

NOTICE

EFFECTIVE
SEPTEMBER 5, 2000

ALL INMATE CIVIL RIGHTS ACTIONS AND HABEAS CORPUS APPLICATIONS ARE TO BE SENT FOR PROCESSING AND FILING TO THE SYRACUSE DIVISIONAL OFFICE OF THE CLERK.

ALSO, REQUESTS FOR ANY FORMS NECESSARY FOR FILING A NEW ACTION OR HABEAS CORPUS APPLICATION ARE TO BE MADE TO THAT OFFICE. THE ADDRESS IS AS FOLLOWS:

CLERK, U.S. DISTRICT COURT
FEDERAL BUILDING
100 SOUTH CLINTON STREET
SYRACUSE, NEW YORK 13261

ATTENTION: INMATE LITIGATION UNIT

OFFICE OF THE CLERK
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

LAWRENCE K. BAERMAN
CLERK OF COURT

100 S. CLINTON STREET
P.O. BOX 7367
SYRACUSE, NEW YORK 13261-7367
(315) 234-8500

TO: INMATES OF NEW YORK CORRECTIONAL FACILITIES
IN THE NORTHERN DISTRICT OF NEW YORK

FROM: LAWRENCE K. BAERMAN, CLERK

SUBJECT: INSTRUCTIONS FOR FILING PRO SE COMPLAINTS UNDER THE
CIVIL RIGHTS ACT, 42 U.S.C. SECTION 1983

To commence a 1983 action you must forward to the Clerk of the Court, Federal Building, 100 South Clinton Street, Syracuse, New York 13261 the original and one copy for the Court and one copy for each defendant you name. The Clerk will not process your complaint unless it conforms to these instructions. For example, if you name four defendants you must submit the original and five copies of the complaint. You should also keep a copy of the complaint for your own file.

Enclosed are: (i) Civil Rights Complaint Form; (ii) blank summons; (iii) application and affidavit to proceed without payment of fee; (iv) authorization form; also enclosed is an appropriate number of USM-285 forms for service on defendants named in your complaint.

Please note that additional copies of forms for filing an 1983 action are available at your facility law library. You may handwrite identical copies of your complaint for service on defendants. The Clerk's office will not provide multiple copies of form complaints.

Your complaint must be legibly handwritten or typed. Each plaintiff must sign the complaint, thus certifying that he or she believes the complaint to be well grounded in fact and law and is not intended to harass or cause unnecessary delay (see Fed. Rule of Civil Procedure 11).

To be filed, the complaint must be accompanied by the filing fee of \$150.00 **OR** an Application to Proceed In Forma Pauperis (AO Form 240), with the certification by an authorized official of the institution completed, **and** an executed authorization form to withhold the filing fee from your inmate account.

The summons must name each defendant in your complaint and you must complete a U.S. Marshal Form 285 for each defendant showing their correct address. The U.S. Marshal will not make service unless you are granted leave to file without payment of the fee.

OFFICE OF THE CLERK
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

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CLERK OF COURT

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P.O. BOX 7367
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(315) 234-8500

TO: INMATES OF NEW YORK CORRECTIONAL FACILITIES IN
THE NORTHERN DISTRICT OF NEW YORK

FROM: LAWRENCE K. BAERMAN, CLERK OF COURT

SUBJECT: REQUIREMENTS FOR FILING CIVIL RIGHTS ACTIONS UNDER
42 U.S.C., SECTION 1983

The following checkoff list should be read and marked for compliance before submission of a new action for filing with the Clerk of the Northern District of New York.

Please check each box indicating compliance:

1. Your original signature (not a photocopy) is located at end of complaint
2. Submitted original complaint
3. Submitted one copy of the complaint for the court
4. Submitted sufficient copies of complaint for service upon each named defendant
5. Completed and signed the application and affidavit to proceed without prepayment of fee (form AO 240)
6. The certificate portion of the application and affidavit to proceed without prepayment of fee has been completed by an authorized officer of the institution
7. Completed the inmate authorization form
8. Completed one original summons listing all named defendants (form AO 440)
9. Completed a civil cover sheet (form JS 44)
10. Completed and signed a Marshal Service Form (form USM 285) for service upon each named defendant
11. Submitted statutory filing fee of \$150.00 (if so, it is not necessary to complete steps 5, 6, 7 and 10)

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

_____)		INMATE CIVIL RIGHTS COMPLAINT PURSUANT TO 42 U.S.C. § 1983
)	
)	
Plaintiff(s))	
vs.)	
)	
Defendant(s))	
_____)		Civil Case No.:

Plaintiff(s) in the above-captioned action, allege(s) as follows:

JURISDICTION

1. This is a civil action seeking relief and/or damages to defend and protect the rights guaranteed by the Constitution of the United States. This action is brought pursuant to 42 U.S.C. § 1983. The Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1343(3) and (4) and 2201.

PARTIES

2. Plaintiff: _____
Address: _____

Additional Plaintiffs may be added on a separate sheet of paper.

3. a. Defendant: _____
Official Position: _____

Address: _____

b. Defendant: _____

Official Position: _____

Address: _____

c. Defendant: _____

Official Position: _____

Address: _____

Additional Defendants may be added on a separate sheet of paper.

4.

PLACE OF PRESENT CONFINEMENT

a. Is there a prisoner grievance procedure at this facility?

() Yes () No

b. If your answer to 4(a) is YES, did you present the facts relating to your complaint in this grievance program?

() Yes () No

If your answer to 4(b) is YES:

(i) What steps did you take?

(ii) What was the **final** result of your grievance?

If your answer to 4(b) is NO:

Why did you choose to not present the facts relating to your complaint in the prison's grievance program?

c. If there is no grievance procedure in your institution, did you complain to prison authorities about the facts alleged in your complaint?

() Yes () No

If your answer to 4(c) is YES:

(i) What steps did you take?

(ii) What was the **final** result regarding your complaint?

If your answer to 4(c) is NO:

Why did you choose to not complain about the facts relating to your complaint in such prison?

5. **PREVIOUS LAWSUITS**

a. Have you ever filed any other lawsuits in any state and federal court relating to your imprisonment?

() Yes () No

b. If your answer to 5(a) is YES you must describe any and all lawsuits, currently pending or closed, in the space provided on the next page.

For **EACH** such lawsuit, provide the following information:

i. Parties to previous lawsuit:

Plaintiffs:

Defendants:

ii. Court (if federal court, name District; if state court, name County):

iii. Docket number: _____

iv. Name of Judge to whom case was assigned:

v. Disposition (dismissed? on appeal? still pending?)

vi. Approximate date of filing prior lawsuit:

vii. Approximate date of disposition:

6.

FACTS

Set forth the facts of your case which substantiate your claim of violation of your civil and/or Constitutional rights. List the events in the order they happened, naming defendants involved, dates and places.

Note: You must include allegations of wrongful conduct as to EACH and EVERY defendant in your complaint. (You may use additional sheets as necessary.)

7.

CAUSES OF ACTION

Note: You must clearly state each cause of action you assert in this lawsuit.

FIRST CAUSE OF ACTION

SECOND CAUSE OF ACTION

THIRD CAUSE OF ACTION

8. Plaintiff(s) demand(s) a trial by
Jury -or- Court
(Circle only one).

9. PRAYER FOR RELIEF

WHEREFORE, plaintiff(s) request(s) that this Court grant the following relief:

I declare under penalty of perjury that the foregoing is true and correct.

DATED: _____

Signature of Plaintiff(s)
(all Plaintiffs must sign)

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

**APPLICATION TO PROCEED
WITHOUT FULL PREPAYMENT
OF FEES; AFFIDAVIT AND
AUTHORIZATION FORM**

Plaintiff

v.

Defendant(s)

CASE NUMBER:

I, _____ declare that I am the (check appropriate box)

petitioner/plaintiff/movant other

in the above-entitled proceeding; that in support of my request to proceed without prepayment of fees or costs under 28 USC. § 1915 I declare that I am unable to pay the costs of these proceedings and that I am entitled to the relief sought in the complaint / petition / motion.

In support of this application, I answer the following questions under penalty of perjury:

1. Are you currently incarcerated?: Yes No (If "No" go to Part 2)

If "Yes" state the place of your incarceration: _____

Are you employed at the institution? Yes No

Do you receive any payment from same? Yes: No

Notice to

Inmates: The Certificate portion of this affidavit must be completed.

2. Are you currently employed?: Yes No

a. If the answer is "Yes" state the amount of your take-home salary or wages and pay period and give the name and address of your employer.

b. If the answer is "No" state the date of your last employment, the amount of your take home salary or wages and the name and address of your last employer.

3. In the past twelve months have you received any money from any of the following sources?

a. Business, profession or other self employment Yes No

b. Rent payments, interest or dividends Yes No

c. Pensions, annuities or life insurance payments Yes No

Instructions to Plaintiffs for Completing USM-285 Form
(Marshals Form titled "Process Receipt and Return")

Type or print legibly; you're making 5 copies. The following refer to the numbered spaces on the sample form attached.

1. Fill in your full name.
2. This space is for the first defendant named in your complaint.
3. The case number assigned by the clerk of the court is entered here. If no case number has been assigned, leave this space blank.
4. Type of process: fill in "Summons and Complaint".
5. Fill in the name of the individual defendant to be served by the Marshal; a **separate USM-285 Form must be completed for each defendant**. If you submit multiple USM-285 Forms for service on several defendants, the information in spaces 1-4 will be identical; the information in space 5 will change with each defendant.
6. The address/location of the defendant in space #5 should be entered in this space. It is not the Marshals' responsibility to locate your defendant.
7. Your name and address should be entered here. The US Marshals Service will send the return of service to you at this address.
8. This space at #8 is to be left blank.
9. This space at #9 is to be left blank.
10. This space at #10 is to be left blank.
11. Include any special instructions for service in this space.
12. Your signature goes here.
13. Check the box by "Plaintiff".
14. Enter your telephone number, if you have one.
15. Include the date you signed this form in this space.

Failure to provide complete and accurate information in these spaces will delay service of your summons and complaint.

U.S. Department of Justice
United States Marshals Service

PROCESS RECEIPT AND RETURN

See Instructions for "Service of Process by the U.S. Marshal" on the reverse of this form.

PLAINTIFF (1)	COURT CASE NUMBER (3)
DEFENDANT (2)	TYPE OF PROCESS (4)
SERVE AT	NAME OF INDIVIDUAL, COMPANY, CORPORATION, ETC., TO SERVE OR DESCRIPTION OF PROPERTY TO SEIZE OR CONDEMN (5) ADDRESS (Street or RFD, Apartment No., City, State and ZIP Code) (6)

SEND NOTICE OF SERVICE COPY TO REQUESTER AT NAME AND ADDRESS BELOW: (7)	Number of process to be served with this Form - 285 (8)	Number of parties to be served in this case (9)
(10)	Check for service on U.S.A. (10)	

SPECIAL INSTRUCTIONS OR OTHER INFORMATION THAT WILL ASSIST IN EXPEDITING SERVICE (Include Business and Alternate Addresses, All Telephone Numbers, and Estimated Times Available For Service):
 (11) Fold

Signature of Attorney or other Originator requesting service on behalf of: (12)	(13) <input type="checkbox"/> PLAINTIFF <input type="checkbox"/> DEFENDANT	TELEPHONE NUMBER (14)	DATE (15)
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SPACE BELOW FOR USE OF U.S. MARSHAL ONLY — DO NOT WRITE BELOW THIS LINE

I acknowledge receipt for the total number of process indicated. (Sign only first USM 285 if more than one USM 285 is submitted)	Total Process	District of Origin No. _____	District to Serve No. _____	Signature of Authorized USMS Deputy or Clerk	Date
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I hereby certify and return that I have personally served, have legal evidence of service, have executed as shown in "Remarks", the process described on the individual, company, corporation, etc., at the address shown above or on the individual, company, corporation, etc., shown at the address inserted below.

I hereby certify and return that I am unable to locate the individual, company, corporation, etc., named above (See remarks below)

Name and title of individual served (if not shown above)	<input type="checkbox"/> A person of suitable age and discretion then residing in the defendant's usual place of abode.
Address (complete only if different than shown above)	Date of Service _____ Time _____ am _____ pm Signature of U.S. Marshal or Deputy

Service Fee	Total Mileage Charges (including endeavors)	Forwarding Fee	Total Charges	Advance Deposits	Amount owed to U.S. Marshal or	Amount of Refund
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REMARKS:

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

DEFENDANTS

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF _____
(EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

ATTORNEYS (IF KNOWN)

II. BASIS OF JURISDICTION (PLACE AN "X" IN ONE BOX ONLY)

- 1 U.S. Government Plaintiff
- 2 U.S. Government Defendant
- 3 Federal Question (U.S. Government Not a Party)
- 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury -- Med. Malpractice <input type="checkbox"/> 365 Personal Injury -- Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence HABEAS CORPUS: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	LABOR <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS -- Third Party 26 USC 7609

V. ORIGIN

(PLACE AN "X" IN ONE BOX ONLY)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from another district (specify)
- 6 Multidistrict Litigation
- 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

(CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY.)

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$ _____

CHECK YES only if demanded in complaint

JURY DEMAND: YES NO

VIII. RELATED CASE(S) IF ANY

JUDGE _____ DOCKET NUMBER _____

DATE _____ SIGNATURE OF ATTORNEY OF RECORD _____

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING FEE _____ JUDGE _____ MAG. JUDGE _____

United States District Court

DISTRICT OF _____

SUMMONS IN A CIVIL CASE

v.

CASE NUMBER:

TO: (Name and address of defendant)

YOU ARE HEREBY SUMMONED and required to serve upon PLAINTIFF'S ATTORNEY (name and address)

an answer to the complaint which is herewith served upon you, within _____ days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You must also file your answer with the Clerk of this Court within a reasonable period of time after service.

CLERK

DATE

(BY) DEPUTY CLERK

RETURN OF SERVICE

Service of the Summons and Complaint was made by me ¹	DATE
NAME OF SERVER (PRINT)	TITLE

Check one box below to indicate appropriate method of service

- Served personally upon the defendant. Place where served _____
- Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein.
Name of person with whom the summons and complaint were left: _____
- Returned unexecuted: _____
- Other (specify): _____

STATEMENT OF SERVICE FEES

TRAVEL	SERVICES	TOTAL
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DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.

Executed on _____
Date

Signature of Server

Address of Server

(1) As to who may serve a summons see Rule 4 of the Federal Rules of Civil Procedure.