

INSTRUCTIONS FOR FILING A COMPLAINT BY A PRISONER
UNDER THE CIVIL RIGHTS STATUTE, 42 U.S.C. § 1983

I. Scope of Section 1983

An action under Section 1983 is available to challenge violations of the federal constitution or federal statutes which affect the conditions of your confinement or your treatment by government employees while in custody. Although you may ask for and obtain money damages or an injunction under Section 1983, the court cannot issue an order which could affect the length of your sentence in any way. Those types of claims may only be raised through a petition for a writ of habeas corpus. If you want to file a petition for a writ of habeas corpus, you must do so on the correct forms, which are provided by the Clerk of the Court on request.

II. Packet

Three copies of a complaint form are attached to this instruction sheet. In addition, included in the packet are an information sheet for prisoners seeking leave to proceed in forma pauperis (without prepayment of filing fees) and two copies of an application to proceed in forma pauperis. To start an action, the following items must be included:

1. An original and one copy of the complaint. You must keep an additional copy of the complaint for your own records. All copies of the complaint must be identical to the original.
2. Either a completed in forma pauperis application or the \$350.00 filing fee.

III. Complaint Form

Your complaint must be legibly handwritten or typewritten. You must sign each copy of the complaint and declare under penalty of perjury that the facts stated in the complaint are correct. If you need additional space to answer a question, you should attach an additional blank page. You are required to state facts in support of each claim. The complaint should refer to the provision of the federal constitution or federal law on which you are relying, but should not contain legal arguments or citations.

IV. Venue

Your complaint should be brought in the Sacramento Division of this court only if one or more of the named defendants is located in the Sacramento Division of the Eastern District of California or if your claim arose in the Sacramento Division of this district. The Sacramento Division of the Eastern District of California is comprised of the following counties: Alpine, Amador, Butte, Colusa, El Dorado, Glenn, Lassen, Modoc, Mono, Nevada, Placer, Plumas, Sacramento, San Joaquin, Shasta, Sierra, Siskiyou, Solano, Sutter, Tehama, Trinity, Yolo, and Yuba.

“instruct” Revised 2/05

Your complaint should be brought in the Fresno Division of this court only if one or more of the named defendants is located in the Fresno Division of the Eastern District of California or if your claim arose in the Fresno Division of this district. The Fresno Division of the Eastern District of California is comprised of the following counties: Fresno, Calaveras, Inyo, Kern, Kings, Madera, Mariposa, Merced, Stanislaus, Tulare, and Tuolumne.

V. Mailing the Forms

When all of the forms described in part II are completed, if you are bringing your case in the Sacramento Division, mail the original and copies to:

Clerk of the U.S. District Court
for the Eastern District of California
501 I Street, Room 4-400
Sacramento, California 95814

If you are bringing your case in the Fresno Division, mail the original and copies to:

Clerk of the U.S. District Court
for the Eastern District of California
2500 Tulare Street
Fresno, California 93721

VI. After the Complaint is Filed

Once the complaint is filed, the court will review it and decide whether to order service of the complaint on the defendants. You will be sent a copy of any order the court issues. Because of the large volume of cases filed by inmates pending in this court, the court WILL NOT ANSWER INQUIRIES concerning the status of your complaint.

You must keep the Clerk of the Court informed of any change of address. If you fail to do so, the Clerk cannot be responsible for your failure to receive Court orders. This could result in the dismissal of your suit.

The Clerk of the Court does not provide copies of documents to litigants, Copies of any volume may be obtained from Attorney's Diversified Services (ADS): 1424 21st Street, Sacramento, CA 95814. Their phone number is 916-441-4396. We will, however, provide copies of dockets at the rate of fifty cents (\$0.50) per page. Checks in the exact amount are made payable to "Clerk, USDC." In forma pauperis status does not waive the cost of copies. Therefore you must keep copies of all documents submitted to the court for your own records.

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

(Name of Plaintiff)

(Case Number)

(Address of Plaintiff)

vs.

COMPLAINT

(Names of Defendants)

I. Previous Lawsuits:

A. Have you brought any other lawsuits while a prisoner: Yes No

B. If your answer to A is yes, how many?: _____ Describe the lawsuit in the space below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper using the same outline.)

1. Parties to this previous lawsuit:

Plaintiff _____

Defendants _____

IV. Statement of Claim

(State here as briefly as possible the facts of your case. Describe how each defendant is involved, including dates and places. Do not give any legal arguments or cite any cases or statutes. Attach extra sheets if necessary.)

V. Relief.

(State briefly exactly what you want the court to do for you. Make no legal arguments. Cite no cases or statutes.)

Signed this _____ day of _____, 20_____.

(Signature of Plaintiff)

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

(Date)

(Signature of Plaintiff)

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

(Name of Plaintiff)

(Case Number)

(Address of Plaintiff)

vs.

COMPLAINT

(Names of Defendants)

I. Previous Lawsuits:

A. Have you brought any other lawsuits while a prisoner: Yes No

B. If your answer to A is yes, how many?: _____ Describe the lawsuit in the space below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper using the same outline.)

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(Date)

(Signature of Plaintiff)

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

(Name of Plaintiff)

(Case Number)

(Address of Plaintiff)

vs.

COMPLAINT

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Signed this _____ day of _____, 20_____.

(Signature of Plaintiff)

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(Date)

(Signature of Plaintiff)

INFORMATION TO PRISONERS SEEKING LEAVE TO
PROCEED WITH A CIVIL ACTION IN FEDERAL COURT
IN FORMA PAUPERIS PURSUANT TO 28 U.S.C. § 1915

In accordance with 1996 amendments to the in forma pauperis (IFP) statute, as a prisoner you will be obligated to pay the full filing fee of \$350.00 for a civil action. If you later file an appeal, the filing fee for the appeal is \$455.00.

If you have the money to pay the filing fee, you should send a cashier's check or money order to the court with your complaint, petition, or notice of appeal and, if appropriate, your IFP application.

If you do not have enough money to pay the full filing fee when your action is filed, you can file the action without prepaying the filing fee. However, 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 percent of the average monthly deposits to your prison or jail account for the six months immediately preceding the filing of the lawsuit, or 20 percent 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 to forward the money to the court.

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 percent 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 court any time the amount in the account exceeds \$10.00. The balance of the filing fee may be collected even if the action is later dismissed, summary judgment is granted against you or you fail to prevail at trial.

In order to proceed with an action in forma pauperis you must complete the attached form and return it to the court with your complaint. You must have a prison or jail official complete the Certification section on the back of the form and attach to the form a certified copy of your prison or jail account statement for the last six months. If you submit an incomplete form or do not submit a prison or jail account statement with the form, your request to proceed in forma pauperis will be denied.

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 which are dismissed as frivolous or malicious or for failure to state a claim on which relief can be granted, then you will be prohibited from bringing any other actions in forma pauperis unless you are in imminent danger of serious physical injury.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

**APPLICATION TO PROCEED
IN FORMA PAUPERIS
BY A PRISONER**

Plaintiff
vs.

Defendant

CASE NUMBER:

I, _____, declare that I am the plaintiff in the above-entitled proceeding; that, in support of my request to proceed without prepayment of fees under 28 U.S.C. § 1915, I declare that I am unable to pay the fees for these proceedings or give security therefor and that I am entitled to the relief sought in the complaint.

In support of this application, I answer the following questions under penalty of perjury:

1. Are you currently incarcerated: Yes No (If "No" DO NOT USE THIS FORM)

If "Yes" 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. Are you currently employed? Yes No

a. If the answer is "Yes" state the amount of your pay.

b. If the answer is "No" state the date of your last employment, the amount of your take-home salary or wages and pay period, and the name and address of your last employer.

3. In the past twelve months have you received any money from any of the following sources?

a. Business, profession or other self-employment Yes No

b. Rent payments, interest or dividends Yes No

c. Pensions, annuities or life insurance payments Yes No

d. Disability or workers compensation payments Yes No

e. Gifts or inheritances Yes No

f. Any other sources Yes No

If the answer to any of the above is "Yes" describe by that item each source of money and state the amount received **and** what you expect you will continue to receive. Please attach an additional sheet if necessary.

4. Do you have cash or checking or savings accounts? Yes No

If "Yes" state the total amount: _____

5. Do you own any real estate, stocks, bonds, securities, other financial instruments, automobiles or other valuable property? Yes No

If "Yes" describe the property and state its value. _____

6. Do you have any other assets? Yes No

If "Yes" list the asset(s) and state the value of each asset listed.

7. List the persons who are dependent on you for support, state your relationship to each person and indicate how much you contribute to their support.

I hereby authorize the agency having custody of me to collect from my trust account and forward to the Clerk of the United States District Court payments in accordance with 28 U.S.C. § 1915(b)(2).

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

DATE SIGNATURE OF APPLICANT

CERTIFICATE

(To be completed by the institution of incarceration)

I certify that the applicant named herein has the sum of \$_____ on account to his/her credit at _____ (name of institution). 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 \$_____.

(Please attach a certified copy of the applicant's trust account statement showing transactions for the past six months.)

DATE SIGNATURE OF AUTHORIZED OFFICER