

# SUPREME COURT: TEMPORARY GOVERNMENT EMPLOYEE IS ENTITLED TO SAME IMMUNITY FROM LAWSUITS AS FULL-TIME PUBLIC WORKERS

Insights  
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In a unanimous decision, the U.S. Supreme Court ruled on April 17, 2012 that a private employee working for a governmental body is entitled to the same qualified immunity as full-time public employees. *Filarsky v. Delia*.

## Background

Steve Filarsky is an attorney who was retained by the city of Rialto, California, to conduct internal investigations of city employees. He investigated Firefighter Nicholas Delia, who the city suspected of abusing sick leave. Delia was observed buying building supplies while on leave, but then he claimed he had not used them. In his role as an investigator for the city, Filarsky ordered Delia to produce the unused materials to prove his claim. After first objecting, the firefighter placed the material on his lawn for inspection.

Delia then sued Filarsky for alleged violations of the Fourth and Fourteenth amendments. Those amendments respectively guard against unreasonable searches and seizures and prohibit governments from depriving people of property (without certain steps being taken to ensure fairness). Filarsky claimed qualified immunity. The U.S. Circuit Court of Appeals for the 9<sup>th</sup> Circuit ruled against Filarsky. But the Supreme Court overturned the 9<sup>th</sup> Circuit's ruling, saying Filarsky was entitled to the same immunity as any other Rialto employees.

## The Ruling

Chief Justice John G. Roberts Jr. wrote the opinion stating that common-law rule did not distinguish between immunity for public servants and private individuals engaged in public service. He further wrote that the rule should be carried forward in lawsuits claiming constitutional violations under Section 1983 of the Civil Rights Act.

Roberts also said that public policy supported such immunity. Without such immunity talented people might be discouraged from serving in a public role. Roberts said there's a need to perform government responsibilities "free from the distractions that can accompany even routine lawsuits."

### **The Impact**

So far as private employers are concerned, the impact of this particular decision is minimal. However, for those individuals in private industry who are occasionally called upon to perform services for a state, a municipality, or the federal government, the impact is significant. Such persons can now know that, even if the assignment they accept is temporary, they are entitled to the same qualified immunity from lawsuits as other public servants.

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