

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS

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

This packet contains two copies of a complaint form and two copies of an original in forma pauperis petition. To start an action, you must submit one original and two copies of your complaint. A copy will be returned to you file-marked for your records. All copies of the complaint must be identical to the original. You must submit one original and two copies of all subsequent pleadings.

You **MUST** submit the address of each person you name as a defendant. Without this information the U.S. Marshal cannot serve the defendant.

Your complaint will not be filed unless it conforms to these instructions and to these forms.

Your complaint must be legibly handwritten or typewritten. The plaintiff, or plaintiffs, must sign and swear to the complaint. If you need additional space to answer a question, you may use the reverse side of the form or an additional blank page.

Your complaint can be brought in this court only if one or more of the named defendants is located within this district. Further, it is necessary for you to submit a separate complaint for each claim that you have unless they are all related to the same incident or issue.

In order for this complaint to be filed, it must be accompanied by the filing fee of \$250. In addition, the U.S. Marshal will require you to pay the costs of serving the complaint on each of the defendants.

If you are unable to pay the filing fee and service costs for this action, you may petition the court to proceed in forma pauperis. Two blank petitions for this purpose are included in this packet. One copy should be submitted with your complaint; the other copy is for your records.

You will note that you are required to give facts. **THIS COMPLAINT SHOULD NOT CONTAIN LEGAL ARGUMENTS OR CITATIONS.**

Under a local rule of this court, it is your obligation as a pro se plaintiff to inform the court at all times of your current mailing address. It is also your duty to prosecute your case diligently and monitor its progress. These obligations normally rest with attorneys in any case. However, because you are not represented by counsel, these duties will fall upon you personally.

Again, you are advised that you must promptly inform the court of any change of address. If you are presently incarcerated, inform the court immediately upon your release.

If the court does not receive a response within 30 days to any communication addressed to you at the last address provided by you, the court will assume that you have no further interest in the case and may dismiss same without prejudice, upon motion of an adverse party or sua sponte (i.e., by the court acting on its own initiative).

When these forms are completed, mail the original and the copies to:

Pro Se Clerk
600 West Capitol Avenue, Suite 402
Little Rock, Arkansas 72201-3325

NOTICE: Pro se parties must have prior approval from the Court before submitting any non-documentary exhibits in support of their claims. Non-documentary exhibits must remain in the custody of the party until the trial or hearing unless otherwise directed by the Court. Any item received through the mail that is not a paper document or that is potentially hazardous will not be considered as evidence by the Court and will be immediately disposed of.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS

ADDITIONAL FILING INSTRUCTIONS FOR 42 U.S.C. § 1983 COMPLAINTS
IN LIGHT OF THE PRISONER LITIGATION REFORM ACT

On April 16, 1996, the Prison Litigation Reform Act of 1995, Publ. L. No. 104-134, 110 Stat. 1321 (“the Act”) was enacted. The Act has amended various statutes affecting prisoner litigation including 28 U.S.C. § 1915, the statute governing in forma pauperis applications.

- A. The Act has changed the requirements for prisoners who wish to bring a civil action or file an appeal in forma pauperis. Under the Act, even if a prisoner brings a civil action in forma pauperis, the prisoner must pay the full amount of the \$250 filing fee. Section 804(a)(3) [to be codified at 28 U.S.C. § 1915(b)(1)]. Furthermore, even if the full filing fee or any portion thereof has been paid, the Court must dismiss the case at any time if it determines that the action is: (1) frivolous or malicious; (2) fails to state a claim upon which relief may be granted; or (3) seeks monetary relief against a defendant who is immune from such relief. Section 804(a)(5) [to be codified at 28 U.S.C. § 1915(a)(2)]. If the case is dismissed for any of these reasons, there is no provision in the Act for a refund of any portion of the filing fee to the prisoner.
- B. Under the Act, in order for the Court to determine how the \$250 filing fee will be paid, the prisoner is required to submit a certified copy of his/her Inmate Trust Fund Account Statement for the six (6) month period immediately preceding the filing of the Complaint. Section 804(a) [to be codified at 28 U.S.C. § 1915(a)(2)]. The district court must “assess and, when funds exist, collect, as a partial payment of any court fees required by law, an initial filing fee of 20 percent of the greater of – (A) the average monthly deposits to the prisoner’s account; or (B) the average monthly balances in the prisoner’s account for the 6-month period immediately preceding the filing of the complaint ...” Section 804(a)(93) [to be codified at 28 U.S.C. § 1915(b)(1)].
- C. After the initial partial filing fee is paid, the prisoner is “required to make monthly payments of 20 percent of the preceding month’s income credited to the prisoner’s account. The agency having custody of the prisoner shall forward payments from the prisoner’s account to the clerk of the court each time the amount in the account exceeds \$10 until the filing fees are paid.” *Id.* [to be codified at 28 U.S.C. § 1915(b)(2)]. The Act also provides that in no event shall a prisoner be prohibited from bringing a civil action because he “has no assets and no means by which to pay the initial partial filing fee.” *Id.* [to be codified at 28 U.S.C. § 1915(b)(4)].
- D. 3-DISMISSAL RULE: The Act also provides that in forma pauperis status may not be granted if the prisoner has had 3 or more prior federal action or appeals dismissed as frivolous, malicious or for failure to state a claim. However, there is one exception to this 3-Dismissal rule: if the prisoner is in imminent danger of serious physical injury. Section 804(d) [adding a new subsection, to be codified at 28 U.S.C. § 1915(g)].
- E. EXHAUSTION REQUIREMENTS: The Act § 803(d) also includes a change to 42 U.S.C. § 1997e(a) to provide that no prison conditions action “shall be brought ... until such administrative remedies as are available are exhausted.” When filing a prison conditions lawsuit in this court, prisoners must supply proof of exhaustion by including a copy of the response at the last step of the grievance process. For Arkansas Department of Correction inmates that last step is the response from the Director.

**FORM TO BE USED BY PRISONERS IN FILING A COMPLAINT
UNDER THE CIVIL RIGHTS ACT, 42 U.S.C. § 1983**

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF ARKANSAS
_____ DIVISION**

CASE NO. _____

I. Parties

In item A below, place your full name in the first blank and place your present address in the second blank. Do the same for additional plaintiffs, if any.

A. Name of plaintiff: _____
ADC # _____

Address: _____

Name of plaintiff: _____
ADC # _____

Address: _____

Name of plaintiff: _____
ADC # _____

Address: _____

In item B below, place the full name of the defendant in the first blank, his official position in the second blank, his place of employment in the third blank, and his address in the fourth blank.

B. Name of defendant: _____

Position: _____

Place of employment: _____

Address: _____

Name of defendant: _____

Position: _____

Place of employment: _____

Address: _____

Name of defendant: _____

Position: _____

Place of employment: _____

Address: _____

Name of defendant: _____

Position: _____

Place of employment: _____

Address: _____

II. Are you suing the defendants in:

- official capacity only
- personal capacity only
- both official and personal capacity

III. Previous lawsuits

A. Have you begun other lawsuits in state or federal court dealing with the same facts involved in this action?

Yes ___ No ___

B. If your answer to A is yes, describe the lawsuit in the space below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, using the same outline.)

Parties to the previous lawsuit:

Plaintiffs: _____

Defendants: _____

Court (if federal court, name the district; if state court, name the county):

-
- Docket Number: _____
 - Name of judge to whom case was assigned: _____
 - Disposition: (for example: Was the case dismissed? Was it appealed? Is it still pending?) _____
 - Approximate date of filing lawsuit: _____
 - Approximate date of disposition: _____

IV. Place of present confinement: _____

V. At the time of the alleged incident(s), were you:
(check appropriate blank)

_____ in jail and still awaiting trial on pending criminal charges

_____ serving a sentence as a result of a judgment of conviction

_____ in jail for other reasons (e.g., alleged probation violation, etc.)
explain: _____

VI. There is a prisoner grievance procedure in the Arkansas Department of Corrections.
Failure to complete the grievance procedure may affect your case in federal court.

A. Did you present the facts relating to your complaint in the state prisoner grievance procedure?

Yes ____ No ____

B. If your answer is YES, attach copies evidencing completion of the final step of the grievance appeal procedure. **FAILURE TO ATTACH THE REQUIRED COPIES MAY RESULT IN THE DISMISSAL OF YOUR COMPLAINT.**

C. If your answer is NO, explain why not: _____

VIII. Relief

State briefly exactly what you want the court to do for you. Make no legal arguments.
Cite no cases or statutes.

I declare under penalty of perjury (18 U.S.C. § 1621) that the foregoing is true and correct.

Executed on this _____ day of _____, 20_____.

Signature(s) of plaintiff(s)