

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH**



**INFORMATION FOR FILING A CIVIL RIGHTS
COMPLAINT UNDER 42 U.S.C.
SECTIONS 1983 AND 1985**

Office of the Clerk of Court

December 2020

INTRODUCTION

This information packet is designed to help you file a civil rights complaint in federal court without the help of a trained and licensed attorney. In a civil rights complaint, you are alleging that your constitutional rights or privileges or immunities have been violated. The federal law under which a civil rights claim arises is 42 U.S.C. sections 1983 and 1985. (U.S.C. stands for "United States Code," which is a collection of all the federal laws in the country. The law under which a civil rights action is brought is located in sections 1983 and 1985 of title 42 of the United States Code.) When you represent yourself in a lawsuit you are known as a ***pro se litigant***, or a person who is proceeding *pro se*.

In order to start a lawsuit based on a claim of violation of your civil rights, you must prepare and file with the court what is known as a **complaint**. This packet of instructions is designed to help you prepare a civil rights complaint under 42 U.S.C. section 1983 and 1985. For information on how to actually file the complaint with the court after you have prepared it and how to proceed in your lawsuit, you should obtain and read the ***Pro Se Litigant Guide***, which is available at the clerk's office, located in **Room 1.100 of the United States District Courthouse, 351 South West Temple, Salt Lake City, Utah 84101**.

A sample complaint form is included in this packet to help you to prepare your complaint. Your complaint must be typewritten or legibly handwritten. All questions must be answered clearly in the correct space on the form. If you need extra space to answer a question, you may use additional pages of 8.5" x 11" size paper. The additional page(s) must be legible, and must indicate which question you are answering. If you are suing more than one person, you should state clearly which defendant you accuse of each act.

PREPARING THE COMPLAINT

1. To assist a party appearing *pro se* in filing a civil rights complaint, the office of the clerk has prepared a complaint form, a copy of which is attached to this information packet. The instructions in this section correspond by name to the sections in the sample complaint form.
2. If you need more space than the sample complaint form provides to record details, you should use additional sheets the same size as the complaint.

A. Caption and Heading: Before your case can be filed with the clerk's office, the first page of your complaint must have your name, address and telephone number at the top of the complaint as part of the heading. This is referred to as the **case caption and heading**. The case caption also must indicate the **Division** of the District of Utah in which the case originates. Determining this is relatively easy.

Northern Division: If the defendant(s) reside in, or if the action on which the lawsuit is based occurred in one of the following counties, it is a Northern Division case: ***Box Elder, Cache, Rich, Weber, Davis, or Morgan.***

Central Division: If the defendant(s) reside in, or if the action occurred in one of the following counties, it is a Central Division case: ***Carbon, Daggett, Duchesne, Juab, Salt Lake, Summit, Tooele, Uintah, Utah, Wasatch.***

Southern Region: If the defendant(s) reside in, or if the action occurred in one of the following counties, it is a Southern Region case: ***Beaver, Emery, Garfield, Grand, Iron, Kane, Millard, Piute, San Juan, Sanpete, Sevier, Washington, or Wayne.***

In the caption, you must also add your name as the plaintiff and the names of the people you are naming as defendants on the lines provided.

B. Jurisdiction: In this section, you inform the court why the case should be heard in federal court rather than state court or some other forum.

Options: For a complaint alleging a violation of civil rights, you have two options:

1. If your action is generally one for a violation of civil rights, 42 U.S.C. § 1983 will normally be the basis for the claim.
2. Claims under 42 U.S.C. § 1985 are limited. Generally that section prohibits certain categories of conduct relating to two or more persons acting together, or in a **conspiracy**,

as provided for in the statute itself. In most instances, you must show that the conspiracy was entered for a racial or class-based reason.

Defendant's Relationship to the State: In order for your action to be heard in federal court under Section 1983, you must be able to show that the defendant(s), at the time the claims alleged in the complaint, were acting under the **authority** or color of state law. As you note the name of each defendant, you also should indicate whether that defendant under 42 U.S.C. § 1983 is a person who acted "under the color of state law." This generally means that the person is a state official, a state employee, or someone who was acting in the name of the state under authority granted by the state, county, city, or other non-federal government entity. Normally a claim under 42 U.S.C. § 1985 requires class-based or racial hostility before it may proceed. ***Note: This is not a complete statement of the law on this subject; rather, it is intended to provide general guidance as you determine who to name as a defendant in your action.***

C. Parties: Next, you name the parties. As the person initiating the lawsuit, you are the plaintiff and must identify yourself as such. For each defendant named in your complaint, you should list their current address and a description of their employment. In addition, you should explain briefly how or in what capacity each defendant acted under authority given them by state or local government.

D. Nature of the Case: This section requires a brief statement of (i) the civil right that you **allege** has been violated by the defendant(s), and (ii) a description of how the defendant(s) violated that right.

E. Cause of Action: In this section, you are required to provide specific details of precisely how your civil right allegedly was violated. This description should include references to relevant dates, times, and locations. It should explain to the court what happened by specifically describing each defendant's behavior or action and how that behavior or action -- or lack of action -resulted in the violation of your right. You are not required to cite other cases in the law or to make a legal argument. However, you must be specific about (i) the particulars of the event, (ii) each defendant's misconduct, and how such misconduct resulted in a violation or denial of the civil right at issue in the case.

Where your complaint includes more than one incident, you should clearly distinguish between them by preparing a separate description -- usually a paragraph -- for each incident. Each incident should be identified as a separate **count**, and each count must include appropriate facts and evidence in support of the claims made in the count. Each incident must be clearly and specifically described; it should include the relevant time, date, and location. Each incident description also should clearly identify the relevant

defendant and what that defendant's role was in the incident.

If your case involves an allegation that two or more defendants jointly conspired to violate your civil rights, you must, in a separate count, state the approximate date the defendants entered into the conspiracy. Moreover, in the supporting facts, you should refer to any evidence you have that the defendants indeed did conspire together to violate your civil right.

F. Injury: In this section you must state as specifically as possible the actual injury you suffered from the action of the defendant that resulted in the alleged violation of your civil right. Simply stating that your civil right has been violated is insufficient and will do little to persuade the judge that you have suffered an injury for which you should be compensated. As the plaintiff, you must explain to the judge how the action of the defendant(s) harmed you and violated your civil rights.

G. Previous Lawsuits and Administrative Relief: It is important in this section that you alert the judge to any other case in which you are or were a party that may be connected with the case you now are filing. If, for example, you filed an earlier case that includes some of the same facts and events you rely on for this case, the court needs to know. If you have submitted a formal complaint to an agency of the state on the issues you raise in this case, or if you previously asked for or participated in an administrative review process to attempt to solve the problem, you must tell the court the results, if any, of your action.

H. Request for Relief: In this section, you describe for the judge the result or relief you seek as a result of your lawsuit. The relief you request must be related specifically to the injury you have suffered.

I. Declaration Under Penalty of Perjury: You must sign your complaint and file it with the clerk of court. When you do, you are making a declaration under law to the court that everything in your complaint is true. It is important for you to realize that the judge assigned to your case can order **sanctions** or penalties against you or any other party that files complaints or pleadings that are frivolous, without merit, based on false or misleading information, etc. These sanctions or penalties can take many forms. Examples include dismissing your case, assessing fines, requiring you to pay the attorney costs for the opposing party, limiting your filing privileges in federal court, etc. If you intentionally make false statements in documents you file with the clerk, you may be charged with criminal lying, or perjury, an offense with potentially serious consequences.

FILING THE COMPLAINT

You may file the complaint with the court by delivering it or mailing it to the **Office of the Clerk of Court, United States Courthouse, Room 1.100, 351 South West Temple, Salt Lake City, Utah 84101**. Whether you deliver or mail your complaint to the court, you must submit (i) an original of the complaint, (ii) a completed **cover sheet**, a copy of which can be obtained from the clerk's office, and (iii) the \$402 filing fee.

If you are unable to pay the filing fee and are not incarcerated, you may file a **Motion to Proceed In Forma Pauperis (Nonincarcerated Party)** requesting that the court waive the fee. If you are incarcerated, you will need to file **Motion to Proceed Without Prepaying Fees or Costs (Incarcerated Party)** requesting permission to pay the filing fee and any costs to have the complaint served in installments. If you file the **Motion to Proceed Without Prepaying Fees or Costs (Incarcerated Party)**, you must also attach a copy of your inmate account statement for the 6-month period just before you file your complaint.

The clerk's office will only accept your case without payment if your initial document (e.g., the complaint) is accompanied by the appropriate motion discussed above. A magistrate judge will review and rule on the motion and screen the case to make sure it is legally valid before the complaint can be served. Dismissal of the case can happen if the magistrate judge decides any of the following:

- the court lacks jurisdiction;
- the allegations of indigency are false;
- the complaint is frivolous or malicious;
- the complaint does not state a legal basis for which relief can be granted;
- or
- the complaint asks for damages from a defendant who is legally exempt from paying damages.

If the magistrate judge grants the motion to waive the fee or to make installment payments, your initial document(s) will be filed and docketed in the case as of the date the motion was granted. If the judge subsequently denies your motion or orders you to pay a reduce filing fee, you will be required to make the payment before the clerk will file the complaint in the case. If you fail to make the payment within the specified period of time, your case will be closed.

A copy of the motions discussed above is available in the clerk's office or on the court's website at <https://www.utd.uscourts.gov/usdc-forms>.

Please review DUCivR 3-2 for additional information about obtaining a waiver, a reduced filing fee, or an installment payment plan. Please contact the clerk's office at (801) 524-6100 with additional questions.

Note: Each defendant named in your lawsuit must be notified of your lawsuit in a specific manner governed by law. You should refer to the court's *Pro Se* Litigant guide for information on this matter.

Name:
Address:
Telephone:

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
_____ DIVISION

(Full Name)
PLAINTIFF

vs.

DEFENDANTS

CIVIL RIGHTS COMPLAINT
(42 U.S.C §1983, §1985)

CIVIL NO. _____
(Supplied by Clerk)

A. JURISDICTION

1. Jurisdiction is proper in this court according to:

- a. 42 U.S.C. §1983
- b. 42 U.S.C. §1985
- c. Other (Please Specify) _____

2. NAME OF PLAINTIFF _____
IS A CITIZEN OF THE STATE OF _____

PRESENT MAILING ADDRESS: _____

3. NAME OF FIRST DEFENDANT _____
IS A CITIZEN OF _____
(City and State)

IS EMPLOYED AS _____ at _____.
(Position and Title if Any) (Organization)

Was the defendant acting under the authority or color of state law at the time these claims occurred?

YES ___ NO ___. If your answer is "YES" briefly explain.

4. NAME OF SECOND DEFENDANT _____
(If applicable)

IS A CITIZEN OF _____
(City and State)

IS EMPLOYED AS _____ at _____.
(Position and Title if Any) (Organization)

Was the defendant acting under the authority or color of state law at the time these claims occurred?

YES ___ NO ___. If your answer is "YES" briefly explain.

5. NAME OF THIRD DEFENDANT _____
(If applicable)

IS A CITIZEN OF _____
(City and State)

IS EMPLOYED AS _____ at _____.
(Position and Title if Any) (Organization)

Was the defendant acting under the authority or color of state law at the time these claims occurred?

YES ___ NO ___. If your answer is "YES" briefly explain.

6. NAME OF FOURTH DEFENDANT _____
(If applicable)

IS A CITIZEN OF _____
(city and State)

IS EMPLOYED AS _____ at _____.
(Position and Title if Any) (Organization)

Was the defendant acting under the authority or color of state law at the time these claims occurred?

YES ___ NO ___. If your answer is "YES" briefly explain.

(Use additional sheets of paper if necessary.)

B. NATURE OF CASE

1. Why are you bringing this case to court? Please explain the circumstances that led to the problem.

C. CAUSE OF ACTION

1. I allege that my constitutional rights, privileges or immunities have been violated and that the following facts form the basis for my allegations: (If necessary you may attach additional pages)

a. (1) Count I: _____

(2) Supporting Facts: (Describe exactly what each defendant did or did not do. State the facts clearly in your own words without citing legal authority or arguments.)

b. (1) Count II: _____

(2) Supporting Facts: _____

c. (1) Count III: _____

(2) Supporting Facts: _____

D. INJURY

1. How have you been injured by the actions of the defendant(s)?

E. PREVIOUS LAWSUITS AND ADMINISTRATIVE RELIEF

1. Have you filed other lawsuits in state or federal court that deal with the same facts that are involved in this action or otherwise relate to the conditions of your imprisonment?
YES ____ / NO _____. If your answer is "YES," describe each lawsuit. (If there is more than one lawsuit, describe additional lawsuits on additional separate pages, using the same outline.)

a. Parties to previous lawsuit:

Plaintiff(s): _____

Defendant(s): _____

b. Name of court and case or docket number: _____

c. Disposition (for example: Was the case dismissed? Was it appealed? Is it still pending?) _____

d. Issues raised: _____

e. When did you file the lawsuit? _____
Date Month Year

f. When was it (will it be) decided? _____

2. Have you previously sought informal or formal relief from the appropriate administrative officials regarding the acts complained of in Part C? YES ___ / NO _____. If your answer is "YES" briefly describe how relief was sought and the results. If your answer is "NO" explain why administrative relief was not sought.

F. REQUEST FOR RELIEF

1. I believe that I am entitled to the following relief:

DECLARATION UNDER PENALTY OF PERJURY

The undersigned declares under penalty of perjury that he/she is the plaintiff in the above action, that he/she has read the above complaint, and that the information contained therein is true and correct. 28 U.S.C. §1746; 18 U.S.C §1621.

Executed at _____ on _____ 20 ____.
(Location) (Date)

Signature