What if, allegedly, a company broke its own contract by shorting a security detail two men? What if, allegedly, it didn't supply the promised equipment? What if, allegedly, it rushed four men into the desert without enough time to prepare? And what if, allegedly, those four were ambushed, murdered, burned, mutilated, dragged through the streets, and strung up from an old bridge over the Euphrates River? Is there any corporate liability? Any accountability?

Such a company would argue no, there is not. Men who sign on with Blackwater and Triple Canopy and DynCorp are fully aware that they will be working in an extremely dangerous environment. In signing their contracts with Blackwater, for instance, Jerry and the rest were "voluntarily, expressly and irrevocably assuming any and all known and unknown, anticipated and unanticipated risks," which include "being shot, permanently maimed and/or killed by a firearm or munitions, falling aircraft and helicopters, sniper fire, landmine, artillery fire, rocket propelled grenade, truck or car bomb, earthquake or natural disaster, poisoning..." and on and drearily on.[3]

Yet soldiers and Marines also voluntarily and expressly accept the risks of war. And if a lieutenant colonel had authorized a half-assed expedition that ended with four of his men dismembered on global television, he'd be court-martialed. His career would be ruined, and he might even end up in the brig. That officer, in other words, would be held accountable. But because Wes and Jerry and Scott and Mike were civilians working for a profit-making company unfettered by any legal system or military command structure, the only recompense is a regular check to their survivors from either the Department of Labor or an insurance company.



LATER THAT NIGHT, 8 P.M. in Fallujah, noon in Ohio. Donna Zovko is behind a big desk in the small office of Domestic & Foreign Auto Body Inc., the shop she and her husband, Jozo, own on St. Clair Avenue in the East 170s of Cleveland. "Go to college," Donna always told her boys. "Let someone else work on your cars."

The radio is on. Charred bodies on the news, something about Western contractors. She mumbles a small prayer for another mother's son, then sends Jerry an e-mail. *They're killing people in Iraq just like in Somalia,* she writes. *Remember, tomorrow is April Fool's Day. Please be careful.*

Her oldest boy has been in Iraq for six months now. He first went over with a company called MPRI to help train Iraqi soldiers, a job Jerry wanted because it wouldn't involve shooting anyone. "You can't make friends with a gun," he'd told his mother. "Jerry," she'd said, "why would you want to go make a friend where they don't want to be your friend?"

At the MPRI facility in Kirkush, a former Green Beret named Dave Scholl, from the Fifth Special Forces, had dug through a pile of résumés, searching for guys to work with the future Iraqi NCOs. Jerry looked good on paper: seven years military and an MP, which should mean he'd have the skills without the attitude. A team player.

"That is not what I got," Scholl says. "Jerry didn't act like he knew everything; he *did* know everything." He was a physical monster—six three with arms like dock posts—and a maddening underling. He'd bust into the mess hall in tiny shorts and a tank top, that mop of dark red hair he refused to get cut flopping off his head, and belt out, "How the hell you all *livin'?*" Used to piss off the bosses, which is exactly why Jerry did it. He thought it was funny.

He got away with it because he was good. "Jerry had *skills,*" Scholl says. He could handle almost any kind of weapon, and extremely well. He knew trauma response and hand-to-hand combat. He spoke Croatian, Russian, Spanish, Japanese, Thai, a bit of Vietnamese, and most usefully, Arabic. He'd never say where he learned any of it, though; if Scholl pressed,

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1. I hold permit number 3229, issued in February 2004 "under the authority of the Coalition Provisional Authority, Ministry of Interior and/or Ministry of Justice, Baghdad, Iraq," and I'm not qualified to shoot skeet, let alone fedayeen.

2. My father, for instance, was a cop in suburban Cleveland seventeen years ago and a radioman on the USS *Kitty Hawk* in the '60s, which was enough of a résumé for him to be recruited by security behemoth DynCorp. He declined, but there is no shortage of retired cops in Baghdad.

3. More than 400 civilian contractors had been killed in Iraq by December 2005, roughly a third of them Americans. None of those deaths, by the way, are included in the official toll of nearly 2,200 servicemen and women who have died since the war began.

Jerry'd dodge the question. "If you want an honest guess," Scholl says, "I'd say Jerry received some very intense, long-term training from an alphabet agency and then got cut loose. Someone created an oversized and overskilled freak of nature and then cut him adrift."

That training mission fell apart after a few months. (The reasons are multiple and complicated; suffice it to say that raising an army from scratch isn't easy.) But as much as Scholl liked Jerry personally, he was too much of a pain in the ass to recommend to another security company. "*I* didn't mind the grief too much," he says. "But I didn't want my name on the grief he gave others."

Last Scholl heard, Jerry was with a company called Control Risk Group. It's unclear why he left—CRG won't comment—but on February 1, 2004, Jerry signed a contract with Blackwater: $600 a day for missions, $150 for standby days.

Donna doesn't know that whole backstory, though. Jerry hadn't shared many details with her, or even his brother, since he'd gone to Ranger school in the early '90s. And the past seven years were a mystery: Donna knew her boy had traveled extensively, especially in the Middle East, but she had no idea what he did there. And how much did she need to know? Her Jerry was a big boy. He had *skills*.

Donna finishes typing her e-mails, then drives to Discount DrugMart in the plaza on East 200th and buys a *Brother Bear* DVD for her youngest son's kids. She stops at the counter near the door for a carton of Capri cigarettes. Her cell phone rings. Jozo. They get disconnected. It rings again. She answers, listens, collapses on the floor.

Three hours later, in Leesburg, Florida, Katy Helvenston-Wettengel is in her office at home. She works in real estate, and she's preparing for a four o'clock appointment. Her television is on. The reporters have new information about the dead men in Fallujah: They worked for a private security company named Blackwater.

Her stomach clenches. No, it couldn't be Scott. He'd told her he was going to be protecting Paul Bremer, and the news hasn't said anything about Bremer being in Fallujah today. She calls her other son, Jason. "Scott can take care of himself," Jason tells her. "Go to your meeting."

She knows Jason's right. The navy had taught Scott well. Like that old army commercial, "Be all that you can be." Scott could be a recruiting campaign by himself. His father killed himself when Scott was 8, he went through drug rehab in eighth grade, and he dropped out of high school after his junior year because his closest friends were graduating seniors. He got his GED, joined the navy, and went directly to SEAL school, arguably the toughest military regimen on the planet, training so physically and mentally demanding that three out of every four quit before they finish. Scott was 17 years old when he graduated, and became the youngest SEAL in naval history.

Katy suspects her son saw some combat in Central America in the '80s, but it wasn't something he talked about. Mostly, he taught other SEALs, men who deployed to Panama and the Persian Gulf and Somalia, and he competed in military pentathlons. In 1994 he retired from the navy. What's he supposed to do then? There aren't many civilian jobs that require SEAL training.

So Scott went to Hollywood. He had the looks, sandy hair and gleaming teeth and those creases that make a man look seasoned instead of old. Stripped to his shorts, he was a life-size G.I. Joe, every muscle sculpted and cut. He landed a couple of stunt parts—that's him water-skiing in wingtips in *Face/Off;* there he is on the beach with Demi Moore in *G.I. Jane*—but nothing major. In 2002 he was on a reality show called *Combat Missions,* and the year after that he raced an aged chimpanzee on a ludicrous program called *Man vs. Beast*. Beat the chimp like an old rug, too. ("Look," he told the producer after the fifth take, "if you want me to let him win, just say so.") He put out a series of workout videos and competed in endurance races. For ten years, Scott did what he was good at, and he was broke. Then the war in Iraq happened.

Katy goes to her appointment, tries not to worry. She fails. What mother doesn't worry? She comes home, calls Blackwater headquarters in North Carolina to check in. The people she speaks with are polite. Later they are sympathetic: At three o'clock in the morning, the voice on the other end of the phone tells her Scott is dead.

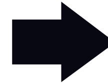
She spends the next few nights alone in her bedroom, away from the friends and relatives who've come to comfort her. On her answering machine, she finds a message from Scott. She'd had the ringer off when he'd called the night before he died. "Mom," he says, "things have been really stressful the last few days, but I'm okay. Quit worrying about me." She plays a song on the stereo. *Let there be peace on earth, and let it begin with me.* She plays it again and again and again, night after night.

A man from Blackwater knocks on Rhonda Teague's door in Tennessee at one o'clock the next morning, April 1. The reporters come at daylight. Rhonda issues a short statement through a friend—"We will miss him beyond measure. Mike was a proud father, soldier, and friend"—and that is all she will ever say. What more should she say? Do you want to know how she feels? Do you even need to ask? No, Rhonda Teague will grieve in private.

On the Big Island of Hawaii, June Batalona is in the Hapuna Prince Hotel, turning down beds. She finishes her rounds, then sees the manager walking toward her. So is her pastor and another man she doesn't recognize. His name is Mike Rush, and he's a Blackwater vice president. They don't have to say anything. She knows.

June goes home, dials a number in Georgia, where Wes had been stationed as a Ranger sergeant and where their daughter, Kristal, is a student at Georgia Southern. She calls Kristal's boyfriend, Lance. It's five o'clock in the morning, East Coast time. "Mr. Wes has passed away," June tells Lance. "I want you to be there with Kristal before she sees it on the news."

Lance falls to the floor. Then he goes to tell Kristal. It's her twenty-second birthday.



THE PEOPLE FROM BLACKWATER say all the right things, assuming there is a right thing. *Your son was a patriot. Your husband was brave. They all died as heroes.* The founder of Blackwater, a billionaire ex-SEAL named Erik Prince, tells Donna Zovko, "If I thought anyone could survive this war, I thought it would be Jerry."

Still, the families have questions. Did they suffer? No, not physically. They all died quickly. More questions. Were they lost? Why were there only four of them? Why weren't their vehicles armored?

They get no answers. A vice president from Blackwater asks Tom Zovko, Jerry's brother, if he's ever been in the military.

No, Tom says. He never enlisted.

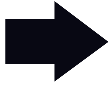
"Then you wouldn't understand," the Blackwater guy says. "Your brother *trusted* us."

In October, six months after her boy was killed, Donna asks a woman from Blackwater for a copy of the after-action report, the company's official investigation into her son's murder.

The woman tells her she can't have it. It's a private document, produced by a private company, not some inquest open

The families have questions. Did they suffer? No, they all died quickly. Why were there only four of them? Why weren't their vehicles armored? They get no answers.

for public inspection. "If you want it," she tells Donna in the autumn of 2004, "you'll have to sue us."



ON JANUARY 5, 2005, the estates of Wes Batalona, Jerry Zovko, Scott Helvenston, and Mike Teague sued Blackwater Security Consulting in Wake County, North Carolina, for wrongful death and fraud.

On the face of it, the complaint against Blackwater is a fairly routine contract dispute: The defendants allegedly promised certain things that they did not deliver (fraud), and as a result four men were killed (wrongful death). Such cases are handled by judges and juries and negotiating lawyers with numbing regularity in American courts.

But this particular lawsuit is not solely, or even mainly, about four dead civilians. It is about rewriting the rules—no, *writing* the rules, because there are essentially none—of how private companies operate in a war zone. And that, in effect, makes this case at least partly about the way the United States currently wages war.

"You've heard references to Iraq being the Wild Wild West, right?" says Daniel J. Callahan, the lead attorney for the families. "Well, at least in the Wild West, they had a sheriff. They had laws."

Callahan, whose office is in Santa Ana, California, ended up with the case because he knew someone who knew the families; that person, meanwhile, also knew that Callahan has a gift for extracting from juries astonishing sums of money for aggrieved plaintiffs. Callahan remembered the Fallujah killings, of course—"etched on my brain, a horrific event"—and a little sniffing around was enough to pique his interest. "Then we looked deeper, looked at what the laws were," he says. "And there weren't any." No criminal laws that applied to a private company working in a hostile foreign country, no civil precedents establishing its responsibilities. It wasn't even clear *where* such a company should be sued (other than not Iraq). "Every time we got in one layer deeper," Callahan says, "I found it more and more appalling."

It's not only the facts of the case that disturbed him, though. Just as troubling—just as *appalling*, to use his word—is the backstory, the framework on which those specific facts were allowed to be built. "What's astonishing," he says, "is the outsourcing of war to private companies concerned with profit. At least when the government does it, it's motivated to win and to protect the troops. With these guys, they're motivated by the bottom line."

The narrative of the complaint starts in Kuwait nearly a month before Wes, Jerry, Scott, and Mike followed Highway 10 into Fallujah: On March 8, 2004, Cyprus-based ESS Support Services Worldwide signed a contract for security services with Regency Hotel & Hospitality Company "in association with Blackwater Security Consulting." (Kuwait, a safe staging ground for Iraqi operations, doesn't encourage foreign companies to operate inside its borders; thus, Kuwaiti companies such as Regency step in as paid middlemen.) According to that contract, Regency—via Blackwater, of course—was to supply an initial squad of thirty-four security operatives to protect ESS's staff in Iraq. Much of the contract was boilerplate stuff, but there was a key paragraph in Appendix A, Provision of Security Services, that explained just how dangerous Iraq was and would likely remain. "The current and foreseeable future threat will remain consistent and dangerous," it says. "Therefore, to provide tactically sound and fully mission capable Protective Security Details, the minimum team size is six operators with a minimum of two armored vehicles to support ESS movements."

Four days later, on March 12, Blackwater signed a nearly identical contract with Regency, mainly to clarify that Blackwater, as opposed to the Regency hoteliers, would be in charge of actual security decisions. It also laid out the expected bill, $896,860 per month, to be paid by Regency. (A copy of the contract between Regency and ESS obtained by *GQ* does not say how much Regency was charging; the spaces where the dollar amounts should be appear to have been whited out.)

There was one small change in Appendix A, though. In the paragraph that explicitly describes the terrible dangers of Iraq, the adjective *armored* was deleted.

In its deal with both ESS and Blackwater, Regency was to supply the vehicles. In the contract with ESS, which wants to be protected, those vehicles are to be armored. In the contract with Blackwater, whose men were going to be driving the damned things, the vehicles had to be no better than what anyone could buy off a Kuwaiti car lot.

Callahan claims that the men working for Blackwater were told they'd be riding in armored cars. And Blackwater officials allegedly knew their contract with Regency promised no more than generic vehicles: John Potter, who managed the ESS project for Blackwater in Kuwait, spotted the deletion and reported it to Mike Rush. The contract was not rewritten. And that, arguably, turns a possible typo into fraud. "The intentional aspect *(continued on page 160)*

...and After

Clockwise from top, **June Batalona (far right) at the funeral of her husband, Wes, who was driving the lead car that day in Fallujah; Donna Zovko (far right), her husband, Jozo, and their son Tom at Jerry's burial near Cleveland; an honor guard performs a flag ceremony over the casket of Mike Teague, who'd earned a Bronze Star in Afghanistan; and in Leesburg, Florida, a photo of Scott Helvenston, who was driving the rear car in the convoy, is draped with flowers.**

AP IMAGES (4)

is fairly clean," Callahan says. "'I promise you will have armored vehicles when I know—*while I'm making that promise*—that you won't."

On March 24, John Potter was fired.

A week later, Mike Rush was in Hawaii telling June Batalona that her husband was dead.

There are more allegations, pages and pages of them, some of which are indisputably true. Wes, Jerry, Scott, and Mike were short two men. It also seems clear that they did not complete a pre-trip risk assessment as stipulated in the contract with ESS; anyone who had would not have driven into the middle of Fallujah. There are claims, too, about their weapons (not big enough) and the amount of time they had to get acclimated to the Middle East (not long enough), all matters that will need to be sorted out by a judge or jury.

There is also an allegation that a Blackwater team should not have been protecting ESS at all on March 31. The contract between Blackwater and Regency, signed on March 12, was to take effect exactly twenty-one days after an up-front payment of $320,000, which was due within ten days. By that calendar, the earliest Blackwater should have been protecting ESS was April 2—and that's assuming the $320,000 check was cut and cleared immediately.

Even if the clock began running when the initial contract was signed on March 8, ESS would have had to pay its up-front money to Regency—$1,150,000, some of which presumably was to be used to buy equipment such as armored vehicles and heavy machine guns—within forty-eight hours for Wes, Jerry, Scott, and Mike to be in Fallujah on March 31.

If Blackwater indeed hustled a team into the field ahead of schedule, the obvious question is: why? The lawsuit suggests the most primitive of motives: greed. In the contract between ESS and Regency—signed "in association with Blackwater Security Consulting, Inc."—section 1.1.1.7 specifically says that Regency would very much like a lot more of ESS's business.

> 1.1.1.7 Develop a Long Term mutually supporting Business Relationship
>
> With the upcoming reconstruction of Iraq, REGENCY believes we are positioned to form a mutually supporting business relationship in order to maximize capturing business during this upcoming reconstruction period. Many US and European companies bidding on reconstruction projects are including security costs in their bids and proposals.

It's an ugly theory. And entirely plausible.

BLACKWATER'S RESPONSE to all of this has been...well, nothing. Through a spokesperson, the company declined to comment on the lawsuit or its activities in Iraq, nearly all of which are paid for either directly or indirectly by the American government. How much has been doled out? There is simply no way to know. The $21.3 million Blackwater was paid to protect Paul Bremer, for instance, is a matter of public record. Yet most security contracts are actually *sub*contracts—the Department of Defense hires Acme, Inc., which hires a company such as Blackwater—and these documents, in the case of private companies, are not public. Unless Acme itemizes its security expenditures, they can't be traced. Layer in several more companies and subcontracts, and the money trail—*public* money—vanishes in the mist.

There are a couple of clues, though. In October 2004, Blackwater reported that profits were up 600 percent over the previous eighteen months. And in the November 8 edition of the company's electronic newsletter, president Gary Jackson led off with a short, celebratory note:

> Bush Wins
> Four More Years!! Hooyah!!

Meanwhile, Blackwater has yet to file even a pro forma denial of the allegations against it in court. Rather, the company's lawyers are arguing that Blackwater can't be sued at all.

Blackwater maintains instead that the Defense Base Act, a kind of workers' comp for people laboring in support of the military, is the only recourse available to the dead men's families. In fact, Blackwater was required to pay $407,751 in DBA premiums to a private insurer at the start of the ESS contract. Callahan counters, however, that the DBA applies only to employees, not to freelance contractors, which Wes, Jerry, Scott, and Mike plainly were; indeed, Blackwater expended an enormous amount of ink in the agreements making that clear. ("Nothing contained in this Agreement shall be deemed to constitute either BSC, the Contractor or Customer as an agent, representative, partner, or joint venture or employee of the other party for any purpose.") Moreover, Callahan is not arguing a glorified slip-and-fall case: He's claiming that *intentional fraud,* not an accident of combat, led to four men's deaths. "If you can lie to your contractors and they get killed and the DBA will come in to pay for it," he says, "they have no incentive to change."

LAST JANUARY, after the suit was filed in North Carolina, Blackwater had it removed to a federal court—a routine maneuver when a defendant thinks it will get a friendlier hearing in federal jurisdiction—where it asked a judge to dismiss the case, based on the DBA argument. (At about the same time, and not so routinely, the company also rehired the long-fired John Potter and sent him back to Baghdad, three days before Callahan says he was scheduled to depose him.) On August 11, 2005, U.S. District Court judge Louise W. Flanagan rejected the DBA motion and ordered the case back to North Carolina. Blackwater appealed to the federal Fourth Circuit, which in November agreed to hear the same argument all over again. A decision isn't expected until spring at the earliest.

"It's been nearly a year, and Blackwater hasn't answered a single question about how these guys died," says Marc P. Miles, another attorney for the families. "That's Blackwater's m.o., so to speak. Blackwater can accomplish nothing by this case moving forward and the answers coming out, so it's done everything possible to drag it out for as long as possible."

If the appeals court also dismisses the DBA reasoning and sends the case to trial, a finding of liability would be a catastrophe for the private-security industry. The insurance premiums alone would threaten all but the largest companies, and the potential of enormous judgments, rendered in courtrooms half a world away from the chaos of battle, would badly spook the rest. A full division of private warriors could be quickly depleted. It is not surprising, then, that both the Professional Services Council, a trade group for all manner of companies that contract with the government, and the IPOA, the chairman of which is a Blackwater vice president, jointly filed an amici curiae brief on Blackwater's behalf.

That is a somewhat curious position, demanding the protection of a federal insurance program, because the private-security industry generally justifies itself by an almost fetishistic embrace of the free market: Does it make economic sense to divert trained Marines to, say, kitchen duty when Halliburton subsidiary KBR can set up enormous—and as any grunt will attest, damned fine—mess halls? Is it financially wise to keep an extra 20,000 soldiers standing by for years, collecting peacetime paychecks and needing to be housed and fed, waiting for a nation to be overthrown and descend into lawless chaos? Private companies, the IPOA's Brooks argues, provide "surge capacity" for just such scenarios. "All of a sudden, you need a whole lot of something," he says. "And the U.S. military is big, but it's not that big. It needs to go somewhere else for those services, and that includes security." What's more, he says, the private sector can provide such things "faster, cheaper, and better."

Faster? Usually. The U.S. government is not known for being nimble. Better? That is tragically debatable: Of the thirty-four men initially assigned to Blackwater's ESS project, nine were dead by June. Cheaper? Perhaps in a theoretical world of unadul-

terated capitalism, where the most efficient companies crowd out the less capable. But Iraq is not a theory. Off the battlefield, it is a tangle of contracts and subcontracts, with costs and expenses buried in private deals and passed through layers of corporations all taking a cut. And it is far from cheap.

Take Blackwater and ESS. The men on the ground—Wes, Jerry, Scott, and Mike—were each paid about $600 a day by Blackwater. Regency, in turn, paid Blackwater at least $815 a day for each of those men. Regency then passed those costs to ESS, presumably with a profit, since Regency was acting as a middleman. ESS would have then moved its costs up the line to KBR. And KBR, finally, gave its bill to the United States government, which pays KBR under cost-plus contract—expenses, including what it has already paid to ESS, Regency, and Blackwater, as well as a guaranteed profit. It is unclear where the incentive to save money comes in.[4]

Even the DBA insurance Blackwater was required to pay for its contractors is a publicly funded racket. The $407,751 it paid in premiums was reimbursed by Regency, which was reimbursed by ESS, and on down the line until, presumably, it was picked up by the government in KBR's contract. Yet because Wes, Jerry, Scott, and Mike were murdered by insurgents, the government, under the War Hazards Risks Act, might also end up paying the benefits to their survivors. Cut through the layers of paperwork and it's not complicated: The public paid the premiums *and* could get stuck with paying the benefits for four men killed while working for a private company.

But the problem with privatizing so much of the battlefield goes well beyond dubious economics. Companies in Iraq are not operating in a free-market utopia. They are in the middle of a war, and their private actions can have a direct effect on public policy. When those bodies were strung up over the Euphrates, it changed the war in Iraq, both in the way it was perceived—*these are the savages we've come to liberate?*—and more important, in the way it was executed. "The word *Somalia* was being used by everybody," says Bing West, author of *No True Glory: A Frontline Account of the Battle for Fallujah*. "I was told the president was highly upset and emotional, saying, 'They just can't do that to Americans.' " In the fortified Green Zone, Paul Bremer was vowing retribution. At a press briefing the next day, April 1, Brigadier General Mark Kimmitt was more measured, but not much. "Quite simply, we will respond," he said. "It's going to be deliberate, it will be precise, and it will be overwhelming."

The Marines deployed outside Fallujah, on the other hand, thought that was a terrible idea. Fallujah, in addition to being astonishingly hostile, is a dense city of concrete buildings packed along narrow streets; to invade would mean fighting the kind of bloody urban battle unseen since Hue in Vietnam. And for what? To avenge four dead civilians? That's an emotional response, not a military tactic. "The Marines consistently said, 'We do *not* want to attack that city,' " West says. "And they were overruled."

Five days after the killings, the Marines began Operation Vigilant Resolve. Five days after that, they were ordered to stop advancing. Seven Marines died, and more than a hundred were wounded. Then, in November, came another, much more massive, invasion, Operation Phantom Fury. That battle raged for nine days, as bloody and vicious as any fighting in Iraq. After Brooklyn Bridge had been secured, a Marine managed to graffiti it with a black marker: THIS IS FOR THE AMERICANS OF BLACKWATER THAT WERE MURDERED HERE IN 2004. SEMPER FIDELIS P.S. FUCK YOU. At least thirty-five Marines died in Phantom Fury, and 275 more were wounded. A year later, Fallujah was bombed into rubble and only marginally more secure.

Semper fi, indeed.

EARLY ON A SUNDAY morning at the end of May 2004, some of Scott's friends and family meet down on the beach at Torrey Pines. There are SEALs and some of the cast from *Combat Missions* and a running buddy named Dana—thirty people, if anyone is counting. Scott's brother, Jason, is there, too, carrying a dry bag, the kind boaters and divers use. Scott's ashes are inside.

They drag kayaks and surfboards down to the waterline, then start paddling, keep going until they're almost a mile off the beach. Scott loved the beach. Coronado, La Jolla, Oceanside, but mostly Torrey Pines. He spent hundreds of hours there, maybe thousands.

The kayaks and the surfboards gather in a loose circle. May 30 is a gorgeous California day, but the Pacific is rolling in great blue swells. Scott's friends steady one another as best they can while Jason reads Scott's favorite poem over the wind and the slap of the waves:

> There is a pleasure in the pathless woods,
> There is a rapture on the lonely shore,
> There is society, where none intrudes,
> By the deep sea, and music in its roar:
> I love not man the less, but Nature more,
> From these our interviews, in which I steal
> From all I may be, or have been before,
> To mingle with the Universe, and feel
> What I can ne'er express, yet cannot all
> conceal.

Lord Byron. Something maybe you don't expect from a SEAL.

Then Jason unzips the dry bag and sprinkles his brother into the ocean.

FATHER'S DAY is three weeks later, on Sunday, June 20. Kristal Batalona goes to church in Georgia. On her shirt, she wears her father's picture on a round pin that had been made for the mourners at his funeral.

Wes Batalona was buried on the Big Island on a Saturday in April with full military honors. Kristal never knew that side of her father, the military man. When Wes went to fight in Panama, she was only 7. When he went to the Gulf, she was 9. How does a man describe combat to his little girl? And why would he? He kept his campaign ribbons and medals in the garage. "It was like he was two different people," Kristal says. "The military man and my daddy. And I really don't think he wanted me to know that other person."

Kristal's boyfriend, Lance, got only a glimpse of that other person. They were wandering the grounds of the Hilton Waikoloa, Lance and Wes, in August 2002. He forgets how it came up, because they'd been out drinking, but Wes asked if Lance thought he could kill a man.

Lance, who likely will never face that possibility, started to mutter a string of *if*s—if his family was threatened, if he had no choice…

Wes cut him off. "No. Could you kill somebody?"

Lance did not answer, and Wes kept walking.

"I think his point was that he wasn't killing for any one particular reason in combat," Lance says. "You're killing because it's your job." He doesn't think Wes liked that part of the job. Most soldiers don't.

Neither Lance nor Kristal knows why Wes went to Iraq. They know he was bored at the Hilton. They know Blackwater paid well. They also know Wes was trying to get a big box of Hawaiian sandals, flip-flops, shipped to Iraq. A lot of kids don't have shoes in Iraq. They knew that side of him.

After he died, Kristal did not ask for details. She did not watch the video on the news. She did not talk to the reporters. Where do they all come from, anyway? What can she tell them?

And what can anyone say to her? *I'm sorry?* Is that enough?

Yes, it is. And on Father's Day, when Kristal is sitting in church with a picture of her dead daddy pinned to her blouse, all she wants is a hug. From anyone.

But people are awkward. People forget.

So no one hugs her. No one even says how sorry it all is.

4. KBR has denied that ESS was working for it when the four men were killed in Fallujah, but the contract between Regency and ESS is specifically tied to ESS's work for Kellogg Brown & Root, KBR's former moniker. Also, there may have been one or more levels between ESS and KBR, but ESS did not answer—in fact,

RUNOVER

DONNA ZOVKO HAS a snapshot of Jerry, a little four-by-six with a date, *3.9.04,* in the bottom corner. He is standing in a green field with two Iraqi shepherds, cradling a black lamb and holding his left hand out with his first two fingers spread into a peace sign. All three men are smiling.

"I hope," she says, "that those people will remember my Jerry."

Donna has built one memorial to her Jerry already: a schoolhouse in Brocanac, the village in Croatia where her husband was raised. It is square and pale pink, and there is a stone slab above the door into which is carved Jerry's real name, Jerko Zovko. She would like to build another memorial, too, a smaller one alongside Highway 10, in downtown Fallujah. "It will say, 'Here were killed four men by enemies of the Iraqi people,' or whatever the right word is," she says. "But 'enemies of the Iraqi people.' Not Iraqis. Until that happens, I don't want God to take me."

She explains all this on a day so bright and warm the top is peeled back on her convertible. It's Wednesday, so she's driving an hour south on Interstate 71 from the east side of Cleveland to the Ohio Western Reserve National Cemetery. The cemetery cleans the wilted flowers off the graves every Tuesday; that's why Donna goes on Wednesday, to leave her Jerry a week's worth of flowers.

The cemetery is in a little town called Rittman, in a part of the state covered with wide-open fields of shimmering green, and the road to the burial ground splits them with two narrow black lanes.

Donna interrupts her own story. "If you could say it's beautiful here..." Then she pauses and watches the last field slip past before the gate to the cemetery. "It's really beautiful," she says, and her voice is barely a whisper.

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