

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

ALVIN J. FREEMAN, etc.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 10 C 6888
	)	
ABDALLAH DREA, etc., et al.,	)	
	)	
Defendants.	)	

MEMORANDUM ORDER

This action has just been brought by Alvin Freeman, executor of the estate of decedent Chavonne M. Freeman. According to the Complaint, the negligence of a United States Postal Service truck driver caused a collision that resulted in the death of the decedent.

Complaint ¶1 seeks to ground jurisdiction in 28 U.S.C. §1346(b),<sup>1</sup> which in turn is expressly made subject to the provisions of the Federal Tort Claims Act (Sections 2671 through 2679). But as Section 2675 makes plain, an essential precondition to the institution of such a lawsuit against the United States is (1) that "the claimant shall have first presented the claim to the appropriate Federal agency" (Section 2675(a))--in this instance, the United States Postal Service--and (2) that the agency shall have denied the claim (or shall have failed to do so within six months after the claim is filed) (*id.*).

---

<sup>1</sup> All further references to Title 28's provisions will simply take the form "Section--."

As a corollary to that precondition, Section 2676 provides that the judgment in an action under Section 1346 bars any action against the federal employee involved--in this instance the driver of the Postal Service truck, who has been named as a codefendant.

Here the Complaint says nothing at all as to the satisfaction of the statutory precondition. Hence both the Complaint and this action are dismissed for lack of subject matter jurisdiction.



---

Milton I. Shadur  
Senior United States District Judge

Date: October 27, 2010