



# FTCA Timing, Deadlines, and Case Lifecycle Guide

*Last Updated: June 2026*

## **Overview**

This resource is a practical timeline guide for Federal Tort Claims Act (FTCA) matters—from the initial incident through the administrative claim stage and into federal litigation. It summarizes the key statutory deadlines, explains what triggers them, and describes what to expect (and when) as a claim moves through agency review, potential denial or constructive denial, and then litigation. The goal is to help practitioners track the “clock” on an FTCA case and plan a strategy that preserves claims and options.

## **1. The Two Key Statutory Time Limits**

The FTCA’s timing rules are primarily found in 28 U.S.C. § 2401(b). In simplified form, the statute sets two separate deadlines: (1) a deadline to present an administrative claim to the appropriate federal agency, and (2) a deadline to file suit in federal court after the agency issues a final denial. 28 U.S.C. § 2401(b).

**First deadline:** present the administrative claim within two years of accrual. An FTCA claim “shall be forever barred” unless it is “presented in writing to the appropriate Federal agency within two years after such claim accrues.” 28 U.S.C. § 2401(b).

**Second deadline:** file suit within six months after a final denial. If the agency mails a written “final denial,” the claimant must begin suit “within six months after the date of mailing” of that notice. 28 U.S.C. § 2401(b).

**Important nuance:** the Supreme Court has held these FTCA deadlines are not jurisdictional and may be subject to equitable tolling in appropriate cases. *United States v. Wong*, 575 U.S. 402 (2015). That said, equitable tolling is not automatic and should be treated as a backstop, not a plan.

## **2. Accrual**

What starts the two-year clock can be complicated in practice. For many cases, accrual is straightforward: the claim accrues on the date of the incident (for example, a discrete use of force, an arrest, a raid, or a specific detention event). In other cases, accrual can be contested—especially where injuries are latent, the plaintiff could not reasonably know key facts, or the tort theory involves a continuing course of conduct.

Practical approach for first-time FTCA practitioners: assume the earliest plausible accrual date and calendar the two-year presentment deadline from that date. If you later develop a stronger accrual argument (for example, delayed discovery), that can help—but it should not be the only reason you miss the conservative deadline.

Injuries and tort types: Accrual analysis can vary by claim theory and fact pattern. For example, a false imprisonment theory may be tied to the period of confinement; a malicious prosecution theory may depend on favorable termination; and some medical or exposure-related harms may involve delayed discovery issues. Additionally, the statute of limitations may be tolled where the conduct itself renders the plaintiff unable to file suit for some period of time (e.g., due to physical incapacitation). Because accrual can be litigated, the safest practice is to present early and preserve options.

### **3. Administrative Exhaustion Requirement**

An FTCA plaintiff generally cannot file suit until they have presented the claim to the appropriate agency and the agency has had a chance to resolve it. 28 U.S.C. § 2675(a). If a suit is filed before administrative exhaustion is complete, courts typically dismiss. *McNeil v. United States*, 508 U.S. 106 (1993).

Perfecting a claim: Under the statute and its implementing regulations, all that is needed to perfect a claim is to “present” it to the appropriate federal agency, which is satisfied when the agency receives (a) “an executed Standard Form 95 or other written notification of an incident, accompanied by a claim for money damages in a sum certain,” (b) “the title or legal capacity of the person signing,” and (c) “evidence of [the signatory’s] authority to present a claim on behalf of the claimant.” 28 U.S.C. § 2675(a); 28 C.F.R. § 14.2(a).

### **4. What Happens after Six Months with No Response (constructive denial)**

Section 2675(a) provides that if an agency fails to make final disposition of a claim within six months after it is filed, that inaction may, at the claimant’s option any time thereafter, be treated as a final denial for purposes of filing suit. 28 U.S.C. § 2675(a).

If six months pass after presentment and the agency has not issued a final written denial, the claimant may treat the claim as constructively denied and file suit.

Why this matters for timing strategy: constructive denial creates an option to sue, not a requirement. In most cases, there is no separate statute that forces you to file immediately once the six months runs, because the six-month litigation deadline in 28 U.S.C. § 2401(b) is triggered by an actual final denial letter. As a result, a claimant can often continue to pursue settlement or further administrative engagement even after the six-month point—while keeping the option to file.

Risk management: the moment the agency issues a final written denial, the six-month clock to file in federal court begins. 28 U.S.C. § 2401(b). So if you choose to wait after constructive denial, you should build a system to ensure you learn immediately if and when a denial issues, and you should calendar the six-month deadline from the denial’s mailing date.

## **5. Requests for Reconsideration and How They Affect Timing**

Agencies may accept a written request for reconsideration of a final denial. The Department of Justice’s FTCA regulations provide that, upon a timely request for reconsideration, the agency has six months to make a final disposition of the claim, and the claimant’s option to treat inaction as denial does not accrue until six months after the reconsideration request is filed. 28 C.F.R. § 14.9(b).

If the agency denies reconsideration in writing, the six-month statute of limitations for filing suit begins to run from the date the denial is mailed. The statute and regulations are less clear about what happens if the agency takes no action on a timely reconsideration request within six months. A strong textual argument exists that, as with an original administrative claim, agency inaction merely allows the claimant to deem the claim denied and file suit “any time thereafter,” so that no statute of limitations applies unless the agency mails a written denial. *See* 28 U.S.C. §§ 2401(b), 2675(a); 28 C.F.R. § 14.9(a)–(b). However, because the regulation is ambiguous enough that the government could plausibly argue that a six-month filing deadline begins to run once the reconsideration request has been pending for six months, claimants who have sought reconsideration should consider filing suit within six months after the agency’s six-month reconsideration period expires, absent a strategic reason to wait.

Practice note: Reconsideration can be a strategic tool to extend negotiation time, strengthen the record, or correct deficiencies, but it can also create new calendar points. If you use reconsideration, treat it like a fresh timeline problem: track the filing date, the agency’s six-month window, and any subsequent final denial.

## **6. A practical timeline: from incident to lawsuit**

Step 1: Incident occurs (Day 0). Begin evidence preservation immediately (client narrative, photos, medical records, witnesses, videos). Consider sending a preservation letter to the relevant agencies to put them on notice to retain all evidence relevant to the claim. Calendar the two-year presentment deadline from the earliest plausible accrual date. 28 U.S.C. § 2401(b).

Step 2: Administrative claim is presented (any time up to 2 years from accrual). Presentment must be to the appropriate federal agency. 28 U.S.C. § 2401(b); 28 U.S.C. § 2675(a).

Step 3: Agency review period (0–6 months after presentment). The agency may investigate, request more information, or negotiate. Some agencies respond quickly; others do not. Many claims receive no substantive response during this period.

Step 4A: Final denial issues (any time). Once the agency mails the final denial, the claimant has six months to file suit in federal court. 28 U.S.C. § 2401(b).

Step 4B: No final disposition by six months. The claimant may treat the claim as denied and file suit any time thereafter. 28 U.S.C. § 2675(a). If you wait, continue monitoring for an eventual final denial, which triggers the 28 U.S.C. § 2401(b) six-month suit deadline.

## **7. Filing the federal case: what happens next (and the key federal-rule timepoints)**

Complaint filed in federal district court: Once the administrative exhaustion requirement is satisfied (by final denial or by waiting six months), a plaintiff may file an FTCA complaint. 28 U.S.C. § 2675(a).

Service on the United States: Service on the United States is not the same as service on an individual defendant. Under Fed. R. Civ. P. 4(i), to serve the United States you must (1) deliver or mail the summons and complaint to the U.S. Attorney for the district (or the civil-process clerk); (2) send copies by registered or certified mail to the Attorney General in Washington, D.C.; and sometimes (3) send copies to the agency if required by the rule. Fed. R. Civ. P. 4(i). Some USAOs accept service via email to an inbox specific to their jurisdiction, but plaintiffs should research and confirm this independently.

Service deadline: In most civil cases, service must be completed within 90 days after filing unless the court extends time. Fed. R. Civ. P. 4(m).

Government's time to respond: The United States generally has 60 days after service on the U.S. Attorney to serve an answer or otherwise respond. Fed. R. Civ. P. 12(a)(2). In practice, the government often responds first with a motion to dismiss or other threshold motion under Rule 12, rather than answering immediately.

## **8. The Most Common Litigation Path: Motion to Dismiss, then Discovery**

Early motion practice is common in FTCA cases. In most FTCA cases, the government tests threshold issues early—jurisdictional arguments, failure to state a claim, scope-of-employment disputes, or exceptions to the FTCA’s waiver of sovereign immunity. This often results in a Rule 12 motion and briefing before full merits discovery begins. Fed. R. Civ. P. 12.

If the motion to dismiss is denied (or partially denied), the case usually proceeds to discovery. Discovery can include document requests, interrogatories, requests for admission, depositions, and (if needed) expert discovery. The exact structure and deadlines are set by the court, typically through a scheduling order. Fed. R. Civ. P. 16.

Typical discovery timeline (rule-of-thumb): Many federal courts set fact discovery windows in the range of 6–12 months in ordinary civil cases, sometimes longer in complex matters (multiple agencies, heavy video evidence, expert medical causation, large damages). Expert discovery and expert reports may add several additional months.

## **9. Summary Judgment, Pretrial, and Trial (typical sequence & timing expectations)**

After fact discovery closes, parties often file summary judgment motions. Fed. R. Civ. P. 56. Summary judgment briefing typically takes several months (briefing, record compilation, and hearing). If summary judgment is denied in whole or part, the court will set pretrial deadlines and a trial date.

Overall case duration: FTCA cases can sometimes resolve quickly if there is strong liability evidence and clear damages, but they often take time. A practical planning range is: 12–24 months from filing to resolution in faster matters, and 24-48 months (or more) in more complex cases. The actual timeline depends heavily on the court, the complexity of proof, and motion practice.

## **10. Settlement Can Happen at any Point**

Settlement is possible during the administrative process, during early motion practice, during discovery, or on the eve of trial. Many FTCA matters resolve without a final merits judgment when the claim is well-supported and the parties can agree on damages and nonmonetary terms (where available). From a timing perspective, the key is preserving the statutory deadlines while leaving room to negotiate when that serves the client’s interests.

## **11. Practitioner-ready calendar checklist**

1. Date of incident / earliest plausible accrual date: \_\_\_\_\_

2. Presentment deadline (2 years from accrual): \_\_\_\_\_ (28 U.S.C. § 2401(b))
3. Date administrative claim presented: \_\_\_\_\_
4. Six-month mark after presentment (constructive denial option): \_\_\_\_\_ (28 U.S.C. § 2675(a))
5. If final denial issued: mailing date \_\_\_\_\_; lawsuit deadline \_\_\_\_\_ (6 months) (28 U.S.C. § 2401(b))
6. If reconsideration requested: filing date \_\_\_\_\_; new six-month mark \_\_\_\_\_ (28 C.F.R. § 14.9(b))
7. If complaint filed: filing date \_\_\_\_\_; service deadline \_\_\_\_\_ (90 days) (Fed. R. Civ. P. 4(m))
8. Date served on U.S. Attorney: \_\_\_\_\_; government response due \_\_\_\_\_ (60 days) (Fed. R. Civ. P. 12(a)(2))

*\*\*\*This toolkit contains informational and educational content only. It does not constitute legal advice and should not be relied upon as a substitute for legal advice for a specific organization or about a particular set of facts. Receipt of this information does not create an attorney-client relationship. Links to external websites are provided for informational purposes only. Democracy Forward Foundation does not endorse, control, or guarantee the accuracy or completeness of information on linked sites, and accepts no responsibility for their content.\*\*\**