

Update Notice

Handbook PO-702, *Tort Claims* May 2007

Handbook PO-702, *Tort Claims Administration*, was last printed in May 2007. To inform you of changes since that time, we periodically update this online edition of the Handbook. We use vertical bars (i.e., revision bars) in the margin to indicate text changed since May 2007.

This online version of Handbook PO-702 has been updated with *Postal Bulletin* articles through 12-18-08, as follows:

The chapter, subchapter, part, appendix, or section...	titled...	was...	in <i>Postal Bulletin</i> issue number...	with an issue date of...
Chapter 2, Investigating and Reporting Vehicle Accidents				
Exhibit 222	Motor Vehicle Accident Investigation Kit	revised to remove references to obsolete PS Form 4585 and PS Form 4586	22244	10-23-08
233.2	Interview Postal Service Drivers	revised to remove references to obsolete PS Form 4585 and PS Form 4586	22244	10-23-08
234.4	Complete PS Form 1700, Accident Investigation Worksheet	revised to change the exhibit number	22247	12-4-08
Exhibit 234.4	Accident Investigation Worksheet	replaced with new August 2008 version	22247	12-4-08
Chapter 3, Investigating and Reporting Non-vehicle Accidents				
Exhibit 331.2	PS Form 1700, Accident Investigation Worksheet Instructions	replaced with new August 2008 version	22248	12-18-08
Appendix D, List of Exhibits				
Appendix D	List of Exhibits	revised to remove references to obsolete PS Form 4585 and PS Form 4586	22244	10-23-08

Tort Claims Administration

Handbook PO-702

May 2007

A. Purpose. This revised edition of Handbook PO-702, *Tort Claims Administration*, updates the policy and procedures for investigating, handling documentation, and processing claims pertaining to accidents, both vehicular and non-vehicular, that could result in tort claims. This handbook replaces the June 1992 edition.

B. Availability. This handbook is available to Postal Service personnel as follows:

1. From the Material Distribution Center. Offices may order Handbook PO-702 from the Material Distribution Center using touch tone order entry (TTOE):
Call 800-273-1509.

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2. Online. The handbook is also available online on the USPS Intranet <http://blue.usps.gov/cpim/>, click on HBKs.

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WASHINGTON DC 20260-7240

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US POSTAL SERVICE
475 L'ENFANT PLAZA SW ROOM 7240
WASHINGTON DC 20260-7240

USPS NATIONAL TORT CENTER
PO BOX 66640
ST. LOUIS, MO 63166-6640

D. Effective Date

This material is effective May 2007.

A handwritten signature in black ink, appearing to read "William P. Galligan". The signature is written in a cursive, flowing style.

William P. Galligan
Sr. Vice President
Operations

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1 Overview

11 Introduction

111 Purpose

This handbook provides:

- Policy and procedures for investigating accidents, both vehicular and non-vehicular (for example, property accidents, slips, and trips and falls), that could result in tort claims.
- Procedures for processing tort claims. These procedures are meant to protect the interests of both the Postal Service and the public.

112 Scope

This handbook is intended as a guide for Postal Service personnel responsible for:

- a. Investigating the types of accidents described in [14](#).
- b. Processing tort claims presented to the Postal Service arising out of the types of accidents described in [141](#).
- c. Adjudicating tort claims at the local level.

12 Policy

The policy of the Postal Service is to promptly, willingly, and accurately discharge its legal responsibilities to those persons who claim damages pursuant to the Federal Tort Claims Act.

13 Responsibilities

131 Postal Service

As a public service agency, the Postal Service is responsible for being professional in its handling of all accident investigations and tort claims. The successful administration of this program depends on the courtesy and efficiency of every Postal Service employee assigned to these functions, whether permanently or temporarily.

132 **Headquarters**

132.1 **Delivery Support**

Delivery Support at Headquarters is responsible for establishing policies and procedures pertaining to investigation and documentation of all accidents and processing of any tort claims resulting from those accidents.

132.2 **Law Department**

The Law Department, through its National Tort Center (NTC), establishes policy and procedures relating to tort claim processing.

133 **National Tort Center**

The NTC is located in St. Louis, Missouri. The NTC provides guidance and advice on processing, eligibility, payment, and legal issues regarding any type of accidents that may result in a tort claim. The NTC must be notified whenever a civil or criminal action is brought against the Postal Service or a Postal Service employee as the result of an accident.

134 **Districts – Tort Claims Coordinators**

134.1 **General**

At the district level, the tort claims coordinator (TCC) plays a vital role in accident investigations and the central role in tort claims processing. TCCs must be aware that every claimant expects prompt treatment. Thus, TCCs must contact claimants promptly to assure them that the Postal Service intends to fairly dispose of their claim.

134.2 **Duties**

Specifically, the district TCC must:

- a. Oversee the accident investigation program for the district; coordinate training of newly assigned supervisors; provide guidance and direction to the employees conducting investigations; and review accident investigation case files originating within the district for completeness, timeliness, accuracy, and adherence to policy and procedures.
- b. Resolve claims by negotiating and paying claims up to the authorized dollar amount or by making recommendations for final adjudication. (The TCC does not have authority to deny claims.)
- c. Contact law enforcement agencies; insurance claims adjusters; claimants and their legal representatives; and witnesses regarding the processing of tort claims against the Postal Service.
- d. Maintain accident investigation records in support of the Tort Claims Program and oversee the maintenance of all tort claim records for the district.

134.21 **Provide Training**

The TCC is responsible for providing initial and refresher training to all supervisors, ad hoc investigators, and alternates in his or her district. This

can include scheduling employees for training courses at the National Center for Employee Development (NCED).

134.22 **Issue Local Instructions**

District TCCs must issue written local instructions that:

- Direct all district employees to immediately report all potential tort-related accidents that they are involved in, or receive notice of, to their supervisor or the district TCC when their supervisor is unavailable.
- Direct supervisors or other employees conducting on-scene investigations to provide notice of all tort-related accidents to the district TCC.

135 **Postal Facilities**

135.1 **Plant Managers, Postmasters, or Officers in Charge**

All facility heads are responsible for on-the-scene investigations of accidents in their geographic service area that fall within the scope of this handbook.

Plant managers, postmasters, or officers in charge (OICs) must:

- a. Ensure supervisors or other designees are aware of their responsibility to perform on-the-scene investigations of accidents that occur within the geographic service area of their office, as directed by the postmaster or OIC.
- b. Establish procedures to ensure that alternates are immediately notified of all accidents when the postmaster or OIC is unavailable.
- c. Report tort-related accidents and submit accident reports in a timely manner to the district TCC.

135.2 **District Accident Investigators (Optional)**

In some districts, the district manager may appoint specific personnel to investigate serious accidents. In addition to investigating local accidents, a district accident investigator (AI) provides assistance and guidance to supervisors at nearby associate offices. If necessary, the district TCC may require the district AI to help during on-the-scene investigations.

14 Types of Accidents to Investigate

141 **Accidents That Could Result in Tort Claims**

Tort claims are claims for damage to or loss of property, or claims for personal injury or death to non-Postal Service personnel caused by the negligent or wrongful act or omission of an employee acting within the scope of his or her Postal Service employment. The most common accidents resulting in tort claims are:

- a. Motor vehicle accidents involving government-owned, privately-owned, and leased vehicles operated by Postal Service employees in the scope of their employment resulting in injury to a private party or damage to private property.

- b. Trips and falls in and around buildings owned, leased, or used by the Postal Service.
- c. Trips and falls over exposed mailbox anchor bolts, mail bags, or other postal equipment.
- d. Accidents resulting in injuries caused by unanchored or incorrectly anchored collection boxes or Postal Service neighborhood delivery and collection box unit anchor bolts.
- e. Personal injury or damage to customer's property during the delivery operation.

142 **Claims Excluded Under the Federal Tort Claims Act**

Certain claims are specifically excluded from consideration under the Federal Tort Claims Act. Payment should not be made at the local level for any claim arising out of the loss, miscarriage, or negligent transmission of letters or postal matter, or any claim of assault, battery, false imprisonment, false arrest, malicious prosecution, abuse of process, libel, slander, misrepresentation, deceit, or interference with contract rights. See Appendix A, 28 U.S. Code, Sec. 2680 for a complete list of tort actions which cannot be brought against the Postal Service under the Federal Tort Claims Act.

Other claims which may not be brought against the Postal Service as a tort claim include:

- a. Postal Service employee claims for personal injury and most employee claims for property damage incurred while the employee was acting in the scope of his or her employment. Employee personal injury claims should be referred to the Injury Compensation Office for handling under the Federal Employees Compensation Act. Employee property damage claims for bargaining unit employees are generally handled under the employee claims provisions within their collective bargaining agreement. For non-bargaining unit employees, see *Employee and Labor Relations Manual* (ELM) 640. An exception exists that provides for the potential filing of a tort claim for damage to an employee's vehicle or the contents only if the damage was caused by the negligent act of another employee who was acting within the scope of his or her own employment.
- b. Claims for personal injury incurred by other federal government employees, including military personnel, which occur while acting in the scope of their employment.
- c. Claims by another federal government agency against the Postal Service for property damage.
- d. Claims for damage to leased or rented vehicles driven by Postal Service employees, when the terms of the contract provide collision coverage, or when the terms provide that such claims must be resolved under a separate contract procedure.
- e. Claims for damage caused in accidents involving an independent contractor, such as a highway contract route (HCR) carrier or mail messenger.

- f. Claims by doctors and hospitals for medical services rendered to an injured party, except in those instances where Postal Service personnel have arranged for an immediate and initial medical examination for the injured person. See [231.3](#) and [331.1](#).

143 **Need for Investigating All Accidents**

Since even the slightest accident may ultimately result in litigation against the Postal Service, such litigation must be anticipated. Immediate and complete on-the-scene investigation is required for all accidents involving Postal Service employees, vehicles, or facilities; and private persons or property. Conduct an investigation even if you doubt that litigation will occur. Also, conduct an investigation even if the other party denies injury or states a claim will not be filed. Serious injuries have been known to arise from incidents that appear trivial when they first occur. Investigations are an important precautionary measure to protect the Postal Service and its employees, and to discharge our responsibilities to the public. Thus, the importance of thorough, objective investigations cannot be over-emphasized. Because of potential scope disputes, accidents involving rural carriers should be investigated if they occur on the way to or from the assigned Postal Service facility, as well as when the carrier is clearly working within the scope of employment.

144 **Contract Vehicle Accidents**

144.1 **General**

Claims resulting from damage to leased vehicles while in Postal Service custody are at times adjudicated by the contracting officer as purely contractual obligations rather than as tort claims. A determination must be made as to whether a contractor's claim should be adjudicated by the TCC or simply forwarded to the contracting officer based on the terms of the lease contract.

Note: Contracting officers cannot adjudicate claims for personal injury.

144.2 **Notice to Contractor**

Notify the contractor and the contracting officer in writing when contract vehicles are involved in accidents. A notice to the contractor with a copy to the contracting officer will suffice. The notice must conform to the notice requirements of the lease contract, and contain at a minimum the following information: contract vehicle number, date and time of accident, location of accident, probable cause, and damage estimate. Give notice within 1 week of the accident. For serious accidents, notify the contractor first by phone as soon as practical. Do not provide the contractor with a PS Form 1700, *Accident Investigation Worksheet*, or Standard Form 91, *Operator's Report of Motor Vehicle Accident*, as notice of an accident. Provide these forms to the contractor only upon the advice of the NTC.

144.3 Authority

The contracting officer may approve or reject claims for damage to a contractor's vehicle based upon the terms of the vehicle lease contract and the advice of the TCC.

145 Claims for Damage Involving Other Government Agencies

Do not file a claim for damage to a Postal Service vehicle with another federal agency. The Comptroller General of the United States has held that the appropriation available to a government agency may not be used to reimburse another government agency for property damage.

15 Accident Reporting Requirements

151 Postal Service Employees

Postal Service employees who are involved in, observe, or are notified of a Postal Service-related accident involving a private party must immediately report the accident to their supervisor or, if their supervisor is unavailable, to the postmaster or OIC.

152 Supervisors

Supervisors must notify the TCC whenever an employee reports an accident involving a private party. Supervisors also must follow procedures in Section 820 of the ELM. Finally, they must immediately notify the district TCC whenever a civil or criminal action is brought against the Postal Service or an employee as the result of an accident.

153 District Tort Claims Coordinators

The district TCC must immediately notify the district manager of all serious accidents, as defined below and in Section 822 of the ELM. The district TCC must immediately:

- Notify the NTC when an accident involves injury or damage that may attract media attention.
- Forward to the NTC all accident-related civil or criminal complaints they receive directly or from other Postal Service employees.

16 Serious Accidents

161 Definition

Serious accidents include:

- a. Any occupational accident that is fatal to one or more employees.
- b. Any occupational accident that results in the in-patient hospitalization of one or more employees.
- c. Any occupational illness or disease that results in the death of an employee.
- d. Any Postal Service-related accident involving non-Postal Service persons that results in a fatality or the in-patient hospitalization of one or more persons.
- e. Any occupational accident that is not immediately reportable but which results in the death of an employee or non-Postal Service person within 6 months of the date of the accident.
- f. Any occupational injury to an employee or non-Postal Service person that involves mutilation, amputation (including major cartilaginous body parts such as ears or nose), or loss of vision in one or both eyes.
- g. Any occupational accident involving property damage (combined Postal Service and non-Postal Service) estimated to exceed \$100,000.
- h. Any occupational accident that results in in-patient hospitalization due to chemical exposures.

Note: In-patient hospitalization does not include observation, emergency room, and all other forms of out-patient care.

162 Responsibilities

Installation heads and performance cluster managers are responsible for reporting serious accidents and conducting supplemental investigations as directed by Section 822 of the ELM.

17 Reference Materials

171 General

All TCCs or individuals who act as TCCs should become familiar with the reference materials and training courses listed in the following sections.

172 Statutory References

All employees assigned to administer tort claims should become familiar with the following statutory references:

- a. 28 US Code 1346(b), Appendix [A](#)
- b. 28 US Code 2401(b), Appendix [A](#)
- c. 28 US Code 2671-2680, Appendix [A](#)

- d. 39 US Code 409(c), Appendix [A](#)
- e. 39 Code of Federal Regulations, Part 912, Appendix [C](#)

173 **Postal Service Publications**

All employees assigned to investigate accidents or administer tort claims should become familiar with, and have available, the following publication references:

- a. *Administrative Support Manual (ASM)*, Chapter 2
- b. *Postal Operations Manual (POM)*, Chapter 7
- c. *Employee and Labor Relations Manual (ELM)*, 640 and 822
- d. Handbook EL-801, *Supervisor's Safety Handbook*, Chapter 2
- e. Handbook PO-701, *Fleet Management*, Chapter 2

174 **Postal Service Training Courses**

All TCCs and employees assigned to otherwise cover the TCC functions of directing accident investigations and administering tort claims should attend or otherwise become familiar with the following Postal Service NCED training courses:

- a. Tort Claims — 4360102
- b. Accident Investigation Basics — 4360101

2 Investigating and Reporting Vehicle Accidents

21 Purpose

The purpose of investigating accidents involving vehicles is to produce an accurate, objective, written account of the incident, and to document all pertinent facts in anticipation of a tort claim. Only then can administrative claims be fairly adjudicated and litigation defended when settlement is not appropriate. Investigators must always anticipate the filing of a claim, and ultimately litigation, any time an accident involves possible injury to the person or property of a private individual. This chapter provides guidelines and procedures for investigating motor vehicle accidents.

22 Initial Investigation

221 Preliminary Action

When notified of an accident, the AI must immediately ask for the informant's name and telephone number; the location, approximate time, and severity of the accident; and the whereabouts of the drivers. Keep in mind that the person reporting the accident may have relevant information regarding the accident. Ask any other questions that may seem pertinent.

222 Preparing to Visit the Scene of the Accident

The AI must:

- Take a motor vehicle accident investigation kit to the scene of the accident. (See [Exhibit 222](#)).
- Complete PS Form 1700, *Accident Investigation Worksheet*, contained in the accident investigation kit, for all accidents (see [234.4](#)).

223 Approaching the Scene of the Accident

If the AI knows the route, and it is possible to do so without delay, approach the scene from the same direction used by either the Postal Service or private driver before the accident. Observe obstructions and road and weather conditions, which may provide useful information in terms of

circumstances surrounding the accident. If traffic is heavy and the approach to the scene is blocked, take the quickest route open.

23 On-Site Investigation

231 **At the Scene of the Accident**

231.1 **Authority**

The AI serves as the Postal Service official designated to conduct the accident investigation at the scene.

231.2 **Park the Investigator's Vehicle**

At the scene of the accident, the AI must park his or her vehicle out of the way of the scene of the accident and pedestrian traffic. If it is dark, use the vehicle's headlights to illuminate the scene. Turn on flashing beacon or warning lights, if the investigation vehicle is so equipped.

231.3 **Attend to Personal Injuries**

If necessary, the AI must arrange for injured persons to be transported from the scene of the accident when immediate medical attention is required. When the Postal Service supplies transportation for immediate medical attention, the AI must ensure the injured person gets a medical examination and the physician gives a diagnosis and prognosis. The medical report should address the extent or lack of injuries. When permissible, and authorized by the injured party, arrange for a copy of the injured person's medical report and physician's charges to be sent to you or the TCCs office within 24 to 48 hours. This document must be included in any claim for personal injury. Consider the initial medical examination as part of the investigation and pay for it and ambulance charges, if applicable. Record these charges under account identifier code (AIC) 587 — Fee for Services, Postal Operations. The Postal Service is not obligated to pay, locally, for hospitalization or treatments except to the extent necessary to complete an immediate and initial examination. Fees paid locally, by the Postal Service, are investigative expenses and must not be included in the maximum limits for which tort claims may be adjudicated. Use the services of the Public Health Service if such a facility is convenient. You may also use private physicians, including the injured person's personal physician.

232 **Initial Activities at the Scene**

232.1 **Determine Priorities**

In many cases, several activities can be accomplished at once during the on-scene investigation, while other tasks must be divided and performed at different stages during the investigation. Concentrate first on gathering the temporary, short-lived evidence and unrehearsed testimony of all parties and witnesses involved. For example, take several photographs of the scene soon after arrival, particularly if there is a limited amount of daylight upon arriving at the accident scene. Once the emergency is under control, take

other photographs of the scene, of the vehicles, and of any obstructions. (See [Exhibit 232.1](#), *Vehicle Accident Investigation Checklist*.) The procedure established by the AI determines the order of priority for the following determinations.

232.2 **Determine Road and Weather Conditions**

Vehicle accident reports must include the weather conditions at the time of the accident. Ordinarily, it is not necessary for the AI to ask specific questions about these conditions when he or she arrives on scene immediately after an accident has occurred. However, if the accident is reported late or there is any delay in the investigator arriving at the scene, then the AI must investigate the weather at the time of the accident and document it on the accident report. The AI must include any information about weather prior to the accident, which is alleged to have contributed to the accident, regardless of which party may have been affected. Lastly, the AI must record any comments about the weather or weather-related conditions made by any of the involved persons. The AI must record the comments regardless of the investigator's feeling about the person(s) indicating the accident was the result of some weather condition. These comments could be vital in later evaluation of contributing circumstances, should a claim be filed.

232.3 **Determine Condition of the Drivers**

232.31 **Physical and Mental State**

As soon as possible, determine the physical condition of the drivers, both Postal Service and non-Postal Service. Attempt to determine the emotional state of the drivers. For instance, is either of the drivers exhibiting any clues as to his or her mental state, either before or after the accident? Is either of the drivers noticeably nervous, confused, angry, or scared? Is that mental state a result of the accident or is it likely the condition existed prior to the accident? As much as possible, it is important to document the drivers' state of mind prior to the accident.

232.32 **Alcohol, Drugs, and Medication**

Observe, to the best of your ability, and record the behavior of the drivers in relation to their ability to operate a motor vehicle. If any impairment seems visible, investigate the cause, to the best of your ability, and report your findings. If the accident results in any drug or alcohol testing, request a copy of the findings.

232.4 **Determine Condition of the Vehicles**

232.41 **Damage**

While at the accident scene, the AI must examine each vehicle carefully as follows:

- Take pictures of the vehicles and accident scene before the vehicle(s) is moved, since additional damage can sometimes result from towing. It may be difficult later to distinguish accident damage from towing damage.

- Look for any damage that appears to have occurred on a previous occurrence and record such observations on PS Form 1700.

232.42 **Mechanical**

While at the scene, the AI must also examine the mechanical condition of the vehicles. Test the operation and condition of the windshield wipers, lights, horn, and brakes if their condition is in question and they are not too damaged to be tested.

232.43 **Safety Defects**

The AI must note any safety-related defect(s) of either vehicle. Record how the defect(s) may have caused or could have contributed to the accident. For defects detected on Postal Service vehicles, report defects immediately to your office according to local instructions.

233 **Interviewing Procedures**

233.1 **General**

233.2 **Interview Postal Service Drivers**

During interviews of Postal Service drivers involved in an accident, ascertain if any existing physical condition, such as a physical disability, might have made them more likely to be involved in an accident. In addition, AIs must verify that the Postal Service driver has completed SF Form 91, *Motor Vehicle Accident Report*. (See [Exhibit 233.2.](#))

233.3 **Identify Witnesses and Request Information**

When you arrive at the scene of the accident, you must:

- a. Look for witnesses as soon as possible. The first report is usually the most accurate because it is not premeditated or rehearsed.
- b. Verify that SF 94, *Statement of Witness*, (see [Exhibit 233.41](#)) has been distributed to witnesses.

233.4 **Information AIs Must Gather**

Interview witnesses and get signed statements. Remember to put witnesses at ease. Let witnesses tell their story in their own words and at their own pace. After the witness is finished, you may ask questions to fill in the gaps.

From each person involved, and each witness, you must:

- a. Determine what happened by allowing each witness and each driver to describe the actual key events in his or her own words. Determine the first thing the driver or witness remembers after the accident. Do not press for an answer. Allow all persons interviewed adequate time to provide the information in their own words.
- b. Determine, as nearly as possible, the location of the driver or the witness when the accident occurred. The objective of this question is to establish the first point and time of awareness.

- c. Determine how much of the actual accident the witness observed. It is important to distinguish between those witnesses who saw the event and those who only witnessed actions or incidents before or after the accident or event occurred.
- d. Determine what the driver or witness was doing when he or she first saw the other car. Allow them to speak in their own words. However, if they are unable to clearly state what they were doing, ask about the following:
 - (1) Movement.
What was the approximate speed? What direction were you traveling in? Where were you going?
 - (2) Attention.
Where were you looking? Were you talking to anyone? Were you using a cell phone at the time of the accident?
- e. Determine the location of the driver or witness and what each was doing when he or she first became aware of the possibility of an accident.
- f. Determine if there was any attempt by either driver to avoid the accident. Try to determine possible evasive action, but do not urge an answer to this question. (This could result in the driver or witness relating what should or could have been done, rather than what actually occurred.)
- g. Determine where the collision (or other key event) took place.
- h. Determine if the vehicles stopped after the collision.

233.5 **Verify Driver and Witness Statements**

The AI must verify all statements by checking them against the statements of others and with your observations of the physical conditions and evidence. If statements conflict, see [243](#).

233.6 **Get Statements from Witnesses Not Interviewed at the Accident Scene**

233.61 **Written Statements**

Written statements from independent witnesses are usually the single most important factor in determining the cause of an accident. Therefore, make every effort to locate witnesses. Record license plate numbers or other identifying marks, such as truck numbers or company names, of vehicles observed near the accident scene. Sometimes witnesses can be located after the fact by using this information. Get statements from additional witnesses using the procedures in [233.4](#). If you are unable to personally interview a witness, send the witness a SF 94, *Statement of Witness* (see [Exhibit 233.41](#)). If the witness fails to return the form or the completed form does not adequately describe what occurred, request a written statement or follow-up with a personal or telephone interview.

233.62 Follow-up Statements

If injured persons are taken home or to the hospital or if someone is upset, you should question them later, but get a written statement as soon as possible. The investigation is not complete until all known witnesses are contacted and interviewed. Thus, you must ensure those witnesses whose names are provided by either the Postal Service or non-Postal Service driver(s) or those witnesses named on the police report (if applicable), are contacted later to obtain statements.

234 Record Conditions at the Scene**234.1 Walk the Accident Scene**

It may be helpful for the investigator to walk down the street toward the accident scene to observe what the drivers may have seen before the accident. Concentrate on crucial issues that may be indicative of the exact causes of an accident. Even during an initial walk through, you should take notes and record any significant observations of conditions at the scene, such as:

- a. Engineering defects, such as damaged or obscured signs or signals; holes or bumps in the roadway; sharp curves not correctly banked; and obstructed views.
- b. Damage to fixed objects, such as light poles, fire hydrants, or bridge abutments.
- c. Marks or gouges in the pavement caused by the accident.

234.2 Photograph the Accident Scene**234.21 Photographs of the Vehicles at the Scene**

Take photographs of the accident scene. If possible, take the photographs before anything is moved. Be sure to take photographs of the interior of the vehicles, including the floor and seat areas, especially when such photographs indicate the use of alcohol or drugs (e.g., open bottles, cans, or pills). Indicate on the reverse of the photograph the name of the person taking the photograph, the time, the date, the location, the distance the vehicle traveled after impact, and the direction the vehicle was traveling. (See [Exhibit 233.41 \(continued\)](#) for the information required on the reverse of each photograph.) Complete item 4 of PS Form 1700, *Accident Investigation Worksheet* (see [Exhibit 234.4](#)).

234.22 Photographs at Different Angles

Take photographs of all four sides of the damaged private vehicles and show undamaged as well as damaged areas. This may be accomplished with two photographs if vehicle position permits. Keep the camera the same distance from vehicle for each photograph. Take sufficient additional photographs of damaged areas to show the extent and location of damage. Also photograph the license plate of each vehicle for future identification. Finally, examine and photograph the tires of each vehicle.

234.3 Accident Scene Sketches and Evidence Records**234.31 Diagram the Accident Scene**

Make a preliminary sketch at the accident scene including all dimensions needed to reproduce the sketch to scale. Track the path of vehicles and show the point of collision; the distance and direction each vehicle traveled after impact; the road warning signs (indicate whether reflector type or not); any objects which may have obstructed the drivers' vision, lanes, adjacent shoulders, buildings, walls, shrubbery, trees, signboards, embankments, ditches, and guardrails; percent of and direction of grades; and the amount of elevation.

234.32 Record Clues at the Accident Scene

On the accident diagram, note miscellaneous clues, such as blood stains, vehicle debris, runoff from radiators or crankcases, and items carried in or on the vehicles. Record these clues before altering them or removing Postal Service vehicles.

234.4 Complete PS Form 1700, Accident Investigation Worksheet

Complete PS Form 1700, *Accident Investigation Worksheet*, within 1 business day after the end of the accident investigation. See [Exhibit 234.4](#) for a sample form and instructions for completing the form.

234.5 Other Photographic Evidence**234.51 Photographs After Removal of Vehicles from the Accident Scene**

Photographs of the accident scene are also helpful when the damaged vehicles are no longer present. Take these photographs at the same time of day when the accident occurred. Take additional photographs of the accident scene during the day if the accident occurred at night.

234.52 Photographs by Others

Get copies of any photographs taken by the police department, the news media, or others at the accident scene.

234.6 Take Measurements at the Accident Scene**234.61 On-Scene Measurements**

Take necessary measurements before anything is moved from the scene. Or, if that is not possible, mark the area so that you can take measurements later. Get the names and addresses of witnesses before proceeding with measurements in the event you must delay questioning.

234.62 Skid Marks

If possible, measure and record skid marks or tire prints before they are changed by other vehicle traffic or weather conditions. See [Exhibit 234.52\(a\)](#), Using Skid Marks to Estimate Speed.

24 Investigation Analysis

241 **General**

The initial investigator's primary duty is to gather and document all pertinent facts. Because no two accidents are the same, initiative and judgment in identifying facts are essential. The TCC should then analyze the facts, thoroughly evaluate the evidence and circumstances, and use sound judgment to determine if any follow up is necessary.

242 **Consult Experts**

In complicated cases, you may contract with an accident reconstructionist or damage appraisal expert to provide technical assistance. Procure and pay for such services in accordance with Postal Service contracting policies and regulations. You may also use collision estimating guides, such as the one published by Mitchell International, San Diego, California.

243 **Evaluate Testimony of Drivers and Witnesses**

The credibility of drivers and witnesses has a major influence on the value of their testimony to the investigation. It is not uncommon for the parties involved to provide different versions of the events. In such cases, evaluating the testimony of drivers and witnesses to determine their credibility is essential to resolving the disputed facts. Als should express their opinion regarding the employee's credibility as a witness to the TCC for potential inclusion in the summary narrative. Evaluating the following traits will help investigators accurately assess the credibility of both drivers and witnesses:

- a. **Credibility.** Determine the driver or witness' ability to observe and remember.
- b. **Training.** Determine whether or not the previous experience of the driver or witness gives more weight to his or her testimony in the accident investigation analysis.
- c. **Temperament.** Determine whether the driver or witness is calm or excitable, logical, or disjointed.
- d. **Physical Limitations.** Determine the degree of sight, hearing, and other senses.
- e. **Reputation.** Determine the history of truth and sobriety of the drivers and witnesses.
- f. **Demeanor.** Determine whether the driver or witness is straightforward or evasive.
- g. **Bias.** Determine the relationship of the driver or witness and occupation. Remember that statements made by a party that are detrimental to that person, financially or otherwise, may be more credible than statements that promote his or her interest.

Consider the following:

- (1) Financial interest in outcome of case.
- (2) Malice against one of the interested parties.

- (3) Marital or blood relationship to one of the interested parties.
 - (4) Fear of incrimination.
 - (5) Fear of recrimination.
- h. Vantage Point. Determine the driver or witness' location in relation to the accident and distance from it.

244 **Administrative Responsibilities for Tort Claims Coordinators**

244.1 **Contributory Negligence**

In states that operate under the contributory negligence concept, if the claimant and the Postal Service or its employees were both at fault, neither party can recover damages from the other.

244.2 **Comparative Negligence**

Most states have adopted the concept of comparative negligence (See [Exhibit 244.2](#)), which changes the rule that an injured party's contributory negligence totally bars recovery. Under comparative negligence principles, negligence itself does not bar recovery. A claimant may recover damages, but the damages are reduced in proportion to the amount of fault attributed to the claimant. Proportion of fault is usually expressed in percentages, such as 50-50, 60-40, or 25-75. Some states have adopted a modified comparative negligence scheme in which a party who is responsible for more than a given proportion of fault (often 50%) is barred from making a recovery. When conducting an investigation, the AI must keep in mind that evidence is required not only to determine fault, but also to determine the degree of fault. Contact the NTC regarding any clarification needed.

244.3 **Handling Conflicting Descriptions**

Many investigations result in evidence that clearly establishes the Postal Service or a private party as responsible for an accident. However, in some cases, the investigation does not clearly establish fault. Contradictory information may be received from the private party and the Postal Service employee. While it may not be possible to resolve these conflicts with any degree of precision, the AI must not blindly accept one version over the other. Instead, the investigator must investigate all the facts to the extent possible with the goal of resolving contradictions. If conflicts in the various descriptions of the accident cannot be resolved by comparing the physical evidence with the statements of the parties involved, contact the Postal Service employee involved. Discuss the statements of the claimant and other witnesses that conflict with the employee's statement. Include a report of the discussions in the file.

244.4 **Obtaining Objective Evidence**

Obtain evidence useful to determining responsibility for the accident. Do not investigate merely to establish negligence on the part of the private party or other conditions contributing to the accident. It is necessary to establish whether the operator of the Postal Service vehicle was or was not responsible since the claim adjudicator or court may, depending on state

law, decline settlement on the basis of contributory negligence or apportion fault on the basis of comparative negligence of both.

244.5 **Postal Service Responsibility for Accidents Involving Employees**

The Postal Service is responsible for employee accidents only when the employees are acting within the scope of their official duties, i.e., the Postal Service driver was performing authorized Postal Service business at the time of the accident. Examine the driver's route book or Motor Vehicle Service (MVS) schedule to determine authorization. Seek clarification regarding specific state law regarding scope of duty determinations from the NTC if necessary.

244.6 **Responsibility for Collection of Demands from Private Parties**

244.61 **General**

When Postal Service property is damaged by a private party, promptly determine the cost of repair or replacement. Make a claim for restitution when the amount of damage is \$100 or more and it has been established that the private party is at fault. If repairs cannot be made promptly, request payment for the estimated cost of labor and material required to repair the damage. When a private party or insurer is billed, the supporting statement must clearly identify the hours of labor, cost per hour, and a list of parts used, so that the debtor can easily audit the charges. (See [Exhibit 244.51](#) for a sample claim statement.) The claim for labor should be based upon the rate specified by the Office of Fleet Management for vehicle warranty repairs.

244.62 **Collection Procedures**

See Part 263 of Handbook PO-701, Fleet Management

25 Accident Investigation Summary Report

251 **Preparation**

The accident investigation summary report is required for all claims to be forwarded for adjudication to the Accounting Service Center (ASC) or NTC. Assemble all documents, photographs, and other exhibits. Review the file for completeness and accuracy. Include the information in the file and describe investigative details not evident from the documents and exhibits. See [252](#) for the summary report format. Include a list of exhibits behind the narrative summary.

252 **Summary Report Format**

Use the following paragraph headings in the sequence listed. If the required information is not available, state the reason it is not available. Report in detail for each paragraph as follows:

- a. Description of Accident

State clearly, concisely, and completely the location of the accident, the identity of the persons involved, the date and time of the accident, the manner in which it occurred, and all other relevant descriptive features. Submit photographs of the accident scene and damaged property, including vehicles, with the report.

b. Condition of Road, Weather, and Traffic

- (1) Include all data that might relate to the cause of the accident. State road condition, including wet, dry, rough pavement, or whether the road was under construction, and indicate traffic controls such as stop signs and traffic signals and whether the signals were operational.
- (2) Include official weather reports or newspaper articles on the weather whenever this may have a bearing on the accident.
- (3) State traffic density, including rush-hour or congested roads.

c. Official Employment of Postal Service Driver

State if the Postal Service driver was acting within the scope of employment. That is, state whether the Postal Service driver was performing assigned Postal Service duties, or was engaged in personal pursuits at the time of the accident. If the Postal Service driver was not performing Postal Service business at the time of the accident, provide full details, including a map showing authorized route, actual route taken, and location of accident. In addition, review and report on the employee's driving record, and general reputation as a driver. Comment about the driver's capability as a witness. Also state if the Postal Service employee was injured and if a claim has been filed for worker's compensation. If so, report the status of any such claim.

d. Mental State and Physical Impairment

Report any mental or physical impairment of Postal Service or private drivers. Also report the emotional state of drivers, such as angry or agitated.

e. Statement of Postal Service Driver

Include the written statement of the Postal Service driver in the file, if available. Ensure that all details relevant to the accident are included. If the claimant's or a witness' description of the accident conflicts with that of the Postal Service driver, report on the resolution of the discrepancies. State your findings, with sound rationale, of whether the version of the accident provided by the Postal Service driver or the claimant is the more credible.

f. Statement of Private Driver

Include written statements of private drivers in the file if available. If the claimant has retained an attorney, make all contacts through the attorney. Interview the claimant with the attorney present, unless the attorney specifically declines to be present. State your opinion concerning the credibility of the claimant's version of the accident.

g. Statement of Witness

Include any written statements from witnesses in the file. Ensure verbal statements of witnesses are included. Include all information you got concerning the credibility of witnesses. State the occupation of a witness and their relationship, if any, to the claimant. If SF 94, *Statement of Witness*, or written statement is not available, include recorded telephone interviews.

- h. Police Report
Include transcripts or copies of the police report.
- i. Traffic Violations
If citations were issued, include copies of regulations violated and quote specific paragraphs.
- j. Safety Equipment
Comment whether the Postal Service employee or private vehicle was equipped with the proper, required, or customary safety equipment, such as a safety belt. Also, comment if the lack of use of a safety belt or other safety equipment contributed to the accident, damage, or personal injury. If it can be determined, state whether or not the employee was using a seat belt at the time of the accident.
- k. Defective Equipment
Include any documentation, or statements made regarding defective equipment. If any possible defects relate to the Postal Service vehicle, include all maintenance and other records pertaining to the maintenance of the vehicle. State your opinion whether or not defective equipment contributed to the accident.
- l. Contributory/Comparative Negligence
It is not sufficient to merely show evidence establishing negligence on the part of the Postal Service driver. It is important to include any evidence showing the operator of the private vehicle was or was not also negligent. State your opinion regarding the degree of negligence of each driver and supply supporting documentation.
- m. Responsibility for Accident
Include any other evidence showing if the operators of the private vehicle and Postal Service vehicle, or both drivers, were responsible for the accident.
- n. Liability Insurance Policy for Privately-Owned Vehicles Used by Postal Service Employees
 - (1) When the vehicle operated by a Postal Service employee is not owned by the government, get a complete copy of any insurance policy covering the vehicle, including the declaration sheet and all riders and endorsements which may, at the time of the accident, determine whether the policy might be interpreted to include the United States Postal Service as an additional insured.
 - (2) Generally, the language in an insurance policy making the United States Postal Service an additional insured is found in the paragraph of the policy which defines who is an insured for liability coverage. Such language indicates that the insurance

company will protect not only the named insured, but also any person or organization legally responsible for the use of the automobile provided it is being driven at the time by the named insured or with permission of the named insured. Courts have held that the United States government is an “organization legally responsible for the use of the vehicle.”

- (3) Some insurance companies have amended their policies to specifically exclude the federal government. Such exclusions may appear in an endorsement or rider attached to the policy, be included in the body of the policy and set out under the Exclusions provisions of the liability policy, or as a part of the definition of who is an insured. To effectively exclude the federal government from coverage under the policy, the language must be specific. The exclusionary language varies from company to company, but most exclusionary language reads as follows:
 - (a) “Federal Employee Using Automobiles in Government Business”
 - (b) The following are not insureds:
 - (i) “The United States of America or any of its Agencies.”
 - (ii) “Any person, including the named insured, with respect to bodily injury or property damage resulting from the operation of an automobile by such person as an employee of the United States Government while acting within the scope of his office or employment, if the provisions of section 2679 of Title 28, U.S. Code (The Federal Tort Claims Act) as amended, require the Attorney General of the United States to defend such person in any civil action or proceeding which may be brought for bodily injury or property damage, whether or not the incident out of which such bodily injury or property damage arose has been reported to the United States or the Attorney General.”
- (4) When it appears that the United States is an additional insured, do not attempt to settle the claim or contact the insurance company. Forward the matter to the NTC for handling.

o. Claims

List the names of all potential claimants. Also list the names of all claimants, the dates their claims were received by the Postal Service, and what, if any, action was taken on the claims.

p. Property Damage

Ensure that property damage is adequately described, with a dollar estimate of total damage.

q. Analysis of Repair Bills

Report all items claimed as damaged by an accident. Include comments, after a thorough review on the accuracy and

reasonableness of repair estimates or charges. If not accurate or reasonable, state reasons for opinion.

- r. **Market and Salvage Value**
Report market value of the vehicle, less salvage value, when the cost to repair a vehicle exceeds the fair market value of the vehicle at the time of the accident. Fair market value can be determined by estimates from dealers, newspaper ads, or blue book figures, such as those published by the National Association of Automobile Dealers (NADA). Salvage value can be obtained from salvage yards, or junk yards in the area.
- s. **Personal Injuries**
Submit all available documentation substantiating claimant's personal injuries. Claims should be supported by a written report from the attending physician or physicians describing the injury sustained. The report should show the nature and extent of the injury; the nature and extent of the treatment; the degree of permanent disability, if any; the prognosis; and the period of hospitalization or disability.
- t. **Medical Bills**
Include copies of all itemized medical and hospital bills that have been provided in the file. When assessing potential settlement, it should be clear that the bills considered cover only treatment or medicines needed as a result of the injuries sustained in the accident.
- u. **Claims of the Postal Service**
Report dollar value of damage to Postal Service vehicles, and include supporting documentation.
- v. **Conclusions**
State your conclusions about the cause of the accident and your recommendation for settlement of the claim.
- w. **Exhibits**
Include all pertinent original photographs, diagrams, letters, and other material of a documentary nature.

26 Postal Service Vehicle Accident Register

Enter each vehicle accident into the Tort Claims Office Software database.

Exhibit 222

Motor Vehicle Accident Investigation Kit

- | | |
|---|--|
| <ul style="list-style-type: none"> * Clipboard—9 inch x 12 1/2 inch (with light and pencil clip) * Envelopes (Pre-addressed Penalty) * List of Phone Numbers <ul style="list-style-type: none"> Police Department Rescue Squad Ambulance Hospital Fire Department Towing Service Postal Inspectors * Camera with flash and film * Driver's Vehicle Accident Kit (087-H) * Pens and Pencils * City Map * Fluorescent Vest * 100-foot Tape Measure (Metal Reinforced Fabric) * Foul Weather Gear * Crayon (Lumberman's Yellow) * Flashlight * Spring Steel Pocket Tape (12 Feet) * Graph Paper * Magnetic Compass * First Aid Kit * Measuring Wheel (Strollometer/Rollotape) * Nomograph (See Exhibit 234.52(c)) * Fuses, Flares, or Reflectors * Blank Forms – SF 94, SF 95, and PS 1700 * Credentials – Accident Investigators <ul style="list-style-type: none"> Business Card or Postal Service ID | <ul style="list-style-type: none"> Tire Depth Gauge Tire Pressure Gauge Line Level 100 Foot String Small Bottles Cassette Recorder and Blank Cassettes Marking Tags Medicine Dropper 12 Inch T-square Drawing Compass Investigators Template Blanket (Copies of State and City) Vehicle Codes Plastic Cover for Clipboard and Rubber Bands Steel Pins to Anchor Tape Lead Weights to Anchor Tape Speed Determiner Available from: <ul style="list-style-type: none"> SCIENCE-SAFETY PRODUCTS BOX 2666 UNIVERSITY STATION SHAWNEE OK 74802-2666 |
|---|--|
- * Minimum required items
Items without asterisk (*) are optional.

Exhibit 234.4
PS Form 1700, Accident Investigation Worksheet

U.S. Postal Service®		THIS FORM IS FOR POSTAL SERVICE™ USE ONLY. <small>Copies should not be given to others at scene of accident.</small>			
1	Post Office™	Date	Time	Day of Week	Case No.
2	Exact Location of Incident	No. Lanes	Traffic Control	Speed Limit	
3	Road Type	Road Conditions	Visibility	Weather	
4	Photos Taken <input type="checkbox"/> Yes <input type="checkbox"/> No	Police Charges	Offense	To	
			By (Officer's Name, Badge No., and Precinct)		
5	Witness Name, Age, Address & Telephone No. (Include Apt./Suite No.)		Passenger Name, Address & Telephone No. (Include Apt./Suite No.)		
6	Injured or Killed (Private Party Only) (Name and Address) (Include Apt./Suite No.) Unknown or N/A <input type="checkbox"/>		Sex N/A <input type="checkbox"/>	First Aid By Unknown or N/A <input type="checkbox"/>	
			Taken To (Doctor or Hospital) Unknown or N/A <input type="checkbox"/>		
			Age N/A <input type="checkbox"/>	Taken By Unknown or N/A <input type="checkbox"/>	
7	Contact Point (Postal Vehicle)	(Other Vehicle)			
8	Post Office Operator Was Going (From)	(To)			
OTHER VEHICLE(S)					
9	Driver's Name (Other) Unknown or N/A <input type="checkbox"/>	Age N/A <input type="checkbox"/>	Owner's Name, Address and Telephone No. (Include Apt./Suite No.) Unknown or N/A <input type="checkbox"/>		
Street Address (Include Apt./Suite No.) Unknown or N/A <input type="checkbox"/>		Sex N/A <input type="checkbox"/>			
City, State and ZIP + 4® Unknown or N/A <input type="checkbox"/>		Telephone No. N/A <input type="checkbox"/>			
10	Driver License (State & No.)	Expiration Date	Liability Insurance Company and Address		
11	Driver's Condition	Was Seat Belt Installed? <input type="checkbox"/> Yes <input type="checkbox"/> No	In Use? <input type="checkbox"/> Yes <input type="checkbox"/> No		
12	Year Make Unknown or N/A <input type="checkbox"/>	Model N/A <input type="checkbox"/>	Type N/A <input type="checkbox"/>	Color N/A <input type="checkbox"/>	Registration (Year, State & No.) Unknown or N/A <input type="checkbox"/>
13	Odometer Reading Unknown or N/A <input type="checkbox"/>	Occupants (No.) Unknown or N/A <input type="checkbox"/>	Estimated Speed	Distance Danger Notice Unknown or N/A <input type="checkbox"/>	
Travel Direction		Distance Traveled After Impact (Feet)	Driven Away <input type="checkbox"/> Yes <input type="checkbox"/> No (If No, How Moved?)		
15	Damage (Other Vehicle(s))				
16	Statement (Other Driver)				
<p>Privacy Act Statement: Collection of information requested on this form is authorized by 39 U.S.C. 401, 410, 1001, and 1005. The information will be used to record and resolve the circumstances relating to an accident. Providing the information is mandatory; failure to do so may result in corrective action. We may disclose this information as follows: in relevant legal proceedings; to law enforcement when the U.S. Postal Service (USPS) or requesting agency becomes aware of a violation of law; to a congressional office; to entities or individuals under contract with USPS; to entities authorized to perform audits; to labor organizations as required by law; to federal, state, local or foreign government agencies regarding personnel matters; to the Equal Employment Opportunity Commission; and to the Merit Systems Protection Board or Office of Special Counsel.</p>					
<p>PS Form 1700, August 2008 (Page 1 of 4) PSN 7530-02-000-7362 (For Non-Vehicle Accidents, Use Heavy Black Areas ONLY)</p>					

Exhibit 234.4 (continued)

PS Form 1700, Accident Investigation Worksheet

POSTAL VEHICLE AND EMPLOYEE							
17	Employee's Name		Age	Position Title		Service Type	
18	State Driver's License No.		Expiration Date		Restriction		
19	Hours on Duty at Time of Accident	Driving Experience (<i>This Type Vehicle</i>)		Postal Service Driving Exp.	Extent of Injuries (<i>Operator</i>)		
20	Liability Insurance Coverage <input type="checkbox"/> Yes <input type="checkbox"/> No		Insurance Company's Name		Policy Number		
21	Was Investigation at Scene? <input type="checkbox"/> Yes <input type="checkbox"/> No		Was Driver Cooperative? <input type="checkbox"/> Yes <input type="checkbox"/> No		Was Vehicle Equipped With Seat Belts? <input type="checkbox"/> Yes <input type="checkbox"/> No		If Yes, Were They in Use at Time of Accident? <input type="checkbox"/> Yes <input type="checkbox"/> No
22	Year	Make	Vehicle No.	Odometer Reading	RHD <input type="checkbox"/>	LHD <input type="checkbox"/>	No. Occupants (<i>Front</i>) (Rear) Estimated Speed
23	Distance Danger Noticed		Direction of Travel		Distance Traveled After Impact (<i>Feet</i>)		Vehicle Defects Prior to Accident
24	Nature and Extent of Damage						

ACCIDENT DESCRIPTION					
25	USPS Investigator Name (<i>Print or Type</i>)		Telephone No. (<i>Include Area Code</i>)	Time of Call	Arrived at Scene
26	Description of How Accident Occurred				

CUSTOMER OR PROPERTY DAMAGE (<i>Not Motor Vehicle</i>)					
27	Sex	Age	Approx. Height	Condition of Customer or Property When Investigator Arrived on Scene	
28	Statement Made by Witness				
29	Damage to Property Other Than Motor Vehicle				

PS Form 1700, August 2008 (Page 2 of 4)

Exhibit 234.4 (continued)


PS Form 1700, Accident Investigation Worksheet

30	Customer's Name and Address, or Site of Property Damage <i>(Include Apt./Suite No. and ZIP+4)</i>	Birth Date	<input type="checkbox"/> Male <input type="checkbox"/> Female
31	Was employee involved? <input type="checkbox"/> Yes <input type="checkbox"/> No <i>(If "Yes," complete Item 17)</i>		
32	Is premises leased? <input type="checkbox"/> Yes <input type="checkbox"/> No <i>(If "Yes," attach copy of lease)</i>		
33	Was customer injured? <input type="checkbox"/> Yes <input type="checkbox"/> No <i>(If "Yes," Complete Item 6)</i>		
34	Nature of injury		
35	Property damage <input type="checkbox"/> Yes <input type="checkbox"/> No <i>(If "Yes," complete Item 30)</i>		
36	Witness to accident <input type="checkbox"/> Yes <input type="checkbox"/> No <i>(If "Yes," complete Items 5 & 28)</i>		
37	Activity of customer prior to accident <i>(Describe)</i> <input type="checkbox"/> Walking <input type="checkbox"/> Running <input type="checkbox"/> Horse play involved		
38	Structural factors -- Building defects, sidewalks, steps, lighting, docks, or other if contributory to accident. Handrail available: Used <i>(Describe)</i>		
39	Custodian factors -- Cleaning, waxing, mopping, lobby equipment if contributory to accident. Warning signs displayed. <i>(Describe)</i> Was Custodian on-duty at time of incident? <input type="checkbox"/> Yes <input type="checkbox"/> No <i>(If "Yes", request a written statement from the custodian and provide the full name of custodian.)</i> Last Name: _____ First Name: _____ MI: _____		
40	Weather factors -- Rain, snow, ice or any other uncontrollable element if contributory to accident. <i>(Describe)</i>		
41	Human factors -- Illness, physical, psychological, or medication used if contributory to accident. <i>(Describe)</i>		
42	CONCLUSIONS		
43	Investigator's Printed Name and Signature	Title and Official Telephone No. <i>(Include Area Code)</i>	Date <i>(MM/DD/YYYY)</i>

I Exhibit 234.4 (continued)
PS Form 1700, Accident Investigation Worksheet

FIELD SKETCH (Use appropriate one)

#1	POSTAL VEHICLE
#2	PRIVATE VEHICLE



INDICATE NORTH

INDICATE
Width of roadway
traffic flow,
parked vehicles,
traffic signs or
signals, etc.

OBTAIN ACCURATE
MEASUREMENTS FROM
FIXED OBJECTS

ALSO INDICATE
approach of vehicles,
point of impact and
place where vehicles
stopped after accident.

PS Form **1700**, August 2008 (Page 4 of 4)

Exhibit 234.4

PS Form 1700, Accident Investigation Worksheet Instructions

Item 1. This can be completed in your office. Post Office: Enter the office where the vehicle accident occurred. Date: Enter date of accident. Time: Enter time accident occurred. Day of Week: Enter day of week accident occurred. Case No.: Obtain from Tort Claims Office Software database.

Item 2. Exact Location: Enter exact location of accident, for example, 1829 "E" Street SE, or on State Road 796, 3/4 mile east of SR 1785.

Item 3. Road Type: Indicate if the road is concrete, asphalt, macadam, brick, gravel, or dirt. Road Conditions: Describe whether the road was wet or dry; had leaves or grass on surface; or had oil, grease spots, or repair joints, which can reduce traction. Road Width: Enter width of driving surface. No. Lanes: Enter number of driving lanes in each direction. Traffic Control: Describe traffic control signals such as traffic lights, stop signs, or railroad crossing. Legal Speed: Enter the posted speed limit. Visibility: Describe view obstruction such as parked cars, embankments, buildings, billboards, shrubs, and hedges. Weather: Describe the weather at the time of the accident; if cloudy, say how cloudy (solid, partial, scattered); if raining, indicate for how long. Offense: Cite the violation. To: Enter the name of the person to whom violation was issued. By: Enter officer's name, badge number, and precinct. Passenger Name, Address & Telephone No.: Enter name of passengers in the private vehicle (use N/A if the driver was the only person in the private vehicle). In addition to completing this section, acquire a copy of the police report and include it in the file.

Item 4. Photos Taken: Check Yes or No. If yes, include photos in file. Claim Forms Issued: Check Yes or No. Issue claim forms only if private party indicates to you that he or she will file a claim.

Item 5. Witness Name, Age, Address, and Telephone No.: Enter witness name, age, address, and telephone number. Acquire this information as soon as possible upon arrival at the accident scene. Also have the witness complete SF 94.

Item 6. Injured or Killed: Enter sex, age, and first aid action for private parties only. If private passenger is taken from the scene, indicate the doctor or hospital where the injured party was taken and by whom.

Item 7. Contact Point: Enter point of impact for each vehicle.

Item 8. P.O. Operator Was Going: Indicate the Post Office the employee departed from and destination.

Line 9. Enter the name, address, etc. of other driver and owner. Name of owner may be different from driver.

Item 10. Enter other driver's license number and the state that issued the license. Check the expiration date to make sure license has not expired. Enter private owner's liability insurance information, which is necessary to collect for damage to Postal Service vehicle.

Item 11. Driver's Condition: Describe injuries (for example, slight, severe), and state (for example, drunk, sober, tired). Was Seat Belt Installed and In Use? Check Yes or No. Look at the seat belt; if it is still fastened or down behind the seat, you know it was not being used.

Item 12. Enter year, make, model, type, color, and registration information for other vehicle.

Item 13. Odometer Reading: Obtain this reading by looking in the vehicle. This is important because if the vehicle has a great number of miles on it, it is more likely to have some kind of mechanical defect. Occupants (Front and Rear): Determine the number of occupants in the vehicle and exact location of each. Estimated Speed: You can ask the driver or check yourself by utilizing a trial skid. Distance Danger Notice: If the driver is unable to estimate this distance, ask where the vehicle was when danger was first observed, then measure it.

Exhibit 234.4 (continued)

PS Form 1700, Accident Investigation Worksheet Instructions

Item 14. Travel Direction: State the direction in which the vehicle was traveling. The impact of the accident may distort the direction the vehicle faces after the accident. Distance Traveled After Impact: Determine the point of impact and measure the distance from the point of impact to the point where the vehicle stops. Driven Away: Check Yes or No. If the vehicle was towed, name the wrecker company. If not, indicate how it was moved.

Item 15. Damage and Estimated Cost: List the extent of the damage in general terms. Note any old damage not caused by this accident. Postal Service mechanics can assist you with estimates. Remember, if you need to look at the vehicle after it has left the scene of the accident, you must obtain the owner's permission.

Item 16. Statement (Other Driver): When taking this statement, record every comment pertaining to the accident. Specific questions may be necessary.

Items 17 through 24. This section can be completed after you return to your office.

Item 25. USPS Investigator and Telephone No.: Enter the name and telephone number of the on-the-scene investigator if it is not the same as the investigator who completes this report. (Sometimes it is necessary for the adjudicators to talk directly to the on-the-scene investigator). Time of Call and Arrival at Scene: Enter the time of the call and the time the investigator arrived at the scene.

Item 26. Description of How Accident Occurred: Enter a narrative description of how the accident occurred. Summarize the information you have collected. Be clear and concise, but do not omit information.

Items 27 through 41. This section is for non-vehicle accidents only. See page 61.

Item 42. Conclusions. THIS BLOCK IS FOR USE BY THE LAW DEPARTMENT ONLY.

Field Sketch. Draw a basic sketch of the accident scene, showing the street configuration, any traffic signals or signs, the estimated point of collision, and location of the vehicles at their final resting point.

Exhibit 232.1

Vehicle Accident Investigation Checklist

This checklist is not provided to limit your investigation but merely to serve as a guide.

- ___ Notify the District Tort Claims Coordinator (TCC)
 - ___ Record the caller's name, date, time, telephone number, location, severity of accident (injuries), and vehicle numbers.
 - ___ When there are injuries, call an ambulance.
 - ___ If necessary, contact tow truck (for Postal Service vehicle).
 - ___ If serious accident (See [153](#)), immediately contact "District Manager."
- ___ Approach the Scene
 - ___ Park vehicle. Do not obstruct traffic.
 - ___ Take care of injuries.
 - ___ Secure the scene if police are not present.
 - ___ When police are present, identify yourself.
 - ___ Photograph the accident scene.
 - ___ Locate, photograph, and mark all temporary evidence.
 - ___ Mark the location of vehicle, prior to clearing accident scene.
 - ___ Secure the mail.
 - ___ Locate and interview witnesses; interview and determine condition of driver.
 - ___ Observe and document any safety defects.
 - ___ Make all necessary measurements.
 - ___ Coordinate investigative activities with local law enforcement officer.
 - ___ Check the accident scene for obvious obstructions.
 - ___ Document all available information prior to leaving the scene of accident (see PS Form 1700, [Exhibit 234.4](#))
 - ___ List any other relevant information.

Exhibit 233.2
SF 91, Motor Vehicle Accident Report

MOTOR VEHICLE ACCIDENT REPORT	Please read the Privacy Act Statement on Page 3.	INSTRUCTIONS: Sections I thru IX are filled out by the vehicle operator. Section X, Items 72 thru 82c are filled out by the operator's supervisor. Sections XI thru XIII are filled out by an accident investigator for bodily injury, fatality, and/or damage exceeding \$500.			
SECTION I - FEDERAL VEHICLE DATA					
1. DRIVER'S NAME (Last, first, middle)		2. DRIVER'S LICENSE NO./STATE/LIMITATIONS		3. DATE OF ACCIDENT	
4a. DEPARTMENT/FEDERAL AGENCY PERMANENT OFFICE ADDRESS			4b. WORK TELEPHONE NUMBER ()		
5. TAG OR IDENTIFICATION NUMBER	6. EST. REPAIR COST \$	7. YEAR OF VEHICLE	8. MAKE	9. MODEL	
11. DESCRIBE VEHICLE DAMAGE				10. SEAT BELTS USED <input type="checkbox"/> YES <input type="checkbox"/> NO	
SECTION II - OTHER VEHICLE DATA (Use Section VIII if additional space is needed.)					
12. DRIVER'S NAME (Last, first, middle)		13. DRIVER'S LICENSE NUMBER/STATE/LIMITATIONS			
14a. DRIVER'S WORK ADDRESS			14b. WORK TELEPHONE NUMBER ()		
15a. DRIVER'S HOME ADDRESS			15b. HOME TELEPHONE NUMBER ()		
16. DESCRIBE VEHICLE DAMAGE			17. ESTIMATED REPAIR COST \$		
18. YEAR OF VEHICLE	19. MAKE OF VEHICLE	20. MODEL OF VEHICLE		21. TAG NUMBER AND STATE	
22a. DRIVER'S INSURANCE COMPANY NAME AND ADDRESS			22b. POLICY NUMBER		
			22c. TELEPHONE NUMBER ()		
23. VEHICLE IS <input type="checkbox"/> CO-OWNED <input type="checkbox"/> RENTAL <input type="checkbox"/> LEASED <input type="checkbox"/> PRIVATELY OWNED		24a. OWNER'S NAME(S) (Last, first, middle)		24b. TELEPHONE NUMBER ()	
25. OWNER'S ADDRESS(ES)					
SECTION III - KILLED OR INJURED (Use Section VIII if additional space is needed.)					
26. NAME (Last, first, middle)			27. SEX	28. DATE OF BIRTH	
29. ADDRESS					
A	30. MARK "X" IN TWO APPROPRIATE BOXES <input type="checkbox"/> KILLED <input type="checkbox"/> DRIVER <input type="checkbox"/> PASSENGER <input type="checkbox"/> INJURED <input type="checkbox"/> HELPER <input type="checkbox"/> PEDESTRIAN		31. IN WHICH VEHICLE <input type="checkbox"/> FED <input type="checkbox"/> OTHER (2)	32. LOCATION IN VEHICLE	33. FIRST AID GIVEN BY
	34. TRANSPORTED BY		35. TRANSPORTED TO		
36. NAME (Last, first, middle)			37. SEX	38. DATE OF BIRTH	
39. ADDRESS					
B	40. MARK "X" IN TWO APPROPRIATE BOXES <input type="checkbox"/> KILLED <input type="checkbox"/> DRIVER <input type="checkbox"/> PASSENGER <input type="checkbox"/> INJURED <input type="checkbox"/> HELPER <input type="checkbox"/> PEDESTRIAN		41. IN WHICH VEHICLE <input type="checkbox"/> FED <input type="checkbox"/> OTHER (2)	42. LOCATION IN VEHICLE	43. FIRST AID GIVEN BY
	44. TRANSPORTED BY		45. TRANSPORTED TO		
46. Pedestrian	a. NAME OF STREET OR HIGHWAY		b. DIRECTION OF PEDESTRIAN (SW corner to NE corner, etc.) FROM _____ TO _____		
	c. DESCRIBE WHAT PEDESTRIAN WAS DOING AT TIME OF ACCIDENT (Crossing intersection with signal, against signal, diagonally; in roadway playing, walking, hitchhiking, etc.)				
NSN 7540-00-634-4041 Previous edition not usable		91-109		STANDARD FORM 91 PAGE 1 (REV. 2-93) Prescribed by GSA · FPMR 101-38.6	

Exhibit 233.2 (continued)
SF 91, Motor Vehicle Accident Report

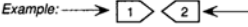




SECTION IV - ACCIDENT TIME AND LOCATION (Use Section VIII if additional space is needed.)																													
47. DATE OF ACCIDENT	48. PLACE OF ACCIDENT (Street address, city, state, ZIP Code; Nearest landmark; Distance nearest intersection; Kind of locality (industrial, business, residential, open country, etc.); Road description).																												
49. TIME OF ACCIDENT																													
AM PM																													
50. INDICATE ON THIS DIAGRAM HOW THE ACCIDENT HAPPENED		51. POINT OF IMPACT (Check one for each vehicle)																											
<p>Use one of these outlines to sketch the scene. Write in street or highway names or numbers.</p> <p>a. Number Federal vehicle as 1, other vehicle as 2, additional vehicle as 3 and show direction of travel with arrow.</p> <p>Example: </p> <p>b. Use solid line to show path before accident and broken line after the accident </p> <p>c. Show pedestrian by </p> <p>d. Show railroad by ++++++ </p> <p>e. Place arrow in this circle to indicate NORTH </p>		<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 10%; text-align: center;">FED</td> <td style="width: 10%; text-align: center;">2</td> <td style="width: 80%;">AREA</td> </tr> <tr> <td></td> <td></td> <td>a. FRONT</td> </tr> <tr> <td></td> <td></td> <td>b. R. FRONT</td> </tr> <tr> <td></td> <td></td> <td>c. L. FRONT</td> </tr> <tr> <td></td> <td></td> <td>d. REAR</td> </tr> <tr> <td></td> <td></td> <td>e. R. REAR</td> </tr> <tr> <td></td> <td></td> <td>f. L. REAR</td> </tr> <tr> <td></td> <td></td> <td>g. R. SIDE</td> </tr> <tr> <td></td> <td></td> <td>h. L. SIDE</td> </tr> </table>	FED	2	AREA			a. FRONT			b. R. FRONT			c. L. FRONT			d. REAR			e. R. REAR			f. L. REAR			g. R. SIDE			h. L. SIDE
FED	2	AREA																											
		a. FRONT																											
		b. R. FRONT																											
		c. L. FRONT																											
		d. REAR																											
		e. R. REAR																											
		f. L. REAR																											
		g. R. SIDE																											
		h. L. SIDE																											
<p>52. DESCRIBE WHAT HAPPENED (Refer to vehicles as "Fed", "2", "3", etc. Please include information on posted speed limit, approximate speed of the vehicles, road conditions, weather conditions, driver visibility, condition of accident vehicles, traffic controls (warning light, stop signal, etc.) condition of light (daylight, dusk, night, dawn, artificial light, etc.), and driver actions (making U-turn, passing, stopped in traffic, etc.).</p>																													
SECTION V - WITNESS/PASSENGER (Witness must fill out SF 94, Statement of Witness) (Continue in Section VIII.)																													
A	53. NAME (Last, first, middle)	54. WORK TELEPHONE NUMBER ()																											
	55. HOME TELEPHONE NUMBER ()	56. BUSINESS ADDRESS																											
	57. HOME ADDRESS																												
B	58. NAME (Last, first, middle)	59. WORK TELEPHONE NUMBER ()																											
	60. HOME TELEPHONE NUMBER ()	61. BUSINESS ADDRESS																											
	62. HOME ADDRESS																												
SECTION VI - PROPERTY DAMAGE (Use Section VIII if additional space is needed.)																													
	63a. NAME OF OWNER	63b. OFFICE TELEPHONE NUMBER ()																											
	63d. BUSINESS ADDRESS	63c. HOME TELEPHONE NUMBER ()																											
	63e. HOME ADDRESS																												
64a. NAME OF INSURANCE COMPANY	64b. TELEPHONE NUMBER ()	64c. POLICY NUMBER ()																											
65. ITEM DAMAGED	66. LOCATION OF DAMAGED ITEM	67. ESTIMATED COST \$																											
SECTION VII - POLICE INFORMATION																													
	68a. NAME OF POLICE OFFICER	68b. BADGE NUMBER																											
	69. PRECINCT OR HEADQUARTERS	68c. TELEPHONE NUMBER																											
	70a. PERSON CHARGED WITH ACCIDENT	70b. VIOLATION(S)																											
STANDARD FORM 91 PAGE 2 (REV. 2-9)																													

Exhibit 233.2 (continued)
SF 91, Motor Vehicle Accident Report

SECTION VIII - EXTRA DETAILS					
SPACE FOR DETAILED ANSWERS. INDICATE SECTION AND ITEM NUMBER FOR EACH ANSWER. IF MORE SPACE IS NEEDED, CONTINUE ITEMS ON PLAIN BOND PAPER.					
SECTION IX - FEDERAL DRIVER CERTIFICATION					
<p>In compliance with the Privacy Act of 1974, solicitation of the information requested on this form is authorized by Title 40 U.S.C. Section 491. Disclosure of the information by a Federal employee is mandatory as the first step in the Government's investigation of a motor vehicle accident. The principal purposes for using this information is to provide necessary data for legal counsel in legal actions resulting from the accident and to provide accident information/statistics in analyzing accident causes and developing methods of reducing accidents. Routine use of information may be by Federal, State or local governments, or agencies, when relevant to civil, criminal, or regulatory investigations or prosecutions. An employee of a Federal agency who fails to report accurately a motor vehicle accident involving a Federal vehicle or who refuses to cooperate in the investigation of an accident may be subject to administrative sanctions.</p> <p>I certify that the information on this form (Sections I thru VIII) is correct to the best of my knowledge and belief.</p>					
71a. NAME AND TITLE OF DRIVER			71b. DRIVER'S SIGNATURE AND DATE		
SECTION X - DETAILS OF TRIP DURING WHICH ACCIDENT OCCURRED					
72. ORIGIN			73. DESTINATION		
74. EXACT PURPOSE OF TRIP					
75. TRIP BEGAN	DATE	TIME (Circle one) a.m. p.m.	76. ACCIDENT OCCURRED	DATE	TIME (Circle one) a.m. p.m.
77. AUTHORITY FOR THE TRIP WAS GIVEN TO THE OPERATOR <input type="checkbox"/> ORALLY <input type="checkbox"/> IN WRITING (Explain)			78. WAS THERE ANY DEVIATION FROM DIRECT ROUTE <input type="checkbox"/> NO <input type="checkbox"/> YES (Explain)		
79. WAS THE TRIP MADE WITHIN ESTABLISHED WORKING HOURS <input type="checkbox"/> YES <input type="checkbox"/> NO (Explain)			80. DID THE OPERATOR, WHILE ENROUTE, ENGAGE IN ANY ACTIVITY OTHER THAN THAT FOR WHICH THE TRIP WAS AUTHORIZED. <input type="checkbox"/> NO <input type="checkbox"/> YES (Explain)		
81. COMPLETED BY DRIVER'S SUPERVISOR		a. DID THIS ACCIDENT OCCUR WITHIN THE EMPLOYEE'S SCOPE OF DUTY <input type="checkbox"/> YES <input type="checkbox"/> NO			
		b. COMMENTS			
82a. NAME AND TITLE OF SUPERVISOR			82b. SUPERVISOR'S SIGNATURE AND DATE		82c. TELEPHONE NUMBER ()

Exhibit 233.2 (continued)
SF 91, Motor Vehicle Accident Report

SECTION XI - ACCIDENT INVESTIGATION DATA			
83. DID THE INVESTIGATION DISCLOSE CONFLICTING INFORMATION. <input type="checkbox"/> YES <input type="checkbox"/> NO <i>(If "Yes", explain below.)</i>			
84. PERSONS INTERVIEWED			
a.	NAME	DATE	c.
b.			d.
85. ADDITIONAL COMMENTS <i>(Indicate section and item number for each comment.)</i>			
SECTION XII - ATTACHMENTS			
LIST ALL ATTACHMENTS TO THIS REPORT			
SECTION XIII - COMMENTS/APPROVALS			
86. REVIEWING OFFICIAL'S COMMENTS			
87. ACCIDENT INVESTIGATOR		88. ACCIDENT REVIEWING OFFICIAL	
a. SIGNATURE AND DATE		a. SIGNATURE AND DATE	
b. NAME <i>(First, middle, last)</i>		b. NAME <i>(First, middle, last)</i>	
c. TITLE		c. TITLE	
d. OFFICE		d. OFFICE	
e. OFFICE TELEPHONE NUMBER ()		e. OFFICE TELEPHONE NUMBER ()	
*U.S. Government Printing Office: 1993 — 342-199/60068		STANDARD FORM 91 PAGE 4 (REV. 2-93)	

Exhibit 233.41 (continued)

SF 94, Statement of Witness**FILE REFERENCE:**

This office has been notified that you witnessed an accident which occurred

It will be helpful if you will answer, as fully as possible, the questions on the other side of this letter. Please read the Privacy Act Statement below.

Your courtesy in complying with this request will be appreciated. An addressed envelope, which requires no postage, is enclosed for your convenience in replying.

Sincerely

Enclosure

Use by the public is voluntary. In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information requested on this form is authorized by Title 40 U.S.C. Section 491. Disclosure of the information by a Federal employee is mandatory as it is the first step in the Government's investigation of a motor vehicle accident. The principal purposes for which the information is intended to be used are to provide necessary data for use by legal counsel in legal actions resulting from the accident, and to provide accident information/statistics for use in analyzing accident causes and developing methods of reducing accidents. Routine use of the information may be by Federal, State or local governments or agencies, when relevant to civil, criminal, or regulatory investigations or prosecution.

* U.S.G.P.O.: 1988-491-248/20679

STANDARD FORM 94 BACK (REV. 2-83)

Exhibit 234.41

Information Required on Reverse Side of Photographs

CASE NO.: _____
DATE & TIME OF PHOTO _____
PLACE OR SCENE _____
DISTANCE FROM OBJECT _____
DIRECTION CAMERA FACING _____
TYPE CAMERA & FILM _____
NAME OF PHOTOGRAPHER _____

Exhibit 234.52(a)

Using Skid Marks to Estimate Speed

- A. Charts (or nonograms) for use in estimating speed from skid marks are available. A chart developed by the Traffic Institute of Northwestern University is reproduced in [Exhibit 234.52\(c\)](#) on page [43](#). This chart shows the relationship between the length of the skid mark, the speed, and the drag factor of the surface on which the vehicle was operating.
- B. This relationship can also be computed by use of the formulas in [Exhibit 234.52\(b\)](#) on page [42](#). In these formulas:
- s = Speed in miles per hour.
 - d = Slide-to-stop distance in feet.
 - F = Drag factor.
 - f = Grade.
- C. In using the chart, determine the drag factor so that it and the length of the skid marks will be known factors for use in estimating the speed. For maximum accuracy, determine drag factor by making a test skid with the vehicle (or the same type of vehicle) involved in the accident on the surface on which the accident occurred. If this is not possible, obtain the drag factor from the table on page [42](#). In practice, it may be desirable to estimate a range of speeds using the maximum and minimum drag factors for the type of road surface involved.
- Note:** The table shows two groups of drag factors: Less than 30 m.p.h. and more than 30 m.p.h. for both wet and dry surfaces. The investigators should select the proper group depending on posted speed limits or known prevailing speeds at the scene of the accident. Any grade at the scene must also be taken into account by determining the slope as a decimal. For an upgrade, add the slope to the drag factor and subtract the slope for a downgrade.
- D. To estimate speed using the monograph on page [43](#), draw a straight line from the figure indicating the length of the skid marks, to the figure indicating the drag factor. The estimated speed is the point at which this line crosses the speed column.
- E. Keep the following points in mind when attempting to estimate speed from skid marks:
1. The actual speed of the vehicle is invariably higher than the speed estimated from its skid marks because deceleration takes place before skid marks are made. Skid marks may end abruptly at the point of impact. The speed estimated from their length may be very low while the extent of damage clearly indicates a higher speed.
 2. The estimate will be accurate if all wheels lock up and leave skip marks. Because of size, weight, brake adjustment, the number of wheels, and similar factors, it is rare for all wheels or a combination of wheels of a large truck to lock up and leave skid marks. Therefore, it is extremely difficult to obtain an accurate speed estimate. Any estimate of speed made from skid marks for a large truck should be checked against other types of speed estimates. However, it may prove valuable for the investigator to measure skid marks and estimate speeds for other vehicles involved.
 3. Skid marks must be identified with the vehicles involved in the accident. This is a problem for the investigator who arrives at the scene after the vehicles have been removed. The assistance of the Postal Service driver involved or someone who can identify the skid marks made by each vehicle is needed. Reports of investigating police officers may be helpful in identifying skid marks. At some locations, identification of skid marks made in a particular accident may be further complicated by the presence of skid marks from prior or subsequent accidents or sudden stops.
 4. You must make separate measurements of the skid marks left by each wheel and record them, not only as to length, but also as to their position with respect to the edge or center line of the roadway. Skid marks made by duals are considered in the same manner as marks made by single tire wheels.

Exhibit 234.52(a) (continued)

Using Skid Marks to Estimate Speed

5. You must identify the marks made by each wheel. On passenger cars, the marks made by the front wheels show on the pavement as twin streaks made predominantly by the outside edges of the front tires. This type of mark results from overloading of the front tires due to weight transfer resulting from the severe brake application. Rear tire marks of a passenger car are heavy ones made by the center of the tires, which are under-loaded due to the weight transfer caused by severe braking. Because of longer wheelbase and higher tire pressure, these phenomena do not occur with trucks and front and rear skid marks are most easily identified by whether they show single-tire or dual-tire marks.
6. Ensure the entire length of each skid mark is measured. Skid marks are generally preceded by "shadow" or erasure marks made as the wheel begins to slide. However, these preliminary marks may be obliterated by the time the investigator reaches the scene. If skid marks of front and rear wheels overlap, subtract the wheelbase of the vehicle to determine the distance through which the vehicle skid.
7. You must distinguish between skid marks and tire prints. Tire prints are created by a rolling tire and show a complete tread pattern. They show the path of a vehicle and are of no value in estimating speed. Tire prints are frequently made by passing vehicles which are not involved in the accident.
8. Gaps in skid marks may or may not be included in measuring the length of the marks to estimate speed. Gap-skids indicating release of the brakes may be deducted from the overall length of the skid marks before attempting to estimate speed. On the other hand, the bouncing of braked wheels, such as the wheelhop of a tandem axle assembly, will leave skip-skids at short intervals. Skip-skids must be included in measuring the overall length of the skid marks to estimate speed.

Exhibit 234.52(b)

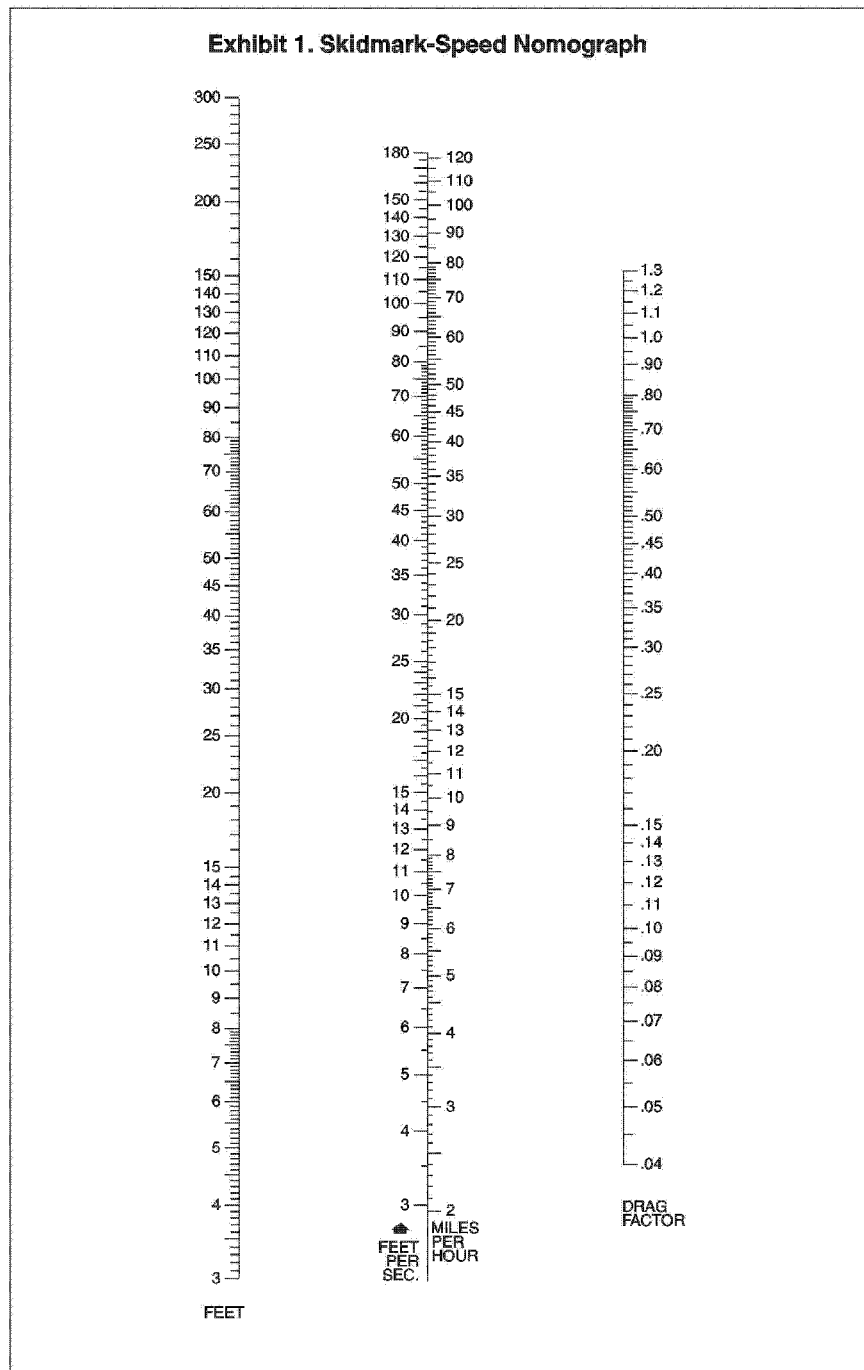
Possible Ranges of Pavement Drag Factors for Rubber Tires

DESCRIPTION OF ROAD SURFACE	POSSIBLE RANGES OF PAVEMENT DRAG FACTORS FOR RUBBER TIRES							
	DRY				WET			
	Less Than 30 m.p.h.		More Than 30 m.p.h.		Less Than 30 m.p.h.		More Than 30 m.p.h.	
	From	To	From	To	From	To	From	To
Concrete								
New, Sharp	.80	1.00	.70	.85	.50	.80	.40	.75
Traveled	.60	.80	.60	.75	.45	.70	.45	.65
Traffic Polished	.55	.75	.50	.65	.45	.65	.45	.60
Asphalt or Tar								
New, Sharp	.80	1.00	.65	.70	.50	.80	.45	.75
Traveled	.60	.80	.55	.70	.45	.70	.40	.65
Traffic Polished	.55	.75	.45	.65	.45	.65	.40	.60
Excess Tar	.50	.60	.35	.60	.30	.60	.25	.55
Brick								
New, Sharp	.75	.95	.60	.85	.50	.75	.45	.70
Traffic Polished	.60	.80	.55	.75	.40	.70	.40	.60
Stone Block								
New, Sharp	.75	1.00	.70	.90	.65	.90	.60	.85
Traffic Polished	.50	.70	.45	.65	.30	.50	.25	.50
Gravel								
Packed, Oiled	.55	.85	.50	.80	.40	.80	.40	.60
Loose	.40	.70	.40	.70	.45	.75	.45	.75
Cinders								
Packed	.50	.70	.50	.70	.65	.75	.65	.75
Rock								
Crushed	.55	.75	.55	.75	.55	.75	.55	.75
Ice								
Smooth	.10	.25	.07	.20	.05	.10	.05	.10
Snow								
Packed	.30	.55	.35	.55	.30	.60	.30	.60
Loose	.10	.25	.10	.20	.30	.60	.30	.60
Metal Grid								
Open	.70	.90	.55	.75	.25	.45	.20	.35

The drag factor or coefficient of friction on a pavement of a given description may vary considerably because quite a variety of road surfaces may be described in the same way and because of some variations due to weight of vehicle, air pressure in tire, tread design, air temperature, speed, and some other factors. These figures represent experiments made by many different people in all parts of the United States. They are for straight skids on clean surfaces. Speeds referred to are at the beginning of the skid.

Exhibit 234.52(c)

Skid mark — Speed Nomograph



— For Current Listings access www.ambest.com/legal —

2007 BEST'S DIRECTORIES OF RECOMMENDED INSURANCE ATTORNEYS AND ADJUSTERS



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Exhibit 244.2

Definition of Negligence**A. Information Sources**

Information on the specific negligence laws of each state is available from the National Tort Center. This exhibit provides a general discussion of the concept of negligence.

B. Description

1. **Definition.** Negligence is conduct that falls below the standard established by law for the protection of others against unreasonable risk of harm. The standard established by law is that of a reasonable person under like circumstances.
2. **Requirements of a Legal Action for Negligence.** Each of the following factors must be present for a legal action in negligence to exist:
 - (a) A legal duty was owed;
 - (b) That legal duty was breached as the result of conduct falling below the standard of that of a reasonable person under like circumstances;
 - (c) Actual damage or harm was sustained;
 - (d) The damage or harm sustained was a direct result of the breach of legal duty (that is, the negligent conduct was a "proximate cause" of the damage or harm sustained).
3. **Discussion — The Reasonable Person.** The standard established as a measure of whether conduct is negligent is that of a reasonable person under like circumstances. The standard can be more specifically referred to as that of an ordinary, reasonable, and prudent person — an ORPP. The ORPP referred to in the law is a fictitious person, a person who acts ideally under the circumstances and is never negligent. The ORPP is an ordinary person who always acts reasonably and prudently, and has all the qualities of attention, knowledge, and judgment expected by society in general.

For example, consider this scenario: It is raining heavily outside and water has been tracked into a postal facility's customer lobby. What are the reasonable actions that could be expected of a station manager? Whether the station manager is negligent in the maintenance of the lobby depends upon whether he acts as an ORPP under the circumstances. Questions such as the following should be considered:

- (a) Would an ORPP recognize that the water that has been tracked in presents a hazard to persons entering the lobby?
- (b) Would an ORPP post a warning sign so that customers would be aware of the potentially hazardous condition?
- (c) Would an ORPP ensure that the floor is mopped immediately?
- (d) Would an ORPP ensure that the floor is periodically checked and mopped as needed, if the rain continues?

If the answer to one or more of these questions is yes, then the station manager may be negligent by failing to take reasonable precautions to correct or to warn customers of the potential hazard.

Consider this circumstance. A Postal Service carrier, driving a long-life vehicle, stops at a stop sign. He then proceeds to make a right turn onto the intersecting road, which is not controlled by a stop sign. In evaluating whether the carrier is negligent, questions such as the following should be considered:

- (a) Would an ORPP carefully check the road to his left before actually turning onto the intersecting road, even though he has already obeyed the stop sign?
- (b) Would an ORPP be reasonably attentive to his surroundings so that he would notice approaching drivers, bicyclists, or pedestrians?
- (c) Would an ORPP exercise careful judgment by allowing for the speed, direction, and location of approaching persons?

Exhibit 244.2 (continued)

Definition of Negligence

- (d) Would an ORPP act prudently by permitting approaching persons to pass by?
- (e) Would an ORPP recognize the hazard that might be caused by pulling quickly in front of an approaching vehicle?

If the answer to one or more of these is yes, then the carrier may be negligent for failing to see an approaching vehicle; for misjudging the speed, or distance, or both of the vehicle; or for attempting to "squeeze" into the flow of traffic despite the potential hazard the action causes.

C. Negligence by the Injured Person

The standards of negligence are applied not only to the person claimed to have caused the harm but also to the person claiming to have suffered the harm.

Persons who are injured, or who have sustained property damage, must have exercised reasonable care for their own person or property. When a person's actions are not considered to be those of an ORPP, that person is said to be either contributory negligent or comparatively negligent, depending upon which standard is applied in the state where the incident occurs. The laws of contributory and comparative negligence have many variations, depending upon the state. Consult the NTC for the pertinent law of your state. Below are basic descriptions of the two concepts:

1. **Contributory negligence.** In contributory negligence states, if the person who suffers harm has failed to act as an ORPP, then that person can have no legal action in negligence against another person.
 For example, consider a customer who, on a day where ice and snow cover the city, walks up a Postal Service walk, enters the facility, buys stamps, leaves the facility, starts to walk down the very same walk, and falls on a patch of ice.
 Would an ORPP have noted that ice and snow were everywhere? Would an ORPP have then given more attention to the intended path? Would an ORPP have noted the condition of the Postal Service walk upon entering the facility? Would an ORPP then, upon leaving the facility, have given adequate attention to the intended path?
 If so, then the person who falls and is injured may have been negligent. Even though the failure of the Postal Service employees at that facility to use reasonable care in maintaining the sidewalk in a safe condition may have been the primary cause of the fall, in a contributory negligence state, this negligence by the injured person might bar the injured person from recovering from the Postal Service for its negligence.
2. **Comparative negligence.** In comparative negligence states, negligence on the part of the person who has suffered the harm does not automatically bar that person from recovery.
 In comparative negligence states, the degree of negligence by each side is considered. The person who has suffered harm can then recover from the harm suffered, but the amount of money recovered is reduced according to the proportion of negligence on that person's part.
 For example, consider this set of circumstances. A Postal Service driver nears an intersection as the traffic light turns yellow. Although the Postal Service driver could probably stop safely for the yellow light, the driver continues into the intersection and attempts to make a left turn. Another driver who is in the cross-bound traffic lanes sees that the traffic light turns green when approaching the intersection; without observing whether the intersection is clear, the private driver continues without slowing. The two vehicles collide.

Exhibit 244.2 (continued)

Definition of Negligence

Each driver failed to act as an ORPP. The Postal Service driver tried to beat the light. The private driver failed to yield the right of way to a vehicle already legally within the intersection. Even though the Postal Service driver's negligence was the initial cause of the accident, the private driver might have avoided the accident by exercising reasonable attention.

If the private driver brings a negligence action, the success of that action would depend upon the apportionment of negligence and upon the comparative negligence law of that state. One of three would apply:

- (a) In a "pure" comparative negligence state, the private driver could theoretically recover something, as long as the negligence apportioned is not 100 percent. If the private driver is found to be 75 percent negligent, the recovery would be 25 percent of the damages. If the private driver is considered 50 percent negligent, the recovery would be 50 percent. If the private driver is 25 percent negligent, the recovery would be 75 percent.
- (b) In another variety of comparative negligence, the private driver could recover so long as the apportioned negligence is 50 percent or less. Thus, if the private driver is considered 25 percent negligent, the recovery would be 75 percent. If the private driver is found to be 50 percent negligent, the recovery would be 50 percent. If the private driver is found to be 60 percent negligent, there can be no recovery.
- (c) In still another variety of comparative negligence, the private driver could recover so long as the apportioned negligence is less than 50 percent. Under this type of rule, if the private driver is considered as 25 percent negligent, the recovery is 75 percent. If the private driver is 49 percent negligent, the recovery is 51 percent. If the private driver is 50 percent negligent, there is no recovery.

A description of the specific comparative negligence that is applicable in each state is available from the NTC.

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Exhibit 244.51

Sample Format of Claim Statement

United States Postal Service	
Our Ref: _____	Date: _____
Subject: Cost of Repairs to Postal-Owned Vehicle	
To: _____	
Vehicle Number: _____	Date of Accident: _____
Postal Driver's Name: _____	Job Number: _____ (Work Order Number(s))
Bill To: Name: _____	
Address: _____	
City & State: _____	
Cost of Labor Under Contract	\$ _____
Cost of Labor Performed in Postal Garage.	\$ _____ (No. of Hours x \$ Cost per Hour)
Cost of Labor by Other Departments.	\$ _____
Cost of Parts and Materials	\$ _____
Cost for Operation of Replacement Vehicle.	\$ _____
Less (-) Credit for Salvaged Parts/Materials	\$ _____
Net Cost: Parts and Materials.	\$ _____
Total Cost Labor, Parts, and Materials	\$ _____
Cost of Towing Service.	\$ _____
Total Cost of Repair Chargeable to Accident.	\$ _____
Identify Damaged Area _____	
Name: _____	
Title: _____	

3 Investigating and Reporting Non-vehicle Accidents

31 Purpose

The purpose of investigating non-vehicle accidents is to produce an accurate, objective, written account of the incident, and to document all pertinent facts, in anticipation of a tort claim. Only then can administrative claims be fairly adjudicated and litigation defended when settlement is not appropriate. Investigators must always anticipate the filing of a claim, and ultimately litigation, any time a non-vehicle accident involves possible injury to the person or property of a private individual. This chapter covers procedures and instructions for investigating non-vehicle accidents. Often there is no Postal Service employee physically involved or present who can make a report of the non-vehicle accident to a supervisor, nor is a police report made, as is the case in a vehicle accident. Therefore, special effort must be made to investigate non-vehicle accidents. Employees must be directed to promptly notify their supervisor as soon as they become aware of an accident. Employees at the scene of non-vehicle accidents must record the conditions and circumstances of the accident shortly after it happens.

32 Initial Investigation

321 **Postal Service-Owned Facilities**

Immediately and thoroughly investigate all accidents involving private parties that occur on premises used by or under the control of the Postal Service. Accidents include slips, trips, falls, and other mishaps on or near Postal Service premises or those involving collection boxes. Also, investigate accidents on public or private property when it is alleged that such accidents resulted from acts committed by Postal Service employees, or when Postal Service-owned equipment is a factor.

322 **Postal Service-Leased or Rented Facilities**

322.1 **General**

Investigate all accidents involving private parties that occur at a leased or rented facility just as fully as those occurring on Postal Service-owned

premises. Notify the building owner of the accident if the postmaster has not already done so.

322.2 **Structural Defects**

When accidents are caused by or are alleged to be the result of a structural defect, such as a broken step, a pothole in the parking lot, or an uneven sidewalk, the investigator must determine and record if, when, and how notice of the defect and required repairs were reported by the Postal Service to the landlord before the accident occurred and whether any action was taken to warn the public of the defect. If the lease contains provisions relating to repairs, annotate this fact on the report. Also, include a copy of the lease, all available information about the landlord's insurance coverage, and all documentation reflecting correspondence with the landlord regarding structural defects or requests to repair the facility.

323 **General Services Administration Controlled Buildings**

Unless there is a contrary agreement with the General Services Administration (GSA), it is not normally necessary to investigate accidents occurring in the public areas of Postal Service facilities housed in federal buildings owned, operated, or maintained by GSA. However, you must advise the GSA building manager or other GSA official immediately of any accident. Investigate the accident if it is uncertain whether GSA or the Postal Service has jurisdiction.

33 On-Site Investigation

331 **At the Scene of the Accident**

331.1 **Attend to Personal Injuries**

Immediate care for the injured is the utmost concern. Secure an ambulance or other medical assistance if required. Payment for an ambulance or an initial medical examination should not be considered as an admission of liability. The installation head paying for an ambulance or an initial medical examination must use account identifier code 587, Fees for Services, Postal Operations, to support the account book entry. Get a receipted bill for the ambulance or examination to support this expenditure.

331.2 **Complete PS Form 1700**

See [Exhibit 331.2](#) for sample form and instructions for completion.

332 **Make Determinations at the Scene**

332.1 **Determine the Exact Location of the Accident**

The investigator must do everything necessary to determine whether an accident occurred, exactly where the accident occurred, and what caused the accident. Take photographs of the area immediately after being notified

of the accident in order to get a record of the conditions of the premises at the time of the accident.

332.2 **Determine Cause(s) of the Accident**

332.21 **General**

Determine whether the claimant's own negligence, a structural defect in the premises, faulty custodial maintenance, or other factors caused or contributed to the claimant's injury. Use PS Form 1700, *Accident Investigation Worksheet*, ([Exhibit 331.2](#)) to record data gathered.

332.22 **Structural Defects**

Investigate structural defects which caused or are alleged by the claimant to have caused the claimant's injury. These may include:

- a. Chipped, worn, cracked, or uneven lobby floors, steps, landings, and sidewalks. Investigate how the defect may have caused or contributed to the claimant's injury.
- b. Variations in the width, depth, and rise of each step. Investigate and measure the width, depth, and rise of each step.
- c. Unsound guardrails or handrails. Determine whether guardrails or handrails are sturdy and easily accessible, provided on both sides, and cover the entire length of the steps and landing. Measure the height of the rails from the steps and landing. Determine if the claimant was using the rails at the time of the accident.
- d. Inadequate lighting. Report on the type of lighting and, when appropriate, determine whether artificial lighting was adequate.
- e. Recent structural changes. Determine and report on any recent structural changes. Indicate who made the changes and if the changes may have caused or contributed to the accident. Also, indicate whether the changes conform to local or state customs or ordinances.

332.23 **Custodial Maintenance**

If custodial maintenance causes or is alleged by the claimant to have caused the claimant's injury, investigate and include in the report:

- a. Signed Statements.
Get signed statements from all Postal Service employees and contractors having responsibility for and knowledge of maintenance conditions and maintenance schedules for the accident area, indicating exactly what maintenance was performed in the relevant area on the day in question (and previous days if relevant) before the accident, the exact condition of the accident scene when they arrived after the accident, and any subsequent remedial or preventative action they carried out or observed.
- b. Condition of Floor.
Determine when the floor was last treated and what was used. Determine if Postal Service-approved nonskid floor finish was used. Indicate if the floor is terrazzo and, if so, when the prescribed sealer was last used. Get statements from Postal Service employees regarding schedules for polishing and waxing floors. Determine the

date of the most recent maintenance work, if possible. Get a copy of custodial maintenance schedule if available.

- c. Determine whether a contract custodian was responsible for maintenance of the facility. If so, get a copy of the contract and any documents reflecting the custodian's duties and work hours.

332.3 **Determine Weather Conditions**

Indicate local weather conditions. If the weather conditions appear to be a factor in the accident, get an official weather bureau report. Also, obtain statements from persons responsible for custodial maintenance during inclement weather. Include the following information:

- a. Ice and Snow.

If these conditions are a factor in the accident, ascertain whether it was snowing, raining, or sleeting at the time of the accident and, if so, for how long? Determine when the snow or ice was removed from the area of the accident. Indicate whether ice melting material was used, when, and by whom. Determine whether the wind blew snow back on the area after the last removal or if it snowed again since the last removal. Indicate these conditions and the period of time it occurred before the accident. Get a copy of any contract with a snow removal contractor and any documentation reflecting when and to what extent services were provided. If the facility is responsible for removal of ice and snow, obtain copies of any documents reflecting when removal or salting efforts were undertaken.

- b. Wet Floors.

If it rained on the day of the accident, or water on the floor was a factor in the accident, state the amount of water and the action taken to alleviate this hazard. Determine how the water accumulated on the floor. Was it tracked into the area by customers or did the roof leak? Indicate whether the floor was mopped before the accident, and if so, when? If you are unable to determine exactly when the floor was last mopped, obtain a statement from custodial personnel outlining the prescribed schedule for the type of weather experienced and whether there is reason to believe the schedule was or was not followed. Determine if there was a mat in the vestibule or lobby. Indicate its size in relation to the area, its condition and its ability to catch and retain water. Photograph the mat and provide the required information on the reverse (see [Exhibit 233.41](#)).

332.4 **Determine Warning Signs**

Determine if warning signs were used and document their exact location along with your opinion about their adequacy for timely warning. Take photographs of warning signs. Be sure to clearly determine whether the signs were in place before the accident or were only placed after the accident. If the signs were in place before the accident, determine if they had been moved since the accident. Complete the required information on the reverse of the photographs or on attached photograph information forms (see [Exhibit 234.41](#)).

332.5 Determine Local Government Responsibility

Determine whether the accident occurred on the public sidewalk or other public area. If so, determine whether there are any local ordinances, customs, or statutes applicable to the accident that would make the municipality responsible. If the municipality imposes a time limit for filing claims, give notice or expedite the investigation to allow consideration and appropriate referral before the time limit expires.

332.6 Determine Previous Accidents on the Premises

Determine whether there have been any prior accidents involving the same specific defect, cause, or place on the premises. Advise whether the conditions were reported previously. Report what corrective action was taken. Give the date and state by whom the action was taken.

332.7 Determine Existence of Videotape

If the accident occurred on Postal Service premises, determine whether it occurred in an area where surveillance cameras could have captured images depicting what happened. If so, contact the Postal Inspection Service to request that the videotape be preserved.

332.8 Determine Responsibility

It is not uncommon for the claimant, Postal Service employees, and witnesses to provide different versions of the same accident. In such cases, the TCC should evaluate the testimony of all persons in order to resolve the disputed facts. Physical evidence may support one version. Try to locate evidence to substantiate or refute the claimant's assertions. Where conflict still exists, it may be necessary to re-interview those involved to resolve the conflict. See [243](#). The traits observed to evaluate the credibility of those involved in vehicle accidents apply as well to non-vehicle accidents.

333 Interview Injured Persons and Witnesses**333.1 General**

Written statements from independent witnesses are usually the single most important factor in determining the cause of an accident. Therefore, make every effort to locate witnesses, including Postal Service employees who were at the scene or who arrived shortly after the accident occurred.

333.2 Procedures

The person investigating the accident must:

- a. Obtain a statement from the injured party which includes his or her name, address, telephone number, and occupation; the exact location of the accident and how it occurred; the date and time of the accident; the nature and extent of injuries; a detailed description of the events prior to and at the time of the accident; and any other facts that are relevant to the case.
- b. Ask witnesses to complete SF 94, *Statement of Witness*.

333.3 Obtain Statements from Non-interviewed Witnesses**333.31 Written Statements**

If the investigator is unable to personally interview a witness, send the witness a copy of SF 94, *Statement of Witness* (see [Exhibit 233.41](#)). If the witness fails to return the form or the completed form does not adequately describe what occurred, request a written report or follow up with a telephone call or a personal interview.

333.32 Follow-up Statements

If injured persons are taken home or to the hospital, or if someone is very upset, the investigator should question them later, but if possible obtain a written statement as soon as practical. The investigation is not complete until all known witnesses are contacted and interviewed.

334 Record Conditions at the Scene**334.1 Diagram the Accident Scene**

The person investigating the accident must make a preliminary sketch of the scene of the accident. Include all dimensions necessary to reproduce the sketch to scale. Obtain the building plan or blueprint and copy it for inclusion in the accident case file. Show the exact location of the accident and the location of all furniture and equipment. Indicate any imperfection that may have caused or contributed to the accident. Prepare a scale diagram of the accident scene.

334.2 Photograph the Accident Scene

Take photographs of the exact spot of the scene of the accident upon arrival or as soon as possible after the accident occurred. These photographs are essential to the investigation. Include a photograph of the injured party's footwear if it is believed to have contributed to the accident, such as in a slip and fall accident. Include these photographs in the accident case file. Stamp photographs with the required information (see [Exhibit 234.41](#)).

34 Accident Investigation Summary Report

341 Preparation

This report is required for all claims to be forwarded to the ASC or NTC. The TCC should assemble all documents, photographs, and other exhibits. Review accident file for completeness and accuracy. Next, prepare a narrative summary report analyzing the information contained in the file and describing investigative details not evident from the documentation. See [342](#) for the summary report format. Include a list of exhibits behind the narrative summary.

342 Summary Report Format

Use the following paragraph headings in the sequence listed. If the required information is not available, state the reason. Report in detail for each paragraph as follows:

- a. **Description of Accident.**
Provide a detailed description of the accident. Briefly describe the statements made, on and off the record, by the injured party, witnesses, and others having knowledge of the accident. Include all relevant facts.
- b. **Conditions of Immediate Area and Weather.**
Include all environmental data that could possibly have any relation to the cause of the accident. Attach official weather reports or local newspaper reports if weather is relevant to the accident.
- c. **Statement of Employee.**
Provide all details relevant to the accident of which Postal Service employees have knowledge. If the claimant's or witness' description of how the accident occurred conflicts with that of the Postal Service employee, request a written statement from the Postal Service employee. State your opinion, with sound rationale, concerning the credibility of the employee's statements.
- d. **Statement of Private Party.**
Include the written statements of private parties, if available. If the claimant has retained an attorney, make all contacts through the attorney and have the attorney present during any interviews unless the attorney specifically declines to be present. State your opinion concerning the credibility of the claimant's version of the accident.
- e. **Statement of Witnesses.**
Include any written statements from witnesses. Ensure that the verbal statements of witnesses are included. Include all information you obtained concerning the credibility of witnesses. State occupation of witness and relationship, if any, to the claimant.
- f. **Mental State and/or Physical Impairment of Claimant.**
Describe the physical and mental factors regarding the injured party which may have contributed to the accident. This includes the type of shoes and condition (wear) of soles, or eyeglasses worn, and the general physical condition of the person. Does the person have high blood pressure or low blood pressure; use drugs, medication, or alcohol; or have dizzy or fainting spells?
- g. **Claims.**
List the names of all potential claimants. Also list the names of all claimants, the dates their claims were received by the Postal Service, and what, if any, action was taken on the claims.

- h. Property Damage.
Describe all property damage, and include an estimate of total damage.
- i. Personal Injuries.
Submit all available documentation substantiating claimants' personal injuries. Claims should be supported by a written report from the attending physician describing the injury sustained. The report should show the nature and extent of the injury, the nature and extent of the treatment, the degree of permanent disability, if any, the prognosis, and the period of hospitalization or disability.
- j. Medical Bills and Other Special Damages.
Include copies of itemized medical and hospital bills. When assessing potential settlement it should be clear that the bills considered cover only treatment or medicines needed as a result of the injuries sustained in the accident.
- k. Lease Information.
If the building in which the accident occurred is leased, furnish the name and address of the owner. Include a copy of the documents identified in [322.2](#).
- l. Conclusions and Recommendations.
State your conclusions about the cause of the accident, and your recommendation with respect to settlement of the claim.
- m. Exhibits.
Include all pertinent original photographs, diagrams, letters, and other material of a documentary nature.

35 Non-vehicle Accident Register

Enter each non-vehicle accident into the Tort Claims Office Software database.

Exhibit 331.2

PS Form 1700, Accident Investigation Worksheet

U.S. Postal Service®		THIS FORM IS FOR POSTAL SERVICE™ USE ONLY. <small>Copies should not be given to others at scene of accident.</small>		
ACCIDENT INVESTIGATION WORKSHEET				
1	Post Office™	Date	Time	Day of Week Case No.
2	Exact Location of Incident		No. Lanes	Traffic Control Speed Limit
3	Road Type	Road Conditions		Visibility Weather
4	Photos Taken <input type="checkbox"/> Yes <input type="checkbox"/> No	Police Charges	Offense To By (Officer's Name, Badge No., and Precinct)	
5	Witness Name, Age, Address & Telephone No. (Include Apt./Suite No.)		Passenger Name, Address & Telephone No. (Include Apt./Suite No.)	
6	Injured or Killed (Private Party Only) (Name and Address) (Include Apt./Suite No.) Unknown or N/A <input type="checkbox"/>		Sex N/A <input type="checkbox"/>	First Aid By Unknown or N/A <input type="checkbox"/>
			Age N/A <input type="checkbox"/>	Taken To (Doctor or Hospital) Unknown or N/A <input type="checkbox"/>
				Taken By Unknown or N/A <input type="checkbox"/>
7	Contact Point (Postal Vehicle)		(Other Vehicle)	
8	Post Office Operator Was Going (From)		(To)	
OTHER VEHICLE(S)				
9	Driver's Name (Other) Unknown or N/A <input type="checkbox"/>		Age N/A <input type="checkbox"/>	Owner's Name, Address and Telephone No. (Include Apt./Suite No.) Unknown or N/A <input type="checkbox"/>
	Street Address (Include Apt./Suite No.) Unknown or N/A <input type="checkbox"/>		Sex N/A <input type="checkbox"/>	
	City, State and ZIP + 4® Unknown or N/A <input type="checkbox"/>		Telephone No. N/A <input type="checkbox"/>	
10	Driver License (State & No.)		Expiration Date	Liability Insurance Company and Address
11	Driver's Condition		Was Seat Belt Installed? <input type="checkbox"/> Yes <input type="checkbox"/> No	In Use? <input type="checkbox"/> Yes <input type="checkbox"/> No
12	Year Make Unknown or N/A <input type="checkbox"/>	Model N/A <input type="checkbox"/>	Type N/A <input type="checkbox"/>	Color N/A <input type="checkbox"/>
	Registration (Year, State & No.) Unknown or N/A <input type="checkbox"/>			
13	Odometer Reading Unknown or N/A <input type="checkbox"/>	Occupants (No.) Unknown or N/A <input type="checkbox"/>	Estimated Speed N/A <input type="checkbox"/>	Distance Danger Notice Unknown or N/A <input type="checkbox"/>
		(Front) (Rear)		
14	Travel Direction	Distance Traveled After Impact (Feet)		Driven Away <input type="checkbox"/> Yes <input type="checkbox"/> No (If No, How Moved?)
15	Damage (Other Vehicle(s))			
16	Statement (Other Driver)			
<p>Privacy Act Statement: Collection of information requested on this form is authorized by 39 U.S.C. 401, 410, 1001, and 1005. The information will be used to record and resolve the circumstances relating to an accident. Providing the information is mandatory; failure to do so may result in corrective action. We may disclose this information as follows: in relevant legal proceedings; to law enforcement when the U.S. Postal Service (USPS) or requesting agency becomes aware of a violation of law; to a congressional office; to entities or individuals under contract with USPS; to entities authorized to perform audits; to labor organizations as required by law; to federal, state, local or foreign government agencies regarding personnel matters; to the Equal Employment Opportunity Commission; and to the Merit Systems Protection Board or Office of Special Counsel.</p>				
<p>PS Form 1700, August 2008 (Page 1 of 4) PSN 7530-02-000-7362 (For Non-Vehicle Accidents, Use Heavy Black Areas ONLY)</p>				

Exhibit 331.2 (continued)

PS Form 1700, Accident Investigation Worksheet

POSTAL VEHICLE AND EMPLOYEE										
17	Employee's Name			Age	Position Title			Service Type		
18	State Driver's License No.			Expiration Date			Restriction			
19	Hours on Duty at Time of Accident		Driving Experience (<i>This Type Vehicle</i>)		Postal Service Driving Exp.		Extent of Injuries (<i>Operator</i>)			
20	Liability Insurance Coverage <input type="checkbox"/> Yes <input type="checkbox"/> No			Insurance Company's Name			Policy Number			
21	Was Investigation at Scene? <input type="checkbox"/> Yes <input type="checkbox"/> No		Was Driver Cooperative? <input type="checkbox"/> Yes <input type="checkbox"/> No		Was Vehicle Equipped With Seat Belts? <input type="checkbox"/> Yes <input type="checkbox"/> No		If Yes, Were They in Use at Time of Accident? <input type="checkbox"/> Yes <input type="checkbox"/> No			
22	Year	Make	Vehicle No.	Odometer Reading	RHD <input type="checkbox"/>	LHD <input type="checkbox"/>	No. Occupants (Front) (Rear)		Estimated Speed	
23	Distance Danger Noticed		Direction of Travel		Distance Traveled After Impact (Feet)		Vehicle Defects Prior to Accident			
24	Nature and Extent of Damage									
ACCIDENT DESCRIPTION										
25	USPS Investigator Name (<i>Print or Type</i>)				Telephone No. (<i>Include Area Code</i>)		Time of Call	Arrived at Scene		
26	Description of How Accident Occurred									
CUSTOMER OR PROPERTY DAMAGE (<i>Not Motor Vehicle</i>)										
27	Sex	Age	Approx. Height	Condition of Customer or Property When Investigator Arrived on Scene						
28	Statement Made by Witness									
29	Damage to Property Other Than Motor Vehicle									

PS Form 1700, August 2008 (Page 2 of 4)

Exhibit 331.2 (continued)

PS Form 1700, Accident Investigation Worksheet

30	Customer's Name and Address, or Site of Property Damage <i>(Include Apt./Suite No. and ZIP+4)</i>	Birth Date	<input type="checkbox"/> Male <input type="checkbox"/> Female
31	Was employee involved? <input type="checkbox"/> Yes <input type="checkbox"/> No <i>(If "Yes," complete Item 17)</i>		
32	Is premises leased? <input type="checkbox"/> Yes <input type="checkbox"/> No <i>(If "Yes," attach copy of lease)</i>		
33	Was customer injured? <input type="checkbox"/> Yes <input type="checkbox"/> No <i>(If "Yes," Complete Item 6)</i>		
34	Nature of injury		
35	Property damage <input type="checkbox"/> Yes <input type="checkbox"/> No <i>(If "Yes," complete Item 30)</i>		
36	Witness to accident <input type="checkbox"/> Yes <input type="checkbox"/> No <i>(If "Yes," complete Items 5 & 28)</i>		
37	Activity of customer prior to accident <i>(Describe)</i> <input type="checkbox"/> Walking <input type="checkbox"/> Running <input type="checkbox"/> Horse play involved		
38	Structural factors -- Building defects, sidewalks, steps, lighting, docks, or other if contributory to accident. Handrail available: Used <i>(Describe)</i>		
39	Custodian factors -- Cleaning, waxing, mopping, lobby equipment if contributory to accident. Warning signs displayed. <i>(Describe)</i> Was Custodian on-duty at time of incident? <input type="checkbox"/> Yes <input type="checkbox"/> No <i>(If "Yes", request a written statement from the custodian and provide the full name of custodian.)</i> Last Name: _____ First Name: _____ MI: _____		
40	Weather factors -- Rain, snow, ice or any other uncontrollable element if contributory to accident. <i>(Describe)</i>		
41	Human factors -- Illness, physical, psychological, or medication used if contributory to accident. <i>(Describe)</i>		
CONCLUSIONS			
42			
43	Investigator's Printed Name and Signature	Title and Official Telephone No. <i>(Include Area Code)</i>	Date <i>(MM/DD/YYYY)</i>


PS Form 1700, August 2008 *(Page 3 of 4)*

Exhibit 331.2 (continued)

PS Form 1700, Accident Investigation Worksheet

FIELD SKETCH (Use appropriate one)

#1	POSTAL VEHICLE	
#2	PRIVATE VEHICLE	



INDICATE NORTH

INDICATE
Width of roadway
traffic flow,
parked vehicles,
traffic signs or
signals, etc.

OBTAIN ACCURATE
MEASUREMENTS FROM
FIXED OBJECTS

ALSO INDICATE
approach of vehicles,
point of impact and
place where vehicles
stopped after accident.

PS Form 1700, August 2008 (Page 4 of 4)

Exhibit 331.2

PS Form 1700, Accident Investigation Worksheet Instructions

Item 1. This can be completed in your office. For non-vehicle accidents, complete only the items within the heavy black lines. Post Office: Enter the office where the non-vehicle accident occurred. Date: Enter date of accident. Time: Enter time accident occurred. Day of Week: Enter the day of week accident occurred. Case No.: Obtain from Tort Claims Office Software database.

Item 2. Exact Location: Enter exact location of accident, for example, lobby, stairs, or sidewalk.

Item 3. This item is for vehicle accidents only. See page 28.

Item 4. Photos Taken: Check Yes or No. If yes, include photos in the file.

Item 5. Witness Name, Age, Address, and Telephone No.: Enter witness name, age, address, and telephone number. Acquire this information as soon as possible upon arrival at the accident scene.

Item 6. Injured or Killed: Enter sex, age, and first aid action for the private parties only. If taken from scene, indicate where taken and by whom.

Items 7 through 24. These items are for vehicle accidents. See page 28.

Item 25. USPS Investigator and Telephone No.: Enter the name and telephone number of the on-the-scene investigator if it is not the same as the investigator who completes this report. (Sometimes it is necessary for the adjudicators to talk directly to the on-the-scene investigator). Time of Call and Arrival At Scene: Enter the time of the call and the time of arrival at the scene.

Item 26. Description of How Accident Occurred: Enter a narrative description of how the accident occurred. Summarize the information you have collected. Be clear and concise, but do not omit information.

Item 27. Enter the sex, age, and approximate height of the injured party. If the person is not injured too seriously, you may obtain the required information and a statement. Indicate the physical condition of the injured party or property when you arrived. If there was no person involved or property other than vehicles damaged, enter N/A.

Item 28. Obtain statements by any witnesses. If there are no witnesses; indicate so in this section. Do not use: N/A.

Item 29. Describe damage to property.

Item 30. Obtain customer's name, address, birth date, and gender or site of property damage.

Item 31. Indicate if an employee was involved — yes or no. If yes; complete item 17.

Item 32. Indicate if premises are leased — yes or no. If yes, obtain and attach copy of lease.

Item 33. Indicate if customer was injured — yes or no. If yes, complete item 6.

Item 34. Describe nature of injury.

Item 35. Indicate if property damage was involved — yes or no. If yes, complete item 30.

Item 36. Indicate if there was a witness to the accident — yes or no. If yes, complete items 5 and 28.

Item 37. Describe activity or activities of the customer prior to accident. Indicate if customer was walking, running, or if horse play was involved.

Item 38. Indicate and describe if structural factors (building defects, sidewalks, steps, lighting, and docks) were contributory to the accident. Describe handrail availability.

Item 39. Indicate and describe if custodial factors (cleaning, waxing, mopping, lobby equipment) were contributory to the accident. Describe warning signs displayed. Indicate if custodian was on-duty at time of accident — yes or no. If yes, request a written statement from the custodian, including custodian full name (last, first, MI)

Item 40. Indicate and describe if weather factors (rain, snow, ice) or any other uncontrollable event were contributory to the accident.

Item 41. Indicate and describe if human factors (illness, physical, psychological, or medication) were contributory to the accident.

Item 42. Conclusions: THIS BLOCK IS FOR USE BY THE LAW DEPARTMENT ONLY.

Item 43. Investigator's Printed Name and Signature: Type or print name and sign this form. Include the formal title of the investigator, the office telephone number, and the date the form is completed.

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4 Administration of Tort Claims

41 Purpose

This chapter provides procedural guidelines for documenting, preparing, and submitting tort claims to the appropriate adjudicating authority.

42 Definitions

421 Tort

A tort is a wrongful act, injury, or damage, not involving a breach of contract, for which a civil lawsuit may be brought.

422 The Federal Tort Claims Act

422.1 General

The Federal Tort Claims Act, 28 U.S.C. 1346(B) and 2671-2680 is made applicable to the Postal Service by the Postal Reorganization Act, 39 U.S.C. 409(c). The Federal Tort Claims Act authorizes the head of federal agencies, or their designees, in accordance with regulations prescribed by the Attorney General, to consider, ascertain, adjust, determine, compromise, and settle any claim for money damages against the United States for injury, loss of property, personal injury or death caused by the negligent, wrongful act or omission of any employee of the agency while acting within the scope of employment under circumstances where the United States, if a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred. The text of pertinent sections of the Federal Tort Claims Act and regulations are printed in Appendix [A](#).

422.2 Negligence

To determine whether to make a payment on a tort claim, a TCC will need to determine if the accident was caused by a Postal Service employee's negligent act or omission by an employee. Negligence consists of four basic elements:

- a. A duty recognized by law requiring an action to conform to a certain standard of conduct;
- b. A failure to conform to the required standard of conduct;

- c. A legally defined causal connection between the conduct and the resulting injury or other damages; and
- d. An actual loss or damage suffered by the claimant.

422.3 **Liability**

Under the Federal Tort Claims Act, payment decisions should be based on a determination of whether the Postal Service is legally responsible for the accident in question. That liability determination should be based on a finding that there was a negligent or wrongful act or omission by an employee while within the scope of his or her employment under circumstances where the United States, if a private person, would be liable to the claimant under the law of the state where the act or omission occurred. Therefore, the first determination to be made after a proper and adequately documented claim is received and investigated is whether liability rests with the Postal Service.

423 **Scope of Employment**

Scope of employment is defined as duties an employee is authorized to perform in service of the Postal Service, and which occurs substantially within the authorized limits of time and space of his or her duties.

43 Types of Claims and Filing Criteria

431 **Types of Claims**

431.1 **Non-liability Claims**

Non-liability claims are those claims for which the Postal Service is not legally responsible. Although good public relations are vital in handling tort claims, that interest should not form the basis of a TCC's decision to make a payment on a non-liability claim.

431.2 **Postal Service Liability Claims**

When a valid claim is received and it appears Postal Service liability can be clearly established, a fair and reasonable settlement should be offered.

431.3 **Questionable Liability Claims**

The value of a questionable liability claim depends upon the extent of the doubt involved and the injuries sustained by the claimant. The greater the evaluator's doubt regarding liability, the smaller the amount considered appropriate to settle the matter. The more serious the injuries involved, the larger the amount considered appropriate to settle the case. No precise mathematical formula can be used that fits all degrees of doubt and all increments of injury.

In a case where there is significant doubt as to liability and only trivial injuries involved, the claim generally should be given no value. However, if a case has the same significant degree of doubt as to liability, but severe injuries are involved, the claim has a definite value. Consider the following example. A

claimant offers to settle a claim concerning a broken wrist received when the claimant fell on the steps of a post office for \$1000. The claimant alleges the worn condition of the steps caused the fall and the basis of the claimant's demand is medical expenses of \$500 and \$500 for pain and suffering. While the steps show some noticeable wear, there is doubt that the condition of the steps was sufficiently defective to prove Postal Service negligence in a court of law. However, because the value in damages of a broken wrist is much higher than the relatively modest demand of \$1000, in most states (those where there would be at least some realistic chance of Postal Service liability) a TCC should consider paying the claim in full, or if possible, attempt to negotiate a lower settlement.

431.4 **Incomplete or Indefinite Claims**

431.41 **General**

A claim is incomplete or indefinite if it:

- a. Does not contain a demand in a specific amount.
- b. Is not properly signed and dated.
- c. Does not adequately identify the accident.
- d. Is deficient in some other material way.

431.42 **Incomplete or Indefinite Claim on SF 95**

Upon receipt of an incomplete or indefinite claim on SF 95, *Claim for Damage, Injury or Death*, furnish the claimant or representative a copy of the indefinite claim form and a blank SF 95. Request the claimant or representative fill out the new SF 95 completely. Do not return the original claim form to the complainant. Retain the original for file.

431.43 **Incomplete or Indefinite Claim Not on SF 95**

If a claim is not filed on SF 95, but is a claim as defined in 432.2, furnish the claimant a copy of SF 95 and ask the claimant to fill it out completely.

431.44 **Replies to Requests for Complete or Definite Claims**

If a reply to a request to complete an SF 95 is not received within 30 days, do not simply hold the investigation file. Contact the NTC for a determination of whether the claim should be sent forward to the ASC or the NTC. If a reply is received that resolves the deficiency by a document other than SF 95, do not insist on the completion of an SF 95. If the value of the claim might allow resolution within the TCC's authority, consult with the NTC to determine if the claim can be adjudicated. If the value is higher, forward the investigative file to either the ASC or the NTC as soon as possible upon completion of the file.

432 **Filing Criteria**

432.1 **Who May File a Claim**

432.11 **Private Parties**

Any person who alleges personal injury or property damage caused by the negligent or wrongful act or omission of a Postal Service employee who was acting within the scope of employment may claim money damages from the

Postal Service pursuant to the Federal Tort Claims Act. TCCs are not authorized to deny claims of any kind. Also see [Exhibit 432.11](#) for sample completed SF 95 for an individual, a minor, a corporation or business, and an insurance company as subrogee.

432.12 **Postal Service Employees**

Any Postal Service employee whose personal vehicle or the contents of his or her vehicle is damaged by the negligence of another Postal Service employee is entitled to pursue a recovery in the tort claim process. Nonbargaining unit Postal Service employees attempting to make a tort claim whose property was damaged in the course of their employment as a result of their own actions or those of someone other than a Postal Service employee, or whose property other than their vehicle and its contents has been damaged, should be advised to file an employee claim, which will be handled according to the procedures in ELM 640. Bargaining unit employee's claims of this type are handled in accordance with their national collective bargaining agreement.

432.2 **Time for Filing Claims**

A claimant has 2 years from the date of the accident in which to present a tort claim to the Postal Service (28 U.S.C. 2401B). A claim is deemed to have been properly presented when the Postal Service receives one of the following from the claimant or a duly authorized agent or legal representative:

- a. A properly completed and signed SF 95, *Claim for Damage, Injury or Death*, or
- b. Any written notification of an accident that is signed by the claimant or an agent or legal representative of the claimant and makes a claim for money damages in a certain sum for personal injury, death, property damage, or other loss alleged to have resulted from the accident. Although any written notification is acceptable as a claim if it contains the required elements of a claim, the filing of a claim on SF 95 is preferred and should be encouraged. A great deal more information is obtained from the claimant when the SF 95 is used.

44 Claims Processing

441 **Procedures to Follow When a Claim Is Received**

Any Postal Service employee receiving a tort claim must stamp or write in the date, and sign the claim immediately upon receipt. Employees receiving the claim must immediately forward the entire claim, along with the envelope in which the claim was received, to the district TCC, and provide an explanation regarding any unusual circumstances surrounding receipt of the claim. The TCC must log in receipt of the claim on the Tort Claim Office Software, and record the case number on the claim.

442 What to Do When No Claim Is Filed

Keep the accident investigation file in an active file for 2 years. If no claim is filed, move the file to storage for 3 years.

443 District Claims Review**443.1 Tort Claims Coordinators**

TCCs must:

- a. Review the claim to determine the claimant's version of the accident, and if deemed necessary, obtain a more complete statement. If a claimant is represented by an attorney, contact the attorney as soon as possible to acknowledge receipt of the claim and to request any necessary supplemental information.
- b. Review the total accident report file in light of the claimant's version of what happened. If it is different from other versions, analyze the facts to determine which version is most probable (See [244.3](#) and [332.8](#)).
- c. Allow the claimant to make changes to the claim, by:
 - (1) Making changes on the original SF 95 in the presence of a Postal Service official;
 - (2) Submitting a signed letter requesting the change; or
 - (3) Submitting a new SF 95.
- d. Analyze the documentation of damages submitted by the claimant. See [45](#).
- e. Complete all necessary forms related to the processing of the claim, including PS Form 2198, *Accident Report — Tort Claim*. See [Exhibit 442.1c](#) for a sample form, with instructions.
- f. Adjudicate claims within local authority. See [Exhibit 442.23d](#) and [444](#).

444 Authority to Pay Claims**444.1 Claims of \$5,000 or Less**

District managers have the authority to settle personal injury and property damage claims against the Postal Service for up to \$5,000 and can select designees to utilize that authority. TCCs generally are selected as the district manager's designee, although intermediate management approval may be required in some districts before payment is made. Where allowed, claims within the given authority of the designated TCC may be settled immediately without further authorization, providing:

- a. It is determined that the damage claim was caused by the negligent or wrongful act or omission of a Postal Service employee while acting within the scope of employment.
- b. The claim is not made for a matter barred under paragraph [444.3](#).

444.2 Determine if Payment Is Appropriate

In ascertaining whether settlement is appropriate, consider the following items:

- a. A valid claim has been presented within two years of the date of the accident. See [432.2](#).
- b. The property damaged is that of a private person. (For example, damage to a personal vehicle being driven by a Postal Service employee in the course of Postal Service work would not be paid based on potential tort liability.) See [432.12](#).
- c. The claimant is the "real party in interest." For example, the proper claimant for damage to a vehicle is normally either the owner of the vehicle (regardless of who was driving the vehicle) or an insurance company which has paid for the damage. If an insurance company has paid for the claimant's property damage, generally the claimant may recover only the monies not paid by insurance, normally the deductible.
- d. The claimant is willing to settle for \$5,000 or less, or special authorization has been received to pay a specific greater amount from the Law Department.
- e. Evidence is contained in the file to document the damages upon which settlement is based.
- f. A settlement is not reasonable if the claimant was the sole cause of the accident; therefore, a claim should not be paid in any amount. If both the claimant and the Postal Service employee appear to have been equally negligent, a settlement for half of the claimant's damages may be reasonable unless the laws of the state where the accident occurred indicate otherwise. In payment of a claim based on shared fault, the adjudicator should also take into account the damages to the Postal Service vehicle and account for those damages in the settlement at the same proportion of fault which was determined to be appropriate.

Note: If a claim cannot be settled for \$5,000 or less on the basis stated above, neither the district manager nor the TCC has authority to deny the claim. See [445](#).

444.3 **Claims Over \$5,000**

The district manager is not authorized to pay over \$5,000 on any claim without prior written approval of the Law Department, through the NTC. The TCC, as designee of the district manager, may seek authority from the NTC to pay claims in excess of \$5,000 where expeditious local settlement is in the best interests of the Postal Service. Authority from the NTC must be in writing. An email from the NTC is sufficient, and the written authorization must accompany the PS Form 8230, *Authorization for Payment*, submitted by the TCC when requesting a check for payment.

444.4 **Other Claims**

TCCs are not authorized to pay:

- a. Any claim arising out of the loss, miscarriage, or negligent transmission of letters or postal matter.
- b. Any claim arising out of assault, battery, false imprisonment, false arrest, malicious prosecution, abuse of process, libel, slander, misrepresentation, deceit, or interference with contract rights.

- c. Any claim submitted by an agency of the United States.
- d. Any personal injury claim submitted by a Postal Service employee injured while in the scope of employment. Refer such claims to the injury compensation office for handling under the provisions of the Federal Employees' Compensation Act.
- e. Any personal injury claim submitted by any other employee of the United States injured while in the scope of his or her federal employment. The injured party should be referred to the injury compensation office of that employee's own agency.

445 **Authority to Deny Claims**

Only the NTC is authorized to deny a tort claim. Neither a TCC nor the district manager is authorized to deny a tort claim or refuse to accept any tort claim for filing or adjudication. District TCCs are expected to fully investigate and document any claim that will be forwarded with a recommended denial in order to help the NTC render a final decision.

446 **Forwarding Tort Claims for Adjudication**

For claims that cannot be settled locally by the district TCC, the TCC should retain a copy of the complete file and forward the original as soon as possible but in any event within ninety days of the receipt of a claim to the appropriate office, as set forth below.

Note: If a claim exceeding the district's payment authority cannot be forwarded within ninety days for any reason, contact the NTC for instructions.

- a. Claims seeking an amount not greater than \$50,000 should be forwarded to the St. Louis Accounting Service Center (ASC) Tort Claims Unit for adjudication.
- b. Claims seeking more than \$50,000 should be forwarded to the NTC for adjudication.

447 **Accident Investigation Summary Report**

See [252](#) for vehicle accidents, [342](#) for non-vehicle accidents, and [47](#) for all accidents.

45 Analyze Documentation Submitted by Claimants

451 **Property Damage**

451.1 **General**

It is essential that the TCC analyze the documentation submitted by the claimant to determine whether all damages claimed resulted from the accident, and to determine whether the costs claimed are reasonable. Do not recommend payment for costs of items to be repaired merely because they appear in the documentation submitted. The TCC must rely on the documentation submitted by the accident investigator to determine the

proper amount of property damage to pay, as the accident investigator had the opportunity to view the scene of the accident and document the extent of damage. Explain any recommendation to reduce the amount of damage claimed.

451.2 **Incidental Damages**

451.21 **Loss or Damage of Personal Items**

Loss of or damage to clothing, eyeglasses, and other personal items may be claimed. The claimant should document the loss or damage. In cases involving damage to items of special value, such as pieces of art and antiques, request that the claimant obtain an independent appraisal if the claim appears excessive or the appropriate value of the item is unknown.

451.22 **Obtain an Appraisal**

An appraisal may be obtained at the expense of the Postal Service. The cost of the appraisal may be paid by the installation head using account identifier code 587 to support the account book entry. Obtain a receipted bill for the appraisal to support this expenditure.

451.3 **Vehicle Accessories Betterment**

The value of vehicle accessories, such as tires or a battery, at the time of damage, may be claimed if replacement is necessary. The cost of a new replacement accessory is not the measure of what should be paid; the measure of what should be paid is the value of the item at the time of its damage or destruction. For example, if a tire costs \$50 new and is half worn out when destroyed, the claimant is not entitled to a new tire that cost \$50. An allowance of \$25 would be reasonable and fair.

451.4 **Towing and Storage**

451.41 **Towing**

If towing is necessary as a result of the accident, towing may be claimed. Ordinarily, only one towing is necessary. Carefully review subsequent towing bills since they are usually incurred only for the claimant's benefit.

451.42 **Storage**

Storage charges are not normally paid to a claimant. A claimant has a duty to mitigate or minimize damages. Leaving the vehicle where it accumulates storage charges is usually a violation of this duty.

451.5 **Loss of Use (Cost of a Rental Replacement Vehicle)**

451.51 **General**

Depending on state law, a claim may or may not be valid for loss of use of the claimant's vehicle or for a rental replacement vehicle. The validity of the claim may depend on whether the claimant's vehicle is economically repairable or whether the vehicle is a total loss. See the Law Department/ NTC Web site for a list of states that do and do not allow claims for loss of use.

451.52 Allowable Expenditures

If a claim for loss of use or a replacement rental is allowable and the allowance is based on actual expenditures, the claimant should submit itemized bills to show the cost of gasoline, oil, collision and liability insurance, and any other usual operating expenses. Usual operating expenses are generally deducted from the cost of renting a replacement vehicle since the claimant would have incurred such operating expenses if the accident had not happened.

451.53 Compute Loss of Use Period

In computing loss of use, the period for which claimants are usually entitled to reimbursement is the reasonable period that they were deprived of the use of their vehicle. This period is usually the number of days it takes to repair the damage to the claimant's vehicle; it does not include the time it takes for the Postal Service to send claimant's settlement check. Therefore, ascertain the period of time it takes to repair the vehicle. Take into consideration circumstances such as availability of parts. Do not tell a claimant to rent a replacement vehicle or take any similar action when the claim has been or will be forwarded for adjudication (see [453](#)).

451.6 Claims for Repair (Including Rental Costs) That Exceed Value of Property

Exercise care to determine whether the cost to repair a vehicle plus loss of use exceeds the fair market value of the vehicle at the time of the accident. If the cost to repair plus loss of use exceeds the fair market value, the measure of damages is the fair market value just prior to the accident less the salvage value, if any, after the accident. To determine the fair market value, obtain estimates from local automobile dealers who are in the business of selling vehicles or recognized automobile evaluation publications which are used by automobile dealers as a reference. Ascertain the salvage value from persons or firms dealing in the salvaging of such vehicles.

451.7 Private Insurance Policy of Postal Service Employees**451.71 General**

Some employees have insurance policies on their privately-owned vehicles that include the federal government as an additional insured. In all cases that involve a Postal Service employee operating a privately-owned vehicle within the scope of employment, request that the employee furnish a copy of the liability policy covering the vehicle. Include a copy with the investigative report.

451.72 Liability Insurance Coverage

Carefully review claims presented by a private person as a result of accidents involving Postal Service employees using their own vehicle or a leased vehicle. In such a case, determine and state whether the employee was acting in the scope of employment at the time of the accident and that the employee was properly authorized to use the vehicle in carrying out duties. Ascertain whether the employee or the lessor had liability insurance coverage on the vehicle which was in effect at the time of the accident. If the

employee or the lessor had liability insurance covering the vehicle, then review the insurance policy, including all the riders and endorsements. The purpose of such reviews is to ascertain whether the employee's private insurance policy contains clauses that limit or exclude the insurance company from liability or if it includes the United States as an additional insured. Not all companies have written exclusionary provisions in their policies. Some companies have written exclusionary provisions in some, but not all of their policies. Therefore, it is necessary in every instance to check the actual policy issued to the employee which was in effect at the time of the accident.

451.73 **Protection of Postal Service Employees from Personal Liability**

The Federal Employees Liability Reform and Tort Compensation Act, 28 U.S.C. 2679(B)-(E) provides that when government employees are sued as a result of actions performed while acting in the scope of their employment, the Attorney General will represent the employees and remove the suit to a federal district court, whereupon the suit will thereafter be deemed to be one against the United States under the Federal Tort Claims Act. The only exceptions to this are when the employee's action was a constitutional tort or a violation of a federal statute.

451.8 **Subrogation**

An insurance company may submit a claim because of payment to its insured and thereby acquire the right of subrogation from the property owner. A subrogation claim should, in addition to all other requirements of being a claim, be supported by proof that the insurance company has made or is obligated to make payment on behalf of its insured. A "proof of loss" form or some other such form signed by the insured and including words of subrogation can be used. If the insurance company had its own form which provides similar information, you may use it. Even a copy of the front and back of the insurance company's check or draft evidencing payment to or on behalf of the insured is appropriate evidence of the insurer's right to make its claim.

452 **Personal Injury**

452.1 **General**

It is essential that the TCC analyze the documentation submitted with a claim to determine whether the claimant has supported the demand for personal injury. The claimant must furnish evidence to establish the fact and extent of injury. The TCC will rely on the documentation to determine the proper amount of personal injury to pay. Explain any recommendation to reduce the amount of personal injury claimed in detail.

452.2 **Physician's Statement**

The claimant should furnish a written report from the attending physician describing the injury sustained whenever possible. The report should show the nature and extent of the injury; the nature and extent of the treatment; the degree of permanent disability, if any; the prognosis; and the period of hospitalization or disability. If this documentation is not furnished, that fact should be noted in the recommendation sent to the NTC.

452.3 Medical Bills

The claimant should furnish copies of itemized medical and hospital bills directly associated with injuries sustained in the accident. The TCC should ensure that the documents clearly cover only treatment or medications needed as a direct result of the injuries sustained in the accident. If it appears that medical treatment is continuing or will be required in the future, try to obtain an estimate of those expenses.

452.4 Loss of Wages

If a claim is made for loss of wages due to an injury sustained in an accident, claimants should submit a statement from their employer showing the exact amount of time and total amount of wages that would have been earned by the claimant had the claimant not been absent from employment by reason of the injuries sustained in the accident. The statement should include the name and address of the employer and should be signed by the employer or an authorized agent or representative. It is preferred that the statement be on the business letterhead of the employer. TCCs should verify any discrepancies.

452.5 Unsupported Personal Injury Claims

In many instances, claimants will include in their personal injury claim an amount that is not supported by documentation showing an expenditure of money. Such amounts are an acceptable item of the claim and are generally categorized as the value of pain and suffering and inconvenience. The appropriateness of this item of the claim is determined by the adjudicator. Do not unnecessarily delay forwarding claims while awaiting documentation. Contact the NTC for guidance.

453 Advice to Claimants

No Postal Service employee, other than the Tort Claims Coordinator, should ever advise a potential claimant regarding the potential likelihood or certainty of a claim being settled. This includes advising:

- a. That a claim or any portion of it will be paid.
- b. That a claim or any portion of it will be denied.
- c. That claimants are authorized to repair their car.
- d. That claimants may obtain a replacement vehicle.

Explain to a claimant that the accident investigator has no authority to authorize car rental or car repair. However, if the claimant wants to rent a car, the cost of rental during the reasonable repair period may be included with the amount claimed for repairs and the claim will be considered.

46 Adjudicating the Claim

460.1 Adjudication by the NTC

If the NTC settles a claim, the NTC prepares a PS Form 2106, *Adjudication — Tort Claims*, and submits the form for payment in

accordance with the settlement agreement. When the NTC receives the settlement check, the NTC sends a remittance letter to the claimant or claimant's counsel. The NTC also sends a copy of the remittance letter to the TCC for the district where the accident was recorded. The TCC must then record the settlement in the Tort Claims Office Software system and place the correspondence in the claim file.

Once the NTC denies a claim, it sends a copy of the letter of denial to the TCC for the district where the accident was recorded. The TCC must then record the denial in the Tort Claims Office Software system and place the correspondence in the claim file.

460.2 **Adjudication by the ASC**

Once the ASC settles a claim, the ASC prepares PS Form 2198, *Accident Report – Tort Claim*, and submits the matter for payment. When the ASC receives the settlement check, the ASC sends a remittance letter to the claimant or claimant's counsel. The ASC also sends a copy of the remittance letter to the TCC for the district where the accident was recorded. The TCC must then record the settlement in the Tort Claims Office Software system and place the correspondence in the claim file.

The ASC may deny claims with approval by the NTC. Once the ASC denies a claim, it sends a copy of the letter of denial to the TCC for the district where the accident was recorded. The TCC must then record the denial in the Tort Claims Office Software system and place the correspondence in the claim file.

460.3 **Adjudication by TCCs**

If a TCC makes a settlement, the TCC must then prepare a PS Form 8230, *Authorization for Payment*, and mail the form for scanning and payment. If the PS Form 8230 requests payment in excess of \$5000, the form must be accompanied by written documentation demonstrating authorization from the NTC for payment of that amount. When the TCC receives the settlement check, the TCC must draft a remittance letter to the claimant or claimant's counsel. The TCC must keep a copy of the remittance letter in the claim file and record the settlement of the claim in the Tort Claims Office Software system.

47 Tort Claim Accident Investigation File

471 **General**

Specific reports and related documents are required for all accidents, both vehicular and non-vehicular, that result in tort claims. See [Exhibit 471](#) for a checklist of tort claim processing. Other items should be included if appropriate and available. Include all information regardless of whether it is considered favorable or unfavorable to the Postal Service. It is imperative that the Postal Service know when it is responsible for an accident. If evidence of Postal Service responsibility is ignored or suppressed, later

events may bring out the evidence. This could result in greater expense to the Postal Service.

472 **All Accidents (Vehicular and Non-vehicular)**

472.1 **Items Required in Tort Accident Investigation File**

The following items are required for all accident investigation report files:

- a. PS Form 2198, *Accident Report — Tort Claim*, (see [Exhibit 442.1c](#)).
- b. PS Form 1700, *Accident Investigation Worksheet*. This must include a scale diagram of the accident scene. See [Exhibit 234.4](#) and [Exhibit 331.2 \(continued\)](#).
- c. PS Form 1769, *Accident Report*.
- d. Photographs of the accident scene and damage to property.
- e. Investigator's accident summary report. See [252](#) and [342](#).

472.2 **Items Required In Accident Investigation File, If Applicable**

The following items are required for all accident investigation report files, if they are applicable:

- a. All documents pertaining to efforts to collect for damage to Postal Service property from the private party.
- b. All documents pertaining to any claim exerted against the private party by a Postal Service employee involved in the accident (third party claims).

See [Exhibit 471](#) for a checklist of documents.

472.3 **Items to Include In Accident Investigation File, If Available**

Include the following items for all accident investigation report files, if they are available:

- a. SF 94, *Statement of Witness*, or other statements of a witness (see [Exhibit 233.41](#)).
- b. SF 95, *Claim for Damage, Injury or Death*, or other written claim. See [Exhibit 432.11](#). See also ASM 252.
- c. Statement of injured party.
- d. Police report.
- e. Other statements or reports which may provide additional information or evidence that may be helpful to the adjudicator.
- f. Physician report. If personal injury is sustained, include the following:
 - (1) Attending physician report, including diagnosis and prognosis, and
 - (2) Medical bills to date.

473 **Vehicle Accidents**

The following items are required for all vehicle accident investigation report files, if applicable:

- a. SF 91, *Operator's Report of Motor Vehicle Accident*, (See [Exhibit 233.2](#)).
- b. A copy of employee's auto liability insurance policy if the employee was operating a privately-owned vehicle.
- c. A copy of the employee's drive-out agreement if the vehicle is used in mail delivery.
- d. If property damage is sustained, include:
 - (1) Two repair estimates signed by the estimator and stating the name and address of the business, or
 - (2) An itemized repair bill marked paid.

474 **Non-vehicle Accidents**

If applicable, provide a copy of the building lease agreement and any related contract with a third party for building maintenance, including repairs.

Exhibit 432.11

Sample Completed SF 95, Claim for Damage, Injury, or Death

Individual Claimant

CLAIM FOR DAMAGE, INJURY, OR DEATH		INSTRUCTIONS: Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.		FORM APPROVED OMB NO. 1105-0008	
1. Submit To Appropriate Federal Agency:			2. Name, Address of claimant and claimant's personal representative, if any. (See instructions on reverse.) (Number, Street, City, State and Zip Code) John A. Smith, Sr. 1444 A Street, S.E. Washington, DC 20003-1234		
3. TYPE OF EMPLOYMENT <input type="checkbox"/> MILITARY <input checked="" type="checkbox"/> CIVILIAN	4. DATE OF BIRTH	5. MARITAL STATUS Married	6. DATE AND DAY OF ACCIDENT 4-18-06	7. TIME (A.M. OR P.M.) 11:05 a.m.	
8. Basis of Claim (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages if necessary.) Postal vehicle collided with left rear fender and bumper of claimant's vehicle when the postal vehicle failed to stop at a stop sign.					
9. PROPERTY DAMAGE					
NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, Street, City, State, and Zip Code).					
BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF DAMAGE AND THE LOCATION WHERE PROPERTY MAY BE INSPECTED. (See Instructions on reverse side.) Left rear bumper bent; left rear fender crushed.					
10. PERSONAL INJURY/WRONGFUL DEATH					
STATE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE NAME OF INJURED PERSON OR DECEDENT. Contusions and lacerations on body.					
11. WITNESSES					
NAME		ADDRESS (Number, Street, City, State, and Zip Code)			
None.		None.			
12. (See instructions on reverse.) AMOUNT OF CLAIM (in dollars)					
12a. PROPERTY DAMAGE \$338.00	12b. PERSONAL INJURY \$650.00	12c. WRONGFUL DEATH	12d. TOTAL (Failure to specify may cause forfeiture of your rights.) \$988.00		
I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE INCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM					
13a. SIGNATURE OF CLAIMANT (See instructions on reverse side.) John A. Smith, Sr. <i>John Smith</i>		13b. Phone number of person signing form 268-2688	14. DATE OF SIGNATURE 04/25/06		
CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM The claimant is liable to the United States Government for the civil penalty of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages sustained by the Government. (See 31 U.S.C. 3729.)		CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS Fine, imprisonment, or both. (See 18 U.S.C. 287, 1001.)			

95-109

NSN 7540-00-634-4046

STANDARD FORM 95
PRESCRIBED BY DEPT. OF JUSTICE
28 CFR 14.2

Exhibit 432.11 (p. 2)
Sample Completed SF 95, Claim for Damage, Injury, or Death
Individual Claimant

INSURANCE COVERAGE	
In order that subrogation claims may be adjudicated, it is essential that the claimant provide the following information regarding the insurance coverage of his vehicle or property.	
15. Do you carry accident insurance? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, give name and address of insurance company (Number, Street, City, State, and Zip Code) and policy number. <input type="checkbox"/> No	Policy No. 341-32-307 State Auto Insurance Company 4321 Accident Avenue Premium, MD 20031-1234
16. Have you filed a claim on your insurance carrier in this instance, and if so, is it full coverage or deductible? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	17. If deductible, state amount. \$50.00
18. If a claim has been filed with your carrier, what action has your insurer taken or proposed to take with reference to your claim? (It is necessary that you ascertain these facts.) I do not intend to file a claim with my insurance company.	
19. Do you carry public liability and property damage insurance? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, give name and address of insurance carrier (Number, Street, City, State, and Zip Code). <input type="checkbox"/> No Same as above.	
INSTRUCTIONS	
<p>Claims presented under the Federal Tort Claims Act should be submitted directly to the "appropriate Federal agency" whose employee(s) was involved in the incident. If the incident involves more than one claimant, each claimant should submit a separate claim form.</p> <p style="text-align: center;">Complete all items - Insert the word NONE where applicable.</p> <p>A CLAIM SHALL BE DEEMED TO HAVE BEEN PRESENTED WHEN A FEDERAL AGENCY RECEIVES FROM A CLAIMANT, HIS DULY AUTHORIZED AGENT, OR LEGAL REPRESENTATIVE, AN EXECUTED STANDARD FORM 95 OR OTHER WRITTEN NOTIFICATION OF AN INCIDENT, ACCOMPANIED BY A CLAIM FOR MONEY</p> <p>Failure to completely execute this form or to supply the requested material within two years from the date the claim accrued may render your claim invalid. A claim is deemed presented when it is received by the appropriate agency, not when it is mailed.</p> <p>If instruction is needed in completing this form, the agency listed in item #1 on the reverse side may be contacted. Complete regulations pertaining to claims asserted under the Federal Tort Claims Act can be found in Title 28, Code of Federal Regulations, Part 14. Many agencies have published supplementing regulations. If more than one agency is involved, please state each agency.</p> <p>The claim may be filed by a duly authorized agent or other legal representative, provided evidence satisfactory to the Government is submitted with the claim establishing express authority to act for the claimant. A claim presented by an agent or legal representative must be presented in the name of the claimant. If the claim is signed by the agent or legal representative, it must show the title or legal capacity of the person signing and be accompanied by evidence of his/her authority to present a claim on behalf of the claimant as agent, executor, administrator, parent, guardian or other representative.</p> <p>If claimant intends to file for both personal injury and property damage, the amount for each must be shown in item #12 of this form.</p>	
<p>DAMAGES IN A SUM CERTAIN FOR INJURY TO OR LOSS OF PROPERTY, PERSONAL INJURY, OR DEATH ALLEGED TO HAVE OCCURRED BY REASON OF THE INCIDENT. THE CLAIM MUST BE PRESENTED TO THE APPROPRIATE FEDERAL AGENCY WITHIN TWO YEARS AFTER THE CLAIM ACCRUES.</p> <p>The amount claimed should be substantiated by competent evidence as follows:</p> <p>(a) In support of the claim for personal injury or death, the claimant should submit a written report by the attending physician, showing the nature and extent of injury, the nature and extent of treatment, the degree of permanent disability, if any, the prognosis, and the period of hospitalization, or incapacitation, attaching itemized bills for medical, hospital, or burial expenses actually incurred.</p> <p>(b) In support of claims for damage to property, which has been or can be economically repaired, the claimant should submit at least two itemized signed statements or estimates by reliable, disinterested concerns, or, if payment has been made, the itemized signed receipts evidencing payment.</p> <p>(c) In support of claims for damage to property which is not economically repairable, or if the property is lost or destroyed, the claimant should submit statements as to the original cost of the property, the date of purchase, and the value of the property, both before and after the accident. Such statements should be by disinterested competent persons, preferably reputable dealers or officials familiar with the type of property damaged, or by two or more competitive bidders, and should be certified as being just and correct.</p> <p>(d) Failure to specify a sum certain will render your claim invalid and may result in forfeiture of your rights.</p>	
PRIVACY ACT NOTICE	
This Notice is provided in accordance with the Privacy Act, 5 U.S.C. 552a(e)(3), and concerns the information requested in the letter to which this Notice is attached. A. Authority: The requested information is solicited pursuant to one or more of the following: 5 U.S.C. 301, 28 U.S.C. 501 et seq., 28 U.S.C. 2671 et seq., 28 C.F.R. Part 14.	B. Principal Purpose: The information requested is to be used in evaluating claims. C. Routine Use: See the Notices of Systems of Records for the agency to whom you are submitting this form for this information. D. Effect of Failure to Respond: Disclosure is voluntary. However, failure to supply the requested information or to execute the form may render your claim "invalid".
PAPERWORK REDUCTION ACT NOTICE	
This notice is solely for the purpose of the Paperwork Reduction Act, 44 U.S.C. 3501. Public reporting burden for this collection of information is estimated to average 6 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Director, Torts Branch, Attention: Paperwork Reduction Staff, Civil Division, U.S. Department of Justice, Washington, D.C. 20530 or to the Office of Management and Budget. Do not mail completed form(s) to these addresses.	

Exhibit 432.11 (p. 3)

Sample Completed SF 95, Claim for Damage, Injury, or Death

Minor as Claimant

CLAIM FOR DAMAGE, INJURY, OR DEATH		INSTRUCTIONS: Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.		FORM APPROVED OMB NO. 1105-0008	
1. Submit To Appropriate Federal Agency:			2. Name, Address of claimant and claimant's personal representative, if any. (See instructions on reverse.) (Number, Street, City, State and Zip Code) John A. Smith, Jr. 1444 A Street, S.E. Washington, DC 20003-1234		
3. TYPE OF EMPLOYMENT <input type="checkbox"/> MILITARY <input type="checkbox"/> CIVILIAN	4. DATE OF BIRTH	5. MARITAL STATUS	6. DATE AND DAY OF ACCIDENT 4-18-06	7. TIME (A.M. OR P.M.) 11:05 a.m.	
8. Basis of Claim (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages if necessary.) Postal employee failed to yield the right-of-way at an intersection and collided with private vehicle in which claimant was a passenger.					
9. PROPERTY DAMAGE					
NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, Street, City, State, and Zip Code). John A. Smith, Sr., 1444 A Street, S.E., Washington, DC 20003-1234					
BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF DAMAGE AND THE LOCATION WHERE PROPERTY MAY BE INSPECTED. (See instructions on reverse side.)					
10. PERSONAL INJURY/WRONGFUL DEATH					
STATE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE NAME OF INJURED PERSON OR DECEDENT. Bruised shoulder; lacerations of right arm.					
11. WITNESSES					
NAME			ADDRESS (Number, Street, City, State, and Zip Code)		
12. (See instructions on reverse.) AMOUNT OF CLAIM (in dollars)					
12a. PROPERTY DAMAGE	12b. PERSONAL INJURY \$750.00	12c. WRONGFUL DEATH	12d. TOTAL (Failure to specify may cause forfeiture of your rights.) \$750.00		
I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE INCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM					
13a. SIGNATURE OF CLAIMANT (See instructions on reverse side.) /s/John A. Smith, Sr., as parent and natural guardian of John A. Smith, Jr., a minor <i>John A. Smith, Sr.</i>			13b. Phone number of person signing form 268-2688	14. DATE OF SIGNATURE 04/23/06	
CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM The claimant is liable to the United States Government for the civil penalty of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages sustained by the Government. (See 31 U.S.C. 3729.)			CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS Fine, Imprisonment, or both. (See 18 U.S.C. 287, 1001.)		

95-109

NSN 7540-00-634-4048

STANDARD FORM 95
PRESCRIBED BY DEPT. OF JUSTICE
28 CFR 14.2

Exhibit 432.11 (p. 4)
Sample Completed SF 95, Claim for Damage, Injury, or Death
Minor as Claimant

INSURANCE COVERAGE	
In order that subrogation claims may be adjudicated, it is essential that the claimant provide the following information regarding the insurance coverage of his vehicle or property.	
15. Do you carry accident insurance? <input type="checkbox"/> Yes If yes, give name and address of insurance company (Number, Street, City, State, and Zip Code) and policy number. <input type="checkbox"/> No N/A	
16. Have you filed a claim on your insurance carrier in this instance, and if so, is it full coverage or deductible? <input type="checkbox"/> Yes <input type="checkbox"/> No	17. If deductible, state amount. N/A
18. If a claim has been filed with your carrier, what action has your insurer taken or proposed to take with reference to your claim? (It is necessary that you ascertain these facts.) N/A	
19. Do you carry public liability and property damage insurance? <input type="checkbox"/> Yes If yes, give name and address of insurance carrier (Number, Street, City, State, and Zip Code). <input type="checkbox"/> No N/A	
INSTRUCTIONS	
<p>Claims presented under the Federal Tort Claims Act should be submitted directly to the "appropriate Federal agency" whose employee(s) was involved in the incident. If the incident involves more than one claimant, each claimant should submit a separate claim form.</p> <p style="text-align: center;">Complete all items - insert the word NONE where applicable.</p> <p>A CLAIM SHALL BE DEEMED TO HAVE BEEN PRESENTED WHEN A FEDERAL AGENCY RECEIVES FROM A CLAIMANT, HIS DULY AUTHORIZED AGENT, OR LEGAL REPRESENTATIVE, AN EXECUTED STANDARD FORM 95 OR OTHER WRITTEN NOTIFICATION OF AN INCIDENT, ACCOMPANIED BY A CLAIM FOR MONEY</p> <p>Failure to completely execute this form or to supply the requested material within two years from the date the claim accrued may render your claim invalid. A claim is deemed presented when it is received by the appropriate agency, not when it is mailed.</p> <p>If instruction is needed in completing this form, the agency listed in item #1 on the reverse side may be contacted. Complete regulations pertaining to claims asserted under the Federal Tort Claims Act can be found in Title 28, Code of Federal Regulations, Part 14. Many agencies have published supplementing regulations. If more than one agency is involved, please state each agency.</p> <p>The claim may be filed by a duly authorized agent or other legal representative, provided evidence satisfactory to the Government is submitted with the claim establishing express authority to act for the claimant. A claim presented by an agent or legal representative must be presented in the name of the claimant. If the claim is signed by the agent or legal representative, it must show the title or legal capacity of the person signing and be accompanied by evidence of his/her authority to present a claim on behalf of the claimant as agent, executor, administrator, parent, guardian or other representative.</p> <p>If claimant intends to file for both personal injury and property damage, the amount for each must be shown in item #12 of this form.</p>	
<p>DAMAGES IN A SUM CERTAIN FOR INJURY TO OR LOSS OF PROPERTY, PERSONAL INJURY, OR DEATH ALLEGED TO HAVE OCCURRED BY REASON OF THE INCIDENT. THE CLAIM MUST BE PRESENTED TO THE APPROPRIATE FEDERAL AGENCY WITHIN TWO YEARS AFTER THE CLAIM ACCRUES.</p> <p>The amount claimed should be substantiated by competent evidence as follows:</p> <p>(a) In support of the claim for personal injury or death, the claimant should submit a written report by the attending physician, showing the nature and extent of injury, the nature and extent of treatment, the degree of permanent disability, if any, the prognosis, and the period of hospitalization, or incapacitation, attaching itemized bills for medical, hospital, or burial expenses actually incurred.</p> <p>(b) In support of claims for damage to property, which has been or can be economically repaired, the claimant should submit at least two itemized signed statements or estimates by reliable, disinterested concerns, or, if payment has been made, the itemized signed receipts evidencing payment.</p> <p>(c) In support of claims for damage to property which is not economically repairable, or if the property is lost or destroyed, the claimant should submit statements as to the original cost of the property, the date of purchase, and the value of the property, both before and after the accident. Such statements should be by disinterested competent persons, preferably reputable dealers or officials familiar with the type of property damaged, or by two or more competitive bidders, and should be certified as being just and correct.</p> <p>(d) Failure to specify a sum certain will render your claim invalid and may result in forfeiture of your rights.</p>	
PRIVACY ACT NOTICE	
<p>This Notice is provided in accordance with the Privacy Act, 5 U.S.C. 552a(e)(3), and concerns the information requested in the letter to which this Notice is attached.</p> <p>A. <i>Authority:</i> The requested information is solicited pursuant to one or more of the following: 5 U.S.C. 301, 28 U.S.C. 501 et seq., 28 U.S.C. 2671 et seq., 28 C.F.R. Part 14.</p> <p>B. <i>Principal Purpose:</i> The information requested is to be used in evaluating claims.</p> <p>C. <i>Routine Use:</i> See the Notices of Systems of Records for the agency to whom you are submitting this form for this information.</p> <p>D. <i>Effect of Failure to Respond:</i> Disclosure is voluntary. However, failure to supply the requested information or to execute the form may render your claim "invalid".</p>	
PAPERWORK REDUCTION ACT NOTICE	
<p>This notice is solely for the purpose of the Paperwork Reduction Act, 44 U.S.C. 3501. Public reporting burden for this collection of information is estimated to average 8 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Director, Torts Branch, Attention: Paperwork Reduction Staff, Civil Division, U.S. Department of Justice, Washington, D.C. 20530 or to the Office of Management and Budget. Do not mail completed form(s) to these addresses.</p>	

SF 95 BACK

Exhibit 432.11 (p. 5)

Sample Completed SF 95, Claim for Damage, Injury, or Death

Corporation or Business

CLAIM FOR DAMAGE, INJURY, OR DEATH		INSTRUCTIONS: Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.		FORM APPROVED OMB NO. 1105-0008	
1. Submit To Appropriate Federal Agency:			2. Name, Address of claimant and claimant's personal representative, if any. (See instructions on reverse.) (Number, Street, City, State and Zip Code) Friendly Florist, Inc. 343 "H" Street, N.W. Washington, DC 20007-1234		
3. TYPE OF EMPLOYMENT <input type="checkbox"/> MILITARY <input type="checkbox"/> CIVILIAN	4. DATE OF BIRTH	5. MARITAL STATUS	6. DATE AND DAY OF ACCIDENT 4-18-06	7. TIME (A.M. OR P.M.) 11:05 a.m.	
8. Basis of Claim (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages if necessary.) Postal vehicle went out of control and struck front of store, breaking two large plate glass windows.					
9. PROPERTY DAMAGE					
NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, Street, City, State, and Zip Code).					
BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF DAMAGE AND THE LOCATION WHERE PROPERTY MAY BE INSPECTED. (See Instructions on reverse side.) Two plate glass windows, 6' v 12' in size, were shattered. Invoice for replacement costs attached.					
10. PERSONAL INJURY/WRONGFUL DEATH					
STATE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE NAME OF INJURED PERSON OR DECEDENT.					
11. WITNESSES					
NAME		ADDRESS (Number, Street, City, State, and Zip Code)			
None.		None.			
12. (See instructions on reverse.) AMOUNT OF CLAIM (in dollars)					
12a. PROPERTY DAMAGE \$680.00	12b. PERSONAL INJURY	12c. WRONGFUL DEATH	12d. TOTAL (Failure to specify may cause forfeiture of your rights.) \$680.00		
I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE INCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM					
13a. SIGNATURE OF CLAIMANT (See instructions on reverse side.) Friendly Florist, Inc. by <i>James Friendly</i> James Friendly, President		13b. Phone number of person signing form 494-1776		14. DATE OF SIGNATURE 06/27/06	
CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM The claimant is liable to the United States Government for the civil penalty of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages sustained by the Government. (See 31 U.S.C. 3729.)			CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS Fine, imprisonment, or both. (See 18 U.S.C. 287, 1001.)		

95-109

NSN 7540-00-634-4046

STANDARD FORM 95
PRESCRIBED BY DEPT. OF JUSTICE
28 CFR 14.2

Exhibit 432.11 (p. 6)
Sample Completed SF 95, Claim for Damage, Injury, or Death
Corporation or Business

INSURANCE COVERAGE	
In order that subrogation claims may be adjudicated, it is essential that the claimant provide the following information regarding the insurance coverage of his vehicle or property.	
15. Do you carry accident insurance? <input type="checkbox"/> Yes If yes, give name and address of insurance company (Number, Street, City, State, and Zip Code) and policy number. <input type="checkbox"/> No N/A	
16. Have you filed a claim on your insurance carrier in this instance, and if so, is it full coverage or deductible? <input type="checkbox"/> Yes <input type="checkbox"/> No	17. If deductible, state amount. N/A
18. If a claim has been filed with your carrier, what action has your insurer taken or proposed to take with reference to your claim? (It is necessary that you ascertain these facts.) N/A	
19. Do you carry public liability and property damage insurance? <input type="checkbox"/> Yes If yes, give name and address of insurance carrier (Number, Street, City, State, and Zip Code). <input type="checkbox"/> No N/A	
INSTRUCTIONS	
<p>Claims presented under the Federal Tort Claims Act should be submitted directly to the "appropriate Federal agency" whose employee(s) was involved in the incident. If the incident involves more than one claimant, each claimant should submit a separate claim form.</p> <p style="text-align: center;">Complete all items - Insert the word NONE where applicable.</p> <p>A CLAIM SHALL BE DEEMED TO HAVE BEEN PRESENTED WHEN A FEDERAL AGENCY RECEIVES FROM A CLAIMANT, HIS DULY AUTHORIZED AGENT, OR LEGAL REPRESENTATIVE, AN EXECUTED STANDARD FORM 95 OR OTHER WRITTEN NOTIFICATION OF AN INCIDENT, ACCOMPANIED BY A CLAIM FOR MONEY</p> <p>Failure to completely execute this form or to supply the requested material within two years from the date the claim accrued may render your claim invalid. A claim is deemed presented when it is received by the appropriate agency, not when it is mailed.</p> <p>If instruction is needed in completing this form, the agency listed in item #1 on the reverse side may be contacted. Complete regulations pertaining to claims asserted under the Federal Tort Claims Act can be found in Title 28, Code of Federal Regulations, Part 14. Many agencies have published supplementing regulations. If more than one agency is involved, please state each agency.</p> <p>The claim may be filed by a duly authorized agent or other legal representative, provided evidence satisfactory to the Government is submitted with the claim establishing express authority to act for the claimant. A claim presented by an agent or legal representative must be presented in the name of the claimant. If the claim is signed by the agent or legal representative, it must show the title or legal capacity of the person signing and be accompanied by evidence of his/her authority to present a claim on behalf of the claimant as agent, executor, administrator, parent, guardian or other representative.</p> <p>If claimant intends to file for both personal injury and property damage, the amount for each must be shown in item #12 of this form.</p>	
<p>DAMAGES IN A SUM CERTAIN FOR INJURY TO OR LOSS OF PROPERTY, PERSONAL INJURY, OR DEATH ALLEGED TO HAVE OCCURRED BY REASON OF THE INCIDENT. THE CLAIM MUST BE PRESENTED TO THE APPROPRIATE FEDERAL AGENCY WITHIN TWO YEARS AFTER THE CLAIM ACCRUES.</p> <p>The amount claimed should be substantiated by competent evidence as follows:</p> <p>(a) In support of the claim for personal injury or death, the claimant should submit a written report by the attending physician, showing the nature and extent of injury, the nature and extent of treatment, the degree of permanent disability, if any, the prognosis, and the period of hospitalization, or incapacitation, attaching itemized bills for medical, hospital, or burial expenses actually incurred.</p> <p>(b) In support of claims for damage to property, which has been or can be economically repaired, the claimant should submit at least two itemized signed statements or estimates by reliable, disinterested concerns, or, if payment has been made, the itemized signed receipts evidencing payment.</p> <p>(c) In support of claims for damage to property which is not economically repairable, or if the property is lost or destroyed, the claimant should submit statements as to the original cost of the property, the date of purchase, and the value of the property, both before and after the accident. Such statements should be by disinterested competent persons, preferably reputable dealers or officials familiar with the type of property damaged, or by two or more competitive bidders, and should be certified as being just and correct.</p> <p>(d) Failure to specify a sum certain will render your claim invalid and may result in forfeiture of your rights.</p>	
PRIVACY ACT NOTICE	
<p>This Notice is provided in accordance with the Privacy Act, 5 U.S.C. 552a(e)(3), and concerns the information requested in the letter to which this Notice is attached.</p> <p>A. <i>Authority:</i> The requested information is solicited pursuant to one or more of the following: 5 U.S.C. 301, 28 U.S.C. 501 et seq., 28 U.S.C. 2671 et seq., 28 C.F.R. Part 14.</p> <p>B. <i>Principal Purpose:</i> The information requested is to be used in evaluating claims.</p> <p>C. <i>Routine Uses:</i> See the Notices of Systems of Records for the agency to whom you are submitting this form for this information.</p> <p>D. <i>Effect of Failure to Respond:</i> Disclosure is voluntary. However, failure to supply the requested information or to execute the form may render your claim "invalid".</p>	
PAPERWORK REDUCTION ACT NOTICE	
<p>This notice is solely for the purpose of the Paperwork Reduction Act, 44 U.S.C. 3501. Public reporting burden for this collection of information is estimated to average 8 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Director, Paperwork Reduction Project (0184-0001), Washington, D.C. 20503 or to the Office of Management and Budget, Paperwork Reduction Project (0184-0001), Washington, D.C. 20503. Do not mail completed form(s) to these addresses.</p>	

Exhibit 432.11 (p. 7)

Sample Completed SF 95, Claim for Damage, Injury, or Death

Insurance Company as Subrogee

CLAIM FOR DAMAGE, INJURY, OR DEATH		INSTRUCTIONS: Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.		FORM APPROVED OMB NO. 1105-0008	
1. Submit To Appropriate Federal Agency:			2. Name, Address of claimant and claimant's personal representative, if any. (See instructions on reverse.) (Number, Street, City, State and Zip Code) State Auto Insurance Co., Subrogee of John A. Smith, Sr., 4321 Accident Ave. Premium, MD 20031-1234		
3. TYPE OF EMPLOYMENT <input type="checkbox"/> MILITARY <input type="checkbox"/> CIVILIAN	4. DATE OF BIRTH	5. MARITAL STATUS	6. DATE AND DAY OF ACCIDENT 4-18-06	7. TIME (A.M. OR P.M.) 11:05 a.m.	
8. Basis of Claim (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages if necessary.) Postal vehicle collided with left rear fender and bumper of insured's vehicle when the postal vehicle failed to stop at stop sign.					
9. PROPERTY DAMAGE					
NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, Street, City, State, and Zip Code). John A. Smith, Sr., 1444 A Street, S.E., Washington, DC 20003-1234					
BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF DAMAGE AND THE LOCATION WHERE PROPERTY MAY BE INSPECTED. (See instructions on reverse side.) Left rear bumper bent; left rear fender crushed.					
10. PERSONAL INJURY/WRONGFUL DEATH					
STATE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE NAME OF INJURED PERSON OR DECEDENT. N/A					
11. WITNESSES					
NAME		ADDRESS (Number, Street, City, State, and Zip Code)			
None.		None.			
12. (See instructions on reverse.) AMOUNT OF CLAIM (in dollars)					
12a. PROPERTY DAMAGE \$288.00	12b. PERSONAL INJURY	12c. WRONGFUL DEATH	12d. TOTAL (Failure to specify may cause forfeiture of your rights.) \$288.00		
I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE INCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM					
13a. SIGNATURE OF CLAIMANT (See instructions on reverse side.) State Auto Insurance Company Subrogation Supervisor <i>Robert Jones</i>		13b. Phone number of person signing form 987-6543		14. DATE OF SIGNATURE 04/26/06	
CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM The claimant is liable to the United States Government for the civil penalty of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages sustained by the Government. (See 31 U.S.C. 3729.)			CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS Fine, imprisonment, or both. (See 18 U.S.C. 287, 1001.)		

95-109

NSN 7540-00-634-4046

STANDARD FORM 95
PRESCRIBED BY DEPT. OF JUSTICE
28 CFR 14.2

Exhibit 432.11 (p. 8)
Sample Completed SF 95, Claim for Damage, Injury, or Death

Insurance Company as Subrogee

INSURANCE COVERAGE	
In order that subrogation claims may be adjudicated, it is essential that the claimant provide the following information regarding the insurance coverage of his vehicle or property.	
15. Do you carry accident insurance? <input type="checkbox"/> Yes If yes, give name and address of insurance company (Number, Street, City, State, and Zip Code) and policy number. <input type="checkbox"/> No	
Policy no. 341-32-307 State Auto Insurance Company 4321 Accident Avenue Premium, MD 20031-1234	
16. Have you filed a claim on your insurance carrier in this instance, and if so, is it full coverage or deductible? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	17. If deductible, state amount. \$50.00
18. If a claim has been filed with your carrier, what action has your insurer taken or proposed to take with reference to your claim? (It is necessary that you ascertain these facts.) Vehicle has been repaired in the amount of \$338 of which State Auto Insurance Company paid \$288.00 and insured paid \$50 deductible.	
19. Do you carry public liability and property damage insurance? <input type="checkbox"/> Yes If yes, give name and address of insurance carrier (Number, Street, City, State, and Zip Code). <input type="checkbox"/> No	
State Farm Auto Insurance Company 4321 Accident Avenue Premium, MD 20031-1234	
INSTRUCTIONS	
<p>Claims presented under the Federal Tort Claims Act should be submitted directly to the "appropriate Federal agency" whose employee(s) was involved in the incident. If the incident involves more than one claimant, each claimant should submit a separate claim form.</p> <p style="text-align: center;">Complete all items - insert the word NONE where applicable.</p> <p>A CLAIM SHALL BE DEEMED TO HAVE BEEN PRESENTED WHEN A FEDERAL AGENCY RECEIVES FROM A CLAIMANT, HIS DULY AUTHORIZED AGENT, OR LEGAL REPRESENTATIVE, AN EXECUTED STANDARD FORM 95 OR OTHER WRITTEN NOTIFICATION OF AN INCIDENT, ACCOMPANIED BY A CLAIM FOR MONEY</p> <p>Failure to completely execute this form or to supply the requested material within two years from the date the claim accrued may render your claim invalid. A claim is deemed presented when it is received by the appropriate agency, not when it is mailed.</p> <p>If instruction is needed in completing this form, the agency listed in item #1 on the reverse side may be contacted. Complete regulations pertaining to claims asserted under the Federal Tort Claims Act can be found in Title 28, Code of Federal Regulations, Part 14. Many agencies have published supplementing regulations. If more than one agency is involved, please state each agency.</p> <p>The claim may be filed by a duly authorized agent or other legal representative, provided evidence satisfactory to the Government is submitted with the claim establishing express authority to act for the claimant. A claim presented by an agent or legal representative must be presented in the name of the claimant. If the claim is signed by the agent or legal representative, it must show the title or legal capacity of the person signing and be accompanied by evidence of his/her authority to present a claim on behalf of the claimant as agent, executor, administrator, parent, guardian or other representative.</p> <p>If claimant intends to file for both personal injury and property damage, the amount for each must be shown in item #12 of this form.</p>	
<p>DAMAGES IN A SUM CERTAIN FOR INJURY TO OR LOSS OF PROPERTY, PERSONAL INJURY, OR DEATH ALLEGED TO HAVE OCCURRED BY REASON OF THE INCIDENT. THE CLAIM MUST BE PRESENTED TO THE APPROPRIATE FEDERAL AGENCY WITHIN <u>TWO YEARS</u> AFTER THE CLAIM ACCRUES.</p> <p>The amount claimed should be substantiated by competent evidence as follows:</p> <p>(a) In support of the claim for personal injury or death, the claimant should submit a written report by the attending physician, showing the nature and extent of injury, the nature and extent of treatment, the degree of permanent disability, if any, the prognosis, and the period of hospitalization, or incapacitation, attaching itemized bills for medical, hospital, or burial expenses actually incurred.</p> <p>(b) In support of claims for damage to property, which has been or can be economically repaired, the claimant should submit at least two itemized signed statements or estimates by reliable, disinterested concerns, or, if payment has been made, the itemized signed receipts evidencing payment.</p> <p>(c) In support of claims for damage to property which is not economically repairable, or if the property is lost or destroyed, the claimant should submit statements as to the original cost of the property, the date of purchase, and the value of the property, both before and after the accident. Such statements should be by disinterested competent persons, preferably reputable dealers or officials familiar with the type of property damaged, or by two or more competitive bidders, and should be certified as being just and correct.</p> <p>(d) Failure to specify a sum certain will render your claim invalid and may result in forfeiture of your rights.</p>	
PRIVACY ACT NOTICE	
<p>This Notice is provided in accordance with the Privacy Act, 5 U.S.C. 552a(e)(3), and concerns the information requested in the letter to which this Notice is attached.</p> <p>A. <i>Authority:</i> The requested information is solicited pursuant to one or more of the following: 5 U.S.C. 301, 28 U.S.C. 501 et seq., 28 U.S.C. 2671 et seq., 28 C.F.R. Part 14.</p> <p>B. <i>Principal Purpose:</i> The information requested is to be used in evaluating claims.</p> <p>C. <i>Routine Use:</i> See the Notices of Systems of Records for the agency to whom you are submitting this form for this information.</p> <p>D. <i>Effect of Failure to Respond:</i> Disclosure is voluntary. However, failure to supply the requested information or to execute the form may render your claim "invalid".</p>	
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SF 95 BACK

Exhibit 442.1c
PS Form 2198, Accident Report – Tort Claim


		Accident Report - See HBK PO-702 for Instructions Tort Claim <i>(To be used only for accidents involving injury or property damage of private)</i>		1. Postal Installation Accident Case No.																									
2. Post Office, State and ZIP + 4 Code		3. Division		4. Accident Date																									
5. Employee's Name		6. Roster Designation		12a. Vehicle <input type="checkbox"/> Government <input type="checkbox"/> Contract <input type="checkbox"/> Employee's <input type="checkbox"/> Borrowed	12b. Facility <input type="checkbox"/> Government <input type="checkbox"/> Leased <input type="checkbox"/> Other non-vehicle																								
7. Employee's Insurance Co. Name		8. Policy No.																											
9. Other Driver's Insurance Co. Name		10. Policy No.																											
11. TO: ● ●				13. Vehicle Owner																									
				14. Vehicle or License No.																									
				15. Make																									
				16. Capacity																									
17. Names and Addresses of Claimants (Include Apt./Suite No.)		18. Social Security No./TIN		19. Amount of Claim Filed																									
a.		a.		a.																									
b.		b.		b.																									
20. Brief description of the accident																													
21. Opinion regarding negligence of employee: As to whether bills or estimates submitted are proper and other remarks																													
22. Was Postal Property damaged and claim for payment made? <input type="checkbox"/> Yes <input type="checkbox"/> No <i>(If Yes, state status of that claim.)</i>																													
23. If employee was injured and filed a claim, was it against the other driver? <input type="checkbox"/> Yes <input type="checkbox"/> No <i>(If Yes, advise status of that claim. Information on status should be obtained from injury compensation office.)</i>																													
24. Authorized Official's Signature, Printed Name, and Title				25. Report Date																									
26. Investigator's Signature, Printed Name and Title				27. PEN Telephone No.																									
				28. Postal Installation Finance No.																									
POSTAL DATA CENTER USE ONLY																													
29. Approving Officer's Printed Name, Signature and Title				30. Settlement Code (Type)																									
				31. Date																									
Claim No.		T/P	YR of Acc.	Finance No.		Account No.		Payment Amount																					
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30
PS Form 2198, October 1991																<i>(Use additional sheet(s), if necessary)</i>										FM 1.0.1			

Exhibit 442.1c (p. 2)

PS Form 2198, Accident Investigation – Tort Claim

Item 1. Postal Installation Accident Case No.: Take this number from the Tort Claim Office Software database where the accident is logged. Do not confuse with the numbering system used for PS Form 1769, *Accident Report*.

Items 2 through 5. Self-explanatory.

Item 6. Roster Designation: Use employee job titles, such as clerk, carrier, and MVO.

Items 7 and 8. Employee Insurance Company Name and Policy No.: If an employee operates a private vehicle on official business in the scope of employment, the employee may have insurance which covers the Postal Service as an additional insured. Unless a disclaimer specifically excludes the U.S. Government or the Postal Service, include the name of the insurance company in Item 7 and the policy number in Item 8. Attach a copy of the policy to the tort claim file.

Items 9 and 10. Other Driver's Insurance Company Name and Policy No.: Enter the other driver's insurance company name and policy number.

Item 11. To: As required locally.

Item 12a and b. Vehicle and Facility: Indicate the type of vehicle and facility by checking the appropriate box.

Item 13. Vehicle Owner: Enter the name of the vehicle owner.

Item 14. Vehicle or License No.: Enter the vehicle identification or license plate number.

Item 15. Make: Enter the make of the vehicle.

Item 16. Capacity: Enter the maximum seating capacity of the vehicle.

Item 17. Name and Addresses of Claimants: Enter the names and addresses of the claimant(s). Be sure to include apartment or suite number.

Item 18. Social Security No./TIN: Enter the SSN or TIN of the claimant(s).

Item 19. Amount of Claim Filed: This amount should be the total amount claimed on SF 95.

Item 20. Brief Description of the Accident: Summarize accident occurrence.

Item 21. Opinion Regarding Negligence of Employee or Other Remarks: If the Postal Service employee was negligent, state what traffic laws were violated, if any. Check the estimates closely to make sure that only those items damaged in this accident are listed.

Item 22. Damage to Postal Property and Claim for Payment Made: This is a reminder to the accident investigator to collect for damages to Postal Service property when the Postal Service is not at fault in the accident.

Item 23. Injury to Postal Employee and Claim Filed: If a Postal Service employee was injured in the accident and the Postal Service pays the employee injury compensation, and the employee collects damages from the private party involved, the employee must reimburse the Postal Service for its compensation.

Item 24. Authorized Official's Signature, Printed Name, and Title: As designated within the district.

Items 25 through 28. Self-explanatory.

Items 29 through 31. Leave blank. Not completed locally.

Exhibit 442.23a

Sample Receipt of Claim Letter



(DATE)

Mr. John Jones
110 South Avenue
Yakima, WA 98902

Case File No.

Dear Mr. Jones:

This acknowledges receipt of your claim in connection with an accident occurring in Yakima, Washington, on May 2, 2006.

Your claim will be given careful consideration by the Postal Service, and you will be advised regarding the outcome of the matter. Please refer to the above-mentioned case file number in any future correspondence.

If additional information is required, please feel free to call me at (312) 222-4545.

Sincerely,

Title

Exhibit 442.23d

Tort Claim Processing Guide

Type of Claim	Amount of Settlement	Action
Initial medical treatment	Unspecified	Can be paid by Post Office even if no claim is received.
Property damage and or personal injury	\$5,000 or less*	Can be paid at district level but cannot be denied. If TCC recommends denial, send claims to ASC.
Property damage or personal injury	Over \$5,000, up to \$50,000	Send to ASC with recommendation to pay in full, settle in part, or deny.
Property damage or personal injury	Over \$50,000	Send to NTC with recommendation to pay in full, settle in part, or deny.

Exhibit 460

Sample Letter to Individual Claimant When Settlement Is Less Than Claimed Amount



(DATE)

Mr. John A. Smith
1444 A. Street, SE
Washington, DC 20003-1234

Re: Accident on 4-18-2006

Dear Mr. Smith:

The claim filed by you pursuant to the Federal Tort Claims Act has been considered. A settlement check is enclosed in the amount of \$588.70.

(State reason for payment of sum less than the full amount claimed.)

Acceptance of the enclosed check operates as a complete release of any claim against the United States Postal Service and against the employee of the government whose act or omission gave rise to the claim by reason of the same subject matter.

Sincerely,

(Adjudicator's Name and Title)

Enclosure

Exhibit 460 (p. 2)

Sample Completed PS Form 2106, Adjudication – Tort Claims

Individual Claimant – Payment of Less than Full Amount Claimed


		Adjudication - Tort Claims																																									
		Claimant John A. Smith	Claim Number 00102436	Inspector in Charge Washington, DC		Acct. Numbers (Check One)																																					
		Case Number 12345-AA(2)	Accident Date 04/18/2006		A/C 55212.																																						
		Accident Place Washington, DC			A/C 55213.																																						
		Postal Installation Involved Washington, DC			A/C 55215.																																						
Amount Claimed	Personal	\$ 450.00		A/C 55101.																																							
	Property	\$ 338.70		A/C 55103.																																							
	Total	\$ 788.70		A/C 55105.																																							
Awarded	Amount \$ 588.70	Disapproved	Referred	✓ A/C 55107.																																							
Total Personal Injury Included in Above Award \$		Total Property Damage Included in Above Award \$		Check Number																																							
<p>A - Findings: After careful consideration of the evidence I make the following factual findings:</p> <table border="1"> <tr> <td><input type="checkbox"/></td> <td>1. Operator of postal vehicle failed to yield the right of way at an intersection and collided with private car.</td> <td><input type="checkbox"/></td> <td>6. Operator of postal vehicle negligently changed lanes and collided with private vehicle.</td> </tr> <tr> <td><input type="checkbox"/></td> <td>2. Operator of postal vehicle pulled away from a parked position and collided with private vehicle.</td> <td><input type="checkbox"/></td> <td>7. Improperly parked vehicle rolled down grade unattended and collided with private property.</td> </tr> <tr> <td><input type="checkbox"/></td> <td>3. Operator of postal vehicle backed and collided with private vehicle.</td> <td><input type="checkbox"/></td> <td>8. Operator of postal vehicle made a turn from improper lane and collided with private vehicle.</td> </tr> <tr> <td><input checked="" type="checkbox"/></td> <td>4. Operator of postal vehicle collided with rear of stopped vehicle.</td> <td><input type="checkbox"/></td> <td>9. Operator of postal vehicle collided with parked vehicle.</td> </tr> <tr> <td><input type="checkbox"/></td> <td>5. Operator of postal vehicle crossed over center line and collided with private vehicle.</td> <td><input type="checkbox"/></td> <td>10. Operator of postal vehicle failed to yield the right of way and collided with a pedestrian.</td> </tr> <tr> <td><input type="checkbox"/></td> <td>11. Other</td> <td colspan="2"></td> </tr> </table>																				<input type="checkbox"/>	1. Operator of postal vehicle failed to yield the right of way at an intersection and collided with private car.	<input type="checkbox"/>	6. Operator of postal vehicle negligently changed lanes and collided with private vehicle.	<input type="checkbox"/>	2. Operator of postal vehicle pulled away from a parked position and collided with private vehicle.	<input type="checkbox"/>	7. Improperly parked vehicle rolled down grade unattended and collided with private property.	<input type="checkbox"/>	3. Operator of postal vehicle backed and collided with private vehicle.	<input type="checkbox"/>	8. Operator of postal vehicle made a turn from improper lane and collided with private vehicle.	<input checked="" type="checkbox"/>	4. Operator of postal vehicle collided with rear of stopped vehicle.	<input type="checkbox"/>	9. Operator of postal vehicle collided with parked vehicle.	<input type="checkbox"/>	5. Operator of postal vehicle crossed over center line and collided with private vehicle.	<input type="checkbox"/>	10. Operator of postal vehicle failed to yield the right of way and collided with a pedestrian.	<input type="checkbox"/>	11. Other		
<input type="checkbox"/>	1. Operator of postal vehicle failed to yield the right of way at an intersection and collided with private car.	<input type="checkbox"/>	6. Operator of postal vehicle negligently changed lanes and collided with private vehicle.																																								
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<input type="checkbox"/>	11. Other																																										
<p>B - Conclusion: Therefore, under the provisions of the Federal Tort Claims Act and the regulations issued thereunder I find, that responsibility rests with the Government and that the total award for the damage and/or injury, or that disallowance of the claim, as indicated above, is proper.</p> <p>Other</p>																																											
Signature and Title of Approving Officer /s/ Jonathan Rush (Adjudicator's Title)															Type of Settlement Code			Date 06/27/2006																									
Card Code	Vendor Number							Finance Number							FAC	W/C Code	Sub Location		Claim Number						Year of Accident																		
							1	0	-	5	0	0	0								0	0	1	0	2	4	3	6	0	6													
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30														
Account Number							Sub Location Account		Fiscal Year		Payment Amount						T/P	T/S	Sequence Number						A/C																		
5	5	1	0	7								5	8	8	7	0		E																									
48	49	50	51	52	53	54	55	56	57	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80													
PS Form 2106, August 1987																				FM 1.0.2																							

Exhibit 460 (p. 3)

Sample Letter to Claimant

Husband and Wife and Their Attorney



(DATE)

James Rule
Attorney at Law
9870 Counsel Avenue
Washington, DC 20007-1234

Re: Your Clients: John and Betty Smith
D/A: April 18, 2006

Dear Mr. Rule:

The claim filed by you pursuant to the Federal Tort Claims Act in behalf of your above named clients has been considered. A settlement check payable to you and your clients is enclosed in the amount of \$739.00.

Acceptance of the enclosed check operates as a complete release of any claim against the United States Postal Service and against the employee of the government whose act or omission gave rise to the claim by reason of the same subject matter, 28 U.S.C. 2672. You are reminded that counsel fees in claims presented under the provisions of the Federal Tort Claims Act are regulated by 28 U.S.C. 2678.

Sincerely,

(Adjudicator's Name and Title)

Enclosure

Exhibit 460 (p. 4)
Sample Completed PS Form 2106

Husband and Wife and Their Attorney


		Adjudication - Tort Claims																																			
Claimant John Smith and Betty Smith and James Rule, their attorney		Claim Number 00102436						Inspector in Charge Washington DC						Acct. Numbers <i>(Check One)</i>																							
		Case Number 12345-AA(2)						Accident Date 04/18/2006						A/C 55212.																							
		Accident Place Washington, DC												A/C 55213.																							
		Postal Installation Involved Washington, DC												A/C 55215.																							
		Amount Claimed		Personal			\$ 650.00			A/C 55101.																											
				Property			\$ 339.00			A/C 55103.																											
				Total			\$ 989.00			A/C 55105.																											
		Awarded		Amount \$ 739.00			Disapproved			Referred			<input checked="" type="checkbox"/> A/C 55107.																								
		Total Personal Injury Included in Above Award						Total Property Damage Included in Above Award						Check Number																							
		\$						\$																													
A - Findings: After careful consideration of the evidence I make the following factual findings:																																					
1. Operator of postal vehicle failed to yield the right of way at an intersection and collided with private car.										6. Operator of postal vehicle negligently changed lanes and collided with private vehicle.																											
2. Operator of postal vehicle pulled away from a parked position and collided with private vehicle.										7. Improperly parked vehicle rolled downgrade unattended and collided with private property.																											
3. Operator of postal vehicle backed and collided with private vehicle.										8. Operator of postal vehicle made a turn from improper lane and collided with private vehicle.																											
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11. Other																																					
B - Conclusion: Therefore, under the provisions of the Federal Tort Claims Act and the regulations issued thereunder I find, that responsibility rests with the Government and that the total award for the damage and/or injury, or that disallowance of the claim, as indicated above, is proper.																																					
Other																																					
Signature and Title of Approving Officer /s/ Jonathan Rush (Adjudicator's Title)																		Type of Settlement Code						Date 06/27/2006													
Card Code	Vendor Number					Finance Number					FAC	W/C Code	Sub Location					Claim Number					Year of Accident														
						1	0	-	5	0	0	0																									
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30								
Account Number					Sub Location Account		Fiscal Year		Payment Amount					T/P	T/S	Sequence Number					A/C																
5	5	1	0	7																																	
48	49	50	51	52	53	54	55	56	57	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80							
PS Form 2106, August 1987																																					
																												FM 1.0.2									

Exhibit 460 (p. 5)

Sample Letter to Claimant

Insurance Company as Subrogee



(DATE)

Erie Insurance Exchange
4321 Accident Avenue
Premium, MD 20031-1234

Re: Your Insured: John A. Smith
 Your File Number: A-36846
 Your Policy Number: CD-341-307

Gentlemen:

Your claim resulting from an accident which occurred on April 18, 2006 has been considered and approved for \$527.09, and a settlement check for this amount is enclosed.

The enclosed check operates as a complete release of any claim against the United States Postal Service and against the employee of the government whose act or omission gave rise to the claim by reason of the same subject matter.

This payment represents the full amount of your claim.

Sincerely,

(Adjudicator's Name and Title)

Enclosure

Exhibit 460 (p. 6)
Sample Completed PS Form 2106

Insurance Company as Subrogee


		Adjudication - Tort Claims																																			
		Claimant Erie Insurance Exchange, Subrogee of John A. Smith	Claim Number 00102436	Inspector in Charge Washington DC	Acct. Numbers <i>(Check One)</i>																																
		Case Number 12345-AA(2)	Accident Date 04/18/2006																																		
		Accident Place Washington, DC																																			
		Postal Installation Involved Washington, DC																																			
Amount Claimed	Personal		\$																																		
	Property		\$ 527.09																																		
	Total		\$ 527.09 <input checked="" type="checkbox"/>																																		
Awarded	Amount \$ 527.09		Disapproved												Referred																						
			A/C 55101. A/C 55103. A/C 55105. A/C 55107.																																		
Total Personal Injury Included in Above Award		Total Property Damage Included in Above Award																																			
\$		\$																																			
		Check Number																																			
A - Findings: After careful consideration of the evidence I make the following factual findings:																																					
1. Operator of postal vehicle failed to yield the right of way at an intersection and collided with private car.															6. Operator of postal vehicle negligently changed lanes and collided with private vehicle.																						
2. Operator of postal vehicle pulled away from a parked position and collided with private vehicle.															7. Improperly parked vehicle rolled down grade unattended and collided with private property.																						
3. Operator of postal vehicle backed and collided with private vehicle.															8. Operator of postal vehicle made a turn from improper lane and collided with private vehicle.																						
<input checked="" type="checkbox"/> 4. Operator of postal vehicle collided with rear of stopped vehicle.															9. Operator of postal vehicle collided with parked vehicle.																						
5. Operator of postal vehicle crossed over center line and collided with private vehicle.															10. Operator of postal vehicle failed to yield the right of way and collided with a pedestrian.																						
11. Other																																					
B - Conclusion: Therefore, under the provisions of the Federal Tort Claims Act and the regulations issued thereunder I find, that responsibility rests with the Government and that the total award for the damage and/or injury, or that disallowance of the claim, as indicated above, is proper.																																					
Other																																					
Signature and Title of Approving Officer /s/ Jonathan Rush (Adjudicator's Title)															Type of Settlement Code										Date 06/27/2006												
Card Code	Vendor Number							Finance Number							FAC	W/C Code	Sub Location			Claim Number						Year of Accident											
								1	0	-	5	0	0	0																							
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30								
Account Number					Sub Location Account		Fiscal Year	Payment Amount										T/P	T/S	Sequence Number						A/C											
5	5	1	0	5																																	
48	49	50	51	52	53	54	55	56	57	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80							
PS Form 2106, August 1987																																					
																												FM 1.0.2									

Exhibit 460 (p. 7)

Sample Letter to Claimant

Joint Claim – Individual and Insurance Company



(DATE)

Erie Insurance Exchange
4321 Accident Avenue
Premium, MD 20031-1234

Re: Your Insured: John A. Smith
 Your File Number: A-36846
 Your Policy Number: CD-341-22-307

Gentlemen:

The claim filed by you pursuant to the Federal Tort Claims Act has been considered. A settlement check is enclosed in the amount of \$897.48, which is the full amount of the claim submitted.

The enclosed check operates as a complete release of any claim against the United States Postal Service and against the employee of the government whose act or omission gave rise to the claim by reason of the same subject matter.

Sincerely,

(Adjudicator's Name and Title)

Enclosure

Exhibit 460 (p. 8)
Sample Completed PS Form 2106

Joint Claim — Individual and Insurance Company


		Adjudication - Tort Claims																												
		Claimant John A. Smith and Erie Insurance Exchange, Subrogee of John A. Smith														Claim Number 00101315				Inspector in Charge Washington DC				Acct. Numbers <i>(Check One)</i>						
														Case Number 12345-AA(2)				Accident Date 04/18/2006				A/C 55212.								
														Accident Place Washington, DC				A/C 55213.												
														Postal Installation Involved Washington, DC				A/C 55215.												
														Amount Claimed		Personal		\$						A/C 55101.						
														Property		\$		897.48						A/C 55103.						
														Total		\$		897.48						A/C 55105.						
														Awarded		Amount		\$		897.48		Disapproved:		Referred:		A/C 55107.				
														Total Personal Injury Included in Above Award				Total Property Damage Included in Above Award				Check Number								
														\$		\$														
A - Findings: After careful consideration of the evidence I make the following factual findings:																														
✓	1. Operator of postal vehicle failed to yield the right of way at an intersection and collided with private car.														6. Operator of postal vehicle negligently changed lanes and collided with private vehicle.															
	2. Operator of postal vehicle pulled away from a parked position and collided with private vehicle.														7. Improperly parked vehicle rolled downgrade unattended and collided with private property.															
	3. Operator of postal vehicle backed and collided with private vehicle.														8. Operator of postal vehicle made a turn from improper lane and collided with private vehicle.															
	4. Operator of postal vehicle collided with rear of stopped vehicle.														9. Operator of postal vehicle collided with parked vehicle.															
	5. Operator of postal vehicle crossed over center line and collided with private vehicle.														10. Operator of postal vehicle failed to yield the right of way and collided with a pedestrian.															
	11. Other																													
B - Conclusion: Therefore, under the provisions of the Federal Tort Claims Act and the regulations issued thereunder I find, that responsibility rests with the Government and that the total award for the damage and/or injury, or that disallowance of the claim, as indicated above, is proper.																														
Other																														
Signature and Title of Approving Officer /s/ Jonathan Rush (Adjudicator's Title)																		Type of Settlement Code						Date 06/27/2006						
Card Code		Vendor Number					Finance Number					FAC	W/C Code		Sub Location			Claim Number					Year of Accident							
						1	0	-	5	0	0	0								0	0	1	0	1	3	1	5	0	6	
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	
Account Number					Sub Location Account		Fiscal Year		Payment Amount								T/P T/S		Sequence Number					A/C						
5	5	1	0	7									8	9	7	4	8			E										
48	49	50	51	52	53	54	55	56	57	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80
PS Form 2106, August 1987																														
																												FM 1.0.2		

Exhibit 471

Checklist for Tort Claim Processing

This checklist is provided to serve as a minimum guideline.

- Immediately date-stamp claim upon receipt.
- Record receipt of claim in Tort Claims Office Software system.
- A completed claim must be signed, dated, contain a sum certain (specific amount), and describe the accident.
- If incomplete, keep, but send copy of SF 95, with missing items circled to claimant along with a new SF 95.
- If complete, acknowledge receipt.
- Request any additional documentation required from claimant.
- Complete PS Form 2198, *Accident Report – Tort Claim*, forward the form to the adjudicator, and retain a file copy.
- Review for completeness:
 - Witness statement.
 - SF 91, Driver's Statement. Request additional statement for clarification, if necessary.
 - Field sketch (do not add information because field sketch is to be completed at the scene).
 - PS Form 1700, *Accident Investigation Worksheet*.
 - If leased vehicle, obtain copy of lease agreement.
 - If privately-owned vehicle, obtain copy of insurance policy.
 - Ensure that photographs contain the required information on reverse side (see [Exhibit 234.41](#)).

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28 U.S.Code – Jurisdiction

§1346. United States as defendant.

(b)(1) Subject to the provisions of chapter 171 of this title [28 USCS §§ 2671 et seq.], the district courts, together with the United States District Court for the District of the Canal Zone and the District Court of the Virgin Islands, shall have exclusive jurisdiction of civil actions on claims against the United States, for money damages, accruing on and after January 1, 1945, for injury or loss of property, or personal injury or death caused by the negligent or wrongful act or omission of any employee of the Government while acting within the scope of his office or employment, under circumstances where the United States, if a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred.

§2401. Time for commencing action against United States.

(b)a[A] tort claim against the United States shall be forever barred unless it is presented in writing to the appropriate Federal agency within two years after such claim accrues or unless action is begun within six months after the date of mailing, by certified or registered mail, of notice of final denial of the claim by the agency to which it was presented.

§2402. Jury trial in actions against United States.

Subject to chapter 179 of this title [28 USCS §§ 3901 et seq.], any action against the United States under section 1346 [28 USCS § 1346] shall be tried by the court without a jury, except that any action against the United States under section 1346(a)(1) [28 USCS §1346(a)(1)] shall, at the request of either party to such action, be tried by the court with a jury.

FEDERAL TORT CLAIMS ACT TORT CLAIMS PROCEDURE

§2671. Definitions

As used in this chapter [28 USCS §§ 2671 et seq.] and sections 1346(b) and 2401(b) of this title [28 USCS §§ 1346(b) and 2401(b)], the term “Federal agency” includes the executive departments, the judicial and legislative branches, the military departments, independent establishments of the United States, and corporations primarily acting as instrumentalities or agencies of the United States, but does not include any contractor with the United States.

“Employee of the government” includes (1) officers or employees of any federal agency, members of the military or naval forces of the United States,

members of the National Guard while engaged in training or duty under section 115, 316, 502, 503, 504, or 505 of title 32 [32 USCS § 115, 316, 502, 503, 504 or 505], and persons acting on behalf of a federal agency in an official capacity, temporarily or permanently in the service of the United States, whether with or without compensation, and (2) any officer or employee of a Federal public defender organization, except when such officer or employee performs professional services in the course of providing representation under section 3006A of title 18 [18 USCS § 3006A].

“Acting within the scope of this office or employment,” in the case of a member of the military or naval forces of the United States or a member of the National Guard as defined in section 101(3) of title 32 [32 USCS § 101(3)], means acting in line of duty.

§2672. Administrative adjustment of claims

The head of each Federal agency or his designee, in accordance with regulations prescribed by the Attorney General, may consider, ascertain, adjust, determine, compromise, and settle any claim for money damages against the United States for injury or loss of property or personal injury or death caused by the negligent or wrongful act or omission of any employee of the agency while acting within the scope of his office or employment, under circumstances where the United States, if a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred: *Provided*, That any award, compromise, or settlement in excess of \$25,000 shall be effected only with the prior written approval of the Attorney General or his designee. Notwithstanding the proviso contained in the preceding sentence, any award, compromise, or settlement may be effected without the prior written approval of the Attorney General or his or her designee, to the extent that the Attorney General delegates to the head of the agency the authority to make such award, compromise, or settlement. Such delegations may not exceed the authority delegated by the Attorney General to the United States Attorneys to settle claims for money damages against the United States. Each Federal agency may use arbitration, or other alternative means of dispute resolution under the provisions of subchapter IV of chapter 5 of title 5 [5 USCS §§ 571 et seq.], to settle any tort claim against the United States, to the extent of the agency’s authority to award, compromise, or settle such claim without the prior written approval of the Attorney General or his or her designee.

Subject to the provisions of this title relating to civil actions on tort claims against the United States, any such award, compromise, settlement, or determination shall be final and conclusive on all officers of the Government, except when procured by means of fraud.

Any award, compromise, or settlement in an amount of \$2,500 or less made pursuant to this section shall be paid by the head of the Federal agency concerned out of appropriations available to that agency. Payment of any award, compromise, or settlement in an amount in excess of \$2,500 made pursuant to this section or made by the Attorney General in any amount pursuant to section 2677 of this title [28 USCS § 2677] shall be paid in a manner similar to judgments and compromises in like causes and appropriations or funds available for the payment of such judgments and

compromises are hereby made available for the payment of awards, compromises, or settlements under this chapter 28 USCS §§ 2671 et seq.]. The acceptance by the claimant of any such award, compromise, or settlement shall be final and conclusive on the claimant, and shall constitute a complete release of any claim against the United States and against the employee of the government whose act or omission gave rise to the claim, by reason of the same subject matter.

§2674. Liability of United States

The United States shall be liable, respecting the provisions of this title relating to tort claims, in the same manner and to the same extent as a private individual under like circumstances, but shall not be liable for interest prior to judgment or for punitive damages.

If, however, in any case wherein death was caused, the law of the place where the act or omission complained of occurred provides, or has been construed to provide, for damages only punitive in nature, the United States shall be liable for actual or compensatory damages, measured by the pecuniary injuries resulting from such death to the persons respectively, for whose benefit the action was brought in lieu thereof.

With respect to any claim under this chapter [28 USCS §§ 2671 et seq.], the United States shall be entitled to assert any defense based upon judicial or legislative immunity which otherwise would have been available to the employee of the United States whose act or omission gave rise to the claim, as well as any other defenses to which the United States is entitled.

With respect to any claim to which this section applies, the Tennessee Valley Authority shall be entitled to assert any defense which otherwise would have been available to the employee based upon judicial or legislative immunity, which otherwise would have been available to the employee of the Tennessee Valley Authority whose act or omission gave rise to the claim as well as any other defenses to which the Tennessee Valley Authority is entitled under this chapter 28 USCS §§ 2671 et seq.].

§2675. Disposition by federal agency as prerequisite; evidence

(a) An action shall not be instituted upon a claim against the United States for money damages for injury or loss of property or personal injury or death caused by the negligent or wrongful act or omission of any employee of the Government while acting within the scope of his office or employment, unless the claimant shall have first presented the claim to the appropriate Federal agency and his claim shall have been finally denied by the agency in writing and sent by certified or registered mail. The failure of an agency to make final disposition of a claim within six months after it is filed shall, at the option of the claimant any time thereafter, be deemed a final denial of the claim for purposes of this section. The provisions of this subsection shall not apply to such claims as may be asserted under the Federal Rules of Civil Procedure by third party complaint, cross-claim, or counterclaim.

(b) Action under this section shall not be instituted for any sum in excess of the amount of the claim presented to the federal agency, except where the increased amount is based upon newly discovered evidence not reasonably discoverable at the time of presenting the claim to the federal agency, or

upon allegation and proof of intervening facts, relating to the amount of the claim.

(c) Disposition of any claim by the Attorney General or other head of a federal agency shall not be competent evidence of liability or amount of damages.

§2676. Judgment as bar

The judgment in an action under section 1346(b) of this title [28 USCS § 1346(b)] shall constitute a complete bar to any action by the claimant, by reason of the same subject matter, against the employee of the government whose act or omission gave rise to the claim.

§2677. Compromise

The Attorney General or his designee may arbitrate, compromise, or settle any claim cognizable under section 1346(b) of this title 28 USCS § 1346(b)], after the commencement of an action thereon.

§2678. Attorney fees; penalty

No attorney shall charge, demand, receive, or collect for services rendered, fees in excess of 25 per centum of any judgment rendered pursuant to section 1346(b) of this title 28 USCS § 1346(b)] or any settlement made pursuant to section 2677 of this title 28 USCS § 2677], or in excess of 20 per centum of any award, compromise, or settlement made pursuant to section 2672 of this title [28 USCS § 2672].

Any attorney who charges, demands, receives, or collects for services rendered in connection with such claim any amount in excess of that allowed under this section, if recovery be had, shall be fined not more than \$2,000 or imprisoned not more than one year, or both.

§2679. Exclusiveness of remedy

(a) The authority of any federal agency to sue and be sued in its own name shall not be construed to authorize suits against such federal agency on claims which are cognizable under section 1346(b) of this title [28 USCS § 1346(b)], and the remedies provided by this title in such cases shall be exclusive.

(b)

(1) The remedy against the United States provided by sections 1346(b) and 2672 of this title [28 USCS §§ 1346(b) and 2672] for injury or loss of property, or personal injury or death arising or resulting from the negligent or wrongful act or omission of any employee of the Government while acting within the scope of his office or employment is exclusive of any other civil action or proceeding for money damages by reason of the same subject matter against the employee whose act or omission gave rise to the claim or against the estate of such employee. Any other civil action or proceeding for money damages arising out of or relating to the same subject matter against the employee or the employee's estate is precluded without regard to when the act or omission occurred.

(2) Paragraph (1) does not extend or apply to a civil action against an employee of the Government—

(A) which is brought for a violation of the Constitution of the United States, or

(B) which is brought for a violation of a statute of the United States under which such action against an individual is otherwise authorized.

(c) The Attorney General shall defend any civil action or proceeding brought in any court against any employee of the Government or his estate for any such damage or injury. The employee against whom such civil action or proceeding is brought shall deliver with such time after date of service or knowledge of service as determined by the Attorney General, all process served upon him or an attested true copy thereof to his immediate superior or to whomever was designated by the head of his department to receive such papers and such person shall promptly furnish copies of the pleadings and process therein to the United States attorney for the district embracing the place wherein the proceeding is brought, to the Attorney General, and to the head of his employing Federal agency.

(d)

(1) Upon certification by the Attorney General that the defendant employee was acting within the scope of his office or employment at the time of the incident out of which the claim arose, any civil action or proceeding commenced upon such claim in a United States district court shall be deemed an action against the United States under the provisions of this title and all references thereto, and the United States shall be substituted as the party defendant.

(2) Upon certification by the Attorney General that the defendant employee was acting within the scope of his office or employment at the time of the incident out of which the claim arose, any civil action or proceeding commenced upon such claim in a State court shall be removed without bond at any time before trial by the Attorney General to the district court of the United States for the district and division embracing the place in which the action or proceeding is pending. Such action or proceeding shall be deemed to be an action or proceeding brought against the United States under the provisions of this title and all references thereto, and the United States shall be substituted as the party defendant. This certification of the Attorney General shall conclusively establish scope of office or employment for purposes of removal.

(3) In the event that the Attorney General has refused to certify scope of office or employment under this section, the employee may at any time before trial petition the court to find and certify that the employee was acting within the scope of his office or employment. Upon such certification by the court, such action or proceeding shall be deemed to be an action or proceeding brought against the United States under the provisions of this title and all references thereto, and the United States shall be substituted as the party defendant. A copy of the petition shall be served upon the United States in accordance with the provisions of Rule 4(d)(4) of the Federal Rules of Civil Procedure. In the event the petition is filed in a civil action or proceeding pending in a State court,

the action or proceeding may be removed without bond by the Attorney General to the district court of the United States for the district and division embracing the place in which it is pending. If, in considering the petition, the district court determines that the employee was not acting within the scope of his office or employment, the action or proceeding shall be remanded to the State court.

(4) Upon certification, any action or proceeding subject to paragraph (1), (2), or (3) shall proceed in the same manner as any action against the United States filed pursuant to section 1346(b) of this title [28 USCS § 1346(b)] and shall be subject to the limitations and exceptions applicable to those actions. (5) Whenever an action or proceeding in which the United States is substituted as the party defendant under this subsection is dismissed for failure first to present a claim pursuant to section 2675(a) of this title [28 USCS § 2675(a)], such a claim shall be deemed to be timely presented under section 2401(b) of this title [28 USCS § 2401(b)] if—

(A) the claim would have been timely had it been filed on the date the underlying civil action was commenced, and

(B) the claim is presented to the appropriate Federal agency within 60 days after dismissal of the civil action.

(e) The Attorney General may compromise or settle any claim asserted in such civil action or proceeding in the manner provided in section 2677 [28 USCS § 2677], and with the same effect.

§2680. Exceptions

The provisions of this chapter [28 USCS §§ 2671 et seq.] and section 1346(b) of this title [28 USCS § 1346(b)] shall not apply to—

(a) 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.

(b) Any claim arising out of the loss, miscarriage, or negligent transmission of letters or postal matter.

(c) Any claim arising in respect of the assessment or collection of any tax or customs duty, or the detention of any goods, merchandise, or other property by any officer of customs or excise or any other law enforcement officer, except that the provisions of this chapter [28 USCS §§ 2671 et seq.] and section 1346(b) of this title [28 USCS § 1346(b)] apply to any claim based on injury or loss of goods, merchandise, or other property, while in the possession of any officer of customs or excise or any other law enforcement officer, if—

(1) the property was seized for the purpose of forfeiture under any provision of Federal law providing for the forfeiture of property other than as a sentence imposed upon conviction of a criminal offense;

(2) the interest of the claimant was not forfeited;

(3) the interest of the claimant was not remitted or mitigated (if the property was subject to forfeiture); and

(4) the claimant was not convicted of a crime for which the interest of the claimant in the property was subject to forfeiture under a Federal criminal forfeiture law.[.]

(d) Any claim for which a remedy is provided by chapter 309 or 311 of title 46 [46 USCS §§ 30901 et seq. or 31101 et seq.] relating to claims or suits in admiralty against the United States.

(e) Any claim arising out of an act or omission of any employee of the Government in administering the provisions of sections 1-31 of Title 50, Appendix.

(f) Any claim for damages caused by the imposition or establishment of quarantine by the United States.

(g) [Repealed]

(h) Any claim arising out of assault, battery, false imprisonment, false arrest, malicious prosecution, abuse of process, libel, slander, misrepresentation, deceit, or interference with contract rights; *Provided*, That, with regard to acts or omissions of investigative or law enforcement officers of the United States Government, the provisions of this chapter [28 USCS §§ 2671 et seq.] and section 1346(b) of this title 28 USCS § 1346(b)] shall apply to any claim arising, on or after the date of the enactment of this proviso [enacted March 16, 1974] out of assault, battery, false imprisonment, false arrest, abuse of process, or malicious prosecution. For the purpose of this subsection, “investigative or law enforcement officer” means any officer of the United States who is empowered by law to execute searches, to seize evidence, or to make arrests for violations of Federal law.

(i) Any claim for damages caused by the fiscal operations of the Treasury or by the regulation of the monetary system.

(j) Any claim arising out of the combatant activities of the military or naval forces, or the Coast Guard, during time of war.

(k) Any claim arising in a foreign country.

(l) Any claim arising from the activities of the Tennessee Valley Authority.

(m) Any claim arising from the activities of the Panama Canal Company.

(n) Any claim arising from the activities of a Federal Land bank, a Federal intermediate credit bank, or a bank for co-operatives.

39 U.S. Code 409. Suits By and Against the Postal Service

(c) The provisions of chapter 171 [28 USCS §§ 2671 et seq.] and all other provisions of title 28 relating to tort claims shall apply to tort claims arising out of activities of the Postal Service.

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Appendix B

**39 Code of Federal Regulations (CFR) -
Part 912**

Please see the National Tort Center Web site for current Postal Service 39 Code of Federal Regulations postal provisions related to the processing of administrative claims under the Federal Tort Claims Act.

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Appendix C

Forms Glossary and Retention Schedule

Item 087-H	Vehicle Accident Report Kit
Must be in every vehicle operated by on-duty Postal Service employees, including drive-out agreements.	
SF 91	Operator's Report of Motor Vehicle Accident
File numerically by case number. Move to a closed file after the claim is adjudicated. Cut-off closed file each calendar year. Dispose of three years after cut-off.	
SF 94	Statement of Witness
Same as SF 91.	
SF 95	Claim for Damage, Injury or Death
Same as SF 91.	
PS Form 1700	Accident Investigation Worksheet
Same as SF 91.	
PS Form 2106	Adjudication Tort Claims
Same as SF 91.	
PS Form 2198	Accident Report – Tort Claim

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Appendix D

List Of Exhibits



Exhibit 222	Motor Vehicle Accident Investigation Kit
Exhibit 232.1	Vehicle Accident Investigation Checklist
Exhibit 233.2	SF 91, <i>Motor Vehicle Accident Report</i> (pgs. 1–4)
Exhibit 233.41	SF 94, <i>Statement of Witness</i> (pgs. 1–2)
Exhibit 234.4	PS Form 1700, <i>Accident Investigation Worksheet</i>
Exhibit 234.41	Information Required on Reverse Side of Photographs
Exhibit 234.52(a)	Using Skid Marks to Estimate Speed (pg. 1)
Exhibit 244.2	Definition of Negligence
Exhibit 244.51	Sample Format of Claim Statement
Exhibit 331.2	PS Form 1700, <i>Accident Investigation Worksheet</i>
Exhibit 432.11	Sample Completed SF 95, <i>Claim for Damage, Injury or Death</i>
Exhibit 442.1c	Form 2198, <i>Accident Report — Tort Claim</i>
Exhibit 442.23a	Sample Receipt of Claim Letter
Exhibit 442.23d	Tort Claim Processing Guide
Exhibit 460	Sample Letter to Claimant and Attorneys and Sample Completed PS Form 2106 (pgs. 1–8)
Exhibit 471	Checklist for Tort Claim Processing

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