

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

**INSTRUCTIONS FOR FILING A CIVIL RIGHTS COMPLAINT BY PRISONERS
LOCATED IN A FACILITY PARTICIPATING IN A PILOT PROJECT FOR THE
SUBMISSION OF COMPLAINTS THROUGH ELECTRONIC MAIL**

This package includes the following documents:

1 copy - Civil Rights Complaint form (Form CV-66)

1 copy - Request to Proceed Without Prepayment of Filing Fees with Declaration in Support form
(Form CV-60P)

In order for your complaint to be filed, it must be typewritten or legibly handwritten in ink. You, the plaintiff, must sign and declare under penalty of perjury that the facts are correct. If you need additional space to answer a question, you should use an additional blank page. You must file a separate complaint for each claim unless they are all related to the same incident or issue. You are required to allege facts, not legal arguments or authorities.

Pursuant to General Order 18-02, all inmates located in a facility participating in the pilot project for the submission of certain prisoner filings through electronic mail must submit all complaints brought under 42 U.S.C. § 1983 to the Court by electronic mail. **You must present your Complaint, Request to Proceed Without Prepayment of Filing Fees, and any accompanying documents for filing to designated CDCR staff who will then scan and e-mail them to the Court.**

FILING FEES

Payment of filing fee required

The filing fee is \$350 plus a \$52 administrative fee, for a total of \$402. However, in accordance with 28 U.S.C. § 1915, if your Request to Proceed Without Prepayment of Filing Fees is granted, you will be obligated to pay only the filing fee of \$350, and not the \$52 administrative fee. If you have the money to pay the filing fee, you should submit a cashier's check, certified bank check, business or corporate check, government issued check, or money order drawn on a major American bank or the United States Postal Service, payable to the *Clerk of Court* and mail it to: United States District Court, Central District of California, 255 East Temple Street, Suite TS-134, Los Angeles, CA 90012. The Clerk's Office will also accept credit cards (Mastercard/Visa, Discover, American Express) for filing fees and miscellaneous fees. Credit card payments may be made at all payment windows where receipts are issued.

Request to pay filing fee in monthly installments

If you do not have the money to pay the full filing fee, you must complete the Request to Proceed Without Prepayment of Filing Fees with Declaration in Support ("Request"). The Request must be returned to the Court with your complaint. **You must also follow your facility's procedures to make sure that a certified Trust Account Statement from your facility's accounting department is obtained and sent to the Court with your complaint.**

Initial partial filing fee assessment

If your Request to Proceed Without Prepayment of Filing Fees is granted, the Court will assess an initial partial filing fee at the time your action is filed. The initial partial filing fee will be equal to 20% of the average monthly deposits to your prison or jail account for the six months immediately preceding the filing of the action, or 20% of the average monthly balance in your prison or jail account for that same six month period, whichever is greater. The Court will order the agency that has custody of you to take that initial partial filing fee out of your prison or jail account as soon as funds are available and forward the money to the Clerk of Court.

Collection of balance of filing fee

After the initial partial filing fee has been paid, you will owe the balance of the filing fee. Until the amount of the filing fee is paid in full, each month you will owe 20% of your preceding month's income toward the balance. The agency that has custody of you will collect that money and send payments to the Clerk of Court any time the amount in your account exceeds \$10.00.

DISMISSAL OF THE COMPLAINT

Regardless of whether some or all of the filing fee has been paid, the Court is required to screen your complaint and to dismiss the complaint if: 1) your allegation of poverty is untrue; 2) the action is frivolous or malicious; 3) your complaint does not state a claim on which relief can be granted; or 4) you sue a defendant for money damages and that defendant is immune from liability for money damages.

If you file more than three actions or appeals while you are a prisoner that are dismissed as frivolous or malicious or for failure to state a claim on which relief can be granted, you will be prohibited from bringing any other actions *in forma pauperis* unless you are in imminent danger of serious physical injury. **NOTE: You are required under penalties of perjury to provide accurate information regarding previous filings. Failure to provide this information may result in the immediate dismissal of your complaint.**

JURISDICTION

To determine whether jurisdiction and venue are proper in this Court:

- **AGAINST FEDERAL DEFENDANTS**, please refer to 28 U.S.C. § 1391(e) and *Bivens v. Six Unknown Federal Narcotics Agents*, 403 U.S. 388, 397 (1971);
- **AGAINST NON-FEDERAL DEFENDANTS**, please refer to 28 U.S.C. § 1391(b) for claims brought pursuant to 42 U.S.C. § 1983.

SERVICE OF THE COMPLAINT

If your Request to Proceed Without Prepayment of Filing Fees is approved, the Court will determine whether the United States Marshal should serve the defendant(s) on your behalf.

INQUIRIES AND COPYING REQUESTS

Because of the large volume of cases filed by prisoners in this Court and limited court resources, the Court and Clerk's Office will not answer inquiries concerning the status of your case or provide copies of documents, except at a charge of fifty cents (\$0.50) per page. You must therefore keep copies of all documents submitted to the court for your own records.

FULL NAME

COMMITTED NAME (if different)

FULL ADDRESS INCLUDING NAME OF INSTITUTION

PRISON NUMBER (if applicable)

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

CASE NUMBER

To be supplied by the Clerk

v.

PLAINTIFF,

DEFENDANT(S).

**CIVIL RIGHTS COMPLAINT
PURSUANT TO** *(Check one)*

- 42 U.S.C. § 1983
 - Bivens v. Six Unknown Agents 403 U.S. 388 (1971)
-

A. PREVIOUS LAWSUITS

1. Have you brought any other lawsuits in a federal court while a prisoner: Yes No

2. If your answer to "1." is yes, how many? _____

Describe the lawsuit in the space below. (If there is more than one lawsuit, describe the additional lawsuits on an attached piece of paper using the same outline.)

- a. Parties to this previous lawsuit:
 Plaintiff _____

 Defendants _____

- b. Court _____

- c. Docket or case number _____
- d. Name of judge to whom case was assigned _____
- e. Disposition (For example: Was the case dismissed? If so, what was the basis for dismissal? Was it appealed? Is it still pending?) _____
- f. Issues raised: _____

- g. Approximate date of filing lawsuit: _____
- h. Approximate date of disposition _____

B. EXHAUSTION OF ADMINISTRATIVE REMEDIES

1. Is there a grievance procedure available at the institution where the events relating to your current complaint occurred? Yes No
2. Have you filed a grievance concerning the facts relating to your current complaint? Yes No

If your answer is no, explain why not _____

3. Is the grievance procedure completed? Yes No

If your answer is no, explain why not _____

4. Please attach copies of papers related to the grievance procedure.

C. JURISDICTION

This complaint alleges that the civil rights of plaintiff _____
 (print plaintiff's name)

who presently resides at _____
 (mailing address or place of confinement)

were violated by the actions of the defendant(s) named below, which actions were directed against plaintiff at

 (institution/city where violation occurred)

on (date or dates) _____, _____, _____
(Claim I) (Claim II) (Claim III)

NOTE: You need not name more than one defendant or allege more than one claim. If you are naming more than five (5) defendants, make a copy of this page to provide the information for additional defendants.

1. Defendant _____ resides or works at
(full name of first defendant)

(full address of first defendant)

(defendant's position and title, if any)

The defendant is sued in his/her (Check one or both): individual official capacity.

Explain how this defendant was acting under color of law:

2. Defendant _____ resides or works at
(full name of first defendant)

(full address of first defendant)

(defendant's position and title, if any)

The defendant is sued in his/her (Check one or both): individual official capacity.

Explain how this defendant was acting under color of law:

3. Defendant _____ resides or works at
(full name of first defendant)

(full address of first defendant)

(defendant's position and title, if any)

The defendant is sued in his/her (Check one or both): individual official capacity.

Explain how this defendant was acting under color of law:

4. Defendant _____ resides or works at
(full name of first defendant)

(full address of first defendant)

(defendant's position and title, if any)

The defendant is sued in his/her (Check one or both): individual official capacity.

Explain how this defendant was acting under color of law:

5. Defendant _____ resides or works at
(full name of first defendant)

(full address of first defendant)

(defendant's position and title, if any)

The defendant is sued in his/her (Check one or both): individual official capacity.

Explain how this defendant was acting under color of law:

D. CLAIMS*

CLAIM I

The following civil right has been violated:

Supporting Facts: Include all facts you consider important. State the facts clearly, in your own words, and without citing legal authority or argument. Be certain you describe, in separately numbered paragraphs, exactly what each DEFENDANT (by name) did to violate your right.

**If there is more than one claim, describe the additional claim(s) on another attached piece of paper using the same outline.*

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CASE NUMBER

PRISONER/PLAINTIFF,
v.
DEFENDANT(S).

**REQUEST TO PROCEED WITHOUT
PREPAYMENT OF FILING FEES WITH
DECLARATION IN SUPPORT**

I, _____, declare under penalty of perjury, that the following is true and correct; that I am the prisoner-plaintiff in the above entitled case; that in support of my request to proceed without prepayment of fees under 28 U.S.C. Section 1915, I declare that because of my poverty I am unable to pay the full costs of said proceedings or to give security therefore and that I am entitled to redress.

I further declare under penalty of perjury that the responses which I have made to the questions and instructions below are true, correct and complete.

1. Are you presently employed in prison? Yes No

a. If the answer is yes, state the number of hours you work per week and the hourly rate of pay:

b. State the place of your incarceration _____.
Have the institution fill out the Certificate portion of this application and attach a certified copy of your prison trust account statement showing transactions for the past six months.

2. Have you received, *within the past twelve months*, any money from any of the following sources?

- a. Business, profession or form of self-employment? Yes No
- b. Rent payments, interest or dividends? Yes No
- c. Pensions, annuities or life insurance payments? Yes No
- d. Gifts or inheritances? Yes No
- e. Any other income (other than listed above)? Yes No
- f. Loans? Yes No

If the answer to any of the above is yes, describe such source of money and state the amount received from each source during the past twelve (12) months: _____

3. Do you own any cash, or do you have money in a checking or savings account? (Include any funds in prison accounts, if applicable.) Yes No

If the answer is yes, identify each account and separately state the amount of money held in each account for each of the *six (6) months prior* to the date of this declaration.

4. Do you own any real estate, stocks, bonds, notes, automobiles, or other valuable property (excluding ordinary household furnishings and clothing)? Yes No

If the answer is yes, describe the property and state its approximate value: _____

5. In what year did you last file an Income Tax Return? _____
Approximately how much income did your last tax return reflect? _____

6. List the persons who are dependent upon you for support, state your relationship to those persons, and indicate how much you contribute toward their support:
-
-

I understand that a false statement or answer to any question in this declaration will subject me to penalties for perjury. I further understand that perjury is punishable by a term of imprisonment of up to five (5) years and/or a fine of \$250,000 (18 U.S.C. Sections 1621, 3571).

State

County (or City)

I, _____, declare under penalty of perjury that the foregoing is true and correct.

Date

Prisoner/Plaintiff (Signature)

PRISONER AUTHORIZATION

If my request to proceed without prepayment of filing fees is granted, I understand that I am required by statute to pay the full amount of the filing fees for this case, regardless of my forma pauperis status and the disposition of this case. I further authorize the prison officials at this institution to assess, collect and forward to the Court the full amount of these fees, in monthly payments based on the average of deposits to or balance in my prison trust account in accordance with 28 U.S.C. Section 1915.

Prisoner-Plaintiff (Signature)

CERTIFICATE OF AUTHORIZED OFFICER

I hereby certify that the Prisoner-Plaintiff herein has credit in the sum of \$_____ on account at the _____ institution where Prisoner-Plaintiff is confined.

I further certify that during the past six months the applicant's average monthly balance was \$_____. I further certify that during the past six months the average of monthly deposits to the applicant's account was\$_____.

A certified copy of the prisoner-plaintiff's trust account statement for the last six (6) months is attached.

Date

Authorized Officer of Institution (Signature)