

Filing a Qui Tam Lawsuit

/EINPresswire.com/ Learning how to file a lawsuit can be time-consuming and challenging. This is true whether you are a private citizen or a lawyer learning the ropes filing your first case. It is especially true for qui tam claims where the procedures are dictated by the [False Claims Act](#) itself and not the ordinary rules of procedure. Even if you know how to file a traditional civil case, the procedures associated with filing a qui tam case are significantly different. These special procedures make sense when considered in the context of the False Claims Act itself.

By a False Claim Act violation a relator is claiming that someone else - the government - has been harmed. Following the Federal Rules of Civil Procedure for filing that case, the defendant could learn of the relator's allegations of the fraud at the same time as the government. But if that happened it would prejudice the government's ability to investigate the facts. So, Congress built into the False Claims Act a way for the relator to file the case under seal and bring it to the government for evaluation before the defendant learned of the allegations. Importantly, while a person may file a qui tam action on behalf of the government, the relator must be represented by counsel who should contact the U.S. Attorney for the judicial district where the qui tam is going to be filed before filing.

When it comes time to file, the False Claims Act - not the FRCP - will control. In practical terms the relator's counsel files the complaint under seal with the court which assigns a case number and a judge - as with any case - but conceals everything else about the complaint from public view. The caption appears as [under seal] v. [under seal] and the body of the complaint is unavailable. Relator's counsel also does not serve this sealed complaint on the named defendant. Instead, relator's counsel serves the U.S. Attorney for the judicial district where the qui tam was filed and the Attorney General of the United States with the complaint and a written disclosure of all the relevant information known to the relator. For example, a case filed in the Northern District of California will be served on the U.S. Attorney in San Francisco and Attorney General Eric Holder.

Since there are comparatively few of these cases filed each year (less than 1,000 nationwide), best practice dictates a call to the clerk of the court where you intend to file to confirm what their current local procedure is for these unique cases. With budget cuts and sequestration, all kinds of court procedures are constantly changing. Since there is no room for error in filing a sealed qui tam complaint, it is important that everyone from the relator to relator's counsel to the court runner service understand what the court clerk wants to see. Measure twice, cut once.

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