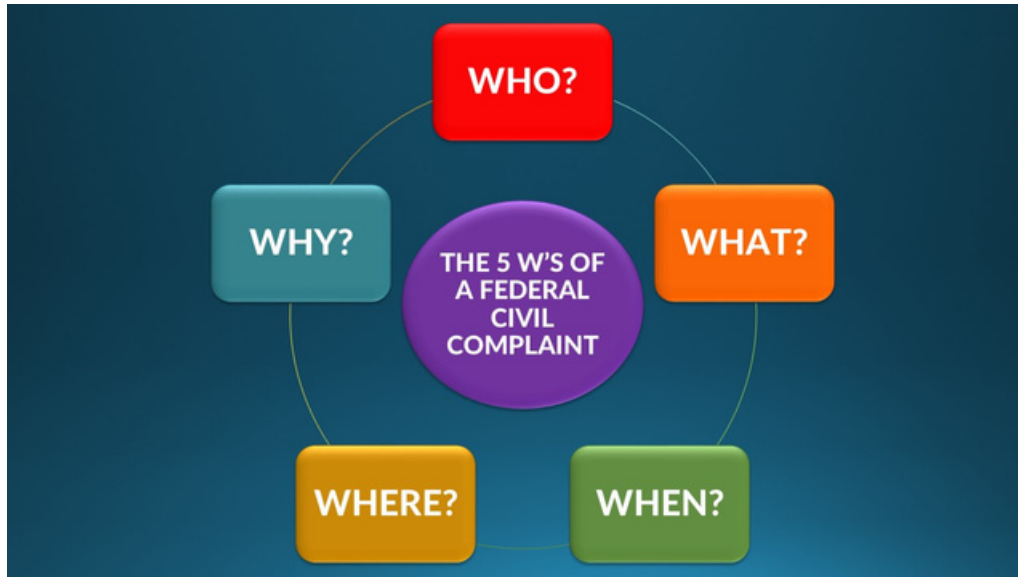


THE 5 W'S TO CONSIDER BEFORE FILING A FEDERAL CIVIL COMPLAINT

By Jean Soo Park, Esq., and Jeffrey Núñez | Published June 20, 2022



If you are thinking about filing a civil complaint in federal court, the five questions listed below (or “5 W’s”) can help you better prepare. The “5 W’s” may help you develop a complaint that is understandable to the judge, your adversary, and opposing counsel.

WHO? *Who are the parties involved in this case?*

- When filing a civil complaint, you must name the defendant(s).
- Are they an individual or corporation?
- Are you suing them in their official capacity (as an employer) or as an individual or corporation?

WHAT? *What is the claim you are making?*

- What harm are you alleging was committed against you?
- What rights do you believe were violated?
- What is the amount you are suing for?
- What kind of evidence do you have to prove your claim?
- What federal statutes, federal treaties, and/or provisions in the U.S. Constitution do you believe support your claim?
- Are there state or other laws or regulations that you believe support your claim?
- If applicable, did you pursue administrative remedies before preparing to file a federal civil complaint in court? (Note that employment discrimination cases under Title VII require what is called “exhaustion” by bringing a complaint to the New York State Division of Human Rights or the U.S. Equal Employment Opportunity Commission BEFORE filing a federal lawsuit.)

WHEN? *When did the incident occur?*

- It is important to know when the incident occurred to determine whether your complaint falls within the statute of limitations (a deadline) for filing your claim. The statute of limitations may vary by claim.
- While there may be exceptions, if you file your case outside time constraints, your case will not proceed.

WHERE? *Where did the incident occur?*

- Did this occur in your home state or a different state?
- You cannot bring a federal claim to any federal court. You must file the case in the federal court that has jurisdiction over your case. Key points to consider are where the Defendant resides and where most of the events or incidents occurred.

WHY? *Why am I bringing this to federal court?)*

- After gathering the Who, What, When, and Where questions, potential litigants should ask themselves why they are bringing this issue to federal court?
- Think about practical considerations. Do you have access to resources to continue through the litigation process (e.g., time, funds to pay for litigation costs)?

Considering the “5 W’s” can help you prepare for drafting and filing a federal civil complaint. However, not all disputes are best resolved – or are even allowed to be resolved – through a federal lawsuit, and drafting and filing a case in federal court does not guarantee a positive outcome for your case. It is possible that a court will determine that in accordance with the law, no harm or wrongdoing was done that can be remedied for you.

If you determine you don’t have the bandwidth or for any other reason it is not advisable to pursue a case in federal court, there may be other forms of relief or remedies available. Other viable options may include reaching out to local advocacy organizations to see if their work relates to your grievance or seeking support from loved ones to think about how to best use your time and resources to resolve your issue.

This communication is for the general education and knowledge of our readers. Because all legal problems involve their own specific set of facts, this informational resource is not and should not be used as a substitute for independent legal advice. This informational resource also is not intended to create, and its receipt does not constitute, an attorney-client relationship. Please contact competent, independent legal counsel for an assessment of your particular legal concerns, or contact our Federal Pro Se Legal Assistance Project (212.382.4729 or <https://www.citybarjusticecenter.org/projects/federal-pro-se-legal-assistance-project/>) to determine whether you qualify for assistance from the City Bar Justice Center.