

Guide to Filing Prisoner Complaints Without a Lawyer in The United States District Court for the Eastern District of Wisconsin

Introduction

Welcome to the federal district court.

This Guide is intended to help you write and file a complaint. Follow these steps and your litigation should run more smoothly.

The Guide comes with three attached documents:

- (1) a blank complaint form;
- (2) an optional blank application to proceed in court without prepaying the filing fee; and
- (3) examples of statements of a claim

If you are a prisoner filing a lawsuit under 42 U.S.C. § 1983, you must use the attached complaint form. In addition, the examples of statements of a claim may help you write your own claim.

Before you begin, consider whether your case belongs in federal court.

- Federal district courts generally hear two types of cases: (1) violations of federal law; and (2) violations of state law where the parties are citizens of different states and the amount at stake is more than \$75,000.
- Federal district courts do not review the decisions of state courts. Do not sue in a federal district court just because you are unhappy with the ruling of a state court.

Note on the use of the prison’s grievance system:

Prisoners are generally required to submit their claims to the prison’s grievance system before filing a federal suit about those claims. If you do not complete the prison’s entire grievance process before filing suit, the defendants may ask the court to dismiss your case for failure to exhaust administrative remedies, and the court may do so.

Contents of Your Complaint

Cases in federal court start with the complaint, and so does this Guide. The complaint is an important legal document. If you draft it correctly, it will be short and will tell the Court and the defendants exactly how you believe that your rights were violated.

What to put in your complaint:

Your complaint needs five things. These five parts correspond to the five sections that you see in the form complaint.

- A. **Caption and parties.** Your complaint must begin with a “caption.” The caption must include your name as the plaintiff and the names of the people you are suing (the defendants). (If the defendants harmed you while doing their jobs, tell the Court the name and address of the employers, if known to you.) Do not fill in the case number on the complaint. This will be done by the Clerk when you file your complaint. From then on, you should put the case number on papers that you file with the Court. This helps the Court keep all the papers in each case together.

- B. **Statement of Claim.** The most important part of your complaint is the “statement of your claim.” Describe *briefly* the exact problem that you are complaining about. You should explain five things:

- (1) **Who** violated your rights. Tell the name of each person who injured you.
- (2) **What** each defendant did. Tell what action each defendant took or failed to take that harmed you.
- (3) **When** they did it. Tell when each defendant harmed you.
- (4) **Where they did it.** Tell where each defendant harmed you.
- (5) **Why they did it.** If you know, tell the Court why each defendant harmed you.

Explain the “who,” “what,” “when,” “where,” and “why” clearly and simply. Tell the story as if you are telling it to someone who knows nothing about what happened to you, but put only the important facts in your statement of the claim.

A short and plain statement helps the judge to review your complaint quickly and move on to the next step of your case. A long complaint will take a judge longer to review and understand, and the judge may tell you to rewrite it. This will delay your case.

You may find it helpful to look at the examples of statements of a claim. Do not copy these examples or assume that the plaintiffs in these examples would win their cases. The examples show you how to write your claim, not what to say in your claim.

You may type or handwrite your complaint, so long as it is legible.

If you cannot finish your statement in the complaint form, you may continue your statement of the claim on another sheet of paper.

C. **Why your case belongs in federal court (“Jurisdiction”).** State why a federal court can decide your case. There are two main possibilities:

- (1) If your case involves a violation of federal law, a federal court can decide your case, and you should check the first box on the

form. This box refers to a federal statute, 28 U.S.C. § 1331, the law that gives federal courts the power to decide cases involving the violation of federal law.

- (2) If your case involves only a violation of state law, you may be able to check the second box. Generally, in order to check the second box, all the defendants must be citizens of a state other than the one of which you (and any other plaintiffs) are a citizen. In addition, more than \$75,000 must be in dispute.

- D. **Relief Wanted.** Your complaint should include a request for relief—what you want from each defendant, such as money or some particular action.
- E. **Jury Demand.** If you want to have your case decided by a jury, check “Yes” in the box provided.

What NOT to put in your complaint:

DO NOT attach a lot of papers or long statements from witnesses. **If you want the judge to know about a fact, just write the fact in your complaint. The complaint is not the place for *proving* facts. When the judge needs proof, you will have a chance to submit it later.**

DO NOT include lengthy quotations from statutes, laws, regulations, or cases. If you want, you may simply list the statute, law, or regulation that you believe the defendants violated. Later in the case, the defendants or the judge may ask you to explain in more detail why you think that the defendants have violated a law. You will then have an opportunity to quote from statutes, laws, regulations, or cases.

DO NOT include unrelated claims against different defendants. You may bring the same claim against more than one defendant only if all of the

named defendants played some part in the *same* situation that resulted in the alleged violation of your rights.

Filing Your Complaint

Filing Fee:

To file your complaint, you must pay a filing fee. The cost of filing a civil action is \$400.00, which includes the \$350.00 filing fee and a \$50.00 administrative fee. The full \$400.00 must be paid at the time the action is filed. Your check or money order should be made payable to the "Clerk of Court."

If you cannot afford the fee, you may ask the Court for permission to file your complaint without prepaying the full fee. Use the form "Prisoner Request to Proceed in District Court without Prepaying the Full Filing Fee." You must also submit a certified copy of your prisoner trust account statement showing transactions for the six-month period immediately preceding the filing of the complaint and showing the current balance of your account. You should ask for this report from the jail or prison in which you are housed. Note that if you have already filed three suits that a court has dismissed, you may have lost your right to proceed without prepaying the full filing fee.

Submitting Your Complaint:

The following institutions participate in the Court's Prisoner E-Filing Program: Dodge Correctional Institution, Green Bay Correctional Institution, Waupun Correctional Institution, Wisconsin Secure Program Facility, Columbia Correctional Institution, and Oshkosh Correctional Institution. If you are incarcerated at one of the above institutions, submit your original complaint and, if applicable, your Request to Proceed in District Court without Prepaying the Full Filing Fee form to institution staff for filing pursuant to the Court's Prisoner E-Filing Program. All future

filings with the Court must also be submitted to institution staff for electronic filing, as long as you remain at one of these institutions.

If you are not incarcerated at one of the above institutions, mail (1) your complaint and (2) your check or money order (if you can afford to prepay the full filing fee) or your Request to Proceed in District Court without Prepaying the Full Filing Fee and prisoner trust account statement to: Clerk of Court, United States District Court for the Eastern District of Wisconsin, 517 East Wisconsin Avenue, Room 362, Milwaukee, WI 53202.

BE SURE to keep for yourself an exact copy of your complaint and any other document you send to the Court.

DO NOT mail a copy of your complaint directly to any defendant.

COMPLAINT

(for filers who are prisoners without lawyers)

UNITED STATES DISTRICT COURT EASTERN DISTRICT OF WISCONSIN

(Full name of plaintiff(s))

v.

Case Number:

(Full name of defendant(s))

(to be supplied by Clerk of Court)

A. PARTIES

1. Plaintiff is a citizen of _____, and is located at
(State)

(Address of prison or jail)

(If more than one plaintiff is filing, use another piece of paper.)

2. Defendant _____
(Name)

is (if a person or private corporation) a citizen of _____
(State, if known)

and (if a person) resides at _____
(Address, if known)

and (if the defendant harmed you while doing the defendant's job)

worked for _____
(Employer's name and address, if known)

(If you need to list more defendants, use another piece of paper.)

B. STATEMENT OF CLAIM

On the space provided on the following pages, tell:

1. Who violated your rights;
2. What each defendant did;
3. When they did it;
4. Where it happened; and
5. Why they did it, if you know.

C. JURISDICTION

I am suing for a violation of federal law under 28 U.S.C. § 1331.

OR

I am suing under state law. The state citizenship of the plaintiff(s) is (are) different from the state citizenship of every defendant, and the amount of money at stake in this case (not counting interest and costs) is \$_____.

D. RELIEF WANTED

Describe what you want the Court to do if you win your lawsuit. Examples may include an award of money or an order telling defendants to do something or to stop doing something.

E. JURY DEMAND

I want a jury to hear my case.

– YES

– NO

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

Complaint signed this _____ day of _____ 20_____.

Respectfully Submitted,

Signature of Plaintiff

Plaintiff's Prisoner ID Number

(Mailing Address of Plaintiff)

(If more than one plaintiff, use another piece of paper.)

REQUEST TO PROCEED IN DISTRICT COURT WITHOUT PREPAYING THE FULL FILING FEE

I **DO** request that I be allowed to file this complaint without paying the filing fee. I have completed a Request to Proceed in District Court without Prepaying the Full Filing Fee form and have attached it to the complaint.

I **DO NOT** request that I be allowed to file this complaint without prepaying the filing fee under 28 U.S.C. § 1915, and I have included the full filing fee with this complaint.

EXAMPLES OF STATEMENTS OF A CLAIM

Statement of Claim (Example 1)

The plaintiff Peter Jackson is an inmate at *Stateville Correction Center in*

Where

When

Joliet, Illinois. During lunch on July 15, 2013, an inmate threatened to stab

Who 1 and 2

Jackson. Jackson reported the threat to two guards, *Tom Perez and John*

What happened

Why it happened

White, but they ignored the threat because they wanted to retaliate against Jackson

What else happened

for filing an earlier grievance. The next day, *the inmate stabbed Jackson in the*

neck, causing profuse bleeding. Jackson went to the infirmary, where

Who 3

doctor *Timothy Jones* told him that stab wounds, if untreated, would likely

What else happened

get infected. Yet the *Dr. Jones deliberately refused to treat Jackson, ignoring*

Why it happened

the risk of infection *for no reason*. Jackson seeks damages from the

Gonzalez and White for ignoring the threat of injury and from the doctor

for refusing to treat him.

Statement of Claim (Example 2)

Plaintiff Luther Jackson is an inmate at *Stateville Correction Center in Joliet*

Where

Illinois. He suffers from asthma. Two guards, *Hector Gonzalez and Bradley*

Who 1 and 2

White, knew that he is asthmatic. On *January 15, 2014*, they put him in a cell

When

What happened

with a broken window. The open window cooled the cell down to 20 degrees

Why it happened

Fahrenheit. *Unconcerned with his well-being*, the guards knew that by putting

What else happened

him in a cell with freezing-cold air healthy breathing would be difficult for

What else happened

Jackson. The two guards also knew that *the cell had no running water*, further

increasing the risk of infection. Because of these circumstances, Jackson

What else happened

contracted *pneumonia and was hospitalized* for two weeks for which he seeks

damages.

Statement of Claim (Example 3)

Plaintiff Manny Jackson is an inmate at the *Wisconsin Secure Program*

Where

Facility in Boscobel, Wisconsin. He possessed two items, a newspaper article

When

and diary, both of which criticize the warden. On *August 10, 2013*, two

Who 1 and 2

What happened

guards, *Hector Gonzalez and Bradley White*, took these items from his cell and

What else happened

charged him with violating a rule of the Wisconsin Department of

Corrections that prohibits inmate "insubordination." The Department's

Who 3

Why it happened

Secretary, *Ed Smith*, requires that guards enforce this rule. A prison

disciplinary board found Jackson guilty of insubordination because he

What else happened

possessed these two items. It punished him with *three weeks' segregation*.

Who 4

Two months later, *Warden Timothy Jones* approved the board's discipline

What else happened

and *authorized the segregation*.

Jackson wants the guilty finding and punishment overturned, his items

returned to him, damages for the time that he spent in segregation, and a

ruling that prohibits the Department from banning written criticisms of the

warden.

Statement of Claim (Example 4)

Where

The plaintiff Guy Johnson is an inmate at *Stateville Correction Center in Joliet,*

Illinois. As he was working at his regular job in the prison library on

When

February 18, 2014, Brian Whelan, a prison guard, approached him and

Who

accused him of stealing a prison book. When Johnson denied the accusation,

What happened

Whelan put Johnson into a choke-hold, kicked him in the groin several times,

What else happened

and shoved him into a table where he cut his head and lost consciousness

Why it happened

Whelan said he did this because Johnson was disrespecting a prison guard

Johnson seeks damages from Whelan for the use of unnecessary and

excessive force and compensation for his injuries.