



UNITED STATES GENERAL ACCOUNTING OFFICE

WASHINGTON, D.C. 20548

OFFICE OF GENERAL COUNSEL

B-219936

April 11, 1986

Mr. Joseph B. Halldorson  
1601 Arlington Boulevard  
Arlington, Virginia 22209

Dear Mr. Halldorson:

This is in response to the various allegations you have made regarding matters arising from an automobile accident you suffered while on official duty as an employee of the United States Forest Service. That accident occurred on July 11, 1973, in Missoula, Montana. You apparently received workers' compensation for some period of time after that accident and in December, 1974, you filed a suit in the District Court of the Fourth Judicial District of Montana, alleging negligence on the part of the other party involved in the accident and seeking recovery of certain expenses and damages. The record before us shows that a judgment in favor of the defendant was entered on November 16, 1979.

You have expressed numerous concerns with respect to the method by which this type of situation is handled. Specifically, it appears that one of your major concerns is that Federal employees injured by third parties while pursuing their official duties are often required to bring actions against those third parties without the assistance of the government. You have asked the Comptroller General to apply his decision in 32 Comp. Gen. 118 (1952) to these situations and require the Attorney General to prosecute all such employee claims against third party tortfeasors.

In 32 Comp. Gen. 118 the Department of the Navy requested the Comptroller General's decision as to whether the Navy could use its appropriations to pursue a certain legal action. The Comptroller responded in the negative, citing the rule enacted at 28 U.S.C. § 516 that, in the absence of specific authority by the Congress for departments and establishments of the government to resort to litigation in the courts, it is the duty of the Attorney General to institute, prosecute and defend actions on behalf of the United States.

Section 8131 of Title 5 provides that the Secretary of Labor may require an injured employee or his beneficiary to either prosecute an action against a third party in his own

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name or to assign his right of action to the United States. Section 8131 provides specific authority for the Secretary of Labor to prosecute or compromise a cause of action assigned to the United States. As a result of this specific authority granted to the Secretary of Labor, the rule which the Comptroller General cited in 32 Comp. Gen. 118 does not apply to this situation.

In this regard, we note that you contend that section 8131(b), which precludes the payment of workers' compensation to a beneficiary who refuses to assign or prosecute an action, is unconstitutional. A determination as to the constitutionality of this section must be made by the courts - the Comptroller General has no authority to make such a determination.

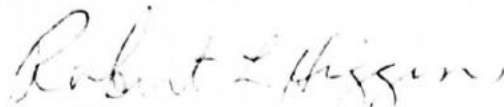
You also contend that you were the victim of a conspiracy within the state of Montana. It is not within the jurisdiction of the General Accounting Office to investigate such allegations.

Similarly, it is not within our jurisdiction to investigate your claims that you received inappropriate and harmful medical treatment for the injuries you suffered as a result of your accident. Such claims should be pursued through private litigation.

It appears that you believe that the Secretary of Labor and other Labor Department officials have acted illegally with regard to your case. Our review of your submissions fails to show any wrongdoing. As a result, you should pursue any further complaints through the appropriate court of law.

We are hereby closing our files on this matter and are enclosing the money order which was included in your submissions.

Sincerely yours,



Robert L. Higgins  
Assistant General Counsel

Enclosure