

**PRISONER’S GUIDE TO FILING A CIVIL CASE IN
THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF GEORGIA**

Types of Civil Suits:

- 42 U.S.C. § 1983:** Action against a person who has acted under color of state law such as a state official or employee for violation of plaintiff’s federal constitutional rights.
- Bivens:** Action against a person who has acted under color of federal law such as a federal official or employee for violation of plaintiff’s federal constitutional rights.
- 28 U.S.C. § 1361:** Action in the nature of mandamus to compel an officer of the United States to perform his or her duty.
- 28 U.S.C. § 1331:** Federal question jurisdiction. An action which involves a federal statutory or constitutional question.
- 28 U.S.C. § 1332:** Diversity jurisdiction. The plaintiff must be a citizen of a different state than all of the defendants, and the matter in controversy must exceed the sum or value of \$75,000.00.

How to File a Civil Rights Action:

- 42 U.S.C. § 1983
and Bivens:** Must be filed on a civil rights complaint form available from the Office of the Clerk of Court.

NOTE: A prisoner may not file a § 1983 or Bivens action in this Court until available administrative remedies have been exhausted. 42 U.S.C. § 1997e(a).

**All Other Civil Suits
(including 28 U.S.C.
§ 1332):**

No forms are available. Plaintiff must draft his/her own complaint, which must include: (1) the name and address of the plaintiff, (2) the name and address of the defendant(s), (3) a brief statement of legal claims, (4) a clear and concise statement of the specific facts involved, (5) a statement of relief being sought, and (6) a statement of basis for federal court jurisdiction. LEGAL AUTHORITIES AND CITATIONS

ARE NOT REQUIRED. If the plaintiff must include legal citations, he/she should do so in a separate memorandum.

Filing fees:

All civil actions: \$405.00 filing fee, which includes a \$55.00 administrative fee (the administrative fee is waived if a prisoner is granted in forma pauperis status by following the procedure below).

In Forma Pauperis:

If the prisoner cannot afford to pay the required filing fee, he/she must request to proceed in forma pauperis. To do so, the prisoner must include a completed Affidavit in Support of Request to Proceed In Forma Pauperis. If the Court approves this request, it may require the prisoner to pay an initial partial filing fee of 20 percent of the greater of (1) the average monthly deposits to the prisoner's account for the six-month period immediately preceding the filing of the lawsuit or (2) the average monthly balance in the prisoner's account for the same six-month period. 28 U.S.C. § 1915(b)(1). A prisoner cannot be prohibited from bringing a civil action because the prisoner cannot pay the initial partial filing fee. 28 U.S.C. § 1915(b)(4).

After the prisoner has paid the initial partial filing fee (or the initial partial filing fee has been waived), the prisoner is required to make monthly payments of 20 percent of the preceding month's income credited to the prisoner's account. 28 U.S.C. § 1915(b)(2). The agency having custody of the prisoner is required to forward payments from the prisoner's account to the Clerk of the Court each time the amount exceeds \$10.00 until the entire filing fee is paid. 28 U.S.C. § 1915(b)(2).

A prisoner is prohibited from proceeding in forma pauperis in a civil action or in an appeal if the prisoner has, on three or more occasions while incarcerated, brought an action or appeal in a federal court that was dismissed on the grounds that it was frivolous, malicious, or failed to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious injury. 28 U.S.C. § 1915(g).

All prisoners must use only the financial affidavit forms available from the Office of the Clerk of this Court. Every question on the affidavit must be answered.

In order to be complete, the affidavit form must include:

1. A completed certificate, signed by an authorized officer at the plaintiff's institution, which sets forth the current balance in the plaintiff's inmate account and the average balance and deposit for the past six months;
2. A copy of the plaintiff's inmate account statement for the six-month period immediately preceding the filing of the complaint which has been obtained from and certified by an authorized officer at the plaintiff's institution, including any institutions in which the plaintiff was incarcerated during the previous six months; and

3. A signed authorization allowing the plaintiff's custodian to withdraw funds from his inmate account. 28 U.S.C. § 1915(a)(2).

Drafting Pleadings:

All pleadings must be typed or legibly hand-printed and double spaced. No single spacing is allowed. All pleadings must be on standard 8 ½ x 11-inch letter-sized paper. Any document, including attachments, submitted on paper exceeding this size will be returned. Any false statement of a material fact may serve as the basis for prosecution and conviction for perjury. All questions must be answered concisely in the proper space on the form.

Consent to Jurisdiction by a United States Magistrate Judge:

After a case is opened, all parties will receive a Consent to Jurisdiction by a United States Magistrate Judge form. Please read and follow the instructions on the back of the form. NOTE: This form should be returned to the Clerk of the Court only upon consent of **ALL** of the parties. If you desire to have your case tried before a United States Magistrate Judge, you should sign the form and forward it to the defendant(s) for consideration.

After a Case is Filed and Docketed:

All civil complaints must be answered by the defendant(s) within 21 days from the date of service (60 days for United States defendants and for defendants who have timely waived service) or responded to by appropriate motion, including motions to dismiss or motions for summary judgment. (Responses to motions must be filed within 14 days, 21 days for summary judgment motions.) If a defendant timely files a motion to dismiss or for summary judgment in lieu of an answer, the defendant's answer is not due until 14 days after the court denies the motion. Discovery begins 30 days after the appearance of the first defendant by answer to the complaint unless the court orders otherwise following the grant of a properly filed motion for discovery. Local Rule 26.2 & Appx. F. It is during the discovery period that the plaintiff may request from the defendant(s) any relevant information necessary to his/her case. See Rules 26-37 of the Federal Rules of Civil Procedure for methods and rules of discovery. Civil trials are held after expiration of the discovery period and after the court rules on any summary judgment motions.

Where to File Pleadings:

Do NOT send papers concerning your case directly to the judge. The complaint and other pleadings must be delivered or mailed to:

Office of the Clerk
2211 U.S. Courthouse
75 Ted Turner Drive, S.W.
Atlanta, GA 30303-3361

Requirements for Case Filings:

1. Must file the original document with the Court. If a party desires extra copies stamped “filed” and returned, the party must provide those copies and a self-addressed, stamped envelope.
2. All filings must be typed or handwritten on 8 ½ x 11-inch letter-sized paper, double-spaced, including attachments and exhibits.
3. Discovery documents (interrogatories, requests for documents, requests for admissions, and responses thereto) must be served upon the opposing party or parties but generally should not be filed with the Court. However, a certificate indicating the date of service of discovery material must be filed with the Clerk as required by Local Rule 26.3(A).

DOCUMENTS NOT MEETING THESE REQUIREMENTS WILL BE REJECTED AND RETURNED BY THE CLERK.

Disclaimer: This information is provided as a service to the public. While the information deals with legal issues, it does not constitute legal advice. Due to the rapidly changing nature of the law and court procedures, we rely on some information provided by outside sources. Although we make every effort to ensure the information is correct, the Clerk’s Office does not warranty or guarantee the accuracy of the information provided. If you have specific legal questions or concerns, we encourage you to consult an attorney who can address and advise you on the particular circumstances of your situation. In no event will the Clerk’s Office be liable to any party in any way relating to the availability, use, reliance on, or inability to use the provided information or forms or for any claim attributable to errors, omissions, or other inaccuracies in any information provided.