

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.** **Incarcerated persons are encouraged to file their complaints using the court-approved form attached to these instructions.** The form must be typed or neatly handwritten and 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 are **strongly encouraged to limit your complaint to 25 pages of standard letter-sized paper.** [Note, if filing electronically under the CDCR pilot program, your complaint, including exhibits, cannot exceed 25 pages, absent permission from the Court.] 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 and Administrative Fees.** The total fees for this action are \$400.00 (\$350.00 filing fee plus \$50.00 administrative fee). If you are unable to pay the fees, 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. The \$50.00 administrative fee does not apply to persons granted in forma pauperis status.
- 5. Original.** You must send your complaint to the Court. If you wish to have a file-stamped copy of the complaint returned to you must include a copy of the complaint along with a stamped, self-addressed envelope for that copy to be returned to you. All copies must be identical to the original. Copies may be legibly handwritten.
- 6. Where to File.** You should file your complaint in the division **where you were confined when your rights were allegedly violated.** If you were confined in Alpine, Amador, Butte, Colusa, El Dorado, Glenn, Lassen, Modoc, Mono, Nevada, Placer, Plumas, Sacramento, San Joaquin, Shasta, Sierra, Siskiyou, Solano, Sutter, Tehama, Trinity, Yolo, or Yuba County, file in the Sacramento Division. If you were confined in Fresno, Calaveras, Inyo, Kern, Kings, Madera, Mariposa, Merced, Stanislaus, Tulare, or Tuolumne County, file in the Fresno Division. Mail the original with the \$400 filing and administrative fees **or** a completed application to proceed *in forma pauperis* to:

Sacramento Division:
Clerk of the U.S. District Court
for the Eastern District of California
501 I Street, Room 4-200
Sacramento, California 95814

OR

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

7. 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.**

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. L.R. 137(c). In addition, an amended complaint may not incorporate by reference any part of your prior complaint. L.R.220. **Any allegations or defendants not included in the amended complaint are considered abandoned.** 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 claims (**one violation per claim**). If you are alleging more than three claims, you must provide the necessary information about each additional claim on a separate page. Number the additional pages “5-A,” “5-B,” etc., and insert them immediately behind page 5. Remember that you are strongly encouraged to limit your complaint to twenty-five pages.

1. Claims. You must identify which civil right was violated. **You may allege the violation of only one civil right per claim.**
2. Issue Involved. Check the box that most closely identifies the issue involved in your claim. **You may check only one box per claim.** 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 or did not do which you allege violated 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 claim in your complaint. If the grievance procedures were not available for any of your claims, 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. You are strongly encouraged to file a complaint that is no longer than twenty-five 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. Remember, there is no need to attach exhibits to your complaint.

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,)

v.)

CASE NO. _____
(To be supplied by the Clerk)

(1) _____,)
(Full Name of Defendant)

(2) _____,)

(3) _____,)

(4) _____,)

Defendant(s).)

Check if there are additional Defendants and attach page 1-A listing them. _____)

**CIVIL RIGHTS COMPLAINT
BY A PRISONER**

- Original Complaint
- First Amended Complaint
- 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.

CLAIM III

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

2. **Claim III.** Identify the issue involved. Check **only one**. State additional issues in separate claims.

- | | | | |
|--|---|---|---------------------------------------|
| <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 Claim 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.

_____.

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 Claim III? Yes No
- c. Did you appeal your request for relief on Claim 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. _____
_____.

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

E. REQUEST FOR RELIEF

State the relief you are seeking:

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)

(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 more pages, but you are strongly encouraged to limit your complaint to twenty-five pages. If you attach additional pages, be sure to identify which section of the complaint is being continued and number all pages. Remember, there is no need to attach exhibits to your complaint.

**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* statute, **AS A PRISONER YOU WILL BE OBLIGATED TO PAY THE FULL FILING FEE OF \$350.00 FOR A CIVIL RIGHTS ACTION, \$5.00 FOR A HABEAS CORPUS PETITION, OR \$505.00 FOR AN APPEAL. If you are not afforded *in forma pauperis* status in a Civil Rights Action, you will be required to pay the \$350.00 filing fee plus a \$50.00 administrative fee for a total of \$400.00.**

If you have the money to pay the full filing fee, send a cashier's check or money order made payable to the U.S. District Court with your complaint, petition, or notice of appeal.

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. The court will order the facility where you are held in custody to collect the filing fee from your prison or jail trust account. EACH MONTH YOU WILL OWE 20 PERCENT OF YOUR PRECEDING MONTH'S INCOME TOWARD THE BALANCE UNTIL THE FILING FEE IS PAID IN FULL. The facility will forward payments to the court any time the amount in the account exceeds \$10.00. The balance of the filing fee will 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, habeas corpus petition, or appeal. The form includes your authorization for the agency having custody of you to provide a certified copy of your trust account statement for activity covering the last six months directly to the Court so that your eligibility for *in forma pauperis* status can be determined. Your signature on the form also authorizes the agency having custody of you to collect money from your trust account and forward it to the Clerk of the United States District Court payments if you are granted *in forma pauperis* status. 28 U.S.C. § 1915(b)(2). If you are housed at a non-CDRC facility (such as a local jail or federal facility), you must have your institution complete the certification on the form and attach a certified copy of your prison or jail account statement for the last six months.

If you submit an incomplete form or you are ineligible for *in forma pauperis* status, your request to proceed *in forma pauperis* will be denied.

The court is required to screen your complaint regardless of the amount of filing fee paid and will 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 incarcerated that are dismissed as frivolous, 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.

Name: _____

CDC No: _____

Address: _____

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

CASE NUMBER:

Plaintiff/Petitioner,

v.

APPLICATION TO PROCEED
IN FORMA PAUPERIS
BY A PRISONER

Defendants/Respondent.

_____ /

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)

State the place of your incarceration. _____

2. Are you currently employed (includes prison employment)? Yes No

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

3. Have you received any money from the following sources over the last twelve months?

- 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. Re 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, state the amount received, as well as what you expect you will continue to receive (attach an additional sheet if necessary).

4. Do you have cash (includes balance of 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 all persons dependent on you for support, stating your relationship to each person listed and how much you contribute to their support.

This form must be dated and signed below for the court to consider your application.

I hereby authorize the agency having custody of me to provide a certified copy of my trust account statement for activity covering the last six months to the Court. Additionally, once eligibility is established, I further 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).

DATE

SIGNATURE OF APPLICANT

Applicant's CDCR Number (Mandatory for CDCR Applicants): _____

CERTIFICATION BELOW IS TO BE COMPLETED BY
NON-CDCR INCARCERATED PRISONERS ONLY

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 monthly deposits to the applicants 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