



## How to Start a Prisoner Civil Rights Case

Prisoner civil rights cases arise under 42 U.S.C. § 1983. Under that statute, a prisoner must allege a violation of a right protected by the United States Constitution or created by federal statute caused by the conduct of a person acting under color of state law (for example, a state prison employee). If the illegal conduct was by a person acting under color of federal law, you may file a Bivens action using the same procedure as filing an action under 42 U.S.C. § 1983. The Court has a Prisoner Civil Rights Federal Litigation Guide that you may consult for additional information. You may obtain a copy of this Guide by contacting the Clerk's Office. The contact information is provided at the end of this document.

### How do I start a civil rights action?

To start a prisoner civil rights action, a prisoner must submit the following documents:

1. Complete the Court's Civil Rights Complaint form;
2. Complete the Civil Cover Sheet;
3. Pay **EITHER** the \$400.00 filing fee **OR** submit a completed Application to Proceed in District Court without Prepaying Fees or Costs (IFP application) form **AND** then pay the initial partial filing fee required by 28 U.S.C. § 1915(b)(1).

Copies of all necessary forms may be obtained by contacting the Clerk's Office. The contact information is provided at the end of this document.

### What are the requirements related to the filing fee?

In order to initiate a civil case, the Clerk's Office must collect \$400.00 (\$350.00 filing fee and \$50.00 administrative fee). If you are unable to pay that amount, you must submit a completed Application to Proceed in District Court without Prepaying Fees or Costs form with your complaint. A magistrate judge will review the completed form and you will be notified of the judge's decision. If the judge grants your request, you will be considered as proceeding In Forma Pauperis or IFP. Permission to proceed IFP entitles a prisoner civil rights litigant to start a civil rights action without prepaying the entire filing fee at the outset of the case and, if your case is not summarily dismissed, the United States Marshal Service will serve the summons and complaint on the defendant(s) at no cost to you. Proceeding IFP *does not* waive subsequent costs or fees, including costs for copies.

For prisoner civil rights actions, the filing fee (\$350.00) may never be waived. If you are granted IFP status, the \$50.00 administrative fee is waived and you will not be required to pay the entire \$350.00 filing fee all at once. Instead, you will be required to pay an initial filing fee equal to 20% of the greater of your average monthly balance or average



monthly deposits in your prisoner trust account for the last six months. 28 U.S.C. § 1915. Thereafter, you will be required to pay the rest of the filing fee in partial payments until the entire \$350.00 is paid. Checks are payable to “Clerk, U.S. District Court.”

### **What happens after the Court receives my documents?**

The court will conduct an initial review of your case. The Court will dismiss your complaint and your lawsuit will not proceed if your complaint does not meet the standards set forth in 28 U.S.C. § 1915(A). The Court must authorize the lawsuit to proceed before the defendants may be served, discovery is conducted, or a request for default judgment may be made. It may take the Court several weeks to conduct the initial review.

### **How do I serve the summons and complaint on the defendants?**

If you are NOT granted IFP status, but the Court authorized the lawsuit to proceed and you paid the filing fee, the Clerk’s Office will send you a summons form to complete and serve with the complaint on the defendants. You are responsible for arranging service on all the defendants. You may consult the Court’s Guide or Service of Process Information Sheet for more information on service.

If you were granted IFP status and the Court authorized the lawsuit to proceed, the Clerk’s Office will send you the U.S. Marshals Service Form and the summons form to complete. You must complete these forms and return them to the Clerk’s Office. The U.S. Marshals Service will serve your summons and complaint on the defendant(s). Please remember, the Clerk’s Office and the U.S. Marshals Service are not responsible for providing accurate addresses to serve the defendant(s).

### **May I amend my complaint?**

Yes, but Court permission is required under certain circumstances, and the complaint must be amended by following the procedures in Federal Rule of Civil Procedure 15(a) and Local Rule 15.1.

### **How do I contact the Clerk’s Office?**

United States District Court, District of Minnesota Clerk’s Office  
U.S. Courthouse  
300 South Fourth Street, Suite 202  
Minneapolis, MN 55415

(612) 664-5000