

Lawyers for Beirut Bombing Victims Finally Close In on Recovery

By Julie Triedman

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Back in 2013, The American Lawyer marked the 30th anniversary of the 1983 Beirut barracks attack by pointing out that the victims' families were still waiting for justice. In 2001, some 812 family members sued the government of Iran for directing the powerful car bombing by Hezbollah extremists that killed 241 U.S. Marines.

The families are still waiting. But after 33 years, they are now closing in on an unprecedented multibillion-dollar recovery in the case, *Peterson v. Islamic Republic of Iran*.

On April 20, nearly three years after a federal judge in Manhattan ordered Citibank N.A. to turn over \$1.9 billion in frozen Iranian central bank assets, the U.S. Supreme Court finally cleared the way for the assets to be distributed to the plaintiffs, as well as hundred of additional terror victims and their families who hold default judgments against Iran in other suits.

The decision is especially sweet for the handful of lawyers who have handled the case, some since its incep-



Liviu Vogel of Salon Marrow, NY Counsel to Beirut Marines

tion. "You won't find a happier group of lawyers than the Peterson lawyers," said Stone Bonner & Rocco's James Bonner, co-counsel since 2011 in the effort to enforce the families' judgments against Iran. "It feels pretty good," echoed Bonner's co-counsel, Liviu Vogel of New York's Salon Marrow Dyckman Newman &



Jim Bourdier/AP Photo

In this Sunday, Oct. 23, 1983, file photo, service members search through rubble after a suicide truck bomb attack on the U.S. Marine barracks in Beirut, Lebanon.

Broudy, who was tapped to lead the enforcement action in Manhattan federal district court after the Iranian bank assets first surfaced in 2008.

In January 2014, after lawyers at Chaffetz Lindsey told him that their client, the Iranian Central Bank, would take its appeal all the way to the U.S. Supreme Court, Vogel paid a \$200 fee and flew down to Washington, D.C., to apply for admittance to the court. Vogel got his membership to the Supreme Court bar—a framed certificate now hangs in his Madison Avenue office—but in the end, it was Gibson, Dunn & Crutcher appellate guru Theodore Olson, a former solicitor general under President George W. Bush whose wife died in the 9/11 hijacking, who was brought in for oral arguments.

“I felt very, very strongly that if I could help these people, I wanted to do that,” said Olson, who was a White House counsel in the Reagan Administration at the time of the Beirut bombing.

And so at 5:45 a.m. on Jan. 13, in the 21-degree chill, Vogel waited outside with other lawyers, filing in to the Supreme Court at 8:30 a.m. to take a seat up front near a handful of the families of the deceased Marines. Also nearby were international reparations expert Steven Perles of The Perles Law Firm and personal injury lawyer Thomas Fortune Fay of Fay Kaplan Law, who together won the original \$2.65 billion default judgment in 2007. Back then, a recovery of any size seemed farfetched. “Nobody could have foreseen that they would ultimately win a recovery,” said Bonner. “They took on an extraordinary amount of risk.”

At issue before the court was whether Congress had violated the separation of powers doctrine when it passed a 2012 law granting the plaintiffs access to the Iranian bank’s frozen funds to satisfy their judgments. Vogel, who listened carefully to the justices’ questions, guessed that the vote might split 6-3 in his clients’ favor. But the death on Feb. 13 of Justice Antonin Scalia, who had written a prior opinion strongly supporting Congress’ right to enact laws impacting ongoing litigation, had imperiled the victims’ position.

If the court came down evenly split, justices could send the case back down for reargument. Though shaken by Scalia’s death, “we still felt there was a pretty good chance we were going to prevail anyway,” said Olson.

In the end, the decision wasn’t even close: The justices ruled 6-2 to affirm the lower court. Vogel was at the gym on the morning of April 20 when he learned of the win. “I went crazy,” he said. Calling into the office, he quickly showered and dressed, finding time to order champagne and to pick up his college-age son and daughter for an office celebration.

Bonner was driving to his office when his cellphone began to buzz around 9:45 a.m. “I figured it was not good news,” he said, only to find out at work that the plaintiffs had won.

Iran, which tapped Jeffrey Lamken of MoloLamken for its appeal and oral arguments, has now finally exhausted U.S. court appeals of the district court’s order. On Monday, it threatened to take the fight to the International Court of Justice in The Hague. But Vogel and Bonner said that it was unlikely that the U.S. would accept jurisdiction. Even if it did, the Peterson claimants, who now number more than 1,400, wouldn’t be a party to that dispute, they said.

Over the next several days, the Supreme Court is expected to send the case back down to the U.S. Court of Appeals for the Second Circuit, which will then send the decision to U.S. District Judge Katherine Forrest. Distributions could begin in the next two or three months, Bonner said. The exact timing will depend on retired U.S. District Judge Stanley Sporkin, the court-appointed trustee, who is in charge of distributing the funds. Each of the plaintiffs will collect between \$500,000 million and \$12 million, depending on their original awards.

Last week’s ruling comes too late for about 380 plaintiffs who have died since the litigation began, though their heirs stand to collect in their place.

“As lawyers, we’re accustomed to the twists and turns of a lengthy litigation,” said Bonner, who also represents victims of Hamas attacks in two ongoing terror finance cases against National Westminster Bank and Credit Lyonnais in the Eastern District of New York. “But it’s been very difficult for our clients to understand why it’s taken so long to get to the finish line. And thank God, we’re almost there.”



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