

**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 inmates. You should be aware of the following aspects of the law:

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 diversionary program.

EXHAUSTION

You may not bring an action challenging prison or jail conditions under § 1983 or any other federal law until you have exhausted available administrative remedies, including any written grievance system.

FILING

When you bring a civil action or file an appeal, **you must pay the full amount of the filing fee (\$400.00, including a \$50.00 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 \$50.00 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, or (d) seeks money from a defendant who is immune from such relief, 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 against any Federal, State, or local jail, prison, or correctional facility or against any official or agent of such jail, prison, or correctional facility, 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.