



UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF FLORIDA

EXPLANATION AND INSTRUCTIONS FOR PRISONERS FILING A CIVIL ACTION UNDER:

- **42 U.S.C. § 1983** for suits against state actors
- **28 U.S.C. § 1331** for suits against federal defendants pursuant to *Bivens v. Six Unknown Federal Narcotics Agents*, 403 U.S. 388 (1971)

1. Complaint and application to proceed *in forma pauperis*. Local Rule 6.04 applies to actions filed by persons in custody and requires the use of the Court's form for the action you are filing and warns that the failure to pay a fee can result in dismissal. (<https://www.flmd.uscourts.gov/forms/all/litigants-without-lawyers-forms>)¹ A person in custody filing an action that fails to use the Court's approved form is warned that failure to do so can result in dismissal of the action. A complaint form should be completed as instructed below. Actions filed by pro se prisoner litigants will not be considered by the Court unless this complaint form has been completed. An application to proceed *in forma pauperis* must also be completed if you cannot pay the filing fee.

2. Format. Your complaint must be legibly handwritten, typewritten, or computer generated. You must answer all of the questions on the complaint form. You must provide your full and correct name as Plaintiff. When listing Defendants, you must provide the name and either job title or position; e.g., Officer J. Smith. You must furnish an address for each Defendant. If you need additional space to answer a question, you may use additional blank pages, but do not write on the reverse side of any page. You must sign the complaint on the last page of the complaint form. You should keep a copy of the complaint for your records, but the complaint that is sent to the Court for filing must contain your original signature. You must provide truthful statements; any false statement made in the complaint or application to proceed *in forma pauperis* may result in sanctions, including the dismissal of your case.

Middle District of Florida Local Rule 6.04 applies to actions filed by persons in custody and requires the use of the Court's form for the action you are filing and warns that the failure to pay a fee can result in dismissal. A person in custody filing an action that fails to use the Court's approved form is warned that failure to do so can result in dismissal of the action.

3. Claims. State the facts that support your claim or claims. The claims raised in this action must relate to the same basic incident or issue. Any other claims must be addressed in a separate civil rights complaint. When presenting the facts in the complaint, it is unnecessary to make legal arguments or provide case citation. You may attach as exhibits to your complaint any documents related to the exhaustion of your administrative remedies. Otherwise, you will be advised when the submission of argument or evidence in support of your claim or claims is appropriate.

¹ See Pro Se 14 "Complaint for Violation of Civil Rights (Prisoner)" (<http://www.uscourts.gov/forms/pro-se-forms/complaint-violation-civil-rights-prisoner>) and FLMD "Prisoner Application to Proceed In Forma Pauperis" (<https://www.flmd.uscourts.gov/sites/flmd/files/forms/flmd-prisoner-application-to-proceed-in-forma-pauperis-civil-rights.pdf>).

4. Filing fee. You must either:

a. Pay the filing fee of \$405. The total filing fee, if not granted leave to proceed *in forma pauperis*, is \$405, which reflects the statutory fee of \$350 (*see* 28 U.S.C. § 1914(a)) and the administrative fee of \$55. (A prisoner who is granted *in forma pauperis* status will be assessed the statutory filing fee of \$350 but will not be responsible for the administrative fee.) The total filing fee must be paid at the same time you submit your complaint. If you can pay this fee, you are also responsible for the costs of service of the complaint upon Defendants, although you may seek assistance from the Court. *See, e.g.*, Fed. R. Civ. P. 4(c)(3).

Prisoners must pay the filing fee by money order, cashier's check, or in-person credit card.

b. Petition the Court to proceed *in forma pauperis*. This option is available if you are unable to pay the filing fee and service costs for this action. You may petition the Court to proceed *in forma pauperis* using the application to proceed *in forma pauperis* included in this packet or found on the Court's website. To begin the *in forma pauperis* process, you must first execute the attached application to proceed *in forma pauperis*, setting forth the information that establishes your financial status. You must answer every question on the application and ensure that an authorized official at the institution completes the certificate. You must also provide the Court with a certified copy of your prison account statement containing all transactions in your prisoner account for the six (6) months preceding the filing of the complaint.

Please note that even if you proceed *in forma pauperis*, you will be required to pay a filing fee of \$350. In the event you are unable to pay the filing fee at the time the action is filed, the Court may assess an initial partial filing fee. After the initial partial filing fee is paid, the prison at which you are incarcerated will be required to forward to the Clerk's Office monthly payments of 20% of the preceding month's income credited to your inmate account until the \$350 filing fee is paid. Notwithstanding the above, the party seeking leave to proceed *in forma pauperis* may be required to pay, as a condition to allowing the case to proceed *in forma pauperis*, a stated portion of the Clerk's and/or Marshals' fees.

The Court may deny any motion to proceed *in forma pauperis* if the prisoner either submits an incomplete or unsigned application or fails to submit an inmate account form.

Even if a prisoner pays some or all the filing fee, the Prisoner Litigation Reform Act, 28 U.S.C. § 1915(e)(2), requires that the Court dismiss a lawsuit if:

- the prisoner's allegation of poverty is untrue;
- the lawsuit is frivolous or malicious;
- the complaint fails to state a claim upon which relief may be granted; or
- the complaint makes a claim against a defendant for money damages and the defendant is immune from liability for money damages.

Finally, if a prisoner files more than three lawsuits or appeals that are dismissed as frivolous, malicious, or not stating a claim on which relief can be granted, the prisoner cannot proceed *in forma pauperis* in any federal suit unless he is in imminent danger of serious physical injury. See 28 U.S.C. § 1915(g).

5. Service. In a civil case (for example, a civil rights action or negligence action), if *in forma pauperis* status is granted, the Court may direct that your complaint be served on the opposing party or parties.

If you have paid the filing fee, then unless the Court expressly says otherwise (*see, e.g.*, Fed. R. Civ. P. 4(c)(3)), you are responsible for complying with service of process. The service of process rules, which are simply the rules that ensure that a defendant has timely received a copy of the summons and complaint (and thus provide the defendant with direct notice of your lawsuit) are found in Federal Rule of Civil Procedure 4 and this Court's Local Rule 1.10. You must serve each defendant in the manner specifically set forth in the Rules with a copy of the summons and complaint within 90 days after you have filed the complaint. It is your responsibility to timely comply with the Rules, and if you do not, your case may be dismissed.

6. Your records. After receiving notice from the Clerk of your case number, you must include the case number on all documents you file with the Court. You should keep a copy of every document you send to the Court (including a copy of your complaint), as you are not entitled to free copies from the Clerk even if you are proceeding *in forma pauperis* (the cost of photocopies is \$.50 per page).

7. Change of address. Throughout this case, you are required to advise the Court in writing of any change in your mailing address by filing a Notice of Change of Address. As with every document you file with the Court, you must send a copy of your Notice of Change of Address to each defendant and include a certificate of service. You will be notified as soon as any action is taken in your case. The Clerk will mail to you a copy of every order entered by the Court to the last address it has on file. Your failure to keep the Court advised of your current address may result in the dismissal of your case.

8. Directly corresponding with the Court prohibited. You may not directly correspond with the Court (or any individual judge) in the form of letters or similar documents. Instead, everything that you submit for the Court's consideration must be filed through the Clerk's Office. The Court will not respond to anything that is not filed through the Clerk's Office, will strike it from the case file, and may return it to you.

9. Venue. The complaint will be prosecuted in either the Tampa, Ft. Myers, Orlando, Jacksonville, or Ocala Division of the Court, depending on the county of residence of one or more of the Defendants or the place where the events forming the basis of the complaint occurred. You should name the appropriate division of the Court in the space provided at the top of the complaint form. Each division includes the following counties:

- **Tampa** Division: Hardee, Hernando, Hillsborough, Manatee, Pasco, Pinellas, Polk, and Sarasota.
- **Ft. Myers** Division: Charlotte, Collier, DeSoto, Glades, Hendry, and Lee.
- **Orlando** Division: Brevard, Orange, Osceola, Seminole, and Volusia.
- **Jacksonville** Division: Baker, Bradford, Clay, Columbia, Duval, Flagler, Hamilton, Nassau, Putnam, St. Johns, Suwannee, and Union.
- **Ocala** Division: Citrus, Lake, Marion, and Sumter.

Cases to be filed in the:

Tampa Division should be mailed to:

CLERK'S OFFICE, UNITED STATES
DISTRICT COURT, SAM M. GIBBONS
US COURTHOUSE
801 N. FLORIDA AVENUE, ROOM 218
TAMPA, FLORIDA 33602-3800

Ft. Myers Division should be mailed to:

CLERK'S OFFICE, UNITED STATES
DISTRICT COURT, US COURTHOUSE &
FEDERAL BUILDING
2110 FIRST STREET, ROOM 2-194
FORT MYERS, FLORIDA 33901-3083

Orlando Division should be mailed to:

CLERK'S OFFICE, UNITED STATES
DISTRICT COURT
401 W. CENTRAL BOULEVARD, SUITE
1200
ORLANDO, FLORIDA 32801-0120

Jacksonville Division should be mailed to:

CLERK'S OFFICE, UNITED STATES
DISTRICT COURT, US COURTHOUSE
300 NORTH HOGAN STREET, SUITE 9-
150
JACKSONVILLE, FLORIDA 32202-4271

Ocala Division should be mailed to:

CLERK'S OFFICE, UNITED STATES
DISTRICT COURT, GOLDEN-COLLUM
MEMORIAL FEDERAL BUILDING AND
U.S. COURTHOUSE
207 N.W. SECOND STREET, ROOM 337
OCALA, FLORIDA 34475-6666.