

Tort Claim

When the government does wrong one of the avenues to get the wrongs set right is to file a Tort Claim for damages. Here is the one I filed in my case on 11-19-2013.

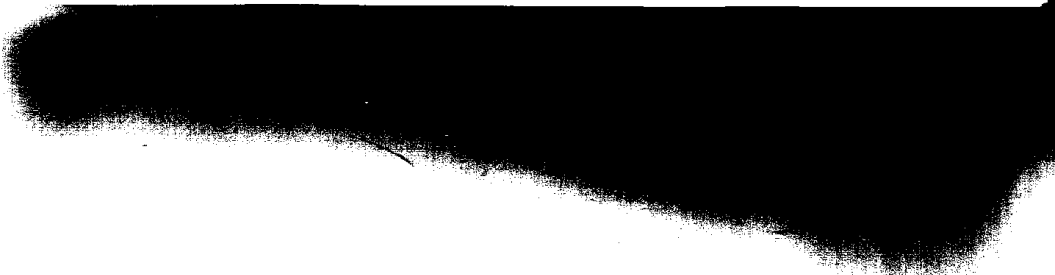
In it I refer to Appendix A and B but these are already used in other issues <sup>on the web site</sup> as well.

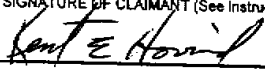
Appendix A is the sampling of pages from the Individual Master File where the IRS says plainly that I am not a tax protester and owe no tax. I now have all 35 pages but during the trial these are the pages the IRS agents and the US Attorney removed.

Appendix B is the section of the trial transcript where my attorney questions IRS agent Scott Schneider on the witness stand and he admits the pages are missing. Then the judge calls for a meeting at the bench where she stops my attorney from questioning Schneider about this.

The damages I am seeking are minor compared to the damages they caused to me, my family, the ministry and the cause of Christ but it's better than Paul and Silas got in Acts 16:37-39. They just asked for an apology after their illegal beating. Thanks for your prayers that this Tort Claim will be ruled on and settled quickly in my favor. I've had 7+ years to make plans for the advancement of the ministry when I win and I already have it all spent! :)

Kent Hovind



CLAIM FOR DAMAGE, INJURY, OR DEATH		INSTRUCTIONS: Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.		FORM APPROVED OMB NO. 1105-0008	
1. Submit to Appropriate Federal Agency: US Dept of Justice Tort Director, Civil Tort Division 950 Pennsylvania Avenue NW Washington DC 20530			2. Name, address of claimant, and claimant's personal representative if any. (See instructions on reverse). Number, Street, City, State and Zip code. Kent E Hovind, Reg. No. 06452-017 Berlin Federal Prison Camp PO Box 9000 Berlin, NH 03570		
3. TYPE OF EMPLOYMENT <input type="checkbox"/> MILITARY <input type="checkbox"/> CIVILIAN	4. DATE OF BIRTH 1/15/53	5. MARITAL STATUS married	6. DATE AND DAY OF ACCIDENT n/a	7. TIME (A.M. OR P.M.) n/a	
8. BASIS OF CLAIM (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages if necessary).  SEE ATTACHMENT					
9. PROPERTY DAMAGE					
NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, Street, City, State, and Zip Code). n/a					
BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF THE DAMAGE AND THE LOCATION OF WHERE THE PROPERTY MAY BE INSPECTED. (See instructions on reverse side). n/a					
10. PERSONAL INJURY/WRONGFUL DEATH					
STATE THE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE THE NAME OF THE INJURED PERSON OR DECEDENT.  SEE ATTACHMENT					
11. WITNESSES					
NAME		ADDRESS (Number, Street, City, State, and Zip Code)			
Ernie Land Marlissa Dublin		1798 Melson Lane, Westville FL 32464, 850-956-2031 100 Cummings Road, Pensacola, FL 32503			
12. (See instructions on reverse). AMOUNT OF CLAIM (in dollars)					
12a. PROPERTY DAMAGE n/a	12b. PERSONAL INJURY \$25,000,000.00 USD	12c. WRONGFUL DEATH n/a	12d. TOTAL (Failure to specify may cause forfeiture of your rights). \$25,000,000.00 USD		
I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE INCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM.					
13a. SIGNATURE OF CLAIMANT (See instructions on reverse side). 			13b. PHONE NUMBER OF PERSON SIGNING FORM n/a	14. DATE OF SIGNATURE 11/19/13	
CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM  The claimant is liable to the United States Government for a civil penalty of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages sustained by the Government. (See 31 U.S.C. 3729).			CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS  Fine, Imprisonment, or both. (See 18 U.S.C. 287, 1001.)		

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STANDARD FORM 95 (REV. 2/2007)  
PRESCRIBED BY DEPT. OF JUSTICE  
28 CFR 14.2

**INSURANCE COVERAGE**

that subrogation claims may be adjudicated, it is essential that the claimant provide the following information regarding the insurance coverage of the vehicle or property.

15. Do you carry accident insurance?  Yes If yes, give name and address of insurance company (Number, Street, City, State, and Zip Code) and policy number.  No

n/a

16. Have you filed a claim with your insurance carrier in this instance, and if so, is it full coverage or deductible?  Yes  No 17. If deductible, state amount.

n/a

18. If a claim has been filed with your carrier, what action has your insurer taken or proposed to take with reference to your claim? (It is necessary that you ascertain these facts).

n/a

19. Do you carry public liability and property damage insurance?  Yes If yes, give name and address of insurance carrier (Number, Street, City, State, and Zip Code).  No

n/a

**INSTRUCTIONS**

Claims presented under the Federal Tort Claims Act should be submitted directly to the "appropriate Federal agency" whose employee(s) was involved in the incident. If the incident involves more than one claimant, each claimant should submit a separate claim form.

Complete all items - Insert the word NONE where applicable.

A CLAIM SHALL BE DEEMED TO HAVE BEEN PRESENTED WHEN A FEDERAL AGENCY RECEIVES FROM A CLAIMANT, HIS DULY AUTHORIZED AGENT, OR LEGAL REPRESENTATIVE, AN EXECUTED STANDARD FORM 95 OR OTHER WRITTEN NOTIFICATION OF AN INCIDENT, ACCOMPANIED BY A CLAIM FOR MONEY

DAMAGES IN A SUM CERTAIN FOR INJURY TO OR LOSS OF PROPERTY, PERSONAL INJURY, OR DEATH ALLEGED TO HAVE OCCURRED BY REASON OF THE INCIDENT. THE CLAIM MUST BE PRESENTED TO THE APPROPRIATE FEDERAL AGENCY WITHIN TWO YEARS AFTER THE CLAIM ACCRUES.

Failure to completely execute this form or to supply the requested material within two years from the date the claim accrued may render your claim invalid. A claim is deemed presented when it is received by the appropriate agency, not when it is mailed.

The amount claimed should be substantiated by competent evidence as follows:

If instruction is needed in completing this form, the agency listed in Item #1 on the reverse side may be contacted. Complete regulations pertaining to claims asserted under the Federal Tort Claims Act can be found in Title 28, Code of Federal Regulations, Part 14. Many agencies have published supplementing regulations. If more than one agency is involved, please state each agency.

(a) In support of the claim for personal injury or death, the claimant should submit a written report by the attending physician, showing the nature and extent of the injury, the nature and extent of treatment, the degree of permanent disability, if any, the prognosis, and the period of hospitalization, or incapacitation, attaching itemized bills for medical, hospital, or burial expenses actually incurred.

The claim may be filed by a duly authorized agent or other legal representative, provided evidence satisfactory to the Government is submitted with the claim establishing express authority to act for the claimant. A claim presented by an agent or legal representative must be presented in the name of the claimant. If the claim is signed by the agent or legal representative, it must show the title or legal capacity of the person signing and be accompanied by evidence of his/her authority to present a claim on behalf of the claimant as agent, executor, administrator, parent, guardian or other representative.

(b) In support of claims for damage to property, which has been or can be economically repaired, the claimant should submit at least two itemized signed statements or estimates by reliable, disinterested concerns, or, if payment has been made, the itemized signed receipts evidencing payment.

If claimant intends to file for both personal injury and property damage, the amount for each must be shown in item number 12 of this form.

(c) In support of claims for damage to property which is not economically repairable, or if the property is lost or destroyed, the claimant should submit statements as to the original cost of the property, the date of purchase, and the value of the property, both before and after the accident. Such statements should be by disinterested competent persons, preferably reputable dealers or officials familiar with the type of property damaged, or by two or more competitive bidders, and should be certified as being just and correct.

(d) Failure to specify a sum certain will render your claim invalid and may result in forfeiture of your rights.

**PRIVACY ACT NOTICE**

This Notice is provided in accordance with the Privacy Act, 5 U.S.C. 552a(e)(3), and concerns the information requested in the letter to which this Notice is attached.

A. Authority: The requested information is solicited pursuant to one or more of the following: 5 U.S.C. 301, 28 U.S.C. 501 et seq., 28 U.S.C. 2671 et seq., 28 C.F.R. Part 14.

- B. Principal Purpose: The information requested is to be used in evaluating claims.
- C. Routine Use: See the Notices of Systems of Records for the agency to whom you are submitting this form for this information.
- D. Effect of Failure to Respond: Disclosure is voluntary. However, failure to supply the requested information or to execute the form may render your claim "invalid."

**PAPERWORK REDUCTION ACT NOTICE**

This notice is solely for the purpose of the Paperwork Reduction Act, 44 U.S.C. 3501. Public reporting burden for this collection of information is estimated to average 6 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Director, Torts Branch, Attention: Paperwork Reduction Staff, Civil Division, U.S. Department of Justice, Washington, DC 20530 or to the Office of Management and Budget. Do not mail completed form(s) to these addresses.

ATTACHMENT

Federal Tort Claims Act Pursuant To 28 USC 1346 + 2671-2680 (FTCA)

CLAIMS : Negligence, Gross Negligence, Wrongful Conduct

1. Plaintiff, Kent E Hovind, is currently a federal prisoner at FCI Berlin in Berlin, New Hampshire, serving a 120 month sentence after being found guilty of various tax offenses in 2006 before Honorable Judge M. Casey Rodgers in the US District Court for the Northern District of Florida.
2. The plaintiff was a Baptist evangelist minister for the past 25 years with followers worldwide and an author of over thirty books speaking 900 times yearly to various groups.
3. AUSA Michelle Heldmyer prosecuted the plaintiff on behalf of the United States. IRS/CID Supervisory Agent Andy Howard led the team of agents who investigated the plaintiff, the other agents being Scott Schneider, Chuck Evans, and Tanya Burgess. Hon. M. Casey Rodgers was the trial judge overseeing the plaintiff's criminal proceeding.
4. On April 14th, 2004, IRS/CID agents Schneider, Evans, and Burgess conducted a raid upon the plaintiff's home and religious headquarters for a period of approximately 15 hours.
5. When agent Schneider presented the warrant to the plaintiff to gain entry to the premises, the plaintiff requested that agent Schneider also produce the warrant supporting probable cause affidavit signed by a judge or magistrate.
6. Agent Schneider failed to produce the affidavit in support of the warrant, and the plaintiff stated clearly that he didn't give the agents his consent to enter and search the premises. Upon hearing the plaintiff's objection to the search, one of the participating Escambia County Sheriff's Deputies told the plaintiff that he was either going to go along with the raid or that the Deputy was going to arrest him on the spot.
7. The plaintiff was found guilty after a five week jury trial and was sentenced to a 120 month term of imprisonment.
8. Prior to the trial the plaintiff ordered a copy of his IRS Master File (IMF), paying 146 dollars for the 710 page document the IRS keeps on all of its **taxpayers**.
9. A essential part of the government's case against the plaintiff was their contention that the plaintiff was a "tax protestor" who acted willfully to evade payment of money to the IRS.
10. The official copy of the plaintiff's IMF file, certain pages of which are shown in Appendix A, in fact in the IRS's own words show that they don't allege or consider him to be a tax protestor, in fact they also have him down for the years he was prosecuted for as owing no tax and thus having no taxable income basis for those years.
11. This information and evidence was not only material to his case and his innocence, it was central to it. Under Brady v. Maryland, the government does not have the discretion to withhold such exculpatory evidence, whether the withholding was willful or negligent.

12. In this case, not only did the government withhold this evidence squarely in support of the plaintiff's innocence and which challenged the government's own version of the plaintiff's motive and character, Appendix B shows that agent Scott Schenider in his own word states under oath on the witness stand while under cross examination by the plaintiff's attorney that " I don't believe you will find" those 35 pages central to the plaintiff's innocence.
13. Hon. Judge M. Casey Rodgers and AUSA Heldmyer were , of course, present when agent Schneider admitted in open court to withholding evidence squarely exculpatory and in contradiction to the government's own version of what the plaintiff was prosecuted for. Under federal law, Brady, Giglio, and Jencks material must be turned over to the defense, but in this case IRS agents: Schneider, Howard, Evans, and Burgess seized the plaintiff's IMF file during their 2004 previously mentioned raid and subsequently acted to remove items from that master IMF file which supported the plaintiff's innocence, admitting as much in open court.
14. Not only did the four IRS/CID agents owe the plaintiff a duty of care to and an obligation under federal law to follow the rules of discovery and disclosure under Brady, Giglio, and Jencks, they did not have the "discretion" to withhold and suppress this evidence. In other words, the "discretionary function exception" to the FTCA is inapplicable to the situation before us in this FTCA claim because no government actor has the "discretion" to violate their own clear statutes, regulations, policies, laws, or the US Constitution.
15. AUSA Heldmyer was squarely negligent in omitting to act in the face of a violation so prejudicial to the plaintiff's defense, and Hon Judge M. Casey Rodgers, as trial judge, bears the ultimate responsibility as trial judge for her negligence in allowing such a travesty to occur right before her eyes during the proceeding. In fact, Judge Rodgers was not only negligent, Appendix B shows that instead of acting to uphold and safeguard the plaintiff's rights in regards to the withheld evidence, she goes on to scold the plaintiff's attorney for his attempts to shed light on this glaring deprivation to his plaintiff's obvious rights under Brady.
16. Hon. Judge Rodgers , AUSA Heldmyer, and IRS/CID agents Howard, Schneider, Evans, and Burgess all had personal knowledge and involvement in the plaintiff's deprivations, and despite their personal knowledge they all failed in their respective capacities to act despite their personal knowledge and involvement of such violations. **Hon. Judge Rodgers negligently looked the other way and failed to hold the government accountable under Brady** after agent Schneider admitted in open court that the pages had been removed and to having personal knowledge of that removal by his reference to the removal when questioned by defense counsel. AUSA Heldmyer as the government attorney had a primary duty of care to ensure that her and her entire government team of attorneys and agents complied with Brady and that they certainly not withhold exculpatory evidence that they had taken from the defendant during their raid, their actions doubly depriving the plaintiff of the use such evidence. Agents Howard, Schneider, Evans and Burgess directly seized and reviewed the evidence subsequent to its seizure, and they all owed the plaintiff a duty of care to not only present exculpatory evidence but to not willfully remove that exculpatory evidence from the proceeding, denying the plaintiff the benefit of using it for his defense as he was entitled to under federal law and procedure. The judge, the AUSA, and all four agents all had personal knowledge and

involvement in the negligence and wrongful conduct which unfairly deprived the plaintiff of his evidence and his rights under federal law with respect to that evidence. By their negligence and wrongful conduct the plaintiff was wrongfully and grievously deprived of the right to use his own seized evidence which they four IRS/CID agents seized, the AUSA and those four agents failed to present under their Brady requirement, and which the judge negligently failed to move to uphold for the plaintiff after hearing agent Schneider admit the Brady violation on the record in open court.

The actions of Judge M. Casey Rodgers, AUSA Michelle Heldmyer, and IRS/CID agents Andy Howard, Scott Schneider, Chuck Evans, and Tanya Burgess as set forth in paragraphs 1-16 constitute negligence, gross negligence, and wrongful conduct, as well as supervisory negligence for Andy Howard, all in violation of the common law of Florida. Under the Federal Tort Claims Act (FTCA), the defendant United States of America is liable to the plaintiff for the unlawful actions of the herein named government employees as they were all acting within the scope of their employment as employees of the United States Department of Justice. **They all owed the plaintiff a duty of care, and they breached that duty by their negligent and wrongful actions and omissions. Their breach of the duty they owed the plaintiff was the direct and proximate cause of the plaintiff's injuries.**

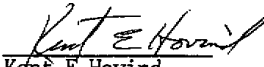
Relief

For relief the plaintiff requests the sum of \$25,000,000.00 USD.

WHEREFORE the plaintiff prays that the court will grant the relief requested.

Respectfully,

Dated: 11/19/13

  
Kent E Hovind

