

NOTICE TO INMATES FILING SECTION 1983 COMPLAINTS

On April 26, 1996, legislation was enacted which states (1) that an action can not be brought by a prisoner confined in any jail, prison, or other correctional facility with respect to prison conditions until such administrative remedies that are available have been exhausted and (2) that a prisoner seeking to bring a civil action (or appeal a judgment in a civil action or proceeding) without prepayment of fees must submit a certified copy of his/her trust fund account for the 6-month period immediately preceding the filing of the complaint or notice of appeal.

This legislation requires the prisoner to pay the full filing fee if bringing an action in federal court (or if filing a notice of appeal). In the event the prisoner is unable to pay the full filing fee at the time the action is brought, the court is required to assess an initial partial filing fee and after the initial partial filing fee is made, the prison at which the prisoner is incarcerated is required to forward to the Clerk's office monthly payments of 20 percent of the preceding month's income credited to the inmate's account until the full filing fee is paid. If you seek permission to file a case without prepayment of the required fees and costs, you can fill out the application to proceed without the prepayment of fees. **Otherwise**, you must pay \$400.00 (\$350.00 filing fee plus \$50.00 administrative fee) at the time you send your complaint and the fee may be paid in cash, or by check or money order made payable to "Clerk, U.S. District Court."

You should be aware that this legislation also states that a prisoner proceeding without prepayment of the filing fees can not bring an action if on 3 or more prior occasions the prisoner has brought an action that was dismissed as frivolous, malicious or fails to state a claim upon which relief can be granted **unless** the prisoner is under imminent danger of serious physical injury.

When filing a complaint, you **must** submit the following:

(1) A copy of your inmate trust fund account for the 6-month period prior to filing the complaint. If you have been housed at more than one facility, you must submit a copy from each of the facilities during that 6-month time period;

and

(2) A sworn statement that all administrative remedies have been exhausted. Attached is a form that can be used when submitting your complaint for filing.

Notice to Inmates Filing Civil Actions

As a result of legislation passed in April, 1996, once an action is filed and given a civil action number, you will be responsible for the entire filing fee, regardless of the final disposition of the case. This includes a voluntary dismissal.

**INSTRUCTIONS FOR FILING A COMPLAINT BY A
STATE PRISONER UNDER THE CIVIL RIGHTS ACT
42 UNITED STATES CODE SECTION 1983
OR BY A FEDERAL PRISONER IN FILING A BIVENS CLAIM**

This packet contains two (2) copies of a complaint form and one (1) financial affidavit form. To start an action you MUST file an original complaint with original signature, one copy of your complaint for the court AND one copy for each defendant you name. For example, if you name two defendants, you must file an original and three copies of the complaint. Pursuant to Rule 4(c)(1) of the Federal Rules of Civil Procedure, a summons must be served with a copy of the complaint. Also, Rule 4(i) indicates if serving the United States and Its Agencies, Corporation, Officers, or Employees, a copy of the summons must be served to the United States Attorney for the District and the Attorney General of the United States. If a Federal Agency or Federal employee is a defendant, you must file four additional copies. You should keep or photocopy an additional copy of the complaint for your own records. **THE COURT CANNOT PROVIDE FREE PHOTOCOPIES TO LITIGANTS EXCEPT IN SPECIAL INSTANCES.** If you should name more than two defendants, additional copies of the complaint form will be made available to you. Do not argue law or facts in the complaint, as such argument is improper. Try to avoid use of extra sheets and do not submit exhibits or other evidentiary matters unless the Court directs you to do so. All copies of the complaint must be identical to the original.

The processing of the complaint will be delayed unless it conforms to these instructions and to these forms.

Your complaint must be legibly typewritten or handwritten. You, the plaintiff, must sign and declare under penalty of perjury that the facts are correct. **Your complaint can be brought in this Court only if one or more of the named defendants is located within this district (see attached list).** 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 also required to furnish, so that the U.S. Marshal can complete service, the correct name and address of each person you have named as a defendant.*

If you seek permission to file a case without prepayment of the required fees and costs (the filing fee and Marshal Service fee for each defendant served), you can fill out the application to proceed without the prepayment of fees. Your application must be accurate, for it is subject to close scrutiny and the Court will seek financial information about you from prison or jail officials. If you choose the pay \$400.00 (\$350.00 filing fee plus \$50 administrative fee) at the time you send your complaint, the fee may be paid in cash, or by check or money order made payable to "Clerk, U.S. District Court." The U.S. Marshal will notify you regarding the fees for service and any monies should be forwarded to the U.S. Marshal Service.

When these forms are completed, **mail the original with original signature** to the:

**Clerk, United States District Court
Eastern District of North Carolina
P.O. Box 25670
Raleigh, NC 27611**

EASTERN DISTRICT OF NORTH CAROLINA
Clerk's Office, United States District Court, Eastern
District of North Carolina, P.O. Box 25670, Raleigh,
NC 27611

BEAUFORT
BERTIE
BLADEN
BRUNSWICK
CAMDEN
CARTERET
CHOWAN
COLUMBUS
CRAVEN
CUMBERLAND
CURRITUCK
DARE
DUPLIN
EDGECOMBE
FRANKLIN
GATES
GRANVILLE
GREENE
HALIFAX
HARNETT
HERTFORD
HYDE
JOHNSTON
JONES
LENOIR
MARTIN
NASH
NEW HANOVER
NORTHAMPTON
ONSLow
PAMLICO
PASQUOTANK
PENDER
PERQUIMANS
PITT
ROBESON
SAMPSON
TYRRELL
VANCE
WAKE
WARREN
WASHINGTON
WAYNE
WILSON

MIDDLE DISTRICT OF NORTH CAROLINA
Clerk's Office, United States District Court
Middle District of North Carolina, 324 W. Market
St., Greensboro, NC 27401

ALAMANCE
CABARRUS
CASWELL
CHATHAM

DAVIDSON
DAVIE
DURHAM
FORSYTH
GUILFORD
HOKE
LEE
MONTGOMERY
MOORE
ORANGE
PERSON
RANDOLPH
RICHMOND
ROCKINGHAM
ROWAN
SCOTLAND
STANLY
STOKES
SURRY
YADKIN

WESTERN DISTRICT OF NORTH CAROLINA
Clerk's Office, United States District Court,
Western District of North Carolina, Federal
Building, Room 204, 401 West Trade Street,
Charlotte, NC 28202

ALEXANDER
ALLEGHANY
ANSON
ASHE
AVERY
BUNCOMBE
BURKE
CALDWELL
CATAWBA
CHEROKEE
CLAY
CLEVELAND
GASTON
GRAHAM
HAYWOOD
HENDERSON
IREDELL
JACKSON
LINCOLN
MACON
MADISON
McDOWELL
MECKLENBURG
MITCHELL
POLK
RUTHERFORD
SWAIN
TRANSYLVANIA
UNION
WATAUGA
WILKES
YANCEY

United States District Court
Eastern District of North Carolina
Western Division

Case No. _____
(To be filled out by Clerk's Office only)

(In the space above enter the full name(s) of the plaintiff(s).)

Inmate Number _____

-against-

COMPLAINT

(Pro Se Prisoner)

Jury Demand?

Yes

No

(In the space above enter the full name(s) of the defendant(s). If you cannot fit the names of all of the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed in the above caption must be identical to those contained in Section IV. Do not include addresses here.)

NOTICE

Federal Rule of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

I. COMPLAINT

Indicate below the federal legal basis for your claim, if known. This form is designed primarily for pro se prisoners challenging the constitutionality of their conditions of confinement, claims which are often brought under 42 U.S.C. § 1983 (against state, county, or municipal defendants) or in a “Bivens” action (against federal defendants).

- 42 U.S.C. § 1983 (state, county, or municipal defendants)

- Action under *Bivens v. Six Unknown Federal Narcotics Agents*, 403 U.S. 388 (1971) (federal defendants)

- Action under Federal Tort Claims Act (United States is the proper defendant; must have presented claim in writing to the appropriate Federal agency and received a notice of final denial of the claim pursuant to 28 U.S.C. § 2401(b))

II. PLAINTIFF INFORMATION

Name

Prisoner ID #

Place of Detention

Institutional Address

City

State

Zip Code

III. PRISONER STATUS

Indicate whether you are a prisoner or other confined person as follows:

- Pretrial detainee State Federal
- Civilly committed detainee
- Immigration detainee
- Convicted and sentenced state prisoner
- Convicted and sentenced federal prisoner

IV. DEFENDANT(S) INFORMATION

Please list the following information for each defendant. If the correct information is not provided, it could result in the delay or prevention of service. Make sure that the defendant(s) listed below are identical to those contained in the above caption. Attach additional sheets of paper as necessary.

Defendant 1: _____
Name

Current Job Title

Current Work Address

City State Zip Code

Capacity in which being sued: Individual Official Both

Defendant 2: _____
Name

Current Job Title

Current Work Address

City State Zip Code

Capacity in which being sued: Individual Official Both

Defendant(s) Continued

Defendant 3: _____
Name

Current Job Title

Current Work Address

City State Zip Code

Capacity in which being sued: Individual Official Both

Defendant 4: _____
Name

Current Job Title

Current Work Address

City State Zip Code

Capacity in which being sued: Individual Official Both

VI. ADMINISTRATIVE PROCEDURES

WARNING: Prisoners must exhaust administrative procedures before filing an action in federal court about prison conditions. 42 U.S.C. § 1997e(a). Your case may be dismissed if you have not exhausted your administrative remedies.

Have you filed a grievance concerning the facts relating to this complaint? Yes No

If no, explain why not:

Is the grievance process completed? Yes No

If no, explain why not:

VII. RELIEF

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

UNITED STATES DISTRICT COURT

for the

Eastern District of North Carolina

_____)	
Plaintiff/Petitioner)	
v.)	Civil Action No. 5:
_____)	
Defendant/Respondent)	

APPLICATION TO PROCEED IN DISTRICT COURT WITHOUT PREPAYING FEES OR COSTS (Short Form)

I am a plaintiff or petitioner in this case and declare that I am unable to pay the costs of these proceedings and that I am entitled to the relief requested.

In support of this application, I answer the following questions under penalty of perjury:

1. *If incarcerated.* I am being held at: _____ .
If employed there, or have an account in the institution, I have attached to this document a statement certified by the appropriate institutional officer showing all receipts, expenditures, and balances during the last six months for any institutional account in my name. I am also submitting a similar statement from any other institution where I was incarcerated during the last six months.

2. *If not incarcerated.* If I am employed, my employer's name and address are:

My gross pay or wages are: \$ _____ , and my take-home pay or wages are: \$ _____ per
(specify pay period) _____ .

3. *Other Income.* In the past 12 months, I have received income from the following sources (check all that apply):

- | | | |
|--|------------------------------|-----------------------------|
| (a) Business, profession, or other self-employment | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| (b) Rent payments, interest, or dividends | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| (c) Pension, annuity, or life insurance payments | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| (d) Disability, or worker's compensation payments | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| (e) Gifts, or inheritances | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| (f) Any other sources | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

If you answered "Yes" to any question above, describe below or on separate pages each source of money and state the amount that you received and what you expect to receive in the future.

4. Amount of money that I have in cash or in a checking or savings account: \$ _____ .

5. Any automobile, real estate, stock, bond, security, trust, jewelry, art work, or other financial instrument or thing of value that I own, including any item of value held in someone else's name (*describe the property and its approximate value*):

6. Any housing, transportation, utilities, or loan payments, or other regular monthly expenses (*describe and provide the amount of the monthly expense*):

7. Names (or, if under 18, initials only) of all persons who are dependent on me for support, my relationship with each person, and how much I contribute to their support:

8. Any debts or financial obligations (*describe the amounts owed and to whom they are payable*):

Declaration: I declare under penalty of perjury that the above information is true and understand that a false statement may result in a dismissal of my claims.

Date: _____

Applicant's signature

Printed name