



**PRO SE HANDBOOK
CHAPTER 1: BEFORE FILING A LAWSUIT
(ALL-IN-ONE DOCUMENT)**

FEDERAL BAR ASSOCIATION
ACCESS TO JUSTICE TASK FORCE

{10/23/2019}

"A HANDBOOK FOR PRO SE LITIGANTS"

E: TextBookDiscrimination@gmail.com

W: www.TextBookDiscrimination.com

visit TBD's [website](http://www.TextBookDiscrimination.com) for the most up-to-date information

TABLE OF CONTENTS | CHAPTER 1 | BEFORE FILING A LAWSUIT

#	Item	Title	Page
1	1.00	Six Questions to Answer Before Filing a Suit	4
2	1.01	Question 1: Have I Explored Alternatives to Suing?	5
3	1.02	Question 2. Have I Suffered the Type of Injury or...?	7
4	1.03	Question 3. Does the Federal District Court have...?	8
5	1.04	Question 4. Which District is the Proper one to...?	9
6	1.05	Question 5. Will My Claim be timely if I file it now?	10
7	1.06	Question 6. Have I Exhausted all Other Available...?	11
-	n/a	Appendix	12



PRO SE HANDBOOK
FROM THE FEDERAL BAR ASSOCIATION

CHAPTER 1 BEFORE FILING A LAWSUIT

AUTHOR: Federal Bar Association: Access to Justice Task Force

ITEMS 1.00 through 1.06



1.00 | SIX QUESTIONS TO ANSWER BEFORE FILING A SUIT

There are six important questions you should consider before you file a case in federal court. This list does not include every important thing to think about - there may be other important considerations that are not listed here. However, these six questions are essential to every lawsuit filed in federal court. You should also be aware that even if you can answer "Yes" to each question, and you believe you should win your lawsuit, there is always a possibility that you may not ultimately win.

SIX QUESTIONS TO ANSWER

1. Have I explored alternatives to suing?
2. Have I suffered the type of injury or harm that a Court can help me with?
3. Does the federal district court have jurisdiction to hear my claim?
4. Which District is the proper one to file my action?
5. Will my claim be timely if I file it now?
6. Have I exhausted all other available remedies?

(Federal Bar Association: Access to Justice Task Force. © 2019.

Honorable Mention: USNYND, USCAND)



1.01 | QUESTION 1: HAVE I EXPLORED ALTERNATIVES TO SUING?

Even if you do have the right to sue, you should carefully consider alternatives to suing. Lawsuits can be costly, stressful, and time-consuming. Instead of filing a lawsuit, you can try other alternatives or solutions. Some alternatives to bringing a lawsuit include:

Gathering Information.

Sometimes things are not what they seem at first. Sometimes things that appear to have been done on purpose were done unintentionally. Fully investigating what happened may help you decide whether a lawsuit is advisable.

Working Things Out.

Consider talking directly to the people who you think might be responsible for causing the problem. Sometimes people are more likely to respond in a positive way if they are approached respectfully and given a real opportunity to talk about the problem, rather than if they first they hear about the problem through a lawsuit.

Going to Governmental or Private Agencies.

Consider whether there are other processes you could use, or agencies you could ask for help, with your problem. Sometimes there is a governmental or private agency that can address your problem or lend assistance to you. Examples of such agencies include:

- The Equal Employment Opportunity Commission (or an equivalent state, county or city agency) to address employment discrimination;
- The local police review board or office of citizens' complaints to hear complaints about police conduct;
- A consumer protection agency or the local district attorney's office to investigate consumer fraud;
- The Better Business Bureau or private professional associations (e.g., associations of contractors, accountants, securities dealers, architects and engineers, etc.) to hear business-related complaints.



Using a Small Claims Court.

In some cases, you may have the option of filing a case in small claims court, which is designed for people without formal training in the law. These courts are part of any state court system. There is no equivalent to the small claims court in the federal courts.

Alternative Dispute Resolution.

Dispute resolution services – such as mediation – may be faster and less expensive than taking a case to court. Mediation encourages parties to communicate clearly and constructively to find common ground or to identify solutions that can serve the parties' real interests. Many counties have free or low-cost agencies that can assist you in finding a provider of alternative dispute resolution services. Go to page 38 for more information about Alternative Dispute Resolution.

(Federal Bar Association: Access to Justice Task Force. © 2019.

Honorable Mention: USNYND, USCAND)



1.02 | QUESTION 2: HAVE I SUFFERED THE TYPE OF INJURY OR HARM THAT A COURT CAN HELP ME WITH?

You cannot sue someone just because you are angry at him or her, nor can you sue someone simply because he or she has committed some illegal act. In order to bring a lawsuit that the Court will not dismiss right away, the person you are suing must have caused you to be harmed or wronged in some real, concrete way.

The person bringing the lawsuit, called the "plaintiff," must be asserting his or her own personal legal interests. Typically, a person may not sue to assert the rights of a third party. In other words, a plaintiff normally must assert that he or she has suffered the injury, or that a distinct group of individuals of which he or she is a part, has suffered the injury. A Court generally will not address a "generalized grievance," which is an injury that is shared in "substantially equal measure by all or a large class of citizens."¹ Further, the plaintiff must have actually suffered the harm already, or else the plaintiff must be about to suffer the harm "imminently," meaning that the plaintiff will actually suffer the harm in the immediate future. Lastly, remember that some cases (such as **False Claims Act** claims) cannot be handled without an attorney.

(Federal Bar Association: Access to Justice Task Force. © 2019.

Honorable Mention: USNYND, USCAND)

Footnotes

¹ Warth v. Seldin, 422 U.S. 490, 499 (1975); see U.S. v. Hays, 515 U.S. 737, 743 (1995).



1.03 | QUESTION 3: DOES THE FEDERAL DISTRICT COURT HAVE JURISDICTION TO HEAR MY CLAIM?

The United States District Court is a federal trial court. Federal courts have "jurisdiction," meaning the legal authority, to hear only certain types of cases. As is the case in all federal trial courts, a federal district court is generally authorized only to hear cases that fall into the following four categories:

1. Those that deal with a question involving the United States Constitution;
2. Those that involve questions of federal law (as opposed to state law, unless there is a state law claim related to a federal claim being made, in which case the court may agree to consider it);
3. Those that involve the United States as a party, whether as a plaintiff or defendant;
4. Those that involve a dispute among residents of different states with an amount in controversy exceeding \$75,000.²

If your case does not fall under any of these categories, you should not file it in a federal district court.

(Federal Bar Association: Access to Justice Task Force. © 2019.

Honorable Mention: USNYND, USCAND)

Footnotes

² It is important to note that in cases invoking diversity jurisdiction with multiple defendants or multiple plaintiffs, no single defendant can be a resident of the same state as any single plaintiff.



1.04 | QUESTION 4: WHICH DISTRICT IS THE PROPER ONE TO FILE MY ACTION?

If you decide that your claim may be brought in a federal district court because there is either a federal question, the United States is a party, or when the dispute is between residents of different states and the amount in controversy is more than \$75,000, you must then determine in which federal court to file. To decide a case, the court you select must have some logical relationship either to the litigants or to the subject matter of the dispute; this is called venue. Generally, you may only file a lawsuit if the actions or inactions that you believe violated your rights occurred within the boundaries of that District Court. If you are unsure, call the District Court Clerk's Office for guidance.

(Federal Bar Association: Access to Justice Task Force. © 2019.

Honorable Mention: USNYND, USCAND)



1.05 | QUESTION 5: WILL MY CLAIM BE TIMELY IF I FILE IT NOW?

Usually a claim must be filed within a certain period of time after an injury occurs or is discovered. This time bar is called the "statute of limitations," and the length of the statute of limitations varies depending on the type of claim. Some federal and state statutes set forth a specific limitations period that may differ from those listed above. Whether your claim is barred by the statute of limitations is a legal question which may require you to do some legal research. You should make sure your claim is not time-barred before you file a lawsuit.

(Federal Bar Association: Access to Justice Task Force. © 2019.

Honorable Mention: USNYND, USCAND)



1.06 | QUESTION 6: HAVE I EXHAUSTED ALL OTHER AVAILABLE REMEDIES?

You should be aware that, in some instances, it is necessary for you to pursue certain remedies **before** you can properly pursue a claim in federal court. Two common instances are discussed below.

Administrative Grievance Procedures

People frequently want to appeal the decision of a governmental agency that affects them. For example, a person may want to appeal the decision of the Social Security Administration that denied him or her social security benefits.

If you want to appeal the denial of a benefit that is provided through an agency of the United States government, you must pursue all the administrative procedures established by the agency for appealing its rulings before you file a lawsuit. Only after you have exhausted your administrative remedies, and you still believe you are entitled to a benefit that you have not received, may you initiate a lawsuit in a federal district court.

Employment Discrimination Claims

A person who believes he or she has been illegally discriminated against by an employer may wish to bring a lawsuit against that employer under **Title VII** of the **Civil Rights Act of 1964**, the **Americans with Disabilities Act**, or the **Age Discrimination in Employment Act**. However, before a person can bring such a lawsuit, he or she must first file a complaint with either the **Equal Employment Opportunity Commission** ("EEOC") or the state **Division of Human Rights**.

In conclusion, it is important that you consider all of these questions before you file a case. After all of these factors have been considered, you must still follow the procedures set out by the particular district court you decide to file your case. Many of the specific procedural rules for your district court are set forth in the Local Rules, which are available online or in the Clerk's Office.

(Federal Bar Association: Access to Justice Task Force. © 2019.

Honorable Mention: USNYND, USCAND)



APPENDIX



COPYRIGHT NOTICE

TextBookDiscrimination.com is not the author of this handbook. Instead, TextBookDiscrimination.com merely re-printed and reformatted it for easier use.

ORIGINAL SOURCE

<u>#</u>	<u>Item</u>	<u>Link</u>
1	Original Source	https://USCourts.gov

INTERACTIVE VERSION(S)

<u>#</u>	<u>Item</u>	<u>Link</u>
1	HTML Version	TextBookDiscrimination.com/Handbooks/ProSe/US/C01

ADDITIONAL PRO SE RESOURCES

<u>#</u>	<u>Item</u>	<u>Link</u>
1	DOAH Handbook	TextBookDiscrimination.com/Handbooks/ProSe/DOAH/
2	FL Bar Handbook	TextBookDiscrimination.com/Handbooks/ProSe/FLBar/
3	USCA11 Handbook	TextBookDiscrimination.com/Handbooks/ProSe/CA11/
4	USFLMD Handbook	TextBookDiscrimination.com/Handbooks/ProSe/USFLMD/

CONTACT INFORMATION

E: TextBookDiscrimination@gmail.com

W: www.TextBookDiscrimination.com

Congratulations! You're now ***booked up*** on Chapter 1 of the Florida Bar Association's Pro Se Handbook!

