

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

**Instructions for Filing a Complaint by a Prisoner Under the Civil Rights
Act, 42 U.S.C. § 1983**

The clerk of the court will not file your complaint unless it conforms to the following instructions.

IF YOU ARE IN THE CUSTODY OF THE MICHIGAN DEPARTMENT OF CORRECTIONS: To start an action, you must file an original complaint and one copy for the court. All copies of the complaint must be identical to the original. If you are providing exhibits, you must file two copies with your complaint. You also should keep a copy of the complaint and exhibits for your own records. If the court determines that the complaint should be served on one or more defendant, the court will specifically order you to provide further copies for this purpose. Until ordered to do so, do not submit to the court copies of the complaint or exhibits for purposes of service on the defendants.

IF YOU ARE **NOT IN THE CUSTODY OF THE MICHIGAN DEPARTMENT OF CORRECTIONS:** To start an action, you must file an original complaint, one copy for the court and an additional copy for each defendant. All copies of the complaint must be identical to the original. If you are providing exhibits, you must file a copy for each of the defendants. You also should keep a copy of the complaint and exhibits for your own records.

INSTRUCTIONS FOR ALL FILERS: In order for this complaint to be filed, it must be accompanied by the civil action filing fee of \$405.00. In addition, the United States Marshal will require you to pay the cost of serving the complaint on each of the defendants.

If you are unable to prepay the filing fee and service costs for this action, you must petition the court to proceed *in forma pauperis* by completing and signing the attached affidavit. You must also have an authorized officer at the penal institution complete a certificate as to the amount of money and securities on deposit to your credit in your institutional account for the six months immediately preceding the filing of the complaint. **If the court grants you leave to proceed *in forma pauperis*, the civil action filing fee is reduced from \$405.00 to \$350.00, and you will be required to pay the \$350.00 fee through an initial partial filing fee and through monthly installments.**

Your complaint must be legibly handwritten or typewritten. You, the plaintiff(s), must sign and date the complaint on the last page. If you need additional space to completely answer a question, you must attach additional pages.

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

You are required to furnish, so that the United States Marshal can complete service, the **correct name and address of each person you have named as a defendant**. A PLAINTIFF IS REQUIRED TO GIVE INFORMATION TO THE UNITED STATES MARSHAL TO ENABLE THE MARSHAL TO COMPLETE SERVICE OF THE COMPLAINT UPON ALL PERSONS NAMED AS DEFENDANTS.

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

When these forms are completed, mail the original and copies to the Clerk of the United States District Court for the Western District of Michigan at the address below:

U.S. District Court
399 Federal Building
110 Michigan St., NW
Grand Rapids, MI 49503

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN

(Enter above the full name of the plaintiff(s), including prisoner number, in this action. If you cannot list all plaintiffs in the space provided, please write "see attached" and list all names on an additional page.)

v.

(Enter above the full name of the defendant(s) in this action. If you cannot list all defendants in the space provided, please write "see attached" and list all names on an additional page.)

COMPLAINT
(Print Clearly)

I. Previous Lawsuits

CAUTION: The Prison Litigation Reform Act has resulted in substantial changes in the ability of incarcerated individuals to initiate lawsuits in federal courts without prepayment of the civil action filing fee. Accurate and complete responses are required concerning your litigation history. Generally, a plaintiff's failure to accurately and completely answer the questions set forth below will result in denial of the privilege of proceeding *in forma pauperis* and require you to pay the entire \$405.00 filing fee regardless of whether your complaint is dismissed.

- A. Have you ever filed a lawsuit while incarcerated or detained in any prison or jail facility? Yes No
- B. If your answer to question A was yes, for each lawsuit you have filed you must answer questions 1 through 5 below. Attach additional sheets as necessary to answer questions 1 through 5 below with regard to each lawsuit.
1. Identify the court in which the lawsuit was filed. If it was a state court, identify the county in which the suit was filed. If the lawsuit was filed in federal court, identify the district within which the lawsuit was filed.
- _____
2. Is the action still pending? Yes No
- a. If your answer was no, state precisely how the action was resolved: _____
- _____
3. Did you appeal the decision? Yes No
4. Is the appeal still pending? Yes No
- a. If not pending, what was the decision on appeal? _____
- _____
5. Was the previous lawsuit based upon the same or similar facts asserted in this lawsuit? Yes No
- a. If so, explain: _____
- _____

II. Parties

A. Plaintiff(s)

Enter your name, place of confinement, address, and place of confinement during the events described in the complaint in the blanks below. Provide the same information for any additional plaintiffs. Attach extra sheets as necessary.

Name of Plaintiff _____

Place of Present Confinement _____

Address _____

Place of Confinement During Events Described in Complaint _____

B. Defendant(s)

Complete the information requested below for each defendant in this action, including whether you are suing each defendant in an official and/or personal capacity. Provide the same information for each additional defendant. If there are more than six defendants attach extra sheets as necessary.

Name of Defendant #1 _____

Position or Title _____

Place of Employment _____

Address _____

Official and/or personal capacity? _____

Name of Defendant #2 _____

Position or Title _____

Place of Employment _____

Address _____

Official and/or personal capacity? _____

Name of Defendant #3 _____

Position or Title _____

Place of Employment _____

Address _____

Official and/or personal capacity? _____

Name of Defendant #4 _____

Position or Title _____

Place of Employment _____

Address _____

Official and/or personal capacity? _____

Name of Defendant #5 _____

Position or Title _____

Place of Employment _____

Address _____

Official and/or personal capacity? _____

IV. Relief

State briefly and precisely what you want the court to do for you.

V. Notice to Plaintiff Regarding Consent

In accordance with the provisions of 28 U.S.C. § 636(c) and Federal Rule of Civil Procedure 73, you are hereby notified that the United States magistrate judges of this district court may, upon your consent, conduct any or all proceedings in this case, including a jury trial and entry of a final judgment. If you consent, any appeal from a judgment entered by a magistrate judge shall be taken directly to the United States Court of Appeals for this judicial circuit in the same manner as an appeal from any other judgment of a district court.

Magistrate judges have greater flexibility in their schedules than district judges, who have heavy criminal caseloads that take priority over civil trials. Accordingly, the magistrate judges are generally able to schedule prisoner civil rights cases for jury trial much sooner, and they are able to provide firm trial dates. Magistrate judges are experienced trial judges who handle a great number of prisoner civil rights cases.

Your decision to consent to the dispositive jurisdiction of a United States magistrate is entirely voluntary. If you do not consent to a magistrate judge, the case will be randomly assigned to a district judge. The magistrate judge already assigned to this case would continue to decide all pretrial matters and would handle all dispositive motions by report and recommendation.

Please check **ONE** box below to indicate whether you voluntarily consent to proceed with a United States magistrate judge or if you would instead prefer that the case be assigned to a district judge.

- I hereby voluntarily consent to the United States magistrate judge conducting all proceedings in this case, including entry of a final judgment and all post-judgment matters.
- I request that this case be assigned to a district judge.

Date

Signature of Plaintiff

NOTICE TO PLAINTIFF(S)

The failure of a *pro se* litigant to keep the court apprised of an address change may be considered cause for dismissal.

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN

**AUTHORIZATION FOR WITHDRAWAL OF FUNDS
TO PAY THE CIVIL ACTION FILING FEE and
AFFIDAVIT OF INDIGENCE IN SUPPORT OF
REQUEST TO PROCEED *IN FORMA PAUPERIS***

Plaintiff

v.

Defendant(s)

I, _____, am the plaintiff in the above-entitled case, and I believe I am entitled to redress. In support of my motion to proceed without being required to prepay fees or costs or give security, I state that because of my poverty I am unable to pay the costs of said proceeding or to give security therefor. I acknowledge that, even if I am granted leave to proceed *in forma pauperis*, **I am liable for payment of the \$350.00 civil action filing fee**, and I authorize the correctional facility in which I am currently housed to (1) provide information about my trust fund account to the federal court; and (2) withdraw from my trust fund account and forward to the federal court(a) an initial partial filing fee for this action (20% of the greater of my average monthly deposits or average monthly balance for the past 6 months), which I will request be disbursed, and (b) subsequent monthly payments (20% of my previous month's deposits), as ordered by the federal court, until I have paid the full filing fee of \$350.00 for this action. Further, I declare that the responses which I have made below are true.

1. Are you presently employed? Yes No

a. If the answer is yes, state the amount of your salary per month and give the name and address of your employer.

b. If the answer is no, state the date of last employment and the amount of the salary per month which you received.

2. Have you received, within the past twelve months, any money from any of the following sources?

- a. Business, profession, or form of self-employment? Yes No
- b. Rent payments, interest, or dividends? Yes No
- c. Pensions, annuities, or life insurance payments? Yes No
- d. Gifts or inheritances? Yes No
- e. Any other sources? Yes No

If the answer to any of the above is yes, describe each source of money and state the amount received from each during the past twelve months.

3. Do you own any cash or do you have money in a checking or savings account? Yes No
(Include any funds in prison accounts)

If your answer is yes, state the total value owned.

4. Do you own any real estate, stocks, bonds, notes, automobiles, or other valuable property (excluding ordinary household furnishings and clothing)? Yes No

If the answer is yes, describe the property and state its approximate value. _____

5. List the persons who are dependent upon you for support; state your relationship to those persons; and indicate how much you contribute toward their support:

I understand that a false statement or answer to any question in this declaration will subject me to penalties for perjury.

I declare under penalty of perjury that the foregoing is true and correct.

Date

Signature of Plaintiff

CERTIFICATE

I certify that the plaintiff herein has had deposits of _____ and withdrawals of _____ from his prison account over the last six-month period. The present balance in the plaintiff's prison account is _____. I further certify that plaintiff has the following securities to his credit according to the records of this institution:

Authorized Financial Officer

Name of Institution

Date

NOTE: Instead of completing the above certificate, you may attach the certificate establishing prisoner account activity and the printout issued by the institution.