

# Caterpillar Escapes Liability For Israeli Bulldozer Operations

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*Staff Reporter of the Sun*

PALO ALTO, Calif. — Caterpillar Inc. cannot be held legally liable for the use of its bulldozers in Israeli military operations because the equipment is paid for with American government funds and represents an extension of American foreign policy, a federal appeals court ruled.

A three-judge panel of the 9th Circuit Court of Appeals yesterday rejected an appeal from the family of an American peace activist, Rachel Corrie, whose death in an Israel Defense Force bulldozer operation in the Gaza Strip in 2003 made her a martyr in some circles.

Corrie's fellow protesters from the International Solidarity Movement said she was crushed by Israeli military personnel demolishing the homes of Palestinian Arabs. The activists also charged that the operator of the Caterpillar earth-moving equipment must have seen Corrie, 23, just before she was crushed.

An Israeli government investigation found that the bulldozer team was clearing debris on an anti-smuggling mission, not destroying homes, and that the operator did not see Corrie.

Corrie's family later joined with the families of others killed or injured in similar incidents to sue Caterpillar for knowingly selling equipment that Israel allegedly used to violate international law.

"Allowing this action to proceed would necessarily require the judicial branch of our government to question the political

branches' decision to grant extensive military aid to Israel," Judge Kim Wardlaw wrote, in an



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**CORRIE** In Gaza Strip in 2003.

opinion joined by Judges Arthur Alarcón and Michael Hawkins. "It is difficult to see how we could impose liability on Caterpillar without at least implicitly deciding the propriety of the United States's decision to pay for the bulldozers which allegedly killed the plaintiffs' family members. ... A court could not find in favor of the plaintiffs without implicitly questioning, and even condemning, United States foreign policy towards Israel."

Judge Wardlaw noted that a secretary of state, Colin Powell, criticized the Israeli government's practice of destroying Palestinian homes. However, she said that his "mildly critical language" did not authorize the

courts to oversee cases asserting that Israel has "systematically committed grave violations of international law."

"It's a huge disappointment for us and for our clients," an attorney for the Corries and the other families, Maria LaHood of the Manhattan-based Center for Constitutional Rights, told The New York Sun.

Ms. LaHood said the appeals court's key finding that all of the Israel Defense Force's Caterpillar equipment in Gaza is American-funded is "just not true." The assertion was based on a claim in an amicus curiae brief filed by the American government.

Asked whether her theory would allow suits over guns that were later misused abroad, Ms. LaHood said, "The gun changes hands several times. There's no direct sale to the person you know is going to violate the law." She said she hoped Caterpillar would voluntarily stop sales to the Israeli military. "This obviously doesn't stop Caterpillar from doing the right thing," she said.

A spokeswoman for Caterpillar, Rachel Potts, said the company was "pleased" with the court decision. "We are hopeful this ruling will bring to an end what has been a lengthy but fair judicial process," she said.

At the 9th Circuit, the case for the Corries was argued by a Duke law school professor, Erwin Chemerinsky, who was recently offered the deanship of a new law school for the University of California at Irvine. The offer was withdrawn and later reinstated in a flap over Mr. Chemerinsky's activism and rhetoric on behalf of liberal causes. He did not respond to an e-mail seeking comment for this article.

