

INFORMATION AND INSTRUCTIONS

FILING COMPLAINT UNDER 42 U.S.C. §1983

1) The attached form is to assist you in the preparation of a complaint seeking relief under the Civil Rights Act. In order for your complaint to be considered by the District Court, it must be typewritten or legibly handwritten. All questions must be answered clearly and concisely in the appropriate space on the form. If necessary, you may use up to two additional pages (8 1/2" x 11") to complete part "C" of the complaint, making clear to which count the continued information applies. If there is more than one defendant, you should clearly indicate which of the acts alleged is attributable to each defendant.

A. The Complaint

2) An original and one copy of the complaint must be provided for the court and one copy for each of the persons (defendants) you wish to sue. For example, if you name two defendants, you must file an original and three copies of the complaint. You should keep an additional copy of the complaint for your own records. All copies of the complaint must be identical to the original.

3) Your complaint must be signed and include a declaration under penalty of perjury. You are cautioned that any deliberate false statement of a material fact may serve as a basis for prosecution and conviction for perjury. You should therefore exercise care to assure that all answers are true, correct, and complete.

4) Under the Civil Rights Act, 42 U.S.C. §1983, the court can grant relief only for wrongs which amount to the denial of federal constitutional rights by a person acting under color of state law. Your complaint can be brought in this court only if one or more of the named defendants is located within this judicial district.

5) You must furnish an original and one copy of all papers, correspondence or other documents (except the original complaint which requires an original and two copies) submitted to the court for filing and consideration. In addition, you must furnish the opposing party or his attorney with a copy of all such documents submitted to the court. Each original document (except the original complaint) must include a certificate stating the date a copy of the document was mailed to the opposing party or his attorney and the address to which it was mailed.

A certificate of service may be in the following form:

"I hereby certify that a copy of the foregoing pleading/document was mailed to

_____ at _____
(Opposing party or counsel) (Address)

on _____, 19__.
(Date)

(Signature)

B. The Filing Fee and 28 U.S.C. § 1915

6) On and after May 1, 2013, filing a civil complaint in the federal district courts will require a \$350 filing fee, plus a \$50 general administrative fee, for a total of \$400. If you want to commence an action without prepayment of fees or security therefor, you must file a motion for leave to proceed pursuant to 28 U.S.C. § 1915. Under § 1915, you also must submit an affidavit and a certified copy of your trust fund account statement (or institutional equivalent) for the six-month period immediately preceding the filing of the complaint. The certified copy of the trust fund account statement (or institutional equivalent) must be obtained from the appropriate official of each penal institution at which you are or were confined during the six-month period. The court will not consider the merits of the claims asserted in any complaint filed without either the \$400.00 filing fees or a properly completed motion, affidavit and certified copy of your trust fund account statement (or institutional equivalent) as required by § 1915.

7) The motion and affidavit for leave to proceed pursuant to 28 U.S.C. § 1915 must be typewritten or legibly handwritten. All questions must be answered clearly and concisely in the appropriate space on the form. You must sign the motion and affidavit. You should exercise care to assure that all answers are true, correct and complete.

8) If you are proceeding pursuant to 28 U.S.C. § 1915 and the motion, affidavit and certified copy of your trust fund account statement (or institutional equivalent) are in proper form, you will be ordered to pay within thirty days an initial partial filing fee in an amount to be determined by the court pursuant to § 1915(b)(1). The court will not review the merits of your complaint until the initial partial filing fee is paid. If you fail to pay the initial partial filing fee within thirty days or fail to show that you have no assets and no means by which to pay the initial partial filing fee, the complaint will be dismissed without prejudice. If the initial partial filing fee is paid within thirty days, the court will review the complaint pursuant to § 1915(e)(2)(B) to determine if it is frivolous or malicious, fails to state a claim on which relief may be granted, or seeks monetary relief against a defendant who is immune from such relief.

9) You are reminded that, even if you are allowed to proceed pursuant to 28 U.S.C. § 1915, you must pay the full filing fees as required by law, i.e., \$400.00. It is your responsibility to ensure that monthly payments are sent to the court as required by § 1915(b)(2) until the filing fee is paid in full. It is your responsibility to have the institution where you are confined forward the payments from your trust fund account to the clerk of the court each time the amount in your

account exceeds \$10.00. The complaint may be dismissed at any point if you fail to make the required monthly payments.

10) When your complaint is completed, it should be mailed with the necessary copies and filing fees, or motion to proceed pursuant to 28 U.S.C. § 1915 and financial certificate, to the Clerk of the United States District Court whose address is:

**U.S. District Court
333 Lomas Blvd. NW, Ste. 270
Albuquerque, NM 87102**

11) United States District Judges, United States Magistrate Judges, law clerks, the Clerk of Court, and deputy clerks are officers of the court **and are prohibited from giving legal advice.** Questions of this nature should be directed to an attorney.