

INSTRUCTIONS FOR FILING A COMPLAINT UNDER THE CIVIL RIGHTS ACT 42 U.S.C. § 1983 (against state, county, or municipal defendants) or A “BIVENS” ACTION, 28 U.S.C. § 1331 (against federal defendants)

This packet includes a complaint form and one application to proceed in forma pauperis (as a poor person) with financial affidavit. Local Rule 81.1 of the Local Rules of this court requires prisoners in custody filing suit under 42 U.S.C. § 1983 to use the court's form. This form is not something submitted with the complaint, it is the complaint. All questions on this form must be answered on the form. (You may attach additional sheets if necessary to complete your answer.) It is not permitted to answer a question “see attached” or “see attached complaint.” Such complaints may be summarily dismissed without prejudice. If you should choose to draft your own complaint instead of using the court's form, you must still include the information asked for in the court's form.

To bring a lawsuit, you must submit a complaint bearing your original signature. If you do not have access to a photocopier, you may request more copies of the complaint form from the Clerk of the Court so that you may make conformed copies. You should keep a copy of the complaint for your own records. In forma pauperis status does not entitle you to free copies of court records or documents. Therefore, the Clerk of the Court must charge you if you need photocopies of your complaint or any other motion or document.

If your defendants are state, county, or municipal employees, you should file your case under 42 U.S.C. § 1983. If your defendants are employees of the United States Government, you should file your case under 28 U.S.C. § 1331. If neither statute applies, you should cite the applicable statute, if known.

Your complaint and all other documents must be legibly handwritten or typewritten on one side of letter-sized (8½" x 11") paper and signed by all plaintiffs. It is not necessary to swear to the complaint before a notary public. However, you are warned that any false statement of a material fact may subject you to dismissal of your case as well as prosecution and conviction for perjury.

All questions must be answered concisely in the proper space on the forms. If you need additional space to answer a question, you may use additional blank pages. **YOUR COMPLAINT SHOULD NOT CONTAIN LEGAL ARGUMENTS OR CITATIONS.** You are required only to state the facts. You must describe how each defendant is personally involved in the activities upon which your claim is based.

Personal Identifiers

Federal Rules of Civil Procedure 5.2 addresses privacy and security concerns over public access to electronic court files. Under this rule, papers filed with the court should not contain anyone's full social-security number or full birth date; the name of a person known to be a minor; or a complete financial-account number. A filing may include only the last four digits of a social security number or taxpayer identification number; the year of someone's birth; a minor's initials; and the last four digits of a financial-account number. Please review the rule for a complete listing and exceptions.

Filing Fee

The filing fee is \$405. In addition, the United States Marshal may require you to pay the cost of serving the complaint on each of the defendants. If you are unable to pay the filing fee of \$405 and service costs for this action, you must petition the court to allow you to proceed in forma pauperis (that is, without prepaying costs and fees).

The Prison Litigation Reform Act ("PLRA") has changed the process for proceeding in forma pauperis. **Even if you are granted leave to proceed in forma pauperis, you will be responsible for paying the full amount of the \$405 fee for filing a complaint or the \$605 fee for filing an appeal in installment payments.** The initial installment is 20 percent of the greater of (1) the average monthly deposits (including any state pay and gifts) to your inmate trust fund account or (2) the average monthly balance in your account for the six-month period immediately preceding the filing of your complaint or notice of appeal. The court will calculate the initial installment and inform the institution having custody of you to remit this amount.

After the first installment is paid, you will be required to make monthly payments of 20 percent of the preceding month's income credited to your account. You should not send these monthly payments yourself. The institution having custody of you will forward the payments from your account to the clerk of the court each time the amount in your account exceeds \$10 until the filing fees are paid in full.

If you have no assets or other means to pay the initial installment, you will still be allowed to bring your action or appeal. However, you will be required to pay the entire filing fee in installments as described above as money becomes available in your account.

If a court issues a judgment against you that includes the payment of costs, you will be required to pay these costs and they will be collected in the same manner as your filing fee.

In Forma Pauperis Application

To file your application to proceed in forma pauperis, you must complete, sign, and attest as true and correct under penalty of perjury the enclosed application and financial affidavit.

You must have an authorized officer at the correctional institution complete the certificate as to the amount of money and securities on deposit to your credit in any account in the institution. **You must also attach a certified copy showing all transactions in your inmate trust fund account from each institution where you resided for the six-month period immediately preceding the filing of your complaint.** If you have been in more than one institution during the past six months, you must attach trust fund accounts from each institution. If there is more than one plaintiff, then each plaintiff must complete a separate in forma pauperis application and attach a copy of his or her trust fund account.

Other PLRA Provisions

You should be aware of several other provisions of the PLRA. **(1) “Three Strike” Provision.** If you file three cases or appeals that are dismissed as frivolous, malicious, or failing to state a claim, you will be barred from filing any more cases in forma pauperis unless you are in imminent bodily danger. Some common examples of dismissals that will count toward the three-strike limit include, but are not limited to, failure to name a suable and non-immune defendant; failure to allege facts that would indicate a violation of a federal right; dismissal of your action in response to a defendant’s motion to dismiss for failure to state a claim upon which relief may be granted; dismissal of an appeal as frivolous or not taken in good faith. Note: If the district court dismisses your case for one of these reasons, that will count as one strike. If you appeal the dismissal and the court of appeals dismisses your appeal, that may count as a second strike. **(2) Exhaustion.** You are now required to exhaust all your available administrative remedies before bringing an action in federal court. **(3) Physical Injury.** The law now provides that a prisoner, while confined, may not file a federal claim for mental or emotional injury suffered while in custody without a prior showing of physical injury.

Exhaustion of Administrative Remedies

The Prison Litigation Reform Act requires that a prisoner take all steps required by the prison’s grievance system (from filing a grievance to finalizing the appeal process) before filing a lawsuit in federal court. See 42 U.S.C. § 1997e(a). If you do not file a grievance through the prison’s grievance procedure, file an appeal, and await a final decision before filing suit, you will undoubtedly experience delay in your case in federal court. This is because the court will need to determine whether or not you have completed the grievance process because the Court is not permitted to hear your claim if you have not completed those necessary steps. If the court finds that you have not completed the grievance process, you may be required to go back and do so before you can proceed in federal court or, if the failure to complete the grievance process was your fault, your case may be dismissed. You do not have to set forth in your federal court complaint that you have, have not, or could not, finish the grievance process. However, in order to avoid delay or possible dismissal of your case in federal court, it might be in your best interest to set out in your complaint the steps you have taken to complete the prison grievance process.

U.S. Marshal's Forms and Summons

USM 285 forms should be completed and submitted at the time you submit your complaint. Summons will be prepared and issued by the Clerk's office, pursuant to a court order. You must complete a separate USM 285 form for each named defendant, giving the address where the U.S. Marshal can attempt to serve that defendant. No summons will be sent to you. You must provide a completed USM 285 form for each defendant named in your complaint.

Where to File

Your complaint should be filed in this district only if one or more of the named defendants resides within this district or if the events upon which you base your complaint took place in this district. The Stateville and Sheridan Illinois Correctional Centers are located in the Northern District of Illinois Eastern Division. The Dixon and Thompson Illinois Correctional Centers are located in the Northern District of Illinois Western Division. The Federal Metropolitan Correctional Center in Chicago is located in the Northern District of Illinois Eastern Division. A complaint filed in this court against officials at other state prisons may be subject to dismissal or transfer to the proper district. When these forms are properly completed, mail them to Prisoner Correspondent, United States District Court, 219 S. Dearborn Street, 20th Floor, Chicago IL 60604. Complaints concerning claims arising at the Dixon or Thompson Correctional Center should be sent to the Clerk, United States District Court, 327 S. Court Street, Rockford, IL 61101. Always keep the court informed of your address; failure to do so may result in dismissal of your case.