



For Immediate Release

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WLF ASKS SUPREME COURT TO HOLD POSTAL SERVICE LIABLE FOR NEGLIGENT CONDUCT

(Dolan v. U.S. Postal Service)

The Washington Legal Foundation (WLF) filed a brief in the U.S. Supreme Court on behalf of itself and the Allied Educational Foundation urging the Court to reverse a lower court and hold that the United States Postal Service (USPS) is not immune from lawsuits under the Federal Tort Claims Act (FTCA) where postal employees' negligence causes physical injuries and property damage to the public. In doing so, WLF stressed in its brief that the USPS should not be given special immunity in that regard, but should be held liable just as private carriers would be held liable for similar conduct.

In *Dolan v. USPS*, the postal carrier delivered postal matter to Mrs. Dolan's home, and negligently left the mail and magazines on the porch by the door where a person leaving the home would likely step. Mrs. Dolan slipped on the mail and was severely injured. However, her claim for compensation was rejected by the lower court based on an exception to the FTCA waiver of immunity which bars suits for the "loss, damage or negligent transmission of letters or postal matter." The U.S. Court of Appeals for the Third Circuit in Philadelphia held, contrary to a ruling by the Second Circuit in New York, that the USPS is immune from injuries caused by employees from the time they pick up the mail until it is delivered. WLF vigorously argued that the immunity was only for damage, loss, or delay of the mail itself, not for physical injuries. Such a broad reading would immunize USPS for accidents caused by postal vehicles transporting the mail, a result which Congress most certainly did not intend.

"The Postal Service should not be given a competitive advantage over private carriers for their misconduct," said Paul Kamenar, WLF's Senior Executive Counsel. "The Postal Service has consistently abused its monopoly power in delivering the mail, and this case is just another example of that abuse," Kamenar added. WLF and AEF had also filed a brief last year in another postal case, *Flamingo v. USPS*, where the Court unfortunately ruled that the USPS was exempt from antitrust liability.

WLF's brief was filed with the *pro bono* assistance of Harold Krent, who is the Dean of Chicago-Kent College of Law. The case will be heard by the Court this fall.

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For information, contact Paul Kamenar, WLF Senior Executive Counsel, at 202-588-0302. WLF's brief is available on its website at www.wlf.org.