

January 18, 1937

Mr. S. G. Dowell, Chairman  
Arizona State Highway Commission  
Douglas, Arizona

Dear Mr. Dowell:

Replying to your letter relative to the communication from C. W. Mullen of Los Angeles, concerning damage to his car by a state highway truck near Flagstaff, on December 27th last, we beg to state that we have written Mr. Mullen and enclose a copy of the letter to him.

Neither the state, nor the county, nor any municipality of the county, is liable for injuries occasioned by the negligence of the officers or employees of the state or county while in the performance of a governmental function. The construction, repair, maintenance or policing of a state highway is purely a governmental function. Therefore, the state could under no possible theory be held for the damage Mr. Mullen has sustained.

Very truly yours,

JOE CONWAY  
Attorney General

A. R. LYNCH  
Assistant Attorney General

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January 18, 1937

Mr. C. W. Mullen  
3213 Huron Street  
Los Angeles, California

Dear Mr. Mullen:

I have your letter to State Highway Commission Chairman, Sheldon Dowell, dated January 11, 1937, together with his instructions to write you in the matter.

Under our Arizona court decision the state cannot be held liable for any damage occasioned by the negligence of its officers, agents or employees while engaged in the construction, repair, maintenance or policing of a state highway.

In consequence your only remedy would be against the driver personally.

It is, of course, to be regretted that you sustained this damage but the State Commission would have no authority whatever to pay for the repair of your automobile.

Very truly yours,

JOE CONWAY  
Attorney General

A. R. LYNCH  
Assistant Attorney General

cc S. G. Dowell  
C. C. Jarrett