

COMPLAINT INSTRUCTIONS AND FILING FEE NOTICE

This packet contains a complaint form and an application to proceed in forma pauperis. These forms do not provide legal advice, and following the complaint form does not guarantee that your complaint is legally or factually sufficient.

To start an action, you MUST file an original complaint with original signature. Your complaint must be legibly typewritten or handwritten. 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.**

The Prison Litigation Reform Act of 1996 requires you to pay the full amount of a filing fee. *See* 28 U.S.C. § 1915(b)(1). 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.

In the event you are unable to pay the full filing fee of \$405.00 (\$350.00 filing fee plus \$55.00 administrative fee) at the time you file the action, you must fill out the enclosed application to proceed without the prepayment of fees. If you are able, provide a certified copy of your inmate trust fund account statement for the 6-month period with the application to proceed in forma pauperis. If you cannot obtain your trust fund account for this period, the clerk's office will request it from the appropriate agency on your behalf.

If the court grants your application to proceed in forma pauperis, you will only be assessed the \$350.00 filing fee and not the \$55.00 administrative fee. The court will collect the filing fee in installments, and the prison at which you are incarcerated will forward these payments to the Clerk's office until the filing fee of \$350.00 is paid. The court calculates and collects these payments in accordance with 28 U.S.C. § 1915(b), and the order granting your application will describe the calculation and collection of these payments. **Otherwise**, you must pay \$405.00 (\$350.00 filing fee plus \$55.00 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 if, on 3 or more prior occasions and while incarcerated you have brought an action that was dismissed as frivolous, malicious or fails to state a claim upon which relief, you cannot file a new action without paying the filing fee in full unless you can demonstrate that you are under imminent danger of serious physical injury. *See* 28 U.S.C. § 1915(g).

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

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

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

V. STATEMENT OF CLAIM

Place(s) of occurrence: _____

Date(s) of occurrence: _____

State which of your federal constitutional or federal statutory rights have been violated:

State here briefly the FACTS that support your case. Describe how each defendant was personally involved in the alleged wrongful actions, state whether you were physically injured as a result of those actions, and if so, state your injury and what medical attention was provided to you.

FACTS:

Who
did what to
you?

What
happened
to you?

When did it happen to you?

Where did it happen to you?

What was
your
injury?

[illegible]

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.

VIII. PRISONER'S LITIGATION HISTORY

The “three strikes rule” bars a prisoner from bringing a civil action or an appeal in forma pauperis in federal court if that prisoner has “on three or more occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.” 28 U.S.C. §1915(g).

Have you brought any other lawsuits in state or federal court while a prisoner? ☐ Yes ☐ No

If yes, how many? _____

Number each different lawsuit below and include the following:

- Name of case (including defendants' names), court, and docket number
- Nature of claim made
- How did it end? (For example, if it was dismissed, appealed, or is still pending, explain below.)

This image shows a blank sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

IX. PLAINTIFF'S CERTIFICATION AND WARNING

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending or modifying existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Each Plaintiff must sign and date the complaint and provide prison identification number and prison address.

Dated

Plaintiff's Signature

Printed Name

Prison Identification #

Prison Address

City

State

Zip Code

UNITED STATES DISTRICT COURT

for the

Eastern District of North Carolina

_____)	
<i>Plaintiff/Petitioner</i>)	
v.)	Civil Action No.
_____)	
<i>Defendant/Respondent</i>)	

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