

Under the FTCA, before you can file a law suit against the government, you have to file an administrative claim with the agency that committed the negligence [Section 1151 would satisfy this requirement]. That claim has to be filed within two (2) years from the date you knew, or through the exercise of reasonable diligence, should have known of the negligence. This two (2) year period is known as the Statute of Limitations period. The claim must be made in writing, and it must contain a demand for a "sum certain."

The "sum certain" requirement means that the claimant must ask for a specific dollar amount. If the claim does not contain a request for a "sum certain," it may be deemed to be invalid.

If a valid claim is not received by the government within the Statute of Limitations period, you have lost, forever, the right to make the claim and to collect money damages.

Administrative Action

If a valid claim [Sec. 1151] is filed with the appropriate agency within the Statute of Limitations period, that agency has, by law, six (6) months from the date the claim is filed, in which to investigate and reach an administrative settlement of the claim.

If you are satisfied that the government is investigating, and/or negotiating in good faith, that administrative time period will be automatically extended until the government takes "final administrative action" on your claim.

"Final administrative action" means, either, that the claim is denied, via certified mail, or a final offer of settlement, via certified mail, is made to you.

Filing A Lawsuit

If, after that initial six (6) month administrative time period has expired, the government has not taken "final administrative action" on your claim, you may treat that government inaction as a denial.

At which point, you are entitled to file a law suit against the United States in Federal District Court.

If you are dissatisfied with the "final administrative action," that is taken on your claim, you have six (6) months from the date of the certified letter, within which to file a law suit against the United States in Federal District Court.

If you do not file a law suit within that six (6) month time period, you loose your right to do so, forever.

Pursuant to the provisions of the FTCA, FTCA cases are tried before a judge, without a jury. You are not entitled to a jury trial.

FYI

In many states, if the injured person does not have knowledge of the existence of the tort, the period of limitations may not begin to run until some later time. See Quinton v.

United States, 304 F2d 234, 237-238 (5th Cir Tex 1962), discussing and quoting *Bizer v. United States*, n. 4, *supra*, 124 F Supp. at 952; *Beech v. United States*, 345 F2d 872 (5th Cir [Tex] 1965). The limitations period does not begin to run until the claimant is aware, or reasonably should have been aware, of such wrongful acts. For general discussion on the point, see *Steele v. United States*, 599 F2d 823 (7th Cir [Ill] 1979). Also see *Urie v. Thompson*, 337 US 163, 69 S Ct 1018, 93 L ed 2d 1282 (1949) *Ware v. United States*, 626 F2d 1278 (5th Cir [Tex] 1980).

In case of fraudulent concealment, it is the rule in most jurisdictions that if the one who practices the fraud conceals material facts and thus prevents discovery of his wrong or of the fact that a cause of action has accrued against him, the limitations period will not begin to run until the facts are discovered, or, in the exercise of reasonable diligence, should have been discovered. *Holmberg v. Armbrrecht*, 327 US 392, 397, 66 S Ct 582, 90 L ed 743 (1946). "This equitable doctrine is read into every federal statute of limitations"; 51 Am. Jur. 2d § 147.

Actions for fraud are barred from Tort Claims Act coverage, 28 USC § 2680(h). In a suit for damages arising out of the evacuation and internment of American citizens of Japanese ancestry during World War II, the claimants alleged that for 40 years the government had fraudulently concealed the fact that there was no military necessity justifying the internment program. The opinion analyzes the fraudulent concealment doctrine and considerations in the application of the due diligence rule that it incorporates.

In *Zelevnik v. United States*, 770 F.2d 20, 23 (3d Cir. 1985), the court noted in dictum: "When the government actively conceals its own wrongdoing by misrepresentation, there may well be equitable reasons for tolling the statute of limitations.

In *Diminnie v. United States*, 728 F2d 301, 305 (6th Cir [Mich] 1984, the court acknowledged the fraudulent concealment rule but held not applicable where United States itself did not conceal material facts but federal employee acting outside scope of employment did so.