

Ellsberg Team Sues U.S. for

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Daniel Ellsberg, Anthony Russo and 17 of their attorneys and advisers in the Pentagon Papers case filed a lawsuit in federal court here yesterday, claiming they are victims of illegal government wiretapping.

Naming as defendants Attorney General Richard G. Kleindienst, his predecessor John N. Mitchell and the heads of

eight other federal agencies, they demanded hundreds of thousands of dollars in damages.

Similar to the civil complaint filed by the Democratic National Committee over the Watergate bugging incident, the suit is a strategic attack on the electronic surveillance that has postponed the Los Angeles trial of Ellsberg and

Russo on conspiracy, espionage and theft charges.

It is aimed at obtaining, through the "discovery" procedures of civil litigation, details on the wiretapping thus far denied to the defense.

Prosecutors in the Pentagon Papers case have revealed to the courts that a defense aide was overheard on a wiretap of someone else's phone. As a "foreign intelligence" wiretap,

it was authorized by the Attorney General without a court order.

Supreme Court Justice William O. Douglas has halted the criminal trial pending a decision by the full Supreme Court next month whether to consider an Ellsberg-Russo appeal over the wiretapping.

But the defense staff still does not know who among them was overheard in the

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surveillance, exactly when and under what circumstances.

Yesterday's lawsuit sought to get at that information by claiming that the government wiretapping in the case violated the First, Fourth and Sixth Amendments to the Constitution, as well as the Omnibus Crime Control and Safe Streets Act of 1968.

That act provided for the recovery of civil damages by any-

one who is the subject of illegal wiretapping not covered by a court order or legislative authorization.

The Supreme Court has banned "national security" wire tapping without court order, but has left open the question of whether such surveillance may be conducted for alleged "foreign intelligence" purposes.

Along with the lawsuit, the

19 plaintiffs filed interrogatories yesterday, asking the FBI, the Secret Service, the Internal Revenue Service, the Central Intelligence Agency and other agencies to provide full details of any surveillance they might have conducted in which the plaintiffs were overheard since June 19, 1968, when the crime control act was signed into law by President Johnson.

Should they prevail in the lawsuit, each person wiretapped could be awarded damages of \$100 a day, up to a maximum of \$1,000. Ellsberg, Russo and their aides also demanded punitive damages of \$50,000 each.

The civil case was assigned to U. S. District Court Judge Thomas Flannery, formerly U. S. attorney for the District of Columbia.