

**QUESTIONS AND ANSWERS CONCERNING BANK OF NEW YORK MELLON LAWSUIT AND THE LEGAL PROCESS(December 15, 2011)**

1. What exactly has the bank filed in court?

The bank has filed a lawsuit in the Court of Common Pleas of Allegheny County against Occupy Pittsburgh and unidentified individuals who are termed Jane or John Does. The lawsuit alleges causes of action in Trespass, Ejectment, Private and Public Nuisance, and seeks injunctive relief.

2. What does the bank ask for?

The bank asks the court to order 1. the removal of tents and other structures, camping equipment etc. 2. to stop camping on that property 3. To abide by notices closing Mellon Green during the winter months, and 4. To cease interfering with the use of the property.

3. What do we have to do in response to the lawsuit?

The lawyers have 20 days to file a written response, typically called an Answer and new matter. Since papers were served December 13, 2012 these must be filed no later than January 2, 2012.

4. What are the next steps in terms of court hearings?

There is a status conference scheduled before the Court on December 22, 2011. Typically the status conference is held in chambers, is short, and the judge will do several things:

- a. Ask the parties generally what the case is about;
- b. Ask the parties' positions (in this case) as to whether the case should be designated a complex case, and be assigned to one of the judges who handles such cases. It will be designated a complex case---it is much more legally and factually involved than most any case the state courts get.
- c. Set a schedule for hearing(s), other filings, and possibly a process called discovery

5. Who is the judge who will be hearing the case?

Judge Ward is conducting the status conference, and the case will probably remain with her as she is one of the two judges who handles complex cases.

6. When will the main court hearing and/or injunction hearing be held?

At this point no one really knows—it is likely the court will set date(s) at the time of the status conference. While normal lawsuits take a lot of time to wind their way through the court system, assume this one will be on a very fast track with the likelihood of injunction hearings very soon.

7. Are court hearings public and can we attend?

Yes, depending on the court room used, there will likely be seating for between 50 and 100 people. Note the status conferences are almost always held in chambers, so there will be very little to see.

8. What happens at the Court hearing?

The bank will present its case first and we get to cross examine their witnesses. Then we present our witnesses, and the bank gets to cross examine them. At the hearing both sides will submit exhibits to the Court to review, many/most will likely have been attached to pleadings filed with the Court.

9. How does the Court make its decision?

The court will review the court pleadings, testimony and exhibits, and legal arguments of the parties. At the end of the day, it is likely that most facts will be undisputed, the Court will largely be making legal judgments.

10. Is this case like many of the other Occupy cases in Court that have happened across the country?

No this case is different in several respects. It is, thus far, the only one, where an alleged property owner has sued in Court to evict Occupy. It also has free speech and public space issues somewhat different than other locations.

11. Will we get copies of Court papers?

The lawyers will provide copies of anything filed in Court by either side.

12. Is it possible that individuals will get personally named in the lawsuit?

That is always a possibility. However, if there is an eventual order labeled just “John or Jane Doe” it will likely be valid against any individuals who would act contrary to that.

13. How are legal strategies being decided?

The volunteer lawyers are working with the Occupy legal working group on determining legal strategies. Before the Answer and New Matter is filed in Court approval will be sought from the GA for the legal strategies.

14. Can't there be more sharing of internal conversations of lawyers and people from the legal working group?

We understand the frustration that those discussions are not completely shared but most everything that is shared gets posted on facebook or is put on e mails or web sites and undermines our ability to put together the best possible legal defense. Moreover, if that happens, it creates a very real danger that the attorney client privilege is waived and once that happens the other side might have free access to all the attorney discussions. Having said that the plan in what we call New Matter /Affirmative defenses is to keep those consistent with the message(s) of Occupy.

15. Is it possible that there will be a lawsuit will be filed for damages against Occupy and individuals?

We can not say that will never happen, we can only say that is not in the Court papers.

16. Who are the lawyers working on this?

The lawyers working on this are all from Pittsburgh and are variously associated with the Center for Constitutional Rights, the National Lawyers Guild, and the ACLU. The lawyers working on this, and one of the law firms, have represented institutions (usually labor unions) and individuals(usually in first amendment cases) in well over 100 injunction proceedings in state and federal courts.

17. How are legal fees and court costs being covered?

The lawyers are not being paid on this. Court costs will be paid by the Center for Constitutional Rights.

18. Updates:

We will provide updates as things occur in Court, with the next significant update coming after the status conference on December 22.