

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

ELIZABETH TAYLOR <i>et al.</i> ,	:		
	:		
Plaintiffs,	:	Civil Action No.:	10-0233 (RMU)
	:		
v.	:	Re Document No.:	2
	:		
BRENTWOOD POSTAL SERVICES,	:		
	:		
Defendant.	:		

MEMORANDUM OPINION

**GRANTING THE DEFENDANT’S MOTION TO DISMISS FOR
LACK OF SUBJECT MATTER JURISDICTION**

This matter comes before the court on the motion of the defendant, Brentwood Postal Services, to dismiss for lack of subject matter jurisdiction. On November 16, 2009, *pro se* plaintiffs Elizabeth Taylor and Gary Imes filed a complaint in the Superior Court of the District of Columbia alleging that the defendant, a station of the United States Postal Service (“USPS”), engaged in conspiracy and fraud by failing to deliver the plaintiffs’ mail between 2006 and 2008. *See* Compl. at 1. The defendant removed the case to this court on February 17, 2010, *see* Notice of Removal, and contemporaneously filed a motion to dismiss for lack of subject matter jurisdiction, *see generally* Def.’s Mot. The plaintiffs’ opposition to the motion did not address the issue of subject matter jurisdiction and suggested that the parties should settle the case. *See* Pls.’ Opp’n at 1.

As an entity of the United States government, the USPS may not be sued except to the extent that Congress has expressly waived the United States’s sovereign immunity from suit. *Lane v. Pena*, 518 U.S. 187, 192 (1996). Although the Federal Tort Claims Act (“FTCA”), 28 U.S.C. §§ 1346(b), 2671-80, expressly waives the United States’s sovereign immunity from suit

for conspiracy and fraud in some circumstances, the FTCA expressly exempts “[a]ny claim arising out of the loss, miscarriage, or negligent transmission of letters or postal matter.” *Id.* § 2680(b). Thus, the plaintiffs cannot maintain a claim against the defendant for fraud or conspiracy in the misdelivery or nondelivery of their mail.

For the foregoing reasons, the court grants the defendant’s motion to dismiss. An Order consistent with this Memorandum Opinion is separately and contemporaneously issued this 5th day of May, 2010.

RICARDO M. URBINA
United States District Judge