



SCOTUS to Hear State Workers' Compensation Case Targeting Federal Contractors

By Lisa Sorenson, Executive Director, State & Local Legal Center (SLLC)

In [United States v. Washington](#) the Supreme Court will decide whether Washington State may adopt a workers' compensation statute which applies exclusively to federal contract workers.

Washington's statute applies to federal contractors working at Hanford, a decommissioned federal nuclear production site covering over 500 square miles in the state. It is easier for workers covered by the Hanford program to demonstrate they are entitled to benefits than those covered by Washington's regular workers' compensation program.

The United States argues that this statute violates the doctrine of intergovernmental immunity. Per this doctrine, which derives from the Constitution's Supremacy Clause, state laws are invalid if they regulate the United States directly or discriminate against the federal government.

The Ninth Circuit held that Washington state's statute doesn't violate the doctrine of intergovernmental immunity because it falls within 40 U.S.C. 3172(a)'s waiver of governmental immunity.

Section 3172 permits the state authority charged with enforcing workers' compensation laws to apply those laws to federal land and facilities within the state "in the same way and to the same extent as if the premises were under the



exclusive jurisdiction of the State.” Before the Ninth Circuit the United States argued that the phrase “in the same way and to the same extent” is a “very limited waiver” of immunity. According to the United States, this text and the Court’s opinion in *Goodyear Atomic Corp. v. Miller* (1988), “strongly suggest” that Section 3172 authorizes only the “extension of generally applicable laws,” rather than “discrete” workers’ compensation state laws that “single out” the federal Government and its contractors.

The Ninth Circuit disagreed opining: “The plain text of [§ 3172](#) does not purport to limit the workers’ compensation laws for which it waives intergovernmental immunity to only those that are ‘generally applicable.’”

The SLLC files amicus curiae briefs in support of states and local governments in the U.S. Supreme Court, conducts moot courts for attorneys arguing before the Supreme Court, and is a resource to states and local governments on the Supreme Court. CSG is a member of the SLLC. For more information, please visit <https://www.statelocalc.org/>.