

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF KANSAS
INFORMATION AND INSTRUCTIONS
FOR PRISONERS FILING
CIVIL RIGHTS COMPLAINTS UNDER 42 U.S.C. § 1983 or BIVENS ACTIONS

1. FORMS

The attached form is to assist you in the preparation of a complaint seeking relief for violation of civil rights under either 42 U.S.C. §1983 (defendants are state officials) or a Bivens action (defendants are federal officials). These forms may be filled out by typewriter or by hand. Handwriting **MUST** be clear and readable. Every question on the forms must be answered, even if your answer is "none," or "don't know." The use of forms is required by Local Rule 9.1(a).

Do not write on the back of the complaint forms. If you need more space, use additional sheets of paper. Federal Rules require that the complaint be a BRIEF statement. Stick to the facts (who, what, when, where, why, how). Always include dates, times, places, and names.

Pursuant to D. Kan. Rule 7.1(e), the argument and authorities section of a brief or memorandum in a civil action may not exceed 30 pages absent an order of the court.

2. COPIES

You must submit one original copy, one courtesy copy for the court, plus one copy of the complaint and all attachments or exhibits for each defendant you name. For example, if you name two defendants, you must file an original and three copies of the complaint and all attachments. All copies of the complaint must be identical to the original.

IT IS YOUR RESPONSIBILITY TO KEEP A COPY FOR YOUR RECORDS OF EVERY COMPLAINT AND OTHER DOCUMENT OR LETTER THAT YOU SEND TO THE COURT.

3. VERIFICATION

You must personally sign the complaint. If there is more than one plaintiff, each person must sign. You may not sign for anyone else. Each plaintiff must verify each complaint form by signing a verification which attests to the truthfulness of all statements and contents of the complaint.

4. MAILING

When your complaint is completed, it should be mailed with the necessary copies and filing fee or in forma pauperis motion to:

RALPH L. DeLOACH, CLERK
UNITED STATES DISTRICT COURT
444 S.E. QUINCY
TOPEKA, KANSAS 66683

5. FILING FEES

The complaint must be accompanied by a filing fee or a motion for leave to proceed in forma pauperis. The statutory filing fee for civil rights complaints is \$350.00. If you cannot afford to prepay the filing fee, you may request permission to proceed in forma pauperis by completing a form motion available from the court and submitting certified copies of your institutional financial records for the six months preceding your motion for leave to proceed in forma pauperis.

After receiving these materials, the court will assess an initial partial filing fee that is the greater of (a) 20% of the average monthly deposits in your account for the past six months; OR (b) 20% of the average monthly balance in your account for the past six months.

If your motion is granted, you will be allowed to pay the filing fee in installments, and you must pay 20% of each month's income in every month your institutional account balance exceeds ten dollars (\$10.00) until the full filing fee is paid. See 28 U.S.C. § 1915(b). The financial officer of the facility where you are incarcerated will be directed to make these payments, and it is your responsibility to cooperate with facility personnel to authorize these arrangements. The failure to cooperate may result in sanctions by the court. You must pay the full filing fee even if your case is dismissed by the court.

If you have no assets, you will not be prohibited from bringing an action without payment of an initial partial fee. See 28 U.S.C. 9 1915(b)(4). However, when you receive assets, you must pay the filing fee as described.

If you have had three or more civil actions or appeals dismissed as frivolous, malicious, or for failure to state a claim, you are no longer eligible to proceed without prepayment of the full filing fee unless you are under imminent danger of serious physical injury.

6. SERVICE

Once you have submitted the portion of the filing fee directed by the court, the court will review your claims to determine whether summons or waiver of summons forms should be issued to the defendants. Your complaint should list the complete name and address of each person named as a defendant. Without this information, the Clerk cannot prepare summons or waivers for issuance by the Marshal. See Rule 4(j) of the Federal Rules of Civil Procedure.

7. AFTER THE COMPLAINT IS FILED

You must comply with court rules, which include KEEPING THE COURT INFORMED OF YOUR CURRENT ADDRESS. If you fail to comply with this or any other court rule, or fail

to comply with any court imposed deadline, YOUR CASE MAY BE DISMISSED for want of prosecution.

You must file a proper motion if you seek any kind of relief from the court. A letter requesting relief will be not be treated as a proper motion.

Exhibits included with the complaint or any pleading are considered part of the record and will not be returned.

8. MOTIONS

Request for any type of relief must be in the form of a proper motion beginning with the case caption and title of the motion.

You must serve the defendant(s) or their counsel with a copy of every motion, letter, or other document submitted for consideration by the Court. The original of all documents filed with the Clerk should have a proper "Certificate of Service" stating the date a copy of the document was mailed and the address to which it was mailed. The following certificate should appear at the end of each document.

I hereby certify that a copy of the foregoing pleading/document
was mailed to _____
(Opposing Party or Counsel)
at _____
(Address)
on _____, 20__.
(Date) _____
(Signature)

Any pleading or other document received which fails to include a certificate of service may be disregarded by the court or returned.

9. COMMUNICATION WITH THE COURT

It is improper to communicate directly with Judges or Magistrate Judges concerning matters which are or may become a subject in their Court. Procedural questions may be directed to the clerk's office, but Judges, Magistrate Judges, and court staff are prohibited from giving legal advice.

10. EXHAUSTION OF ADMINISTRATIVE REMEDIES UNDER THE PRISON LITIGATION REFORM ACT ("PLRA")

You may not bring an action challenging prison conditions under 42 U.S.C. § 1983 or any other federal law until you have exhausted available administrative remedies.