

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

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

I. 42 U.S.C. § 1983

You may file an action under 42 U.S.C. § 1983 to challenge federal constitutional or statutory violations by state actors which affect the conditions of your confinement.

A § 1983 action may not be used to challenge the length of your sentence or the validity of your conviction. Such claims must be addressed in a petition for a writ of habeas corpus, on the correct forms provided by the clerk of the court.

II. Filing a § 1983 Action

To file a § 1983 action, you must submit: (1) an original complaint and (2) a check or money order for \$350.00 or an original Prisoner's In Forma Pauperis Application.

This packet includes a complaint form and a Prisoner's In Forma Pauperis Application. This and other forms for prisoners are also available at: <http://cand.uscourts.gov/prisresources>. When these forms are fully completed, mail the originals to:

Clerk's Office
United States District Court
Northern District of California
450 Golden Gate Avenue Box 36060
San Francisco, CA 94102

III. Filing Fees

The filing fee for a § 1983 action is currently \$350.00, to be paid at the time of filing. If you are unable to pay the full filing fee at this time, you may petition the court to proceed in forma pauperis, using the Prisoner's In Forma Pauperis Application in this packet. You must fully complete the application and sign and declare under penalty of perjury that the facts stated therein are true and correct.

Each plaintiff must submit his or her own Prisoner's In Forma Pauperis Application. You must use the Prisoner's In Forma Pauperis Application provided with this packet and not any other version.

IV. Complaint Form

You must complete the entire complaint form. All questions must be answered in order for your action to proceed. Your responses must be typewritten or legibly handwritten and you must sign and declare under penalty of perjury that the facts stated in the complaint are true and correct.

Under 42 U.S.C. § 1997e, you are required to exhaust available administrative remedies before filing a § 1983 action; you must indicate clearly in the space provided on the complaint form whether you have done so.

1 **V. Consent to Magistrate Judge Jurisdiction**

2 In order to encourage the just, speedy and inexpensive determination of § 1983 cases
3 filed in this district, the parties may waive their right to proceed before a district judge and
4 consent to proceed before a magistrate judge for all purposes. In accordance with 28 U.S.C. §
5 636(c), upon the consent of all the parties to proceed before a magistrate judge for all purposes,
6 the magistrate judge assigned to this case will conduct all proceedings, decide all dispositive and
7 non-dispositive matters, and order the entry of the final judgment. The party who does not
8 prevail may appeal directly to the Ninth Circuit Court of Appeals in the same manner as an
9 appeal from the final judgment of a district judge.

10 Magistrate judges are selected through a statutorily prescribed merit selection process
11 and are appointed by the judges of this court. The court encourages the parties to consent to
12 magistrate judge jurisdiction as it may result in an earlier resolution of the matter. Because of
13 different calendar pressures, magistrate judges may be able to set hearings and trials sooner than
14 district judges. But you are free to decline consent to magistrate judge jurisdiction. Please
15 indicate on the last page of the complaint form whether you consent or decline to consent to
16 magistrate judge jurisdiction.

17 **VI. After Complaint Is Filed**

18 You will be notified as soon as the court issues any order in your case. It is your
19 responsibility to keep the court informed of any changes of address to ensure you receive court
20 orders. Failure to so do may result in dismissal of your action.

21 **VII. Repeat Filers**

22 If you are seeking leave to proceed in forma pauperis and, while incarcerated or detained,
23 you have filed § 1983 actions on three or more prior occasions which were dismissed as
24 frivolous, malicious, or for failure to state a claim upon which relief may be granted, you may
25 not file a new § 1983 action unless you are under imminent danger of serious physical injury. 28
26 U.S.C. § 1915(g).

27 **VIII. Inquiries and Copying Requests**

28 Because of the large volume of cases filed by inmates in this court and very limited court
29 resources, the court cannot answer questions concerning the status of your case or provide copies
30 of documents, except at a charge of fifty cents (\$0.50) per page. You should keep a copy of each
31 document submitted to the court for your own records.

COMPLAINT BY A PRISONER UNDER THE CIVIL RIGHTS ACT, 42 U.S.C. § 1983

Name: _____

(Last)

(First)

(Middle)

Prisoner Number:

Institutional Address: _____

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

(Enter your full name.)

VS.

Case No. _____
(Leave blank; to be provided by Clerk of Court)

**COMPLAINT UNDER THE
CIVIL RIGHTS ACT,
42 U.S.C. § 1983**

(Enter the full name(s) of the defendant(s) in this action.)

I. Exhaustion of Administrative Remedies.

Note: You must exhaust available administrative remedies before your claim can go forward. The court will dismiss any unexhausted claims.

A. Place of present confinement _____

B. Is there a grievance procedure in this institution? YES NO

C. If so, did you present the facts in your complaint for review through the grievance procedure? YES NO

D. If your answer is YES, list the appeal number and the date and result of the appeal at each level of review. If you did not pursue any available level of appeal, explain why.

1. Informal appeal:

1 2. First formal level: _____
2
3
4 3. Second formal level: _____
5
6
7 4. Third formal level: _____
8
9

10 E. Is the last level to which you appealed the highest level of appeal available to you?

11 YES NO

12 F. If you did not present your claim for review through the grievance procedure, explain why.

13
14
15

16 **II. Parties.**

17 A. Write your name and present address. Do the same for additional plaintiffs, if any.

18
19
20

21 B. For each defendant, provide full name, official position and place of employment.

22
23
24
25
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28

1 **III. Statement of Claim.**

2 State briefly the facts of your case. Be sure to describe how each defendant is involved and
3 to include dates, when possible. Do not give any legal arguments or cite any cases or statutes. If
4 you have more than one claim, each claim should be set forth in a separate numbered paragraph.

5 _____
6 _____
7 _____
8 _____
9 _____
10 _____
11 _____
12 _____
13 _____
14 _____
15 _____

16 **IV. Relief.**

17 Your complaint must include a request for specific relief. State briefly exactly what you
18 want the court to do for you. Do not make legal arguments and do not cite any cases or statutes.

19 _____
20 _____
21 _____
22 _____
23 _____

24 **I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.**

25 Signed this _____ day of _____, 20____

27 _____
28 *(Plaintiff's signature)*

28 *Please continue to the next page.*

MAGISTRATE JUDGE JURISDICTION

Please indicate below by checking **one** of the two boxes whether you choose to consent or decline to consent to magistrate judge jurisdiction in this matter. Sign this form below your selection.

Consent to Magistrate Judge Jurisdiction

In accordance with the provisions of 28 U.S.C. § 636(c), I voluntarily consent to have a United States magistrate judge conduct all further proceedings in this case, including trial and entry of final judgment.

OR

Decline Magistrate Judge Jurisdiction

In accordance with the provisions of 28 U.S.C. § 636(c), I decline to have a United States magistrate judge conduct all further proceedings in this case, including trial and entry of final judgment.

Signed this ____ day of _____, 20 ____

(Plaintiff's signature)