

1990

# Ledfors v. Emery County School District : Unknown

Utah Supreme Court

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OFFICE OF THE ATTORNEY GENERAL  
UTAH SUPREME COURT



STATE OF UTAH

DOCKET NO.

900503

BRIEF

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February 25, 1992

The Honorable Geoffrey J. Butler  
Clerk of the Utah Supreme Court  
332 State Capitol  
Salt Lake City, Utah 84114

Re: Ledfors v. Emery County School District  
Supreme Court No. 900503

Dear Mr. Butler:

I am writing to bring supplemental authorities to the attention of the Court pursuant to U. R. App. P. 24(j). The following authorities are relevant to the issues on appeal, but were not cited in the parties' briefs.

1. Section 1346(b) of Title 28 of the United States Code (a copy of which is attached) pertains to the issue of whether section 63-30-10(b) of the Utah Governmental Immunity Act (the assault and battery exception to the waiver of governmental immunity) should be construed in the same manner as section 2680(h) of the Federal Tort Claims Act (FTCA). See, Appellee's Brief, pp. 12-18. Section 1346(b) is the waiver provision to which section 2680(h) of the FTCA applies.

2. Sheridan v. United States, 487 U.S. 392 (1988), sets forth the U.S. Supreme Court's current construction of section 2680(h). The Court held that section 2680(h) was "inapplicable to torts that fall outside the scope of § 1346(b)'s general waiver." 487 U.S. at 400.

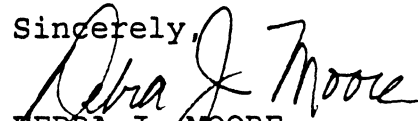
3. Provo City v. State, 795 P.2d 1120, 1123 (Utah 1990), pertains to the issue of whether the activity of the School District at issue is a governmental function. See, Appellee's Brief, pp. 6-11. We direct the Court's attention to page 1123, where this Court stated, "The legislature expanded the definition of 'governmental function' in 1987. This resolved much of the

Honorable Geoffrey J. Butler  
February 25, 1992  
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confusion by defining everything a governmental entity does as a  
'governmental function.'" (Citations omitted.)

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in cursive script, reading "Debra J. Moore".

DEBRA J. MOORE  
Assistant Attorney General

DJM:jn  
cc: Joanne Pappas White

1346. United States as defendant

(b) Subject to the provisions of chapter 171 of this title, 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.