

**INSTRUCTIONS FOR FILING
CIVIL RIGHTS COMPLAINT UNDER BIVENS
IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

(1) This complaint must be legibly handwritten or typewritten, and signed by the plaintiff. All questions must be answered concisely in the proper space on the form. Do NOT write on the back of any page. No citation of case or statutory authority is necessary.

(2) Additional pages not to exceed fifteen (15) in number may be included with the court approved form complaint, provided the form is completely filled in to the extent applicable in the particular case. This limitation does not include exhibits.

(3) Upon receipt of a **fee of \$400** (\$350 statutory fee and \$50 administrative fee) your complaint will be filed if it is in proper order. The \$400 fee must be submitted with the complaint, not separately.

(4) If you do not have the necessary funds to pay the filing fee or cannot afford to pay for transcripts, counsel, appeal, or other costs connected with this civil action, you may request permission to proceed in forma pauperis, in which event you must execute a separate form provided by the Court, entitled "Motion and Declaration Under Penalty of Perjury in Support of Motion to Proceed In Forma Pauperis" setting forth information establishing your inability to pay fees or costs.

IF YOU ARE A PRISONER, you must attach a certified copy of your prison trust account statements for the 6-month period immediately preceding the filing of the complaint per 28 U.S.C. § 1915(a)(2) or your motion to proceed in forma pauperis will be denied. Even if your motion to proceed in forma pauperis is granted, however, the Court may assess an initial partial filing fee at the time your action is filed and the \$50 administrative fee will be waived. After the initial partial fee is assessed, YOU WILL STILL OWE THE BALANCE OF THE \$350 STATUTORY FILING FEE WHICH THE COURT WILL ORDER GARNISHED FROM YOUR PRISON TRUST ACCOUNT.

(5) When the complaint is fully completed, it must be mailed to:

**Clerk of U.S. District Court
333 West Broadway, Suite 420
San Diego, CA 92101**

2. Defendants: (Attach same information on additional pages if you are naming more than 4 defendants.)

Defendant _____ resides in _____,
(name) (County of residence)
and is employed as a _____. This defendant is sued in
(defendant's position/title (if any))
his/her individual official capacity. (Check one or both.) Explain how this defendant was acting under
color of law: _____

Defendant _____ resides in _____,
(name) (County of residence)
and is employed as a _____. This defendant is sued in
(defendant's position/title (if any))
his/her individual official capacity. (Check one or both.) Explain how this defendant was acting under
color of law: _____

Defendant _____ resides in _____,
(name) (County of residence)
and is employed as a _____. This defendant is sued in
(defendant's position/title (if any))
his/her individual official capacity. (Check one or both.) Explain how this defendant was acting under
color of law: _____

Defendant _____ resides in _____,
(name) (County of residence)
and is employed as a _____. This defendant is sued in
(defendant's position/title (if any))
his/her individual official capacity. (Check one or both.) Explain how this defendant was acting under
color of law: _____

D. Previous Lawsuits and Administrative Relief

1. Have you filed other lawsuits in state or federal courts dealing with the same or similar facts involved in this case? Yes No.

If your answer is "Yes", describe each suit in the space below. [If more than one, attach additional pages providing the same information as below.]

(a) Parties to the previous lawsuit:

Plaintiffs: _____

Defendants: _____

(b) Name of the court and docket number: _____

_____.

(c) Disposition: [For example, was the case dismissed, appealed, or still pending?] _____

_____.

(d) Issues raised: _____

_____.

(e) Approximate date case was filed: _____.

(f) Approximate date of disposition: _____.

2. Have you previously sought and exhausted all forms of available relief from the proper administrative officials regarding the acts alleged in Part C above? [E.g., CDCR Inmate/Parolee Appeal Form 602, BP-8, BP-9, etc.] ? Yes No.

If your answer is "Yes", briefly describe how relief was sought and the results. If your answer is "No", briefly explain why administrative relief was not exhausted.

_____.

E. Request for Relief

Plaintiff requests that this Court grant the following relief:

1. An injunction preventing defendant(s): _____

_____.

2. Damages in the sum of \$ _____.

3. Punitive damages in the sum of \$ _____.

4. Other: _____

_____.

F. Demand for Jury Trial

Plaintiff demands a trial by Jury Court. (Choose one.)

G. Consent to Magistrate Judge Jurisdiction

In order to insure the just, speedy and inexpensive determination of Section 1983 Prisoner cases filed in this district, the Court has adopted a case assignment involving direct assignment of these cases to magistrate judges to conduct all proceedings including jury or bench trial and the entry of final judgment on consent of all the parties under 28 U.S.C. § 636(c), thus waiving the right to proceed before a district judge. The parties are free to withhold consent without adverse substantive consequences.

The Court encourages parties to utilize this efficient and expeditious program for case resolution due to the trial judge quality of the magistrate judges and to maximize access to the court system in a district where the criminal case loads severely limits the availability of the district judges for trial of civil cases. Consent to a magistrate judge will likely result in an earlier trial date. If you request that a district judge be designated to decide dispositive motions and try your case, a magistrate judge will nevertheless hear and decide all non-dispositive motions and will hear and issue a recommendation to the district judge as to all dispositive motions.

You may consent to have a magistrate judge conduct any and all further proceedings in this case, including trial, and the entry of final judgment by indicating your consent below.

Choose only one of the following:

Plaintiff consents to magistrate judge jurisdiction as set forth above.

OR

Plaintiff requests that a district judge be designated to decide dispositive matters and trial in this case.

Date

Signature of Plaintiff