

Lawsuit Notification

CLAIMS BRIEF



No. 8

April 1998

The Importance of Prompt Lawsuit Notification

*by Erik Walter
Claims Analyst*

The staff at LGIT is fortunate that our members are very well attuned to the importance of informing us of newly served lawsuits, or potential lawsuits. As we all know, time is of the essence when a new suit is received. Typically, an answer must be filed within thirty days of receipt of service. Or, if a case involves Federal issues and needs to be litigated in Federal court, notice of removal of the matter from state court must be filed within thirty days of receipt of the lawsuit. Often, removal of a case from state court to Federal court improves our defensive position in a lawsuit. LGIT has never found itself in the position of being unable to remove a case from state court to federal court due to time constraints. However, the example of a private insurer leads us to reemphasize the importance of always alerting LGIT the moment a lawsuit is imminent.

We have received word from defense counsel, of an insurance company that is having serious jurisdictional problems regarding some lawsuits. Plaintiffs' attorney in this matter filed several lawsuits for his clients alleging fraud and discrimination against low-income homebuyers. The attorney filed the suits in the Circuit Court for Baltimore City and then sent "courtesy copies" of his complaint to representatives of the Defendants. The official service of these suits was delayed for thirty days so the parties could discuss a potential settlement. As it happened, no settlement discussions occurred and no settlement was reached. When the official service of process was finally completed and the Defendants referred this matter to their defense counsel, the cases were promptly removed from the Circuit Court for Baltimore City to U.S. District Court. At that time Plaintiffs objected to this removal by alleging that the 30-day time limit for removal of cases to Federal court had expired.

Under Federal procedure guidelines, 28 U.S.C. § 1446(b), notice of removal must be filed within thirty days of receipt by the Defendant, ***through service or otherwise***, of a copy of the initial pleading setting forth the claim for relief. In the matter discussed above, the Defendants were mailed "courtesy copies" of the complaint, but were never properly served.

Please Route to:

Sheriff _____
Attorney _____
Police Chief _____

Human Resources _____
Risk Management or Claims _____
Manager _____
Clerk _____

Official Service of Process is made by personal service of the complaint and summons by a Sheriff or private process server. Additionally, service may be made by certified mail that is signed for by the named party. However, there is case law in Maryland and elsewhere that holds that the Federal statute means precisely what it says, and that the time for removal of a case to Federal court begins to run upon receipt of a copy of the complaint. This applies even if there has been no attempt at actual service. The case law is unclear as to who must receive a copy of the complaint in order for the time for removal to begin running. There are many instances where a Plaintiff attorney will file a suit and send a “courtesy copy” to the member defendant for negotiating purposes.

This example is just a reminder of the need to forward all lawsuits, and potential lawsuits, to LGIT claims staff for immediate handling. Please also advise us how the suit papers were received, who received the papers and on what date the papers were received. The quick receipt of any lawsuit will allow LGIT to vigorously defend your interests in the appropriate forum and heighten our chances for a successful result.

This bulletin is intended to be merely informational and is not intended to be used as the basis for any compliance with federal, state or local laws, regulations or rules, nor is it intended to substitute for the advice of legal counsel.



LGIT's Sponsoring Organizations

