

## SHOULD YOU FILE YOUR CASE IN FEDERAL COURT

Only certain types of cases can be heard in the federal court system. **IF YOUR CASE DOES NOT FALL INTO ONE OF THESE CATEGORIES, THEN YOU SHOULD NOT FILE YOUR LAWSUIT IN FEDERAL COURT.** This does not mean that you do not have a claim; your claim may not be the type of claim a federal court can hear. You may be able to file your case in the state court.

The two types of cases that can be heard by a federal court are:

1. Cases involving claims that a federal law has been violated, which are called "federal question" cases, and
2. Cases involving claims between citizens of different states and in which damages in excess of \$75,000 are claimed, which are called "diversity of citizenship" cases.

The fact that you can bring these types of lawsuits in federal court does not mean that you must bring them in federal court. You may be able to file certain types of cases in either federal or state court.

### **FEDERAL QUESTION CASES**

You may file your lawsuit in federal court if your case is based on a violation of federal law. 28 U.S.C. § 1331. This is called a "federal question" case. The law involved may be the United States Constitution or it may be a statute passed by Congress. If your lawsuit is based on a violation of federal law, it generally does not matter how much or how little you claim in damages. Here are a few examples of cases that involve a "federal question"

**Example 1: Employment Discrimination:** If you believe that an employer has taken an adverse employment action against you because of unlawful discrimination, then you may be able to bring a lawsuit in federal court. This is a "federal question" case because there are federal laws that prohibit employment discrimination based on race, sex, religion, or national origin [42 U.S.C. § 2000(e)]. Note: generally you must exhaust your administrative remedies with the Equal Employment Opportunity Commission (EEOC), the State Division on Human Rights or the City Commission on Human Rights before filing such a claim in federal court.)

**Example 2: Prisoner Civil Rights.** If you are a prisoner and claim that defendant corrections officers have subjected you to excessive force, you may sue in federal court. This claim involves a federal question because the United States Constitution prohibits "cruel and unusual punishment" [Amend. VIII] and because a federal statute, 42 U.S.C. § 1983, allows the federal court to hear claims against persons acting under color of state law.

**Example 3: Income Tax Refunds.** If you have paid your federal income tax, but you believe the government required you to pay more taxes than the federal laws require and you have exhausted your remedies by disputing the claim through the IRS, you may file a suit in federal court. The claim involves a federal question because it involves the federal tax laws [26 U.S.C. § 1].

### **DIVERSITY OF CITIZENSHIP CASES**

You may also bring your lawsuit into the federal court system if your case is between citizens of different states. 28 U.S.C. § 1332. This is called a "diversity of citizenship" case. If your case is based on a violation of state law and not federal law, you can only sue in federal court if you and your opponents are citizens of different states and the amount in controversy exceeds \$75,000. For example, a lawsuit based on a car accident usually involves state law. Therefore, it is not a "federal question" case unless the plaintiff and all the defendants are citizens of different states.

Diversity of citizenship can sometimes exist when one party to a lawsuit is a citizen of a state and the opposing party is an alien (someone who is not a citizen of the United States) [28 U.S.C. § 1332(a)(2)] or a foreign country [28 U.S.C. § 1332(a)(4)].

There are two other **requirements** for suing in federal court when the case is based on diversity.

1. If there is more than one plaintiff and/or more than one defendant, there must be complete diversity of citizenship. This means that you may not live in the same state as any defendant. For example, you are a citizen of New York. If you are involved in a car accident with one person from New Jersey and one person from New York, you cannot sue in federal court. Since you are from the same state as one of the defendants, there is not complete diversity of citizenship. You may proceed in the appropriate state court.

2. The amount of damages in controversy must be more than \$75,000. If the amount you seek to recover is \$75,000.00 or less, you cannot file your action in federal court, even if there is complete diversity of citizenship.

If you cannot satisfy both of these requirements, you cannot file your case in federal court.

**OTHER THINGS TO BE AWARE OF BEFORE FILING YOUR ACTION**

1. Did you exhaust your administrative remedies, if such exhaustion is required? For example, some actions involving prisoner civil rights, employment discrimination, labor law, social security, and tort claims against the United States must be presented to the appropriate administrative agency before commencing a civil action in federal court.

2. Is your action timely? For example, a claim under Title VII must be brought within ninety (90) days of receipt of a **"Right to Sue Letter"** issued by the EEOC.

3. Are you suing in the correct federal district court? (Ask for the handout entitled **"Where to File Your Action"**.)