

**INSTRUCTIONS FOR FILING COMPLAINT BY PRISONERS  
UNDER THE CIVIL RIGHTS ACT, 42 U.S.C. § 1983**

This packet includes a Notice to Prisoners re: Filing an Action under 42 U.S.C. § 1983, an Application to Proceed Without Prepayment of Fees (*in forma pauperis* (“IFP”) application), a Notice of Electronic Availability of Case File Information, and a complaint form under the Civil Rights Act, 42 U.S.C. § 1983. **To start an action, you must submit the original of your complaint and the *in forma pauperis* application or pay the filing fee.**

You **MUST** submit the address of each person you name as a defendant. Without this information, the U.S. Marshal cannot serve the defendant.

Your complaint will not be filed unless it conforms to these instructions and to these forms.

Your complaint **must be** legibly handwritten or typewritten. You must sign and swear to the complaint. If you need additional space to answer a question, you may use additional sheets of paper.

Your complaint can be brought in this court only if one or more of the named defendants is located within this district **or** a substantial part of the events or omissions giving rise to the claim occurred here. **Further, it is necessary for you to submit a separate complaint for each claim that you have unless they are all related to the same incident or issue.**

In order for this complaint to be filed, it must be accompanied by the filing fee of \$402.00. In addition, the U.S. Marshal will require you to pay the costs of serving the complaint on each of the defendants.

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*. A blank application for this purpose is included in this packet and should be submitted with your complaint.

You will note that you are required to give **facts**. This complaint should not contain legal arguments or citations.

Under a local rule of this court, it is your obligation as a *pro se* plaintiff to inform this court at all times of your current mailing address. It is also your duty to prosecute your case diligently and monitor its progress.

Again, you are advised that you must promptly inform the court of any change of address. If you are presently incarcerated, inform the court **immediately** upon your release or transfer to a new facility.

If the court does not receive a response within 30 days to any communication addressed to you at the last address provided by you, the court will assume that you have no further interest in the case and may dismiss the case, without prejudice, upon motion of a defendant or *sua sponte* (*i.e.*, by the court acting on its own initiative).

When these forms are completed, mail them to:

Pro Se Law Clerk Office  
35 East Mountain Street, Suite 510  
Fayetteville, AR 72701

(Revised 04/2021)

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF ARKANSAS**

**NOTICE TO PRISONERS  
FILING AN ACTION UNDER 42 U.S.C. § 1983**

On April 26, 1996, the President signed into law the Prison Litigation Reform Act. This act makes a number of changes affecting § 1983 lawsuits by prisoners. You should be aware of the following aspects of the law:

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**WHO THE LAW AFFECTS**

The law applies to prisoners. Prisoners are persons incarcerated or detained in a facility who have been accused of, convicted of, sentenced for, or adjudicated delinquent for violations of (1) criminal law, or (2) the terms and conditions of parole, probation, pretrial release, or a diversionary program.

**EXHAUSTION**

You may not bring an action challenging prison or jail conditions under § 1983 “until such administrative remedies **as are available** are exhausted.” 42 U.S.C. § 1997e(a)(emphasis added). Administrative remedies are also known as grievance procedures.

This means you must go through the grievance procedures available at the facility where you are or were incarcerated. You must follow the facility’s grievance procedure and include the information the facility asks for in your grievance. If you are not satisfied with the grievance response, you must then appeal the decision. **You may only proceed to federal court when there are no more administrative remedies left to pursue.** For example, if the facility at which you are or were incarcerated, has a three-step grievance procedure, you must go through all three-steps before filing your complaint with this Court.

If you do not comply with the facility’s grievance procedure, it may result in the Court granting a Defendant’s motion to dismiss based on your failure to exhaust administrative remedies.

Do not attach copies of your grievances to the Complaint.

**FILING**

When you bring a civil action or file an appeal, **you must pay the full amount of the filing fee \$402.00 (the \$350 filing fee plus a \$52.00 administrative fee), for civil actions and \$505.00 for appeals if you have money to pay it.** If you cannot pay the full fee at the time of filing, you must apply to proceed *in forma pauperis*.

1. To file an application to proceed *in forma pauperis*, you must submit (1) an affidavit that includes a statement of all assets you possess, and (2) **a certified copy of your prisoner account statement for the past six months, obtained from the appropriate official at your institution.** That official must also calculate the initial partial filing fee using the formula described in #2 below and include the calculation with the certified copy of your prisoner account statement.
2. **If the application to proceed *in forma pauperis* is granted, the \$52.00 administrative fee is waived, and the court will assess and collect a filing fee of \$350.00.** In addition, the court will assess and collect an initial partial filing fee of the greater of the following:

(a) 20% of the average monthly deposits to your prisoner account; or

(b) 20% of the average monthly balance in your prisoner account for the past six months.

If, however, you have no assets and no means to pay the initial partial fee, you will not be prohibited from bringing an *in forma pauperis* action. See 28 U.S.C. § 1915(b)(4). Any money you later receive will be collected as described in #3 below.

3. After paying this initial partial fee, you must pay 20% of each future month's income received in your prisoner account. The agency having custody of you will send these payments to the clerk of court when your prisoner account has more than \$10 in it, until the full filing fee is paid. See 28 U.S.C. § 1915(b).

## DISMISSAL

The court must dismiss your case at any time if it determines that:

1. Your allegation of poverty is untrue; or
2. Your case is:
  - (a) frivolous, or
  - (b) malicious, or
  - (c) fails to state a claim on which relief may be granted, or
  - (d) seeks money from a defendant who is immune from such relief.

Even if your case is dismissed for one of the above reasons, you are still responsible for paying any unpaid portion of the filing fee. The filing fee debt is not dischargeable in bankruptcy.

## THREE-DISMISSAL RULE

If you have, **three or more times in the past**, while incarcerated, brought a civil action or appeal in federal court that was dismissed because it was (a) frivolous, or (b) malicious, or (c) failed to state a claim upon which relief may be granted, you **cannot bring a new civil action or appeal a judgment in a civil action *in forma pauperis***. The only exception to this is if you are in "imminent danger of serious physical injury." See 28 U.S.C. § 1915(g).

If you are **not proceeding *in forma pauperis***, you may file a new civil action or appeal even if you have three or more of these dismissals.

## COMPENSATORY DAMAGES

If your case is allowed to proceed and you are awarded compensatory damages, the award will first be paid directly to satisfy any outstanding restitution orders pending against you. The remainder of any such award will be paid to you.

## ATTORNEY FEES

If you were granted appointment of counsel, a portion of your award (but not more than 25%) will be used to pay attorney fees. Your appointed counsel may also seek an award of attorney fees from the defendant.



## NOTICE OF ELECTRONIC AVAILABILITY OF CASE FILE INFORMATION

(Revised April 2021)

The United States District Court, Western District of Arkansas, implemented the Case Management/Electronic Case Files (CM/ECF) system on August 15, 2005. This system permits public access to the official case documents over the Internet and on the public kiosks located in each divisional office. Any subscriber to PACER, or visitor to the clerk's office, will be able to read and/or print the full content of electronic documents. Additionally, PACER users can download and store electronic documents. Counsel should notify clients of this fact so that an informed decision may be made on what information is to be included in a document filed with the court.

Sealed documents and documents otherwise restricted by court order will **not** be available over the Internet.

### IMPORTANT NOTICE PRIVACY POLICY REDACTION REQUIREMENTS

In compliance with the Privacy Policy of the Judicial Conference of the United States and the E-Government Act of 2002, sensitive information should not be included in any document filed with the court unless such inclusion is necessary and relevant to the case.

All filers, counsel and pro se, should review the Judicial Conference Policy and applicable court rules, specifically Rule 5.2 of the Federal Rules of Civil Procedure. These rules govern mandated redaction, exceptions from the redaction requirements, sealed pleadings and waiver of privacy protections. Exemptions to the redaction requirements can be found in Rule 5.2(b) of the Federal Rules of Civil Procedure.

**\*\*\*It is the sole responsibility of counsel and their clients and pro se filers to redact personal identifiers. The clerk will not review documents for compliance with the rules, or redact documents, whether filed electronically or in paper form.\*\*\***

Parties will refrain from including, or will partially redact where inclusion is necessary, the following personal data identifiers from all documents filed with the court, including exhibits thereto, whether filed electronically or in paper form, unless otherwise ordered by the court:

- **Minors' names** (redact to initials only);
- **Social Security Numbers or Taxpayer Identification Numbers** (redact to the last four digits);
- **Dates of birth** (redact to the year only); and
- **Financial Account Numbers** (redact to the last four digits);

Additionally, filers should also exercise caution when filing documents that contain sensitive information, such as:

- **Personal identifying number** (driver's license number);
- **Medical records** identifying diagnosis and/or treatment;
- **Individual Financial Information;** and
- **Proprietary or Trade Secret information.**

## APPLICATION TO PROCEED WITHOUT THE PREPAYMENT OF COSTS (IFP)

Please be aware that these redaction requirements may impact the way in which the Application to Proceed Without Prepayment of Fees or Costs is completed. Question seven on this form requests the following information: (1) persons dependent upon the applicant for support, (2) relationship of these persons to the applicant, and (3) amount of support. Most often, minor children will be included in responding to this question. In order to comply with the privacy policy, only the initials of the minor should be on the form. Listing the age of the minor is acceptable; however, only the year of birth may be included. Pro se filers are responsible for completing the application in compliance with the privacy policy. As mentioned above, **the Clerk will not review each filing to determine if it complies with this redaction requirement.**

For more information, please visit

<http://www.uscourts.gov/RulesAndPolicies/JudiciaryPrivacyPolicy.aspx>

# UNITED STATES DISTRICT COURT

for the

\_\_\_\_\_ District of \_\_\_\_\_

_____ )	
<i>Plaintiff/Petitioner</i> )	
v. )	Civil Action No.
_____ )	
<i>Defendant/Respondent</i> )	

## APPLICATION TO PROCEED IN DISTRICT COURT WITHOUT PREPAYING FEES OR COSTS (Short Form)

I am a plaintiff or petitioner in this case and declare that I am unable to pay the costs of these proceedings and that I am entitled to the relief requested.

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

1. *If incarcerated.* I am being held at:\_\_\_\_\_.  
If employed there, or have an account in the institution, I have attached to this document a statement certified by the appropriate institutional officer showing all receipts, expenditures, and balances during the last six months for any institutional account in my name. I am also submitting a similar statement from any other institution where I was incarcerated during the last six months.

2. *If not incarcerated.* If I am employed, my employer's name and address are:

My gross pay or wages are: \$ \_\_\_\_\_, and my take-home pay or wages are: \$ \_\_\_\_\_ per  
(specify pay period) \_\_\_\_\_.

3. *Other Income.* In the past 12 months, I have received income from the following sources (check all that apply):

- |  |                              |                             |
|--|------------------------------|-----------------------------|
| (a) Business, profession, or other self-employment | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| (b) Rent payments, interest, or dividends          | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| (c) Pension, annuity, or life insurance payments   | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| (d) Disability, or worker's compensation payments  | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| (e) Gifts, or inheritances                         | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| (f) Any other sources                              | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

*If you answered "Yes" to any question above, describe below or on separate pages each source of money and state the amount that you received and what you expect to receive in the future.*

4. Amount of money that I have in cash or in a checking or savings account: \_\_\_\_\_.

5. Any automobile, real estate, stock, bond, security, trust, jewelry, art work, or other financial instrument or thing of value that I own, including any item of value held in someone else's name (*describe the property and its approximate value*):

6. Any housing, transportation, utilities, or loan payments, or other regular monthly expenses (*describe and provide the amount of the monthly expense*):

7. Names (or, if under 18, initials only) of all persons who are dependent on me for support, my relationship with each person, and how much I contribute to their support:

8. Any debts or financial obligations (*describe the amounts owed and to whom they are payable*):

*Declaration:* I declare under penalty of perjury that the above information is true and understand that a false statement may result in a dismissal of my claims.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Applicant's signature*

\_\_\_\_\_  
*Printed name*

**CERTIFICATE OF INMATE ACCOUNT AND ASSETS**

(To be Completed by the Institution of Incarceration)

I certify that the applicant, \_\_\_\_\_, has the sum of \$ \_\_\_\_\_ in his/her prisoner account at the institution where he/she is confined. I further certify that the applicant likewise has the following securities to his/her credit according to the records of this institution: \_\_\_\_\_

\_\_\_\_\_.

I further certify that in the applicant's prisoner account: (a) The average monthly deposit was \$ \_\_\_\_\_; and (b) The average balance for the last six months was \$ \_\_\_\_\_. Based on the above prisoner account information, I calculate that 20 percent of the greater of (a) or (c) above is \$ \_\_\_\_\_.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Authorized Officer of Institution

\_\_\_\_\_



In the United States District Court  
Western District Of Arkansas  
\_\_\_\_\_ Division

\_\_\_\_\_  
\_\_\_\_\_  
*(In the space above enter your full name and Prison ID  
Number, if any. Do not include your Social Security Number).*

-against-

**Case**  
**No.** \_\_\_\_\_  
(To be filled out by Clerk's  
Office only)

**COMPLAINT**  
(Pro Se Prisoner)

Jury Demand?

Yes

No

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
*(In the space above enter the full name of each Defendant)*

**NOTICE**

**Do not attach exhibits, affidavits, grievances, witness statements, or any other materials to your Complaint. Any materials other than the Complaint will be returned to you unfiled by the Clerk's Office.**

**I. PLAINTIFF INFORMATION**

\_\_\_\_\_  
Name (First, Middle, Last)

\_\_\_\_\_  
Aliases

\_\_\_\_\_  
Prisoner ID #, if any

\_\_\_\_\_  
Place of Detention or Incarceration

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Address (If detained, facility address)

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County, City

State

Zip Code

**II. PRISONER STATUS**

*Indicate whether you are a prisoner or other confined person as follows:*

Pretrial detainee

Convicted and serving a sentence. Provide Date of Conviction \_\_\_\_\_.

Other. Explain: \_\_\_\_\_

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**III. DEFENDANT(S) INFORMATION**

*Please list the following information for each defendant. If the correct information is not provided, it could result in the delay or prevention of service. If you need more space for additional defendants, list the additional defendants on another piece of paper, providing the same information. Do not list witnesses. The jail or detention center is a building and cannot be sued.*

Defendant 1: \_\_\_\_\_

Name (Last, First)

\_\_\_\_\_  
Current Job Title

\_\_\_\_\_  
Current Work Address

\_\_\_\_\_  
County, City

State

Zip Code

Defendant 2:

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Name (Last, First)

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Current Job Title

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Current Work Address

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County, City

State

Zip Code

Defendant 3:

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Name (Last, First)

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Current Job Title

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Current Work Address

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County, City

State

Zip Code

Defendant 4:

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Name (Last, First)

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Current Job Title

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Current Work Address

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County, City

State

Zip Code

**IV. STATEMENT OF CLAIMS**

State **every** ground on which you claim that one or more of the Defendants violated your federal constitutional rights. **List each claim separately** (e.g., excessive force, denial of medical care, access to the courts, conditions of confinement, etc.). If you have more than three separate claims, you may attach additional sheets of paper, providing the same information for each claim. **You may attach no more than one additional sheet for each claim.**

**Claim Number 1:**

Place(s) of occurrence:

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Date(s) of occurrence:

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Name of Each Defendant Involved:

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State which of your federal constitutional rights (e.g., excessive force, denial of medical care, conditions of confinement, etc.) or federal statutory rights have been violated:

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State here briefly the **FACTS** that support your case. Describe how **EACH DEFENDANT** was **personally involved** in the alleged wrongful actions, state whether you were physically injured as a result of those actions, and if so, state your injury and what medical attention was provided to you.

FACTS:

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What happened to you?

Who did what?

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How were you injured?

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With regard to claim 1, are you suing Defendant(s) in his/her/their:

- Official capacity only (An official capacity claim is the same as suing the governmental entity the Defendant(s) work(s) for and **requires** proof that a custom, policy, or widespread practice of the governmental entity caused the violation).
- Individual capacity only (An individual capacity claim is one that seeks to hold an individual liable for his own actions taken in the course of his duties).
- Both Official and Individual capacity

***If you are asserting an official capacity claim, please describe the custom, policy, or widespread practice that you believe caused the violation of your constitutional rights.***

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**Claim Number 2:**

Place(s) of occurrence:

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Date(s) of occurrence: \_\_\_\_\_

Name of Each Defendant Involved:

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*State which of your federal constitutional rights (e.g., excessive force, denial of medical care, conditions of confinement, etc.) or federal statutory rights have been violated:*

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*State here briefly the **FACTS** that support your case. Describe how **EACH DEFENDANT** was **personally involved** in the alleged wrongful actions, state whether you were physically injured as a result of those actions, and if so, state your injury and what medical attention was provided to you.*

FACTS:

What happened to you?

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Who did what?

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How were you injured?

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With regard to claim 2, are you suing Defendant(s) in his/her/their:

- Official capacity only (An official capacity claim is the same as suing the governmental entity the Defendant(s) work(s) for and **requires** proof that a custom, policy, or widespread practice of the governmental entity caused the alleged violation).
- Individual capacity only (An individual capacity claim is one that seeks to hold an individual liable for his own actions taken in the course of his duties).
- Both Official and Individual capacity

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***If you are asserting an official capacity claim,** please describe the custom, policy, or widespread that you believe caused the violation of your constitutional rights.*

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**Claim Number 3:**

Place(s) of occurrence: \_\_\_\_\_

Date(s) of occurrence: \_\_\_\_\_

Name of Each Defendant Involved:

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*State which of your federal constitutional rights (e.g., excessive force, denial of medical care, conditions of confinement, etc.) or federal statutory rights have been violated:*

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State here briefly the **FACTS** that support your case. Describe how **EACH DEFENDANT** was **personally involved** in the alleged wrongful actions, state whether you were physically injured as a result of those actions, and if so, state your injury and what medical attention was provided to you.

FACTS:

What happened to you?

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Who did what?

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How were you injured?

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With regard to claim 3, are you suing Defendant(s) in his/her/their:

- Official capacity only (An official capacity claim is the same as suing the governmental entity the Defendant(s) work(s) for and **requires** proof that a custom, policy, or widespread practice of the governmental entity caused the alleged violation).
- Individual capacity only (An individual capacity claim is one that seeks to hold an individual liable for his own actions taken in the course of his duties).
- Both Official and Individual capacity

***If you are asserting an official capacity claim, please describe the custom, policy, or widespread practice that you believe caused the violation of your constitutional rights.***

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**V. RELIEF**

*If you are asking for money damages from the named Defendant(s), indicate below the types of damages you are seeking:*

- Compensatory damages (money damages designed to compensate for injuries, such as physical pain and suffering, etc., that are caused by the deprivation of constitutional rights).
- Punitive damages (designed to punish a defendant for engaging in misconduct and to deter a Defendant and others from engaging in such misconduct in the future).
- Other relief (describe below).

*State briefly what you want the court to do for you. Make no legal arguments. Cite no cases or statutes. If you are requesting money damages, include the amounts of any actual damages and/or punitive damages you are claiming. Explain why you believe you are entitled to those damages.*

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**VI. PRISONER’S LITIGATION HISTORY**

Have you brought any other lawsuits in state or federal court while a prisoner?  Yes  No

If yes, how many? \_\_\_\_\_

Have you brought any other lawsuits in state or federal court **dealing with the same facts as this case?**  Yes  No

If yes, how many? \_\_\_\_\_

Number each different lawsuit below and include the following:

- Name of case (including defendants’ names), court, and docket number
- Nature of claim made
- How did it end? (For example, if it was dismissed, appealed, or is still pending, explain below.)
- The “three strikes rule” bars a prisoner from bringing a civil action or an appeal without paying the filing fee if that prisoner has “on three or more prior occasions, while incarcerated or detained in any facility brought an action or appeal . . . that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.” 28 U.S.C. § 1915(g). **To the best of your knowledge, indicate if any of your cases were dismissed because they were frivolous, malicious, or failed to state a claim upon which relief could be granted, had a strike assessed, or were dismissed because of the “three strikes rule.”**

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**VII. PLAINTIFF'S DECLARATION AND SIGNATURE**

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office shall result in the dismissal of my case.

I declare under penalty of perjury (18 U.S.C. § 1621) that the foregoing is true and correct.

*Plaintiff must sign and date the complaint and provide prison identification number and prison address.*

\_\_\_\_\_ Dated \_\_\_\_\_ Plaintiff's Signature \_\_\_\_\_

\_\_\_\_\_ Printed Name (First, MI, Last) \_\_\_\_\_

\_\_\_\_\_ Prison Identification #, if any. \_\_\_\_\_

\_\_\_\_\_ Prison Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_