

What do I do if I have a claim against someone/something, but I do not know who/what he/it is?

4 January 2014

This may sound funny to someone not in the situation, but it does happen; someone or something did something to you, but you are not able to identify them, at least at this time. For many people, they simply give up since they are unable to name the actual entity that conducted the wrongdoing. However, there is a solution to the problem, *albeit* a temporary one. It is filing a lawsuit against an unnamed party, usually using the fictional name of John Doe or Jane Doe. “[T]his fiction has been allowed in order to proceed against parties who are not known at the time the complaint is filed, but whose identities may be learned through the discovery process.” Kemper Ins. Co. v. Federal Express Corp., 115 F. Supp. 2d 116, 124-25 (D. Mass. 2000).

For example, one rather famous case that even created its own claim/cause of action was titled *Bivens v. Six Unknown Named Agents*. 403 U.S. 388 (1971). In *Bivens*, the plaintiff was arrested after federal agents searched his home. *Id.* at 389. The charges were later dropped and Bivens filed a lawsuit alleging a claim under the fourth amendment, but he did not know the identities of the federal agents, hence, the “Six Unknown Named Agents.” *Id.* *Bivens* was a landmark case for other reasons, but it serves as a reminder that filing suit against unknown parties is permissible.

This process will allow your case to proceed, but it has a limit. Once the lawsuit is filed, the discovery process is triggered, and it can be used against third parties or other known defendants to learn facts. It is a bit more complicated when there are no known defendants to pursue discovery. If the discovery process yields fruit, these facts, hopefully, will lead to the identity of the wrongdoer. If the identity of the defendant is still unknown at the end of the discovery process, the claim cannot continue. Kemper Ins. Co. v. Federal Express Corp., 115 F. Supp. 2d 116, 124-25 (D. Mass. 2000). So, it is important to use the discovery process effectively because it is crucial to continuing the claim.

In the event that you are in a situation where there is a wrongdoer somewhere that you have a valid legal claim against, but his/its identity is unknown, there is still hope. If you think you need an attorney to pursue it feel free to give this office a call.

Contact: George E. Bourguignon, Jr., Esq.

Phone: (508) 769-1359 or (413) 746-8008

Email: gbourguignon@bourguignonlaw.com

Website: <http://www.bourguignonlaw.com>