

# UNITED STATES DISTRICT COURT CENTRAL DISTRICT OF CALIFORNIA

## INSTRUCTIONS FOR FILING A CIVIL RIGHTS COMPLAINT BY A PRISONER LOCATED IN A FACILITY NOT PARTICIPATING IN THE COURT'S PILOT PROJECT FOR THE SUBMISSION OF COMPLAINTS THROUGH ELECTRONIC MAIL<sup>1</sup>

This package includes the following documents:

- 4 copies - Complaint form
- 4 copies - Declaration to proceed without prepayment of filing fees

In order for your complaint to be filed, you must submit the original and two copies of **both** the complaint and declaration to the Clerk. The remaining copy of each is for you to keep for your records. Your complaint must be typewritten or legibly handwritten in ink. You, the plaintiff, must sign and declare under penalty of perjury that the facts are correct. If you need additional space to answer a question, you must use the reverse side of the form or an additional blank page. You must file a separate complaint for each claim unless they are all related to the same incident or issue. You are required to allege facts, not legal arguments or authorities.

### FILING FEES

#### Payment of filing fee required

The filing fee is \$350 plus a \$50 administrative fee, for a total of \$400. However, in accordance with 28 U.S.C. § 1915, if your Request to Proceed Without Prepayment of Filing Fees is granted, you will be obligated to pay only the filing fee of \$350, and not the \$50 administrative fee. If you have the money to pay the filing fee, you should submit a cashier's check, certified bank check, business or corporate check, government issued check, or money order drawn on a major American bank or the United States Postal Service, payable to the *Clerk of Court* and mail it with your complaint to the address listed on page 2 of these instructions. The Clerk's Office will also accept credit cards (Mastercard/Visa, Discover, American Express) for filing fees and miscellaneous fees. Credit card payments may be made at all payment windows where receipts are issued.

#### Request to pay filing fee in monthly installments

If you do not have the money to pay the full filing fee, you must complete the Request to Proceed Without Prepayment of Filing Fees with Declaration in Support ("Request"). The Request must be returned to the Court with your complaint. **NOTE: You must have a prison or jail official complete the Certification Section of the Request and attach to the Request a certified copy of your prison or jail trust account statement for the six months immediately preceding the filing of the complaint. If you submit an incomplete Request or do not submit a prison or jail trust account statement with the Request, your request to proceed without prepayment of the filing fees may be denied.**

#### Initial partial filing fee assessment

If your Request to Proceed Without Prepayment of Filing Fees is granted, the Court will assess an initial partial filing fee at the time your action is filed. The initial partial filing fee will be equal to 20% of the average monthly deposits to your prison or jail account for the six months immediately preceding the filing of the action, or 20% of the average monthly balance in your prison or jail account for that same six month period, whichever is greater. The Court will order the agency that has custody of you to take that initial partial filing fee out of your prison or jail account as soon as funds are available and forward the money to the Clerk of Court.

#### Collection of balance of filing fee

After the initial partial filing fee has been paid, you will owe the balance of the filing fee. Until the amount of the filing fee is paid in full, each month you will owe 20% of your preceding month's income toward the balance. The agency that has custody of you will collect that money and send payments to the Clerk of Court any time the amount in your account exceeds \$10.00.

<sup>1</sup>Note that all California Department of Corrections and Rehabilitation facilities within the Central District are now participating in the pilot project. For details see General Order 18-02. For instructions on how prisoners located in such a facility should file their complaints, see Form CV-66B.

## DISMISSAL OF THE COMPLAINT

Regardless of whether some or all of the filing fee has been paid, the Court is required to screen your complaint and to dismiss the complaint if: 1) your allegation of poverty is untrue; 2) the action is frivolous or malicious; 3) your complaint does not state a claim on which relief can be granted; or 4) you sue a defendant for money damages and that defendant is immune from liability for money damages.

If you file more than three actions or appeals while you are a prisoner which are dismissed as frivolous or malicious or for failure to state a claim on which relief can be granted, you will be prohibited from bringing any other actions *in forma pauperis* unless you are in imminent danger of serious physical injury. **NOTE: You are required under penalties of perjury to provide accurate information regarding previous filings. Failure to provide this information may result in the immediate dismissal of your complaint.**

## JURISDICTION

To determine whether jurisdiction and venue are proper in this Court:

- **AGAINST FEDERAL DEFENDANTS**, please refer to 28 U.S.C. § 1391(e) and *Bivens v. Six Unknown Federal Narcotics Agents*, 403 U.S. 388, 397 (1971);
- **AGAINST NON-FEDERAL DEFENDANTS**, please refer to 28 U.S.C. § 1391(b) for claims brought pursuant to 42 U.S.C. § 1983.

## SERVICE OF THE COMPLAINT

If your Request to Proceed Without Prepayment of Filing Fees is approved, the Court will determine whether the United States Marshal should serve the defendant(s) on your behalf.

## INQUIRIES AND COPYING REQUESTS

Because of the large volume of cases filed by prisoners in this Court and limited court resources, the Court and Clerk's Office will not answer inquires concerning the status of your case or provide copies of documents, except at a charge of fifty cents (\$0.50) per page. You must therefore keep copies of all documents submitted to the court for your own records.

## TO MAIL THE COMPLAINT

Mail the original and the two copies of your Complaint and (if applicable) your Request to Proceed Without Prepayment of Filing Fees with Declaration in Support to the address below:

United States District Court  
Central District of California  
255 East Temple Street, Suite TS-134  
Los Angeles, California 90012

ATTENTION: PRO SE CLERK