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1 - Mr. [redacted]

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Assistant Attorney General
Civil Division - Torts Branch

March 3, 1981

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DATE 4/27/93 BY 9103/201

Assistant Director - Legal Counsel
Federal Bureau of Investigation

FEDERAL GOVERNMENT

ADMINISTRATIVE CLAIM OF AUTUMN RYAN ARISING OUT
OF ALLEGED NEGLIGENCE OF THE FEDERAL BUREAU OF
INVESTIGATION RESULTING IN DEATH OF CONGRESSMAN
LEO RYAN IN JONESTOWN, GUYANA, NOVEMBER 18, 1978

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Enclosed is a copy of an administrative claim filed by the mother of former Congressman Leo Ryan, who was murdered during a visit to the Peoples Temple Colony at Jonestown, Guyana on November 18, 1978. Claimant alleges that Agents or employees of the Federal Bureau of Investigation (FBI) "had knowledge that Representative Ryan was likely to be the target of violence instigated by Jim Jones or other members of Peoples Temple, and such Agents or employees failed to warn Representative Ryan of the danger and failed to adequately insure his safety." Mrs. Ryan's administrative claim was filed on November 17, 1980, one day prior to the expiration of the two-year statute of limitations. (u)

It is the recommendation of this office that Autumn Ryan's claim be denied for the following reasons: (u)

1. The claim does not satisfy the requirements of 28 CFR Section 14.3(c), which requires that: (u)

"A claim presented by an agent or legal representative shall be presented in the name of the claimant, be signed by the agent or legal representative, show the title or legal capacity of the person signing, and be accompanied by evidence of his authority to present a claim on behalf of the claimant as agent, executor, administrator, parent, guardian, or other representative." (u)

The instant claim provides no evidence of any authority on the part of David H. Schwartz to act as an agent or representative of Mrs. Autumn Ryan and therefore, is defective. There is substantial Ninth Circuit authority upholding the requirement of evidence of authority to make a claim under the Federal

Tort Claims Act. Cf., House v. Mine Safety Appliances Co., 573 F.2d 609 (1978), Caiden v. United States, 564 F.2d 284 (1977). In Caiden, the court stated at page 286: "Since the major reason for

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- Exec AD Inv. _____
- Exec AD Adm. _____
- Exec AD LES _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. / DH. _____
- Telephone Rm. _____
- Director's Sec'y _____

SAC, San Francisco
(Attn: Principal Legal Advisor)

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the administrative claim requirement is to facilitate settlement of cases, we feel it necessary to require that the existence of such authority be asserted contemporaneously with the filing of the claim by one who files on behalf of the claimant. In the absence of an assertion of such authority the ability of the United States to negotiate a settlement is impeded." (u)

2. Assuming, arguendo, that Agents or employees of the FBI did have knowledge that Congressman Ryan was likely to be the target of violence, (u)

(a) the administrative claim fails to show any duty owed by the Federal Bureau of Investigation to Congressman Ryan. The Courts have long held that in the absence of statute no substantive right exists to recover damages from the Government as a result of its failure to keep the peace, Turner v. United States, 248 U.S. 354, 358 (1919). Courts have also held that there is no actionable duty to warn victims of criminal activity. Redmond v. United States, 518 F.2d 811, 816 (7th Cir. 1975). (u)

(b) this claim falls within at least two of the exceptions codified in Title 28, U.S. Code, Section 2860, which preclude suit under the Federal Tort Claims Act: (u)

- (1) Subsection (a) of Section 2860 precludes:
"Any claim based upon an act or omission of an employee of the Government, exercising due care, in the execution of a statute or regulation, whether or not such statute or regulation be valid, or based upon the exercise or performance or the failure to exercise or perform a discretionary function or duty on the part of a federal agency or an employee of the Government, whether or not the discretion involved be abused." (u)

Any acts or omissions on the part of Agents or employees of the FBI in this matter clearly fall within this "discretionary function" exception and no claim may be made based upon such act or omission. (u)

- (2) Subsection (k) precludes claims arising in a foreign country. Clearly, any acts or omissions on the part of the FBI, as well as the alleged failure to ensure Congressman Ryan's safety, must have occurred in (u)

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Guyana. Therefore, the claim is barred. (u)

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b2 This matter has been assigned to Special Agent [REDACTED]
[REDACTED] of our Civil Litigation Unit. Please direct any questions
to him at FTS [REDACTED] (u)

Enclosure