

Department of the Interior Departmental Manual

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Series: Legal

Part 451: Claims

Chapter 4: Defense of Suits Against Federal Employees

Originating Office: Office of the Solicitor

This chapter has been given a new release number.* No text changes were made.

451 DM 4

4.1 Authority. The Act of September 21, 1961, 75 Stat. 539, 28 U.S.C. ' 2679 (b)-(e) (1964), as amended (Supp. IV, 1965-68), commonly known as the Government Drivers Act, amended the Federal Tort Claims Act to provide that any civil action or proceedings brought against any employee of the Government, or his estate, for damage to property or for personal injury, including death, resulting from the operation of any motor vehicle (Government-owned or leased, or privately owned) while the employee was acting within the scope of his employment will be deemed to be an action or proceeding against the United States and will be defended by the Attorney General. In practical terms this means that the Department of Justice and the local United States Attorney will defend the civil action or proceeding brought in any State or Federal Court against the Federal employee (or his estate) whose act or omission gave rise to the claim.

4.2 Determination by the Department of Justice. The Department of Justice is the agency charged with making the determination of whether the Federal employee involved in such a suit was acting within the scope of his employment at the time the accident occurred. In order to enable the Department of Justice to make such determination, the Bureau or Office of this Department employing the person involved in the accident must submit to the Solicitor's Office Optional Form 26 for transmittal to the Department of Justice which contains detailed information concerning the question whether or not the employee was acting within the scope of his employment at the time of the accident out of which the suit arose.

4.3 Purpose. The purpose of this chapter is to prescribe procedures for the execution and submission of the necessary papers and reports to the Department of Justice and to the appropriate United States Attorney.

4.4 Operator's Responsibility. Any employee of this Department who is the operator of a motor vehicle involved in an accident while carrying out official duties shall, if not incapacitated, be responsible for the following:

A. Preparation of Optional Form 26, Data Bearing Upon Scope of Motor Vehicle Operator. Optional Form 26 has been designed to preserve pertinent facts relating to motor

vehicle accidents and to facilitate the defense of suits against Federal employees which arise out of their operation of a motor vehicle while acting within the scope of their employment.

Form 26 shall be filled out by the operator of the vehicle at the time and at the scene of the accident, insofar as possible, in the following instances:

(1) Any accident involving a Government-owned vehicle which results in actual or alleged damage to, or destruction of, private property, or personal injury, including death, to persons other than Government employees, and

(2) Any accident involving a non-Government-owned vehicle operated by a departmental employee who has been previously authorized to use such vehicle to carry out his assigned duties, which results in actual or alleged damage to, or destruction of, private property, or personal injury, including death, to persons other than Government employees.

B. Submission of Optional Form 26 to Supervisor. The operator shall send completed Optional Form 26 to his immediate supervisor or such other official as may be designated by the head of the Bureau or Office.

C. Submission of Process Papers. An employee against whom a civil action or proceeding is brought resulting from his operation of a motor vehicle while acting within the scope of his employment shall:

(1) Notify his immediate supervisor, or such other official as may be designated by the head of the Bureau or Office, by giving informal notice, immediately upon receipt of process papers and pleadings or upon receipt of information regarding the commencement of such civil action or proceedings, and

(2) Deliver immediately all process papers and pleadings served upon him to his immediate supervisor or other designated official.

4.5 Bureau or Supervisor's Responsibility. The immediate supervisor of an employee involved in a motor vehicle accident, or such other official as may be designated by the head of the Bureau or Office shall be responsible for the following:

A. Processing Form 26. Reviewing, signing, and prompt processing of Form 26, in accordance with pertinent regulations under 370 DM, 395 DM, and 451 DM 1. Completing and executing Form 26 when the employee is incapacitated.

B. When Notified of Commencement of Civil Action Against Employee. Whenever the immediate supervisor or designated official has been notified of the commencement of a civil action against an employee he shall:

(1) Notify promptly, but in no event later than 24 hours, the appropriate Associate, Regional, or Field Solicitor of the commencement of such civil action or proceeding.

(2) Forward all process papers and pleadings, in triplicate, including the

completed Form 26 and other investigative material, to the appropriate Regional or Field Solicitor.

4.6 Solicitor's Office Responsibility. Upon receipt of information concerning the commencement of a civil action or proceeding against an employee involved in a motor vehicle accident the appropriate Associate, Regional, or Field Solicitor shall be responsible for furnishing one copy of all process papers and pleadings and one copy of the investigation material, including Form 26, to the United States Attorney for the District wherein the action or proceeding is brought. (See Appendix 1.) A duplicate copy of each document shall be sent to the Assistant Attorney General, Civil Division, U.S. Department of Justice.

4.7 Proof of Financial Responsibility. If, as a result of an accident occurring within the scope of his employment, an employee is served with papers requiring him to prove financial responsibility under State laws imposing such a requirement with respect to automobile accidents, and his own insurance carrier disclaims liability because of the Government Drivers Act, the employee shall immediately forward the papers to the appropriate Associate, Regional, or Field Solicitor through his immediate supervisor together with the completed Form 26 and other investigative material, if this has not already been done. For the purposes of financial responsibility laws, the appropriate Associate, Regional, or Field Solicitor will make or secure a finding concerning the applicability of the Federal Tort Claims Act as amended by the Government Drivers Act. This finding shall be forwarded to the State agency as proof of financial responsibility.

4.8 Liability Insurance. The Government Drivers Act does not provide absolute protection or immunity. For example, if the Department of Justice or the Court determines that an employee was not acting within the scope of his employment in a given case, the employee may then be personally liable for the property damage and personal injuries involved. Even though the Department makes no recommendation or suggestion regarding an employee carrying broad form personal liability insurance, we should call to the attention of motor vehicle operators the availability of such insurance. Employees must make their own decision on the desirability of carrying such insurance. Based on past experience, employees have in some instances, paid premiums for insurance only to discover that the policy did not cover the liability they intended to have covered. Consequently, those employees who decide to carry broad form personal liability insurance should be sure to specify the coverage intended and select the policy that will completely fit their own requirements. The possibility of personal liability still existing under the Government Drivers Act should be explained to all motor vehicle operators.

Questions within this area may be addressed to the appropriate Associate, Regional, or Field Solicitor.

UNITED STATES ATTORNEYS

DISTRICT	HEADQUARTERS
ALABAMA	
Northern	200 Federal Courthouse 1800 Fifth Avenue North Birmingham 35203
Middle	P.O. Box 197 Montgomery 36101
Southern	P.O. Drawer E Mobile 36601
ALASKA	P.O. Box 680 Anchorage 99510
	P.O. Box 111 Fairbanks 99701
ARIZONA	P.O. Box 1951 Tucson 85702
	Room 5000 Federal Bldg. 230 N. First Avenue Phoenix 85025
ARKANSAS	
Eastern	P.O. Box 1229 Little Rock 72203
Western	P.O. Box 1524 Fort Smith 72901
CALIFORNIA	
Northern	450 Golden Gate Avenue San Francisco 94150
Eastern	2058 Federal Bldg. & Courthouse 650 Capitol Mall Sacramento 95814
	4005 Federal Bldg. & Courthouse

	1130 O Street Fresno 93721
Central	312 N. Spring Street Los Angeles 90012
Southern	U.S. Courthouse Annex A 325 West F Street San Diego 92101
CANAL ZONE	Box 2090 Balboa
COLORADO	323 U.S. Courthouse P.O. Box 3615 1961 Stout Street Denver 80202
CONNECTICUT	Post Office Building 141 Church Street New Haven 06507
	Federal Building 450 Main Street Hartford 06103
	U.S. Courthouse 915 Lafayette Blvd. Room 305 Bridgeport 06603
DELAWARE	5001 New Federal Bldg. 9th & King Streets Wilmington 19801
DISTRICT OF COLUMBIA	Room 3136-A 3rd & Constitution Ave., N.W. Washington, DC 20001
FLORIDA	
Northern	P.O. Box 12313 Pensacola 32501
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HAWAII	P.O. Box 654 Honolulu 96809
IDAHO	Room 698 Federal Bldg. Box 037 550 W. Fort Street Boise 83702
ILLINOIS	
Northern	Everett McKinley Dirksen Bldg. 219 S. Dearborn Street Room 1500 South Chicago 60604
Eastern	P.O. Box 226 East St. Louis 62202
Southern	P.O. Box 375 Springfield 62705
INDIANA	
Northern	P.O. Box 327 Fort Wayne 46801
Southern	Room 246, Federal Building and U.S. Courthouse Ohio and Meridian Streets Indianapolis 46204
IOWA	
Northern	P.O. Box 1138 Sioux City 51102
Southern	113 U.S. Courthouse Des Moines 50309
KANSAS	P.O. Box 2098 Wichita 67201

KENTUCKY	
Eastern	P.O. Box 1490 Lexington 40501
Western	U.S. P.O. & Courthouse Bldg. Sixth & Broadway Louisville 40202
LOUISIANA	
Eastern	500 St. Louis Street New Orleans 70130
Middle	Room 130 707 Florida Street Baton Rouge 70801
Western	P.O. Box 33 Shreveport 71161
MAINE	Federal Courthouse Portland 04112
MARYLAND	405 U.S. Courthouse Fayette & Calvert Streets Baltimore 21202
MASSACHUSETTS	1107 John W. McCormack P.O. & Courthouse Boston 02109
MICHIGAN	
Eastern	817 Federal Bldg. 231 Lafayette Detroit 48226
Western	544 Federal Bldg. & U.S. Courthouse 110 Michigan Avenue, N.W. Grand Rapids 49502
MINNESOTA	596 U.S. Courthouse 110 South 4th Street Minneapolis 55401
MISSISSIPPI	
Northern	P.O. Drawer 886 Oxford 38655
Southern	P.O. Box 2091 Jackson 39205
MISSOURI	

Eastern	Room 402 1114 Market Street St. Louis 63101
Western	549 U.S. Courthouse 811 Grand Avenue Kansas City 64106
MONTANA	P.O. Box 1478 Billings 59101
NEBRASKA	P.O. Box 1228, DTS Omaha 68101
NEVADA	Box 16030 Las Vegas 89101
NEW HAMPSHIRE	Federal Building Concord 03301
NEW JERSEY	P.O. Box 330 Newark 07101
NEW MEXICO	P.O. Box 607 Albuquerque 87105
NEW YORK	
Northern	P.O. Box 1258 Federal Building Syracuse 13201
Eastern	U.S. Courthouse 225 Cadman Plaza East Brooklyn 11201
Western	502 U.S. Courthouse Buffalo 14202
Southern	One St. Andrews Plaza New York 10007
NORTH CAROLINA	
Eastern	P.O. Box 26897 Raleigh 27611
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Western	P.O. Box 132 Asheville 28802
NORTH DAKOTA	P.O. Box 2505 Fargo 58102

OHIO	
Northern	U.S. Courthouse Room 400 Cleveland 44114
Southern	200 Federal Building 85 Marconi Blvd. Columbus 43215
OKLAHOMA	
Northern	Room 460, U.S. Courthouse 333 W. Fourth Street Tulsa 74103
Eastern	P.O. Box 10099 Muskogee 74401
Western	Room 4434, U.S. Courthouse & Federal Office Building Oklahoma City 73102
OREGON	P.O. Box 71 Portland 97207
PENNSYLVANIA	
Eastern	31H U.S. Courthouse Independence Mall West 601 Market Street Philadelphia 19106
Middle	U.S. P.O. Building Room 426 Scranton 18501
Western	633 U.S. P.O. & Courthouse 7th Avenue & Grant Streets Pittsburgh 15219
PUERTO RICO	P.O. Box 3391 San Juan 00904
RHODE ISLAND	P.O. Box 1401 Providence 02901
SOUTH CAROLINA	151 U.S. Courthouse Columbia 29201
SOUTH DAKOTA	231 Federal Bldg. & U.S. Courthouse 400 S. Phillips Avenue Sioux Falls 57102
TENNESSEE	

Eastern	201 U.S. P.O. & U.S. Courthouse Building Knoxville 37902
Middle	P.O. Box 800 Nashville 37202
Western	1058 Federal Office Building 167 North Main Street Memphis 38301
TEXAS	
Northern	310 U.S. Courthouse 10th at Lamar Ft. Worth 76102
Southern	P.O. Box 61129 Houston 77061
Eastern	P.O. Box 1049 Tyler 75701
Western	P.O. Box 1701 San Antonio 78296
UTAH	200 P.O. & Courthouse Bldg. 350 S. Main Street Salt Lake City 84101
VERMONT	P.O. Box 10 Rutland 05701
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