

A.H.A! GUIDE: “HOW TO FILE A FEDERAL SUIT”

(and take it all the way to the U. S. Supreme Court)

If your Constitutional rights have been violated, or you have claims against judges, lawyers, or government entities, you can file a lawsuit in federal court. It is usually a three-step process done by mail over a 2-3 year period: (1) filing in your federal district court; (2) appealing to your circuit court (for Kansas, this is the Tenth Circuit Court in Denver); and (3) filing a writ of certiorari with the U.S. Supreme Court to ask them to hear your case. As a *pro se* litigant, here are the steps we’ve learned (subject to court changes without notice!):

1. Determine who your defendants are and your claims against them (see examples of claims in cases # 1, 2 & 3 under “Supporting Documents” on our website at www.assocforhonestattys.com.)
2. Make sure you are within the statute of limitations for filing your case (usually **two years for fraud-related claims**.) Send your defendant(s) a contact letter, certified with return receipt required, asking them to offer a settlement within 30 days or you intend to file suit. An example is below:

CONTACT LETTER

(Example)

(Today’s date)

President Barack Obama
The White House
1600 Pennsylvania Ave., NW
Washington, D.C. 20502

Secretary Chuck Hagel
Department of Defense
The Pentagon
Washington, D.C. 20301

Attorney General Eric Holder
Department of Justice
950 Pennsylvania Ave., NW
Washington, D.C. 20530

Re: ILLEGAL TARGETING/TORTURE OF INNOCENT AMERICANS
NOTIFICATION OF PENDING LITIGATION

Dear President Obama/Secretary Hagel/Attorney General Holder:

This letter is to advise you that I have contacted the Association for Honest Attorneys with regard to the above matter. The A.H.A! is a non-profit organization that tries to discourage litigation and improve the legal system. As a last resort, they help show people how to file their own lawsuits.

Concerning the matter of illegal surveillance, targeting and torture of innocent Americans which is continued and ongoing, it is my intention to file a federal lawsuit. I believe that various causes of action exist, both civil and/or criminal, which include but are not limited to: 42 USC 1983 Denial of Rights Under Color of Law, conspiracy and/or fraud, gross negligence, violations of FISA and the Patriot Act, War Crimes Act of 1949/crimes against humanity, obstruction of justice, tort of outrage and intentional emotional distress.

Prior to filing a suit in federal court, it is my desire to attempt a good faith resolution of this matter. If this is your desire as well, please contact me in writing no later than (enter date 30 days from the date of this letter).

Sincerely,

(Hand write your signature)

(Your name - typed)

(Address - typed)

(Phone number - typed)

3. After sending your contact letter certified with return receipt required, keep the green cards you get back from the post office so you can later file them with the court. Always try and work out your matter through compromise and negotiations first before you proceed with filing a suit. If your defendant(s) don't respond at all or make no effort to try and work things out, then proceed to the next step.

4. Go down to your federal courthouse (in Kansas, this is in Wichita, Topeka or K.C.) and get a packet with detailed instructions on how to file your suit *pro se*. You can use their complaint form if you prefer.

Remember that you must have federal claims to file a suit in federal court (i.e., denial of due process under 4th or 5th Amendments, Denial of Rights Under Color of Law 42 USC 1983, etc.). If you add state claims (such as conspiracy/collusion, fraud, ineffective assistance of counsel, etc.), be aware they can kick your case back to the state to be resolved first which you don't want - this is where they like to beat you up in hearings!

5. You can also construct your complaint similar to any of the three cases we have filed under "Supporting Documents" on our website at www.assocforhonestattys.com. In the case caption (i.e., Johnson v. State of Kansas), make sure you use lower case letters. Remember that your "Bible" for following the rules in federal court cases is the Federal Rules of Civil Procedure found in your law library, or these can be found online at www.law.cornell.edu/rules. Call the Secretary of State's office (785-296-4564) to find out the RESIDENT AGENT for each company that you are suing – this is the name & address that you will send your lawsuit to. In your complaint, don't forget to ask for a jury trial and to designate which federal court you want to have your case heard in (in Kansas, this is in Wichita, Topeka or K.C.).

6. After you are done preparing your lawsuit (complaint), attach a certificate of service (if suing a government agency, certificate of service must be notarized and can be done the day you file). If suing an insurance company, you must also serve the Kansas Insurance Dept., 420 SW 9th St., Topeka, KS 66612 and include a \$25.00 fee. Make sure you sign the original lawsuit and certificate of service in **blue ink - this one you file with the court.** Make copies of your lawsuit for each defendant and one for yourself. Fill out the civil cover sheet and prepare two copies of each summons for all defendants according to the instructions in the packet. Address a manila envelope (9 X 12) to each defendant to bring with you when you file.

7. Time to head for the federal courthouse! Make sure you have the original and all copies of your lawsuit, two summonses prepared for each defendant, a completed civil cover sheet completed and manila

envelopes for mailing your lawsuit. Don't forget to stop and get your certificate of service notarized on the way if you are suing a government agency. At the clerk's office, hand them everything but the manila envelopes and tell them you want to file this lawsuit. They will assign a case number and handwrite it on all copies, and then date stamp the lawsuits and summonses (one summons will have a raised seal). (NOTE: Our preferred method of serving defendants with a lawsuit is by certified mail/return receipt required. However, you can have it served by a process server or other methods if you want [read under Fed. Rule Civ. Proc. 4(b),(e) & (i)]).

8. There is a filing fee of \$400.00 that must be paid to the court at the time your complaint is filed. If you cannot pay the filing fee, complete the court forms to file a motion to proceed without prepayment of fees and affidavit of financial status, and send a copy to each defense attorney with your complaint. Then wait for a ruling from the court which may allow you to proceed without payment of this fee. NOTE: To view your state or federal case on line, you must sign up for "Pacer Access" at www.pacer.uscourts.gov and click on "register." The charge is .08 cents a page to view anything on your case. Otherwise, if you want to make sure the court has received your documents, call **1-800-676-6856**. In addition, here are the following court phone #'s:

U.S. District Court for District of Kansas: **316-315-4200** (Topeka: **785-338-5400**; KC: **913-735-2200**)

U.S. Court of Appeals for the Tenth Circuit in Denver: **303-844-3157**

United States Supreme Court in Washington, D.C.: **202-479-3011**

9. The clerk will give you back the copies of your lawsuit and both summonses, then you drive to the post office. Fill out the post office forms for mailing certified with return receipt required (one is a little green card) for each defendant you are serving. If you have numerous defendants, you will have writer's cramp after this! The filing of your lawsuit is now complete – woohoo! While waiting for the defendants to respond, you will receive the green card back in the mail for each of them. You must file this with the court, and you do this by taping it to page 2 of your summons, filling out page 2 and making a copy for your own records.) When you have them all done, file one with the court and keep the other for your records.

10. Defendants have 21 days to respond to your suit (60 days if the U.S. government or an entity is a defendant). If they fail to answer, you can file a motion for default judgment, but you must have proof of service on file to do this (the "green card" summons filed with court.)

11. Respond to all motions to dismiss within the required time of 21 days. (Rule 12) The best sources for researching cases and laws at the law library are Black's Law Dictionary, Westlaw, and books on Causes of Action. You should quote federal cases in a federal suit. Keep a notebook with all documents in chronological order so you can find them when needed, and if necessary, a chart of all defendants and the date and name of the documents they file. You do not want to miss any deadlines, or this can cause your case to be dismissed. You should also call down to the federal courthouse every week and ask what the last document was that was filed in your case. If they dismissed it and didn't send you a copy, your time runs from the date it was filed!

12. If your case is dismissed in the Kansas District Court (which happens quite often), you then file a Notice of Appeal with your circuit court (**within 30 days of judgment**) at the federal court, pay a filing fee of \$455.00, and send one copy to all parties. If you cannot pay the filing fee, complete the court forms to file a motion to proceed without prepayment of fees and affidavit of financial status, and send a copy to each defendant. Wait for the court's ruling to proceed without paying this fee. **EXCEPTION:** If the district court dismisses your case for subject matter jurisdiction, you have six months from the date of the ruling to refile the case in state court to resolve the state claims. If dismissed there, then you appeal it to the circuit court.

13. File an Entry of Appearance and a Transcript Order Form within 10 days after filing your Notice of Appeal. The original + 3 copies of EOA are mailed to the Tenth Circuit, send original TOF to District Court, 1 to Court Reporter, 1 copy to 10th Circuit, and copies to all defendants.

14. After you receive a letter from the Tenth Circuit acknowledging the case and giving it a case number, they will send you a packet of instructions. You have **10 days** to file their Docketing Statement, and you must attach the following: District Court Docket Sheet, Order or Judgment; any post judgment motions and Notice of Appeal. The original + 4 copies are mailed to the Tenth Circuit, send a copy to all defendants/defense attorneys.

15. After receiving a copy of the Designation of Record & ROA, file a motion to supplement the ROA if they fail to include all pertinent motions/orders/responses. All motions and your brief must be 14 pt. w/1" margins. File original + 3 copies with the court.

16. You must file an opening brief on Form A-12 within 40 days after you receive a letter from the Tenth Circuit certifying that the record is complete (see Rule 28(a). Send Original + 7 copies to the court certified w/return receipt, one copy to defense attorneys.

17. Wait for a response from defendants. When you get it, you have 14 days to file a reply if you wish,

but the three-day mail rule does not apply. A reply does not need to be in bound book format. Review Fed. R. App. P. 28, 31, 32, and 10th Cir. R. 35, 40 to make sure you prepare it properly. File the original + 7 copies with the court, one copy to each of the defense attorneys.

18. Wait for a ruling by the Tenth Circuit, and if it is dismissed, you can then file a Writ of Certiorari with the United States Supreme Court. You have 90 days to do this from the date of the circuit court ruling. Call the U.S. Supreme Court at the phone number in #6 above, and they will send you a packet with instructions. Make sure it is the most current copy of the rules and follow them TO THE LETTER. There are two ways to file and if you don't follow the instructions provided, they will reject it back and you will have to do it all over (see Supreme Court Rules 33.1, 33.2 & 34). You can also file *informa pauperis* (without prepayment of fees). **Make sure you type your writ in 12-pt. Century Schoolbook font.** Writ of Certiorari booklets must be stapled and bound at a print shop, so make at least 50 copies - 40 copies plus the original Certificate of Service (notarized) must be sent to the U.S. Supreme Court. Include a separate certificate of Word Count (notarized).

19. A check for \$300 must be made out to the "Clerk of the U.S. Supreme Court." In booklet form, 40 copies of your writ of certiorari, along with your certificate of service and word count (both notarized), should be air mailed with return receipt required or sent Fed Ex in a padded envelope or box. Address it to: **Supreme Court Clerk's Office, Supreme Court of the United States, 1 First Street, NE, Washington, D.C. 20543.** Also, send three copies of your writ and certificate of service to each defense attorney in your case.

20. Wait for a letter from the court that states they are adding your writ to their docket for review. A number is assigned to your writ (i.e., 12-957). You must mail a copy of the waiver form (and Notice of Service to the court) to each of the defendants. Then wait for a disposition letter from the court.

21. United States Supreme Court judges usually meet in March and September to discuss which cases they will hear. Remember that just because your case is assigned a docket number and put on the docket doesn't mean that the United States Supreme Court is going to hear it. The court will send a letter to advise you whether your case will be heard. If it is, a person is assigned to assist you and a packet of information is sent. When publicity is given, then you know that the United States Supreme Court is going to hear your case.

NOTE: If you are a targeted individual who is being tortured with electronic surveillance and the United States Supreme Court refuses to hear your case, you can ask for an investigation by the International Criminal Court at the Hague in the Netherlands. If you get this far, please contact us for further assistance at Joaneheff@aol.com.

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