

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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

I. SCOPE OF 42 U.S.C. § 1983

You may file a civil rights 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 forms provided by the clerk. If you wish to challenge a state court sentence or conviction, ask for the packet titled *Instructions for Filing a Petition for a Writ of Habeas Corpus by a Person in State Custody under 28 U.S.C. § 2254*.

II. FILING A § 1983 ACTION

To file a § 1983 action, you must submit:

- an original, completed complaint form; and
- a check or money order for \$402, or an original, completed Prisoner's Application to Proceed *In Forma Pauperis* (see more below).

When these forms are completed fully, provide these forms to the librarian for scanning if the prison participates in Prison Email Filing with this court; otherwise, mail the originals to: Clerk, U.S. District Court for the Northern District of California, 450 Golden Gate Avenue, Box 36060, San Francisco, CA 94102.

III. FILING FEE

The fee for filing a § 1983 action is \$402 (\$350 filing fee plus \$52 administrative fee), to be paid at the time of filing. If you are unable to pay the full fee when you file your complaint, you may petition the court to proceed *in forma pauperis*, using the forms provided by the clerk. Ask for the packet titled *Instructions for Filing an Application to Proceed In Forma Pauperis by a Prisoner under 28 U.S.C. § 1915*. Even if you are granted leave to proceed in forma pauperis, you must still pay the \$350 filing fee (not the \$52 administrative fee), but the filing fee will be paid in several installments.

You must complete the Prisoner's Application to Proceed *In Forma Pauperis* in its entirety 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 and not any other version.

IV. COMPLAINT FORM

You must complete the complaint form in its entirety. All questions must be answered 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.

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.

V. MAGISTRATE JUDGE JURISDICTION

Magistrate judges are selected through a statutorily prescribed merit selection process and are appointed by the judges of this court. The court encourages parties to consent to magistrate judge jurisdiction as it may result in an earlier resolution of the matter; the rules and procedures used to decide your case will be the same regardless of whether a district judge or a magistrate judge decides your case. But you are free to decline magistrate judge jurisdiction and request that your case be decided by a district judge. Please indicate on the *Consent or Declination to Magistrate Judge Jurisdiction* form, provided by the clerk, whether you consent or decline to consent to magistrate judge jurisdiction.

VI. AFTER YOUR COMPLAINT IS FILED

The clerk will assign a case number and judge to your complaint and mail you a copy of the first page, which will have the case number and judge's initials stamped on it. (If your prison participates in Prison Email Filing with this court, you will get a confirmation email from the court with this information.) Please retain this copy for your records and put the case number on any case-related document you send to the court. If your complaint is deficient in any way, the clerk may send you a notice that will require your response. If your case is assigned to a magistrate judge before you consented or declined to consent to magistrate judge jurisdiction, the clerk may send you a *Consent or Declination to Magistrate Judge Jurisdiction* form that will require your response. Please note that it is your responsibility to inform the court in writing without delay if your address changes. You will be notified at the address the court has on record whenever the court issues an order. A failure to respond to notices or orders or a failure to update your address may result in the dismissal of your case.

VII. REPEAT FILERS

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

VIII. INQUIRIES AND COPYING REQUESTS

Because of the large volume of cases filed in this court and limited court resources, the court will not answer inquiries concerning the status of your case or provide copies of documents, except at a charge of fifty cents (\$0.50) per page. It is therefore recommended that you make and keep for your records a copy of every document you submit to the court.

Plaintiff's Name _____

Prisoner No. _____

Institutional Address _____

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

(Enter your full name)

v.

(Enter the full name(s) of all defendants in this action)

Case No. _____
(Provided by the clerk upon filing)

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

I. Exhaustion of Administrative Remedies.

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: _____

2. First formal level: _____

3. Second formal level: _____

4. Third formal level: _____

E. Is the last level to which you appealed the highest level of appeal available to you?
 YES NO

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

II. Parties.

A. If there are additional plaintiffs besides you, write their name(s) and present address(es).

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

III. Statement of Claim.

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

