

INSTRUCTIONS FOR FILING A CIVIL RIGHTS COMPLAINT

We enclose a complaint form and an in forma pauperis petition and affidavit. It is unlikely that your complaint will be filed unless it conforms to the following instructions:

1. You must file with the court an original complaint plus one copy for each defendant that you sue. For example, if you sue two defendants, you must file an original and two copies. Do not forget to keep a set of copies for yourself.
2. All of your copies must be carbon copies or photocopies. Handwritten originals are acceptable, but handwritten copies of originals are not.
3. Your complaint must be legible and signed by each plaintiff. It need not be notarized. However, each plaintiff must attest under penalty of perjury that the complaint is true. You are warned that any false statement of material fact may subject you to prosecution and conviction.
4. You must fill out the complaint form in the space provided.
 - a. You may use extra space ONLY in Part I to describe any previous lawsuits you might have filed; and on Parts II(a) and II(e), to fully list the names of all the plaintiffs and defendants in your lawsuit.
 - b. **YOU MUST STATE THE FACTS OF YOUR CLAIM ONLY IN THE SPACE PROVIDED UNDER PART III. YOU MAY NOT USE MORE THAN THE SPACE PROVIDED.** Keep things short and to the point. Do not make legal arguments or cite cases, statutes or constitutional provisions -- you will be wasting valuable space. Such arguments and citations may be appropriate later, in response to a motion dismiss, but not now. Take lots of time to write, rewrite and rewrite again the facts of your claim, on your own paper, until you can fit it in the space provided. Get to the heart of your complaint. Several paragraphs, with dates, places, and names, should usually be enough.
 - c. You must state your request for relief only in the space provided under Part IV.
5. The filing fee is \$350.00.
6. If you cannot pay the filing fee and service costs, you may petition the court for leave to proceed in forma pauperis. You must complete and sign, under penalty of perjury, the enclosed petition and financial affidavit. This does not need to be notarized. Each plaintiff who seeks to file in forma pauperis must complete a petition and affidavit.
7. You have the right to a trial by jury. To preserve that right, your written jury demand should be filed along with your complaint.

MAIL COMPLETED FORMS TO:
Clerk, United States District Court
Rm. 362 Federal Courthouse
517 E. Wisconsin Avenue
Milwaukee, WI 53202

EQUAL EMPLOYMENT OPPORTUNITY CASE INFORMATION

This is to clarify the Notice of Right to Sue or Determination letter you have received. It states that counsel may be appointed for you. However, this is not a matter of right but done at the discretion of the court. The following is the procedure you should use to file your case:

1. Fill out a civil complaint form if you wish to sue. You must do this before the 90 day time limit has expired.
2. File the complaint according to the attached instructions.
 - a. You must either pay the \$350.00 filing fee or fill out an affidavit of indigency if you wish to proceed in forma pauperis.
 - b. Attach a copy of your Right to Sue or Determination letter to the complaint.
3. Prepare a written motion requesting the court to appoint counsel to represent you if you are indigent.

The judge will rule on your motion and you will receive notice of his decision. In the alternative, you can find an attorney on your own to represent you.

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

_____)
_____)
_____)
_____)
_____)
_____)
(Full Name of Plaintiff or Plaintiffs)
_____)
vs
_____)
_____)
_____)
_____)
_____)
_____)
(Full Name of Defendant or Defendants)

No. _____
(Supplied by Clerk)

COMPLAINT

I. PREVIOUS LAWSUITS

- A. Have you begun other lawsuits in state or federal court relating to the same occurrence involved in this action?
 YES NO

- B. Have you begun other lawsuits in state or federal court?
 YES NO

- C. If your answer to A or B was YES, provide the requested information below. If there is more than one lawsuit, describe each additional one on a separate sheet of paper, using the same outline.

1. Parties to the previous lawsuit

Plaintiff(s) _____

Defendant(s) _____

2. Court in which lawsuit brought (if federal court, name district: if state court, name the county)

3. Docket number _____
4. Current status (for example: Was the case dismissed? Was it appealed? Is it still pending)?

5. Approximate date of filing lawsuit _____
6. Approximate date of disposition _____

II. **PARTIES**

A. Your name (PLAINTIFF) _____

B. Your Address _____

(If there is more than one plaintiff, use the margin for extra space if you need it. List the address only if it is different from the address listed above).

C. DEFENDANT (name) _____

D. Defendants address _____

E. Additional DEFENDANTS (names and addresses) _____

III. **STATEMENT OF CLAIM** (follow instructions carefully)

State briefly as possible the *essential facts* of your case. Tell what each defendant did to you that caused you to file this suit against them. If you are complaining about more than one wrong, use a separate **numbered** paragraph for each wrong, and describe each wrong in that paragraph and only that paragraph. State only the facts. *Do not give any legal theories or arguments, do not cite any cases or statutes. Do not feel you have to use all the space. USE NO MORE THAN THE SPACE PROVIDED. THE COURT STRONGLY DISAPPROVES OF STATING CLAIMS OUTSIDE THE SPACE PROVIDED.*

**NOTICE OF LAWSUIT AND REQUEST FOR
WAIVER OF SERVICE OF SUMMONS**

TO: (A) _____

as (B) _____ (C) _____

A lawsuit has been commenced against you (or the entity on whose behalf you are addressed.) A copy of the complaint is attached to this notice. It has been filed in the United States District Court for the (D) _____ District of _____ and has been assigned docket number (E) _____

This is not a formal summons or notification from the court, but rather my request that you sign and return the enclosed waiver of service in order to save the cost of serving you with a judicial summons and an additional copy of the complaint. The cost of services will be avoided if I receive a signed copy of the waiver within (F) _____ days after the date designated below as the date on which this Notice and Request is sent. I enclose a stamped and addressed envelope (or other means of cost-free return) for your use. An extra copy of the waiver is also attached for your records.

If you comply with this request and return the signed waiver, it will be filed with the court and no summons will be served on you. The action will then proceed as if you had been served on the date the waiver is filed, except that you will not be obligated to answer the complaint before 60 days from the date designated below as the date on which this notice is sent (or before 90 days from that date if your address is not in any judicial district of the United States.)

If you do not return the signed waiver within the time indicated, I will take appropriate steps to effect formal service in a manner authorized by the Federal Rules of Civil Procedure and will then, to the extent authorized by those Rules, ask the court to require you (or the party on whose behalf you are addressed) to pay the full costs of such service. In that connection, please read the statement concerning the duty of parties to waive the service of the summons, which is set forth at the foot of the waiver form.

If I affirm that this request is being sent to you on behalf of the plaintiff, this _____ day of _____, _____.

Signature of Plaintiff's Attorney
or Unrepresented Plaintiff

- A - Name of individual defendant (or name of officer or agent of corporate defendant)
- B - Title, or other relationship of individual to corporate defendant
- C - Name of corporate defendant, if any
- D - District
- E - Docket number of action
- F - Addressee must be given at least 30 days (60 days if located in foreign country) in which to return waiver.

Instructions for Completing the Petition and Affidavit to Proceed Without Prepayment of Fees and/or Costs Before District Court or on Appeal – Read Carefully

1. Purpose of Form - This form may be used to establish indigency for the purpose of (1) obtaining a waiver of the applicable filing fee for your action; (2) obtaining a waiver of the applicable fee for filing an appeal; (3) establishing financial eligibility for the appointment of counsel; or (4) waiving of other fees, such as fees for transcripts or subpoenas.

2. Signed Under Penalty Of Perjury - To submit your petition and affidavit, it must be signed. Your signature indicates that the Petition and Affidavit is signed "under penalty of perjury." This means that any false statement of a material fact presented in your petition may serve as a basis for prosecution and conviction for perjury. Your signature does **not** have to be witnessed by a notary public.

3. If You Are A Non-Prisoner Bringing a Civil Action, You Are Advised - The filing fee for a civil action (other than a petition for habeas corpus relief pursuant to 28 U.S.C. § 2241, § 2254 or a motion pursuant to 28 U.S.C. § 2255) is \$350.00. If you are bringing a petition for habeas corpus relief pursuant to 28 U.S.C. § 2241, § 2254 or a motion pursuant to 28 U.S.C. § 2255, refer to number five of these instructions. If you have the money to pay the filing fee, you should send a cashier's check or money order for \$350.00, payable to "Clerk, United States District Court," with your complaint.

If you do not have enough money to pay the full filing fee at the time your action is filed, you may petition the court to proceed without prepayment of fees and costs by using the attached form. Upon receipt of your complaint and petition, the court will screen the complaint. The court shall dismiss your 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 such relief. 28 U.S.C. § 1915(e).

If your petition is granted, you will proceed *in forma pauperis* (IFP). This means that the \$350.00 filing fee will be waived.

If your petition is denied because you are financially ineligible to proceed IFP, you will be required to pay the full \$350.00 filing fee. Your suit will not proceed unless the fee is paid in full.

4. If You Are a Prisoner Who Is Bringing a Civil Rights or Other Civil Action, You Are Advised - In accordance with the provisions of the Prison Litigation Reform Act (PLRA), prisoners are obligated to pay the full filing fee of \$350.00 for a civil action. 28 U.S.C. § 1915(b)(1). If you have the money to pay the filing fee, you should send a cashier's check or money order for \$350.00, payable to "Clerk, United States District Court," with your complaint.

If you do not have enough money to pay the full filing fee at the time your action is filed, you may petition the court to proceed without prepayment of fees and costs by using the attached form. If your petition is granted, you will pay the \$350.00 filing fee in installments, beginning with an initial partial filing fee. The initial partial filing fee will be calculated from a certified copy of your prison trust account statement that shows transactions for the last six months. **The trust account statement must be filed in support of your petition.** (Statements are required for any prison or jail trust accounts you have had over the prior

Instructions - continued

six months). Failure to do so may result in the petition being denied. The initial partial filing fee will be 20 percent of:

- (A) the average monthly deposits to your account for the immediately preceding six-month period,
- or
- (B) the average monthly balance in your account for that same six-month period, whichever amount is greater.

You will be required to pay the initial partial filing fee out of your account if funds exist. 28 U.S.C. § 1915(b)(1).

After the initial partial filing fee is paid, monthly installments equal to 20 percent of your preceding month's income will be withdrawn from your account and forwarded to the court. However, if the amount in your account is less than \$10.00, no installment will be withdrawn. Withdrawals will routinely occur until the full \$350.00 filing fee is paid. 28 U.S.C. § 1915(b)(2).

Regardless of whether some or all of the filing fee has been paid, the court is required to screen your complaint. The court shall dismiss the complaint if (1) your allegation of poverty is untrue - i.e., if your petition and affidavit to proceed without prepayment of fees contains false information; (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 such relief. 28 U.S.C. § 1915(e)(2); 28 U.S.C. § 1915A.

With respect to claims based on prison conditions, no action may be brought under 42 U.S.C. § 1983 or any other federal law by a prisoner confined in a correctional institution until the available administrative remedies are exhausted. 42 U.S.C. § 1997e.

Note: If, while you are a prisoner, you file three or more actions or appeals which are dismissed as frivolous or malicious or for failure to state a claim upon which relief may be granted, then you will be prohibited from bringing any other actions IFP unless you are in imminent danger of serious physical injury. 28 U.S.C. § 1915(g).

Multiple Prisoners Bringing a Single Action If multiple prisoners are bringing a single action and not seeking leave to proceed IFP (i.e., the full filing fee is paid at the time the complaint is filed), then one filing fee (\$350.00) is required per action. However, if multiple prisoners are bringing a single action and seeking leave to proceed IFP, then one filing fee (\$350.00) is required per prisoner. Each prisoner must submit an individual petition and affidavit to proceed without prepayment of fees and a trust account statement showing transactions for the last six months.

5. If You Are a Prisoner or Pretrial Detainee Who Is Filing a Petition Pursuant to 28 U.S.C. § 2241, § 2254 or a Motion Pursuant to § 2255, You Are Advised - The filing fee for a § 2241 or § 2254 petition is \$5.00. If you have the money to pay the filing fee, you should send a cashier's check or money order for \$5.00, payable to "Clerk, United States District Court," with your complaint. There is no filing fee for a motion to vacate, set aside, or correct sentence pursuant to § 2255.

Note: Regardless of whether you are filing a petition pursuant to § 2241, § 2254, or a motion pursuant to § 2255, you must have an authorized officer

Instructions - continued

attach a printout of your prison trust account activity statement for the six months prior to the filing of your petition.

6. If You Are a Non-prisoner Filing an Appeal From a District Court Judgment or Decision, You Are Advised - The current fee for filing an appeal is \$455.00. If you have the money to pay the appellate filing fee, you should send a cashier's check or money order for \$455.00, payable to "Clerk, United States District Court," with your notice of appeal.

If you do not have enough money to pay the full filing fee at the time your appeal is filed **and** you were permitted to proceed IFP, you may proceed on appeal without further authorization unless the district court certifies that your appeal is not taken in good faith or you are otherwise not entitled to proceed IFP.

If you do not have enough money to pay the full filing fee at the time your appeal is filed and you were not previously permitted to proceed IFP, you may petition the court to proceed without prepayment of fees and costs by using the attached form. Upon receipt of petition, the court will review your petition. The court shall deny your IFP petition if it determines that (1) your allegation of poverty is untrue; or (2) the appeal is frivolous or malicious or not taken in good faith. 28 U.S.C. § 1915(a)(3) & (e)(2); 28 U.S.C. § 1915A; Fed. R. App. P. 24.

If your petition is granted, you will proceed IFP. This means that the \$455.00 appeal filing fee will be waived.

If your petition is denied because you are financially ineligible to proceed IFP, you will be required to pay the full \$455.00 appeal filing fee. Your suit will not proceed unless the fee is paid in full.

7. If You Are a Prisoner Filing an Appeal in a Civil Rights or Other Civil Action, You Are Advised -

In accordance with the provisions of the PLRA, prisoners are obligated to pay the full filing fee of \$455.00 for a civil appeal. 28 U.S.C. § 1915(b)(1). If you have the money to pay the filing fee, you should send a cashier's check or money order for \$455.00, payable to "Clerk, United States District Court" with your notice of appeal.

If you do not have enough money to pay the full filing fee at the time your appeal is filed, you may petition the district court to proceed without prepayment of fees and costs by using the attached form. If your petition is granted, you will pay the \$455.00 filing fee in installments, beginning with an initial partial appeal filing fee. The initial partial appeal filing fee will be calculated from a certified copy of your prison trust account statement that shows transactions for the last six months. The trust account statement must be filed in support of your petition. (Statements are required for any prison or jail trust accounts you have had over the prior six months). Failure to do so may result in the petition being denied.

The initial partial appeal filing fee will be 20 percent of:

- (A) the average monthly deposits to your account for the immediately preceding six-month period,
- or
- (B) the average monthly balance in your account for that same six-month period, whichever amount is greater.

Instructions - continued

You will be required to pay the initial partial appeal filing fee out of your account if funds exist. 28 U.S.C. § 1915(b)(1).

After the initial partial appeal filing fee is paid, monthly installments equal to 20 percent of your preceding month's income will be withdrawn from your account and forwarded to the court. However, if the amount in your account is less than \$10.00, no installment will be withdrawn. Withdrawals will routinely occur until the full \$455.00 appeal filing fee is paid. 28 U.S.C. § 1915(b)(2).

Regardless of whether some or all of the appeal filing fee has been paid, the court shall dismiss the appeal if (1) your allegation of poverty is untrue; or (2) the action is frivolous or malicious or not taken in good faith. 28 U.S.C. § 1915(a)(3) & (e)(2).

Note: If, while you are a prisoner, you file three or more actions or appeals which are dismissed as frivolous or malicious or for failure to state a claim upon which relief may be granted, then you will be prohibited from bringing any other actions or appeals IFP unless you are under imminent danger of serious physical injury. 28 U.S.C. § 1915(g).

Multiple Prisoners Bringing a Single Appeal If multiple prisoners are bringing a single appeal and not seeking leave to proceed IFP (i.e., the full appeal filing fee is paid at the time the notice of appeal is filed), then one filing fee (\$455.00) for the appeal is required. However, if multiple prisoners are bringing a single appeal and seeking leave to proceed IFP on appeal, then one filing fee (\$455.00) is required per prisoner. Each prisoner must submit an individual petition and affidavit to proceed without prepayment of fees and a trust account statement showing transactions for the last six months.

8. If You Are a Prisoner or Pretrial Detainee Filing an Appeal in Action on a Petition Pursuant to 28 U.S.C. § 2241, § 2254 or a Motion Pursuant to § 2255, You Are Advised - You should refer to number six of these instructions. IN ADDITION: Regardless of whether you are filing an appeal from action on a petition pursuant to § 2241, § 2254, or a motion pursuant to § 2255, you must have an authorized officer attach a printout of your prison trust account activity statement for the six months prior to the filing of your appeal.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

In the Case of

v.

Docket No. _____
(To be Supplied by Clerk)

PETITION AND AFFIDAVIT TO PROCEED
WITHOUT PREPAYMENT OF FEES AND/OR COSTS

I, _____, declare that I am the
(print your full name)

Petitioner Plaintiff Movant Appellant Other _____

in the above-entitled action. In support of my request to proceed *in forma pauperis*, I declare that I am unable to pay the fees and/or costs of these proceedings and that I am entitled to the relief sought in the complaint/petition/motion/appeal.

In support of this petition, I answer the following questions truthfully and under penalty of perjury:
(Additional pages may be added, if necessary, to provide complete information.)

Appeals

If you are filing an appeal from a district court's judgment/decision, state the issues that you intend to appeal:

Personal Information

- 1) Are you employed? Yes No

If no, give the month and year when you were last employed and state the amount of that monthly income.

_____ \$ _____
(month and year)

- 2) Are you currently incarcerated? Yes No

If yes, state the place of your incarceration and provide your prisoner identification number:

_____ (place) _____ (number)

In addition, if you are a prisoner, you must have an authorized officer attach a printout of your prison trust account statement showing transactions for the six-month period immediately preceding the filing of your complaint, motion, petition or appeal and showing the balance of your release account. You must also complete the attached "Authorization for Release of Institutional Account Information and Payment of the Filing Fee."

- 3) Are you currently married? Yes No

If yes, is your spouse employed? Yes No

- 4) Do you have any legal dependents (children/adults) whom you are responsible for supporting?

Yes No

If yes, list them below:

| <u>First and Last Initials (For Minor Children Only) or Name</u> | <u>Relationship To You</u> | <u>Age</u> | <u>Amount of Support Provided Per Month</u> |
|--|----------------------------|------------|---|
| _____ | _____ | _____ | \$ _____ |
| _____ | _____ | _____ | \$ _____ |
| _____ | _____ | _____ | \$ _____ |

Property – If you are married, your answers must include your spouse's property.

- 1) Do you own a car? Yes No

Property -continued

If yes, list car(s) below:

| <u>Model and Make</u> | <u>Year</u> | <u>Approximate Current Value</u> |
|-----------------------|-------------|----------------------------------|
| _____ | _____ | \$ _____ |
| _____ | _____ | \$ _____ |
| _____ | _____ | \$ _____ |

2) Do you own your residence(s)? Yes No

If yes, state the approximate value(s). \$ _____

3) Do you own any other valuable tangible property, including but not limited to, jewelry, artwork, or antiques?

Yes No

If yes, identify the property and its approximate value(s).

| <u>Property</u> | <u>Approximate Value</u> |
|-----------------|--------------------------|
| _____ | \$ _____ |
| _____ | \$ _____ |
| _____ | \$ _____ |

4) Do you have any cash or checking, savings, or other similar accounts? Yes No

If yes, state the total amount of such sums. \$ _____

5) Do you own any intangible property, including but not limited to stocks, bonds, trusts, or individual retirement accounts (e.g., IRA, 401k)?

Yes No

If yes, state the nature of that property and the approximate value(s).

Income – If you are married, your answers **must include your spouse's income.**

(When calculating income, you must include any salary, child support, public assistance, unemployment compensation, disability payments, life insurance payments, pensions, annuities, workers' compensation, stock dividends and interest, gifts, and inheritance, or other incoming monies.)

State your total monthly income: \$ _____

State your spouse's total monthly income: \$ _____

Expenses – If you are married and/or have dependents, **your expenses should also include your household's expenses.**

(When calculating household expenses, you may include groceries, clothing, medical costs, utilities which are not included in your rental payments, transportation, and insurance.)

1) Identify the following amounts that you pay per month:

Rent or Mortgage \$ _____

Car payment(s) \$ _____

Alimony and/or court-ordered child support \$ _____

Credit card payment(s) \$ _____

2) Do you have any other monthly expenses that you have not already identified?

Yes No

If yes, list them below:

| <u>Expense</u> | <u>Amount</u> |
|----------------|---------------|
| _____ | \$ _____ |
| _____ | \$ _____ |
| _____ | \$ _____ |
| _____ | \$ _____ |

3) What is the total amount of your monthly expenses? \$ _____

Other Circumstances – Describe any other financial circumstance(s) that you would like the court to consider when reviewing this petition.

Date

Signature – Signed Under Penalty of Perjury

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

In the Case of

v.

Docket No. _____
(To be Supplied by Clerk)

**AUTHORIZATION FOR RELEASE OF INSTITUTIONAL ACCOUNT INFORMATION AND
PAYMENT OF THE FILING FEE**

Instructions

Use this Authorization:

If you are a prisoner filing a civil rights or other civil action, or an appeal, complete this authorization.

Do not use this Authorization:

1. If you are not a prisoner
2. If you are a prisoner or are "in custody" and are petitioning the court for a writ of habeas corpus under 28 U.S.C. § 2254 or 28 U.S.C. § 2241.
3. If you are a prisoner filing a motion to vacate, set aside, or correct your sentence under 28 U.S.C. § 2255.

* * * * *

I, _____
(Name of Plaintiff)

(Prison Identification Number)

I authorize the clerk of court to obtain from the agency having custody of my person, information about my prison trust account, including balances, deposits, and withdrawals until the filing fee is paid. I understand that, when sufficient funds exist in my prison trust account, I will be required to pay an initial partial filing fee equal to 20 percent of the greater of: (A) the average monthly deposits to my account for the six-month period immediately preceding the filing of my complaint or notice of appeal, or (B) the average monthly balance in my account for the six-month period immediately preceding the filing of the complaint or notice of appeal. I understand and hereby authorize that, after payment of the initial partial filing fee, monthly payments will be forwarded to the clerk of court equal to 20 percent of the preceding month's income credited to my account. I hereby authorize the agency or facility having custody of my person to withdraw funds from my prison trust account and forward such payments from my account to the clerk of court each time the amount in the account exceeds \$10.00, until the filing fee is paid as set forth in 28 U.S.C. § 1915(b)(2).

(Signature of Plaintiff)

(Date)

NOTE: A CERTIFIED COPY OF YOUR PRISON TRUST ACCOUNT STATEMENT SHOWING TRANSACTIONS FOR THE SIX-MONTH PERIOD IMMEDIATELY PRECEDING THE FILING OF YOUR COMPLAINT MUST ACCOMPANY THIS PETITION AND AFFIDAVIT. (Statements are required for any prison or jail trust accounts you have had over the prior six months.)