

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

This packet includes four copies of a complaint form and two copies of an in forma pauperis petition. There are instructions to help you understand the forms and a little bit about Court procedures, but **THE COURT CANNOT GIVE YOU LEGAL ADVICE**. The Court may not accept your complaint for filing unless you follow these instructions and provide the information requested in these forms.

How to file a complaint

To begin a lawsuit you must file an original and one copy of your complaint for the court, and one copy of the complaint for each defendant you name. For example, if you name two defendants, you must send to the Court an original and three copies of the complaint. You should keep a copy of the complaint for your own records. The Court is not responsible for providing copies to you. **ALL COPIES MUST BE IDENTICAL TO THE ORIGINAL.**

Your complaint must be legibly handwritten or typed. If you need more space to answer a question you may write on the back of the form or attach additional pages. All pages should be 8 ½" by 11".

Your complaint should be filed in this Court only if one or more of the defendants is located in Maryland or the claim arose here. You should file a separate complaint for each claim that you have unless they are all related to the same incident or issue.

You must give the correct names and addresses of each defendant. **A PLAINTIFF IS REQUIRED TO GIVE INFORMATION TO THE COURTS TO ENABLE THE MARSHAL TO COMPLETE SERVICE OF THE COMPLAINT ON ALL PERSONS NAMED AS DEFENDANTS.**

Answer the questions about prison grievances carefully. You may attach copies of grievances, administrative remedy procedure requests, and responses to your complaint. **FAILING TO PROVIDE THE INFORMATION REQUESTED MAY RESULT IN YOUR COMPLAINT NOT BEING FILED OR CAUSE DELAYS IN PROCESSING YOUR COMPLAINT.**

In your complaint state the facts of your case. Focus on who, what, when, where. **BE BRIEF. DO NOT INCLUDE CITATIONS OR LEGAL ARGUMENTS.**

Please note that under recent legislation, persons who file cases which are dismissed by the Court under 28 U.S.C. §1915(e) may be penalized. The Prison Litigation Reform Act of 1996 provides that prisoners who have had three or more cases dismissed as frivolous, malicious, or failing to state a claim upon which relief may be granted, will not be permitted to file any further civil actions without prepaying the filing fee unless they are in imminent danger of serious harm. *See* 28 U.S.C. §1915(g).

When the forms are completed mail the original and copies to: Clerk, United States District Court for the District of Maryland, 101 West Lombard Street, Baltimore, Maryland 21201.

How to ask for the filing fee to be waived

There is a fee of \$150.00 for filing this type of lawsuit. This must be paid at the time your complaint is filed. In addition, you must pay the United States Marshal for serving the complaint on each defendant. If you are unable to pay the filing fee and costs of service you may ask the Court to let you proceed in forma pauperis. If the Court grants this request it means that you will not have to pay the filing fee at the time your complaint is filed, but, periodically money can be taken from your inmate account and sent to the Court until the filing fee is paid. How much money is taken will depend upon how much is in your account. There will be an initial partial filing fee that is 20% of the greater of the average monthly deposits to your account for the past six months or the average monthly balance of your account for the past six months. Then, a deduction of 20% of the prior month's income will be made each time the balance in your account is over \$10.00. These deductions will be made until the full amount of the filing fee is paid. By asking the Court to let you proceed in forma pauperis you are consenting to these deductions.

Attached are two copies of a motion for leave to proceed in forma pauperis. One should be filed with your complaint. The other is for your records.

Things to know about representing yourself

Once your complaint is received by the Court it will be reviewed and, if you have properly completed the forms and provided all necessary information, a case number and judge will be assigned. Everything that you receive from the Court about your case will have the case number on it. Everything that you send to the Court other than the complaint and motion and affidavit to proceed in forma pauperis should have the case number on it.

Unless directed otherwise, all communications to the Court about your case should be addressed to:

Clerk of the Court
United States District Court
101 West Lombard Street
Baltimore, Maryland 21201

You must notify the Court in writing of any change in your address. Failure to do this may result in dismissal of your case.

After you file the complaint no communication about your case should be sent directly to any judge. If you want to ask the Court to do something, you should file a motion. Pleadings and motions should be filed with the Clerk and a copy should be mailed to the attorney representing the defendant(s) or directly to the

defendant(s) if he/she does not have an attorney. It is important to include a certificate of service on anything you file after your complaint showing when you mailed copies and to whom they were sent. The certificate of service appears at the end of the pleading or motion and looks like the sample below.

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____, 19__, a copy of this
(title of the document), was mailed, postage prepaid, to
(name and address of the attorney or person to whom you sent it).

(your signature _____)

It is not necessary to state in the certificate of service that copies were sent to the Court or to the Clerk.

Do not file any motions or memoranda that are longer than fifty pages unless you have received permission from the Court. Most motions and memoranda should be much shorter than fifty pages.

You do not have to file copies of exhibits that are already on file in the same case. For example, if the defendants in your case file a motion for summary judgment and attach as an exhibit to their motion a copy of a sick call slip, you do not have to attach a copy of that document to your opposition or to any motions you file. You may simply refer to the copy that is already in the file.

You must sign every pleading, motion, and memorandum that you file. You **MAY NOT** sign someone else's name, nor may you file anything on behalf of someone else. In order for a pleading, motion, or memorandum to be considered on behalf of more than one plaintiff, each plaintiff must sign it.

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

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

(Full name, date of birth, prison identification
number and address of the plaintiff)

v.

Civil Action No. _____
(Leave blank. To be filled in by Court.)

(Full name and address of the defendant(s))

COMPLAINT

I. Previous lawsuits

A. Have you filed other cases in state or federal court dealing with the same facts as in this case or against the same defendants?

YES [] NO []

B. If you answered YES, describe that case(s) in the spaces below.

1. Parties to the other case(s):

Plaintiff: _____

Defendant(s): _____

2. Court (if a federal court name the district; if a state court name the city or county): _____

3. Case No.: _____

4. Date filed: _____

5. Name of judge that handled the case: _____

6. Disposition (won, dismissed, still pending, on appeal): _____

7. Date of disposition: _____

II. Administrative proceedings

A. If you are in a Division of Correction facility, did you file an administrative remedy procedure request under DCD 185-001, et seq.?

YES [] NO []

1. If you answered YES:

a. What was the result? _____

b. Did you appeal to the Commissioner?

YES [] NO []

2. If you answered NO to either of the questions above, explain why you did not file an administrative remedy procedure request or an appeal to the

Commissioner. _____

3. Did you file any other type of administrative complaint such as an appeal to the warden of an adjustment decision or a decision to withhold mail, a complaint to the Sundry Claims Board, etc.?

YES [] NO []

4. If you answered YES, explain what you filed and what was the result.

- B. If you are not in a Division of Correction facility, is there a grievance procedure at your institution?

YES [] NO []

If your answer is YES:

1. Did you file a grievance?

YES [] NO []

2. If you filed a grievance what was the result? _____

3. If you did not file a grievance explain why not? _____

III. Statement of claim

(Briefly state the facts of your case. Include dates, times, and places. Describe what each defendant did or how he/she is involved. If you are making a number of related claims, number and explain each claim in a separate paragraph.)

IV. Relief

(State briefly what you want the Court to do for you)

SIGNED THIS _____ day of _____, _____.

(original signature of plaintiff)

(address of plaintiff)

FORM TO BE USED BY A PRISONER SEEKING LEAVE TO PROCEED
IN FORMA PAUPERIS IN A CIVIL RIGHTS ACTION

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

(name of plaintiff)

v.

Civil Action No. _____
(Leave blank. To be filled in by Court.)

(name of defendant)

MOTION AND AFFIDAVIT TO PROCEED IN FORMA PAUPERIS

I, _____, declare that I am the plaintiff in this case. Because of my poverty, I am unable to pay the filing fee and costs of this action at this time, nor am I able to give security therefor.

I understand that the fee for filing this type of case is \$150.00. I understand that if my motion is granted, it does not mean I will not have to pay this fee. I understand that if my motion is granted, periodic deductions may be made from my inmate account until the entire fee is paid. By filing this motion, I am agreeing to allow such deductions as are required by law. I understand that if I do not have money in my prison account, but have other resources, the Court may require that I pay the filing fee or a partial filing fee.

I believe that I have a meritorious complaint and am entitled to relief in these proceedings.

In support of this motion, I answer the following questions:

1. Are you presently employed in a prison job or other assignment that results in compensation of any sort, including work release?

YES [] NO []

- a. If you answered YES, list your employer or assignment and the amount of your wages.

Employer/assignment: _____

Monthly gross wages: _____

Monthly net wages: _____

- b. If you answered NO, state the date of your last employment or assignment, the name of your employer or assignment, and the amount of wages you received.

Date: _____

Employer/assignment: _____

Monthly gross wages: _____

Monthly net wages: _____

2. Within the past twelve months have you received any income from: 1) settlements, judgments, or monetary awards from a court; 2) Social Security, public assistance, workers' compensation or disability payments; 3) a business, profession or other form of self-employment; 4) rent, interest or dividends; 5) retirement, annuity, pension, or insurance payment; 6) gifts or inheritances; 7) or any other sources?

YES [] NO []

If you answered YES, list the amount received, date it was received, and the source.

<u>Amount</u>	<u>Date received</u>	<u>Source</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

3. How much money do you have in your prison account? _____

4. How much money do you have in checking, savings or other accounts outside of prison?

5. Do you own or have any interest in any real estate, stocks, bonds, notes, automobiles, or other valuable property (not including ordinary household furnishings and clothes)?

YES [] NO []

If you answered YES, list the value and describe each item.

<u>Value</u>	<u>Description</u>
_____	_____
_____	_____
_____	_____
_____	_____

6. List everyone (including businesses and the government) that you owe money and the amount that you owe.

<u>Creditor</u>	<u>Total debt</u>	<u>Monthly payment</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

7. List any other major monthly expenses that you are actually paying.

Description

Monthly payment

_____	_____
_____	_____

8. Attach a certified statement of your prison account for the past six months. If you are unable to do this, one will be requested from prison officials.

I DECLARE UNDER THE PENALTIES OF PERJURY THAT THE INFORMATION ABOVE IS TRUE AND CORRECT.

(date)

(original signature of plaintiff)

(address of plaintiff)