

EMPLOYEE RIGHTS AND OBLIGATIONS

In any case where it is determined that the Office of the Attorney General may represent a State employee, the State employee should be notified of his right to retain private counsel at his own expense. If the State employee elects representation by the Office of the Attorney General, the State employee and his agency should be informed:

1. That in actions where the State, any agency, or any officer thereof in his official capacity is also named as a defendant, the Office of the Attorney General is required by law to represent the State and such appointing authority or officer and will assert all appropriate legal positions and defenses on behalf of such agency, officer and the State of Oklahoma;
2. That the Office of the Attorney General will not assert any legal position or defense on behalf of any State employee sued in his individual capacity which is deemed not to be in the interest of the State of Oklahoma or which violates any policy of the Office of the Attorney General;
3. Where appropriate, that neither the Office of the Attorney General nor any appointing authority of the State of Oklahoma is obligated to pay or to indemnify the State employee for any judgment for money damages which may be rendered against such employee; but that, where authorized, the State employee may file suit in state district court for indemnification from his agency upon the entry of an adverse verdict, judgment, or other monetary award;
4. That any appeal from an adverse ruling or judgment against the State employee may only be taken upon the discretionary approval of the Office of the Attorney General, but the State employee may pursue an appeal at his own expense whenever the Office of the Attorney General declines to authorize an appeal and private counsel is not provided at State's expense; and
5. That while no conflict appears to exist at the time representation is tendered which would preclude making all arguments necessary to the adequate defense of the State employee, if such conflict should arise in the future, the State employee will be promptly advised and steps will be taken to resolve the conflict; and
6. That personal or individual counter claims, cross-claims or other affirmative causes of action that the individual may desire to bring will not be presented by the assigned attorney, but that such claims may be prosecuted by private counsel at the expense of the State employee; and

7. That the employee is obligated to cooperate in the representation and failure to do so will result in the termination of representation; and

8. That representation is contingent upon the determination that the employee was acting in good faith and within course and scope of employment. A subsequent determination that employee was not acting in good faith could in the course and scope of employment will result in the termination of representation.

CONFIDENTIAL ATTORNEY WORK PRODUCT
INDIVIDUAL LITIGATION REPORT

**for the Litigation Section
of the
Oklahoma Attorney General**

When state agencies, officials and employees are sued in state or federal courts, it is necessary that allegations are promptly investigated and a defense initiated. To this end, the Litigation Section of the Oklahoma Attorney General has implemented the following Individual Litigation Report to help marshal information and promptly prepare a litigation strategy.

The Individual Litigation Report is the best way to quickly get solid litigation information to your attorney. The Litigation Section initially will be subject to very short deadlines, with a potentially steep learning curve. The party suing you already has a head start. The Individual Litigation Report is the first step in leveling the playing field.

Each Individual Defendant must fill in the following information.

Note: Please prepare, identify, handle and safeguard the litigation report to preserve its character as attorney work product. This report is “Confidential Attorney Work Product.”

1. Client Information:

Answer the following questions:

Case Name _____

Case Number _____

Your Name _____

Date you were served with the lawsuit _____

Home Address _____

Home Telephone Number _____

Cell Phone Number _____

E-mail Address _____

Name of Employer _____

Address of Employer _____

Work Telephone Number _____

Work e-mail Address _____

List the Name(s) and Title of your Supervisor(s) _____

2. Statement of Facts

State in plain language the facts of the incident. (If additional space is needed please attach a separate sheet of paper to this report.)

3. Potential Witnesses:

Witness #1:

- a. Full Name _____
- b. Work Address and Telephone Number _____
- c. Home Address and Telephone Number _____
- d. E-mail Address(es) _____
- e. Brief summary of the Witness(es)' Testimony

Witness #2:

- a. Full Name _____
- b. Work Address and Telephone Number _____
- c. Home Address and Telephone Number _____
- d. E-mail Address(es) _____
- e. Brief summary of the Witness(es)' Testimony

Witness #3:

- a. Full Name _____
- b. Work Address and Telephone Number _____
- c. Home Address and Telephone Number _____
- d. E-mail Address(es) _____
- e. Brief summary of the Witness(es)' Testimony

Witness #4:

- a. Full Name _____
- b. Work Address and Telephone Number _____
- c. Home Address and Telephone Number _____
- d. E-mail Address(es) _____
- e. Brief summary of the Witness(es)' Testimony

Witness #5:

- a. Full Name _____
- b. Work Address and Telephone Number _____
- c. Home Address and Telephone Number _____
- d. E-mail Address(es) _____
- e. Brief summary of the Witness(es)' Testimony

Witness #6:

- a. Full Name _____
- b. Work Address and Telephone Number _____
- c. Home Address and Telephone Number _____
- d. E-mail Address(es) _____
- e. Brief summary of the Witness(es)' Testimony

Witness #7:

- a. Full Name _____
- b. Work Address and Telephone Number _____
- c. Home Address and Telephone Number _____
- d. E-mail Address(es) _____
- e. Brief summary of the Witness(es)' Testimony

Witness #8:

- a. Full Name _____
- b. Work Address and Telephone Number _____
- c. Home Address and Telephone Number _____
- d. E-mail Address(es) _____
- e. Brief summary of the Witness(es)' Testimony

4. Documents:

Please note: Just like traditional hardcopy records, electronically stored information is important and an irreplaceable source of discovery and/or evidence. The lawsuit requires preservation of all relevant information from your agency's files, computer system and removable electronic media. This includes, but is not limited to hard copy records, email, text messages, instant messages and other electronic communication, word processing documents, spreadsheets, databases, calendars, telephone logs, mobile device files, contact

manager information, photographs, video camera footage, audio recordings, internet usage files and network access information. This could also possibly include data stored on personal computer systems, personal email, personal mobile devices and cellular telephones used for work, and any personal removable electronic media. Failure to comply with preservation of information may result in severe sanctions, attorney fees, and/or a spoliation jury instruction.

Enclose with this report copies of all relevant documents that are currently in your possession which pertain to the claims in the lawsuit. Retain all original documents including but not limited to the following:

- a) a copy of the summons and petition/complaint;
- b) witness statements;
- c) photographs, video footage, and audio files;
- d) correspondence (including memos and email) with Plaintiff and attorney or others;
- e) Pre-litigation reports of investigations, grievances or administrative proceeding (e.g. EEOC administrative records); and
- f) recordings and transcripts of any recordings.

Please note: The original summons and petition/complaint with the original envelope should be sent with this report. Copies of all other documents should also be sent. Retain the originals in a central location. The originals may be needed as litigation proceeds. As new relevant records come into your possession you should add them to this preservation collection.

Questionnaire:

In order to assist in the identification of records relevant to this effort please complete the questionnaire below.

- a. **Do you have any hardcopy records relevant to this matter?** _____
- b. **If yes, please describe them and where they are stored.** _____

- c. **Do you have electronically stored records relevant to this matter?** _____
- d. **If yes, please indicate which of the following storage media are used, and describe them (Dell, Apple, tower, Gmail, carrier, etc.) and their location:**
 - **Desktop computer in your office/work station** _____

 - **Laptop or tablet computer provided by your workplace** _____

 - **Shared office storage drive(s)** _____

 - **Email account(s) (work or personal)** _____

 - **Personal computer** _____

- Portable media (work-issued or personal - mobile phone, thumb drives, CDs) _____

- Printer/Copier/Fax machine _____

- Back-ups / Other _____

e. **If your office has a designated records manager, please identify:**
Name: _____
E-mail: _____
Telephone: _____

f. **If your office has a designated IT specialist, please identify:**
Name: _____
E-mail: _____
Telephone: _____

Return the original to: **Office of Attorney General
Litigation Section
313 N.E. 21st Street
Oklahoma City, OK 73105**

Keep a copy for your files.

Signature _____ Print Name _____ Date _____