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6 **IN THE UNITED STATES DISTRICT COURT**  
7 **FOR THE EASTERN DISTRICT OF CALIFORNIA**  
8

9 Julius Lee Jackson, ) No. CV 1-08-1406-NVW  
10 Plaintiff, ) **ORDER**  
11 vs. )  
12 State of California, et al., )  
13 Defendants. )  
14

15 On September 19, 2008, Plaintiff Julius Lee Jackson, who is confined in the Calipatria  
16 State Prison in Calipatria, California, filed a *pro se* civil rights Complaint pursuant to 42  
17 U.S.C. § 1983 (Doc. #1). This case was reassigned to the undersigned judge on November  
18 25, 2008. The Court will dismiss the Complaint with leave to amend.

19 **I. Statutory Screening of Prisoner Complaints**

20 The Court is required to screen complaints brought by prisoners seeking relief against  
21 a governmental entity or an officer or an employee of a governmental entity. 28 U.S.C.  
22 § 1915A(a). The Court must dismiss a complaint or portion thereof if a plaintiff has raised  
23 claims that are legally frivolous or malicious, that fail to state a claim upon which relief may  
24 be granted, or that seek monetary relief from a defendant who is immune from such relief.  
25 28 U.S.C. § 1915A(b)(1), (2). If the Court determines that a pleading could be cured by the  
26 allegation of other facts, a *pro se* litigant is entitled to an opportunity to amend a complaint  
27  
28



1 before dismissal of the action. See Lopez v. Smith, 203 F.3d 1122, 1127-29 (9th Cir. 2000)  
2 (*en banc*).

3 The Court should not, however, advise the litigant how to cure the defects. This type  
4 of advice “would undermine district judges’ role as impartial decisionmakers.” Pliler v.  
5 Ford, 542 U.S. 225, 231 (2004); see also Lopez, 203 F.3d at 1131 n.13 (declining to decide  
6 whether the court was required to inform a litigant of deficiencies). Plaintiff’s Complaint  
7 will be dismissed for failure to state a claim, with leave to amend because the Complaint may  
8 possibly be saved by amendment.

## 9 **II. Complaint**

10 In his Complaint, Plaintiff sues the following Defendants: the State of California,  
11 Director of Corrections Suzan Hubbard, Warden Ken Clark, Pelican Bay State Prison (PBSP)  
12 Chief Medical Officer M. Sayre, Dr. Rinkoff, Mt. Shasta Hospital, Chestnut Vision of Mt.  
13 Shasta (Chestnut Vision), Dr. Andrew J. Cochrane, and North Coast Ophthalmology and  
14 Medical Associates of Eureka, California (North Coast Ophthalmology).

15 Plaintiff alleges a violation of his Eighth Amendment rights. Plaintiff contends that  
16 Defendant Rinkoff removed the lens in Plaintiff’s right eye during an eye surgery at Mt.  
17 Shasta Hospital. Plaintiff asserts that Defendants Rinkoff, Chestnut Vision, and Mt. Shasta  
18 Hospital never informed Plaintiff that the lens would be removed during the surgery.  
19 Plaintiff contends that Defendant Rinkoff informed Plaintiff that an artificial lens would be  
20 implanted in the eye after it had healed from the surgery, but the implantation surgery never  
21 took place and, as a result, Plaintiff suffers from glaucoma. He alleges that “all named  
22 Defend[ants]” refuse to replace the lens, that he was transferred to PBSP to “intentionally  
23 deny Plaintiff this needed lens implant by [PBSP] medical staff and contractors [Cochrane  
24 and North Coast Ophthalmology], that Defendants Cochrane and North Coast Ophthalmology  
25 refuse to perform the surgery, and that “[u]pon information and belief these acts to refuse  
26 Plaintiff this lens implant was order[ed] by [Defendant] Sayre.”

27 Plaintiff seeks a jury trial, declaratory and injunctive relief, monetary damages, and  
28 his costs.



1 **III. Failure to State a Claim**

2 **A. Improper Defendant**

3 Defendant State of California is not a proper Defendant. Under the Eleventh  
4 Amendment to the Constitution of the United States, a state or state agency may not be sued  
5 in federal court without its consent. Pennhurst State Sch. & Hosp. v. Halderman, 465 U.S.  
6 89, 100 (1984); Taylor v. List, 880 F.2d 1040, 1045 (9th Cir. 1989). Furthermore, “a state  
7 is not a ‘person’ for purposes of section 1983.” Gilbreath v. Cutter Biological, Inc., 931 F.2d  
8 1320, 1327 (9th Cir. 1991) (citation omitted). Therefore, the Court will dismiss Defendant  
9 State of California.

10 **B. Failure to Link Defendant with Injuries**

11 Although *pro se* pleadings are liberally construed, Haines v. Kerner, 404 U.S. 519,  
12 520-21 (1972), conclusory and vague allegations will not support a cause of action. Ivey v.  
13 Board of Regents of the University of Alaska, 673 F.2d 266, 268 (9th Cir. 1982). Further,  
14 a liberal interpretation of a civil rights complaint may not supply essential elements of the  
15 claim that were not initially pled. Id.

16 To state a valid claim under § 1983, plaintiffs must allege that they suffered a specific  
17 injury as a result of specific conduct of a defendant and show an affirmative link between the  
18 injury and the conduct of that defendant. See Rizzo v. Goode, 423 U.S. 362, 371-72, 377  
19 (1976). To state a claim against a supervisory official, the civil rights complainant must  
20 allege that the supervisory official personally participated in the constitutional deprivation  
21 or that the supervisory official was aware of widespread abuses and, with deliberate  
22 indifference to the inmate’s constitutional rights, failed to take action to prevent further  
23 misconduct. See Ortiz v. Washington County, 88 F.3d 804, 809 (9th Cir. 1996); Taylor, 880  
24 F.2d at 1045; King v. Atiyeh, 814 F.2d 565, 568 (9th Cir. 1987); see also Monell v. New  
25 York City Department of Social Services, 436 U.S. 658, 691-92 (1978). There is no  
26 *respondeat superior* liability under § 1983, and therefore, a defendant’s position as the  
27 supervisor of persons who allegedly violated Plaintiff’s constitutional rights does not impose  
28 liability. Monell, 436 U.S. at 691-92; Taylor, 880 F.2d at 1045.



1 Plaintiff does not allege that Defendants Hubbard and Clark personally participated  
2 in a constitutional deprivation or that they were aware of widespread abuses and, with  
3 deliberate indifference to Plaintiff's constitutional rights, failed to take action to prevent  
4 further misconduct, or that they formed policies that resulted in Plaintiff's injuries. Thus,  
5 Plaintiff has failed to state a claim against Defendants Hubbard and Clark. The Court will  
6 dismiss them without prejudice.

7 In addition, although Plaintiff appears to allege that Defendant Sayre ordered other  
8 Defendants to refuse to perform the lens implant surgery, Plaintiff's allegation is vague and  
9 conclusory. Plaintiff has failed to allege with even marginal specificity what Defendant  
10 Sayre did or when he allegedly did it. This is insufficient. Therefore, the Court will dismiss  
11 without prejudice Defendant Sayre.

### 12 **C. Medical Care**

13 Not every claim by a prisoner that he has received inadequate medical treatment states  
14 a violation of the Eighth Amendment. To state a § 1983 medical claim, a plaintiff must show  
15 that the defendants acted with "deliberate indifference to serious medical needs." Jett v.  
16 Penner, 439 F.3d 1091, 1096 (9th Cir. 2006) (quoting Estelle v. Gamble, 429 U.S. 97, 104  
17 (1976)). A plaintiff must show (1) a "serious medical need" by demonstrating that failure  
18 to treat the condition could result in further significant injury or the unnecessary and wanton  
19 infliction of pain and (2) the defendant's response was deliberately indifferent. Jett, 439 F.3d  
20 at 1096 (quotations omitted).

21 To act with deliberate indifference, a prison official must both know of and disregard  
22 an excessive risk to inmate health; the official must both be aware of facts from which the  
23 inference could be drawn that a substantial risk of serious harm exists and he must also draw  
24 the inference. Farmer v. Brennan, 511 U.S. 825, 837 (1994). Deliberate indifference in the  
25 medical context may be shown by a purposeful act or failure to respond to a prisoner's pain  
26 or possible medical need and harm caused by the indifference. Jett, 439 F.3d at 1096.  
27 Deliberate indifference may also be shown when a prison official intentionally denies,  
28



1 delays, or interferes with medical treatment or by the way prison doctors respond to the  
2 prisoner's medical needs. Estelle, 429 U.S. at 104-05; Jett, 439 F.3d at 1096.

3 Deliberate indifference is a higher standard than negligence or lack of ordinary due  
4 care for the prisoner's safety. Farmer, 511 U.S. at 835. "Neither negligence nor gross  
5 negligence will constitute deliberate indifference." Clement v. California Dep't of  
6 Corrections, 220 F. Supp. 2d 1098, 1105 (N.D. Cal. 2002); see also Broughton v. Cutter  
7 Labs., 622 F.2d 458, 460 (9th Cir. 1980) (mere claims of "indifference," "negligence," or  
8 "medical malpractice" do not support a claim under § 1983). "A difference of opinion does  
9 not amount to deliberate indifference to [a plaintiff's] serious medical needs." Sanchez v.  
10 Vild, 891 F.2d 240, 242 (9th Cir. 1989). A mere delay in medical care, without more, is  
11 insufficient to state a claim against prison officials for deliberate indifference. See Shapley  
12 v. Nevada Bd. of State Prison Comm'rs, 766 F.2d 404, 407 (9th Cir. 1985). The indifference  
13 must be substantial. The action must rise to a level of "unnecessary and wanton infliction  
14 of pain." Estelle, 429 U.S. at 105-06.

15 Plaintiff's assertion that he was not informed that his right eye lens would be removed  
16 does not state a claim of deliberate indifference. Similarly, Plaintiff's allegations that  
17 Defendants Cochrane and North Coast Ophthalmology refused to perform the implant surgery  
18 are vague and, therefore, insufficient to demonstrate deliberate indifference. Thus, the Court  
19 will dismiss without prejudice Plaintiff's claims against Defendants Rinkoff, Mt. Shasta  
20 Hospital, Chestnut Vision, Cochrane, and North Coast Ophthalmology.

#### 21 **IV. Leave to Amend**

22 For the foregoing reasons, Plaintiff's Complaint will be dismissed for failure to state  
23 a claim upon which relief may be granted. Within 30 days, Plaintiff may submit a first  
24 amended complaint on the form provided with this Order. If Plaintiff fails to use the form  
25 provided with this Order, the Court may strike the amended complaint and dismiss this action  
26 without further notice to Plaintiff.

27 Plaintiff must clearly designate on the face of the document that it is the "First  
28 Amended Complaint." The amended complaint must be retyped or rewritten in its entirety



1 on the form provided with this Order and may not incorporate any part of the original  
2 Complaint by reference.

3 Plaintiff must comply with the instructions provided with the form. Plaintiff should  
4 pay close attention to the instructions provided with the form. If Plaintiff fails to comply  
5 with the instructions provided with the form, the Court may strike the amended complaint  
6 and dismiss this action without further notice to Plaintiff.

7 Among other requirements contained in the instructions, Plaintiff is advised that the  
8 instructions require him to provide information regarding the Court's jurisdiction, provide  
9 information about the defendants, and divide his lawsuit into separate counts. In each count,  
10 Plaintiff must identify what federal constitutional civil right was violated, identify the issue  
11 most closely involved in that count, **state which defendants violated that right and what**  
12 **those defendants did to violate that right**, explain how Plaintiff was injured by the alleged  
13 violation of the constitutional right, and identify whether Plaintiff has exhausted any  
14 available administrative remedies. Plaintiff must repeat this process for each civil right that  
15 was violated. Plaintiff may allege only one claim per count.

16 A first amended complaint supersedes the original complaint. Ferdik v. Bonzelet, 963  
17 F.2d 1258, 1262 (9th Cir. 1992); Hal Roach Studios v. Richard Feiner & Co., 896 F.2d 1542,  
18 1546 (9th Cir. 1990). After amendment, the Court will treat an original complaint as  
19 nonexistent. Ferdik, 963 F.2d at 1262. Any cause of action that was raised in the original  
20 complaint is waived if it is not raised in a first amended complaint. King v. Atiyeh, 814 F.2d  
21 565, 567 (9th Cir. 1987).

## 22 **V. Warnings**

### 23 **A. Address Changes**

24 Plaintiff must file and serve a notice of a change of address in accordance with Rule  
25 83-182(f) and 83-183(b) of the Local Rules of Civil Procedure. Plaintiff must not include  
26 a motion for other relief with a notice of change of address. Failure to comply may result in  
27 dismissal of this action.

28 . . . .



1           **B.     Copies**

2           Plaintiff must submit an additional copy of every filing for use by the Court. See  
3 LRCiv 5-133(d)(2). Failure to comply may result in the filing being stricken without further  
4 notice to Plaintiff.

5           **C.     Possible “Strike”**

6           Because the Complaint has been dismissed for failure to state a claim, if Plaintiff fails  
7 to file an amended complaint correcting the deficiencies identified in this Order, the  
8 dismissal will count as a “strike” under the “3-strikes” provision of 28 U.S.C. § 1915(g).  
9 Under the 3-strikes provision, a prisoner may not bring a civil action or appeal a civil  
10 judgment *in forma pauperis* under 28 U.S.C. § 1915 “if the prisoner has, on 3 or more prior  
11 occasions, while incarcerated or detained in any facility, brought an action or appeal in a  
12 court of the United States that was dismissed on the grounds that it is frivolous, malicious,  
13 or fails to state a claim upon which relief may be granted, unless the prisoner is under  
14 imminent danger of serious physical injury.” 28 U.S.C. § 1915(g).

15           **D.     Possible Dismissal**

16           If Plaintiff fails to timely comply with every provision of this Order, including these  
17 warnings, the Court may dismiss this action without further notice. See Ferdik, 963 F.2d at  
18 1260-61 (a district court may dismiss an action for failure to comply with any order of the  
19 Court).

20 **IT IS ORDERED:**

21           (1)     The Complaint (Doc. #1) is **dismissed** for failure to state a claim. Plaintiff has  
22 **30 days** from the date this Order is filed to file an amended complaint in compliance with  
23 this Order.

24           (2)     If Plaintiff fails to file an amended complaint within 30 days, the Clerk of  
25 Court must, without further notice, enter a judgment of dismissal of this action with prejudice  
26 that states that the dismissal counts as a “strike” under 28 U.S.C. § 1915(g).


27           ....

28           ....



(3) The Clerk of Court must include with this Order a copy of this judge's required form for filing a civil rights complaint by a prisoner.

DATED this 21<sup>st</sup> day of January, 2009.

  
Neil V. Wake  
United States District Judge



## **Instructions for a Prisoner Filing a Civil Rights Complaint in the United States District Court for the Eastern District of California**

1. Who May Use This Form. The civil rights complaint form is designed to help incarcerated persons prepare a complaint seeking relief for a violation of their federal civil rights. These complaints typically concern, but are not limited to, conditions of confinement. **This form should not be used to challenge your conviction or sentence.** If you want to challenge a state conviction or sentence, you should file a petition under 28 U.S.C. § 2254 for a writ of habeas corpus by a person in state custody. If you want to challenge a federal conviction or sentence, you should file a motion under 28 U.S.C. § 2255 to vacate sentence in the federal court that entered the judgment.
2. The Form. The form must be typed or neatly handwritten. The form must be completely filled in to the extent applicable. All questions must be answered clearly and concisely in the appropriate space on the form. If needed, you may attach additional pages, **but no more than fifteen additional pages**, of standard letter-sized paper. You must identify which part of the complaint is being continued and number all pages. If you do not fill out the form properly, you will be asked to submit additional or corrected information, which may delay the processing of your action. You do not need to cite law.
3. Your Signature. You must tell the truth and sign the form. If you make a false statement of a material fact, you may be prosecuted for perjury.
4. The Filing Fee. The filing fee for this action is \$350.00. If you are unable to immediately pay the filing fee, you may request leave to proceed *in forma pauperis*. Please review the “Information for Prisoners Seeking Leave to Proceed with a (Non-Habeas) Civil Action in Federal Court *In Forma Pauperis* Pursuant to 28 U.S.C. § 1915” for additional instructions.
5. Original and Judge’s Copy. You must send an **original plus one copy** of your complaint and of any other documents submitted to the Court. You must send one additional copy to the Court if you wish to have a file-stamped copy of the document returned to you. All copies must be identical to the original. Copies may be legibly handwritten.
6. Change of Address. You must immediately notify the Court and the defendants in writing of any change in your mailing address. **Failure to notify the Court of any change in your mailing address may result in the dismissal of your case.**
7. Certificate of Service. You must furnish the defendants with a copy of any document you submit to the Court (except the initial complaint and application to proceed *in forma pauperis*). Each original document (except the initial complaint and application to proceed *in forma pauperis*) must include a certificate of service on the last page of the document stating the date a copy of the document was mailed to the defendants and the address to which it was mailed. See Fed. R. Civ. P. 5(a), (d). Any document received by the Court that does not include a certificate of service may be stricken. A certificate of service should be in the following form:



I hereby certify that a copy of the foregoing document was mailed  
this \_\_\_\_\_ (month, day, year) to:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Attorney for Defendant(s)

\_\_\_\_\_  
(Signature)

8. Amended Complaint. If you need to change any of the information in the initial complaint, you must file an amended complaint. The amended complaint must be written on the court-approved civil rights complaint form. You may file one amended complaint without leave (permission) of Court before any defendant has answered your original complaint. See Fed. R. Civ. P. 15(a). After any defendant has filed an answer, you must file a motion for leave to amend and lodge (submit) a proposed amended complaint. In addition, an amended complaint may not incorporate by reference any part of your prior complaint. **Any allegations or defendants not included in the amended complaint are considered dismissed.** All amended complaints are subject to screening under the Prison Litigation Reform Act; screening your amendment will take additional processing time.

9. Exhibits. You should not submit exhibits with the complaint or amended complaint. Instead, the relevant information should be paraphrased. You should keep the exhibits to use to support or oppose a motion to dismiss, a motion for summary judgment, or at trial.

10. Letters and Motions. It is generally inappropriate to write a letter to any judge or the staff of any judge. The only appropriate way to communicate with the Court is by filing a written pleading or motion.

11. Completing the Civil Rights Complaint Form.

**HEADING:**

1. Your Name. Print your name, prison or inmate number, and institutional mailing address on the lines provided.

2. Defendants. If there are **four or fewer** defendants, print the name of each. If you name **more than four** defendants, print the name of the first defendant on the first line, write the words "and others" on the second line, and attach an additional page listing the names of **all** of the defendants. Insert the additional page after page 1 and number it "1-A" at the bottom.

3. Jury Demand. If you want a jury trial, you must write "JURY TRIAL DEMANDED" in the space below "CIVIL RIGHTS COMPLAINT BY A PRISONER." Failure to do so may result in the loss of the right to a jury trial. A jury trial is not available if you are seeking only injunctive relief.

**Part A. JURISDICTION:**

1. Nature of Suit. Mark whether you are filing the complaint pursuant to 42 U.S.C. § 1983 for state, county, or city defendants; "Bivens v. Six Unknown Federal Narcotics Agents" for



federal defendants; or “other.” If you mark “other,” identify the source of that authority.

2. Location. Identify the institution and city where the alleged violation of your rights occurred.

3. Defendants. Print all of the requested information about each of the defendants in the spaces provided. If you are naming more than four defendants, you must provide the necessary information about each additional defendant on separate pages labeled “2-A,” “2-B,” etc., at the bottom. Insert the additional page(s) immediately behind page 2.

#### **Part B. PREVIOUS LAWSUITS:**

You must identify any other lawsuit you have filed in either state or federal court while you were a prisoner. Print all of the requested information about each lawsuit in the spaces provided. If you have filed more than three lawsuits, you must provide the necessary information about each additional lawsuit on a separate page. Label the page(s) as “2-A,” “2-B,” etc., at the bottom of the page and insert the additional page(s) immediately behind page 2.

#### **Part C. CAUSE OF ACTION:**

You must identify what rights each defendant violated. The form provides space to allege three separate counts (**one violation per count**). If you are alleging more than three counts, you must provide the necessary information about each additional count on a separate page. Number the additional pages “5-A,” “5-B,” etc., and insert them immediately behind page 5. Remember that you are limited to a total of fifteen additional pages.

1. Counts. You must identify which civil right was violated. **You may allege the violation of only one civil right per count.**

2. Issue Involved. Check the box that most closely identifies the issue involved in your claim. **You may check only one box per count.** If you check the box marked “Other,” you must identify the specific issue involved.

3. Supporting Facts. After you have identified which civil right was violated, you must state the supporting facts. Be as specific as possible. You must state what each individual defendant did to violate your rights. If there is more than one defendant, you must identify which defendant did what act. You also should state the date(s) on which the act(s) occurred, if possible.

4. Injury. State precisely how you were injured by the alleged violation of your rights.

5. Administrative Remedies. You must exhaust any available administrative remedies before you file a civil rights complaint. See 42 U.S.C. § 1997e. Consequently, you should disclose whether you have exhausted the inmate grievance procedures or administrative appeals for each count in your complaint. If the grievance procedures were not available for any of your counts, fully explain why on the lines provided.



**Part D. REQUEST FOR RELIEF:**

Print the relief you are seeking in the space provided.

**SIGNATURE:**

You must sign your name and print the date you signed the complaint. Failure to sign the complaint will delay the processing of your action. Unless you are an attorney, you may not bring an action on behalf of anyone but yourself.

**FINAL NOTE**

You should follow these instructions carefully. Failure to do so may result in your complaint being stricken or dismissed. All questions must be answered concisely in the proper space on the form. If you need more space, you may attach no more than fifteen additional pages. But the form must be completely filled in to the extent applicable. If you attach additional pages, be sure to identify which section of the complaint is being continued and number the pages.



\_\_\_\_\_  
Name and Prisoner/Booking Number

\_\_\_\_\_  
Place of Confinement

\_\_\_\_\_  
Mailing Address

\_\_\_\_\_  
City, State, Zip Code

**(Failure to notify the Court of your change of address may result in dismissal of this action.)**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA**

_____ (Full Name of Plaintiff)	)	
Plaintiff,	)	
	)	
vs.	)	<b>CASE NO.</b> _____
	)	(To be supplied by the Clerk)
(1) _____ (Full Name of Defendant)	)	
(2) _____	)	
(3) _____	)	<b>CIVIL RIGHTS COMPLAINT BY A PRISONER</b>
(4) _____	)	
Defendant(s).	)	<input type="checkbox"/> Original Complaint
	)	<input type="checkbox"/> First Amended Complaint
<input type="checkbox"/> Check if there are additional Defendants and attach page 1-A listing them.	)	<input type="checkbox"/> Second Amended Complaint

**A. JURISDICTION**

1. This Court has jurisdiction over this action pursuant to:
- ☐ 28 U.S.C. § 1343(a); 42 U.S.C. § 1983
- ☐ 28 U.S.C. § 1331; Bivens v. Six Unknown Federal Narcotics Agents, 403 U.S. 388 (1971).
- ☐ Other: \_\_\_\_\_
2. Institution/city where violation occurred: \_\_\_\_\_



## B. DEFENDANTS

1. Name of first Defendant: \_\_\_\_\_. The first Defendant is employed as:  
\_\_\_\_\_ at \_\_\_\_\_.  
(Position and Title) (Institution)
2. Name of second Defendant: \_\_\_\_\_. The second Defendant is employed as:  
\_\_\_\_\_ at \_\_\_\_\_.  
(Position and Title) (Institution)
3. Name of third Defendant: \_\_\_\_\_. The third Defendant is employed as:  
\_\_\_\_\_ at \_\_\_\_\_.  
(Position and Title) (Institution)
4. Name of fourth Defendant: \_\_\_\_\_. The fourth Defendant is employed as:  
\_\_\_\_\_ at \_\_\_\_\_.  
(Position and Title) (Institution)

If you name more than four Defendants, answer the questions listed above for each additional Defendant on a separate page.

## C. PREVIOUS LAWSUITS

1. Have you filed any other lawsuits while you were a prisoner? ☐ Yes ☐ No
2. If yes, how many lawsuits have you filed? \_\_\_\_\_. Describe the previous lawsuits:
  - a. First prior lawsuit:
    1. Parties: \_\_\_\_\_ v. \_\_\_\_\_
    2. Court and case number: \_\_\_\_\_
    3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) \_\_\_\_\_
  - b. Second prior lawsuit:
    1. Parties: \_\_\_\_\_ v. \_\_\_\_\_
    2. Court and case number: \_\_\_\_\_
    3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) \_\_\_\_\_
  - c. Third prior lawsuit:
    1. Parties: \_\_\_\_\_ v. \_\_\_\_\_
    2. Court and case number: \_\_\_\_\_
    3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) \_\_\_\_\_

If you filed more than three lawsuits, answer the questions listed above for each additional lawsuit on a separate page.



#### D. CAUSE OF ACTION

## COUNT I

1. State the constitutional or other federal civil right that was violated: \_\_\_\_\_

2. **Count I.** Identify the issue involved. Check **only one**. State additional issues in separate counts.
- |  |   |   |                                       |
|--|---|---|---------------------------------------|
| <input type="checkbox"/> Basic necessities             | <input type="checkbox"/> Mail             | <input type="checkbox"/> Access to the court  | <input type="checkbox"/> Medical care |
| <input type="checkbox"/> Disciplinary proceedings      | <input type="checkbox"/> Property         | <input type="checkbox"/> Exercise of religion | <input type="checkbox"/> Retaliation  |
| <input type="checkbox"/> Excessive force by an officer | <input type="checkbox"/> Threat to safety | <input type="checkbox"/> Other: _____         |                                       |

3. **Supporting Facts.** State as briefly as possible the FACTS supporting Count I. Describe exactly what **each Defendant** did or did not do that violated your rights. State the facts clearly in your own words without citing legal authority or arguments.

4. **Injury.** State how you were injured by the actions or inactions of the Defendant(s).

- ## 5. Administrative Remedies:

- a. Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution? ☐ Yes ☐ No
- b. Did you submit a request for administrative relief on Count I? ☐ Yes ☐ No
- c. Did you appeal your request for relief on Count I to the highest level? ☐ Yes ☐ No
- d. If you did not submit or appeal a request for administrative relief at any level, briefly explain why you did not. \_\_\_\_\_



## COUNT II

1. State the constitutional or other federal civil right that was violated: \_\_\_\_\_

2. **Count II.** Identify the issue involved. Check **only one**. State additional issues in separate counts.

□ Basic necessities

☐ Mail

☐ Access to the court

☐ Medical care

☐ Disciplinary proceedings

□ Property

☐ Exercise of religion

□ Retaliation

☐ Excessive force by an officer

- Threat to safety

☐ Other:

☐ Other: \_\_\_\_\_

3. **Supporting Facts.** State as briefly as possible the FACTS supporting Count II. Describe exactly what **each Defendant** did or did not do that violated your rights. State the facts clearly in your own words without citing legal authority or arguments.

This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

4. **Injury.** State how you were injured by the actions or inactions of the Defendant(s).

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- ## 5. Administrative Remedies.

- a. Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution? ☐ Yes ☐ No

- b. Did you submit a request for administrative relief on Count II? ☐ Yes ☐ No

- c. Did you appeal your request for relief on Count II to the highest level? ☐ Yes ☐ No

- d. If you did not submit or appeal a request for administrative relief at any level, briefly explain why you did not. \_\_\_\_\_



### COUNT III

1. State the constitutional or other federal civil right that was violated: \_\_\_\_\_

2. **Count III.** Identify the issue involved. Check **only one**. State additional issues in separate counts.
- |  |   |   |                                       |
|--|---|---|---------------------------------------|
| <input type="checkbox"/> Basic necessities             | <input type="checkbox"/> Mail             | <input type="checkbox"/> Access to the court  | <input type="checkbox"/> Medical care |
| <input type="checkbox"/> Disciplinary proceedings      | <input type="checkbox"/> Property         | <input type="checkbox"/> Exercise of religion | <input type="checkbox"/> Retaliation  |
| <input type="checkbox"/> Excessive force by an officer | <input type="checkbox"/> Threat to safety | <input type="checkbox"/> Other: _____         |                                       |

3. **Supporting Facts.** State as briefly as possible the FACTS supporting Count III. Describe exactly what **each Defendant** did or did not do that violated your rights. State the facts clearly in your own words without citing legal authority or arguments.

[illegible]

4. **Injury.** State how you were injured by the actions or inactions of the Defendant(s).

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- ## 5. Administrative Remedies.

- a. Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution? ☐ Yes ☐ No
- b. Did you submit a request for administrative relief on Count III? ☐ Yes ☐ No
- c. Did you appeal your request for relief on Count III to the highest level? ☐ Yes ☐ No
- d. If you did not submit or appeal a request for administrative relief at any level, briefly explain why you did not.

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**If you assert more than three Counts, answer the questions listed above for each additional Count on a separate page.**



### **E. REQUEST FOR RELIEF**

State the relief you are seeking:

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

Executed on \_\_\_\_\_  
DATE

\_\_\_\_\_  
SIGNATURE OF PLAINTIFF

\_\_\_\_\_  
(Name and title of paralegal, legal assistant, or  
other person who helped prepare this complaint)

\_\_\_\_\_  
(Signature of attorney, if any)

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\_\_\_\_\_  
(Attorney's address & telephone number)

### **ADDITIONAL PAGES**

All questions must be answered concisely in the proper space on the form. If you need more space, you may attach no more than fifteen additional pages. But the form must be completely filled in to the extent applicable. If you attach additional pages, be sure to identify which section of the complaint is being continued and number all pages.