

**SECTION 1983 CIVIL RIGHTS COMPLAINT - PRISONER
EASTERN DISTRICT OF MISSOURI**

I. INFORMATION

JURISDICTION

The United States District Courts have jurisdiction to adjudicate lawsuits brought under the Civil Rights Act of 1871, 42 U.S.C. § 1983.

EXHAUSTION OF REMEDIES

Before bringing a lawsuit challenging prison conditions, you must exhaust, or use up, available administrative remedies. For example, if your institution has a grievance procedure, then you must pursue your claims through all the steps of that procedure. If you do not exhaust available administrative remedies, your case may be dismissed. 42 U.S.C. § 1997e.

STATING A § 1983 CLAIM

A § 1983 claim must contain facts that allege violation of a federally protected right by a state actor. You must set forth facts showing how each defendant you sue is personally responsible for violating your rights. If your complaint does not make such an allegation as to each named defendant, the district court may dismiss your complaint.

VENUE

The word "venue" refers to the geographic area over which a court has authority. The federal district courts each have their own venue and they have very strict rules on where you may file your § 1983 complaint. If you do not comply with these rules, your action may be transferred to another court or dismissed. You should file your § 1983 complaint in the judicial district (i) where any defendant resides, if all the defendants reside in the same state; (ii) where a substantial part of the acts or omissions giving rise to the claim occurred; or (iii) where any defendant may be found, if there is no district where the action may otherwise be brought.

The State of Missouri is divided into the Eastern and Western Districts. The U.S. District Court for the Eastern District of Missouri is located at 111 South Tenth Street, St. Louis, Missouri, 63102, and is comprised of the following counties: Adair, Audrain, Bollinger, Butler, Cape Girardeau, Carter, Chariton, Clark, Crawford, Dent, Dunklin, Franklin, Gasconade, Iron, Jefferson, Knox, Lincoln, Linn, Macon, Madison, Maries, Marion, Mississippi, Monroe, Montgomery, New Madrid, Pemiscot, Perry, Phelps, Pike, Ralls, Randolph, Reynolds, Ripley, Saint Charles, Saint Francois, Saint Genevieve, Saint Louis, Schuyler, Scotland, Scott, Shannon, Shelby, Stoddard, Warren, Washington, and Wayne, and the City of Saint Louis. The U.S. District Court for the Western District of Missouri is located at 400 East 9th Street, Kansas City, Missouri, 64106. The counties comprising the Western District of Missouri are set forth in 28 U.S.C. § 105(b).

RULES OF COURT

If you file a § 1983 complaint in the Eastern District of Missouri, you must follow the Federal Rules of Civil Procedure, as well as the Court's Local Rules. Even if you proceed pro se (representing yourself without an attorney), you must follow these rules. You should find both the federal rules and the local rules in the prison library. If your library does not have a copy of this Court's Local Rules, you should request that the prison library contact the Clerk's Office and the rules will be provided to the library.

CHANGE OF ADDRESS

To ensure prompt delivery of court documents, you must file a change of address with the court every time your address changes. Failure to do so will prevent the Court from notifying you of developments in your case. If any mail is returned to the Court without a forwarding address and you do not notify the Court of the change of address within thirty (30) days, the Court may, without further notice, dismiss the action without prejudice.

LEGAL ADVICE

Court personnel, including district court judges, magistrate judges, the Clerk of Court, and all staff, are prohibited by law from giving you legal advice. You should seek legal advice from your attorney or a legal clinic.

NOTARIZATION

Documents that are signed certified as true under penalty of perjury do not need to be notarized. See 28 § 1746.

II. INSTRUCTIONS

To file a § 1983 complaint, complete the enclosed complaint form and mail the original to the Clerk of Court. (If you pay the filing fee you must also submit one copy of the complaint for each defendant). All copies must conform to the original. In addition, the complaint must:

- (1) be typed or legibly written;
- (2) be signed by you, and
- (3) conform to the instructions in the "Filing Fee" section below.

You should answer all questions concisely and to the best of your ability. If you need extra space to answer a question, insert an additional page in the appropriate place. Use 8-1/2 x 11 inch sized paper, if possible. Do not use the back of the page unless you cannot obtain blank paper. Do not name as a plaintiff in your complaint any other person.

JURY DEMANDS

Depending on your claim and the type of relief you are seeking, you may be entitled to a trial by jury. However, you may lose your right to a jury trial if you do not request it early in the proceeding. If you want a jury trial, you should indicate that on the first page of your complaint.

FILING FEE

Your complaint must be accompanied by a fee of \$402. A check or money order should be made payable to "Clerk, United States District Court." If you pay the \$402 filing fee, you will be responsible for service upon each defendant. To properly serve the defendant(s) you must submit to the Court Clerk for each named defendant a copy of the complaint, and a completed summons. The Court Clerk will return to you each defendant's copy of the complaint for you to serve and a copy for your own records. In the alternative, you may request that the defendant(s) waive service. Instructions and forms for requesting the waiver of service are available from Clerk's Office (Note: If a defendant fails to waive service, you will still be responsible for serving upon them a copy of the complaint and a summons).

PROCEEDING WITHOUT PREPAYMENT OF FEES OR COSTS

If you are currently unable to pay the filing fee, you may request permission to proceed without prepayment of fees or costs. Although prisoners granted leave to proceed without prepayment of fees or costs must pay the filing fee, they may do so in installments. (Note: for prisoners given leave to proceed without prepayment of fees, the filing fee is \$350.). If you have insufficient funds in your prison account, the court will assess and, when funds exist, collect an initial partial filing fee of 20 percent of the greater of

- (1) the average monthly deposits in your account; or
- (2) the average monthly balance in your account for the prior six-month period.

After payment of the partial filing fee, you must make monthly payments of 20 percent of your preceding month's income until the \$350 is paid. The agency having custody of you will forward payments from your account to the court each time the amount in the account exceeds \$10.00. 28 U.S.C. § 1915.

To request leave to proceed without prepayment of fees or costs, you must fully complete the Application to Proceed in District Court Without Prepayment of Fees or Costs. You must also file a certified copy of your inmate account statement for the six-month period immediately preceding the filing of your complaint.

If you proceed without prepayment of fees or costs, the Court is responsible for service of your complaint upon each defendant; however, you are responsible for providing the Court the correct address of each defendant.

THREE-STRIKES RULE

You cannot bring a new civil action without prepayment of fees or costs if you have, on three or more occasions, while incarcerated, brought a civil action or appeal in federal court that was dismissed because it was (1) frivolous, or (2) malicious, or (3) failed to state a claim upon which relief may be granted. 28 U.S.C. § 1915(g). The only exception to this is if you are in "imminent danger of serious physical harm." However, if you are not proceeding without prepayment of fees or costs, you may file a new civil action or appeal even if you have three or more of these dismissals.

APPOINTMENT OF COUNSEL

A § 1983 litigant does not have an absolute right to a court-appointed attorney. The court may, in its discretion, appoint an attorney to represent you. Form motions for appointment of counsel are available on this website and from the Clerk's Office upon request.

SUBSEQUENT FILINGS

Certificate of Service

To file a motion, pleading or other paper, you must submit the original document to the Clerk of Court. The original document must include a certificate of service. Any pleading or document received by the court that fails to include a certificate of service may be returned. In addition to filing the original document with the court, you must mail a copy of each document to all other parties, or if they have counsel, to their attorney(s).

Motions Filed By Other Parties

If you do not timely respond to a motion filed by another party, you may waive your right to challenge the subject matter of the motion. Applicable time periods are set forth in the Federal Rules of Civil Procedure and the Court's Local Rules.

Letters to the Court

It is improper to send letters directly to district or magistrate judges regarding cases pending before them. All correspondence should be forwarded to the Clerk of Court. Copies of correspondence should also be sent to all other parties, or if they have counsel, to their attorney(s).

MAILING

All pleadings, motions, fees, and legal documents should be mailed to:

Clerk of Court
United States District Court
Eastern District of Missouri
111 South Tenth Street
Suite 3.300
St. Louis, MO 63102