

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

INSTRUCTIONS FOR FILING A COMPLAINT BY *PRO SE* PRISONERS

These instructions contain important information for *pro se* prisoners seeking to file a civil action in the United States District Court for the Middle District of Pennsylvania. The instructions describe the paperwork that must be completed, your obligations if you do file a complaint, and the potential consequences of filing multiple complaints under the Prison Litigation Reform Act, 42 U.S.C. § 1997e.

Read these instructions before you proceed further. By submitting a complaint to the Clerk of Court for filing, you acknowledge that you have read, understand, and agree to follow the instructions below.

A. Procedural Instructions

1. ***Filing fees.*** The Clerk of Court will not file a civil complaint unless the person seeking relief pays the entire filing fee (currently \$350.00) and an administrative fee (currently \$52.00) in advance, or the person is granted *in forma pauperis* status pursuant to 28 U.S.C. § 1915. If you submit the full filing fee and administrative fee along with your complaint, you do not need to complete the Application to Proceed *In Forma Pauperis* included with this packet. If, however, you do not have enough funds to pay the fees up front, you must seek the court's permission to proceed *in forma pauperis*.
2. ***Proceeding in forma pauperis.*** If you cannot afford to pay the filing and administrative fees up front, you may seek permission to proceed in what is called "*in forma pauperis*" status. This filing status, if granted, waives the administrative fee and allows you to proceed in a civil lawsuit by making installment payments toward the filing fee. To apply to proceed *in forma pauperis*, you must complete the following forms, each of which is included in this packet:
 - a. Complaint Form to Be Used by a *Pro Se* Prisoner
 - b. Application to Proceed *In Forma Pauperis*

By completing these forms, you agree to allow the court to collect an initial partial filing fee that is 20% of the greater of (1) the average monthly deposits in your prison account for the past six months or (2) the average monthly balance in your prison account for the past six months. After the initial partial filing fee is paid, the institution in which you are housed will continue to withdraw monthly payments from your prison account in the amount of 20% of the preceding month's deposits until the \$350.00 filing fee is paid in full.

Your obligation to pay the full filing fee will continue regardless of the outcome of your case, even if your complaint is dismissed before the defendants are served.

3. **Waiver forms.** You must submit two forms to have your complaint served on the defendant(s) you are suing: a Notice of Lawsuit and Request for Waiver form (also known as “AO 398”) and a Waiver of Service of Summons form (also known as “AO 399”). A copy of each form is included with this packet. You will not be required to complete a Summons form (also known as “USM 285”) unless instructed by the court.

You must complete one Notice of Lawsuit and Request for Waiver form and one Waiver of Service of Summons form for each defendant that you are suing. For the Notice of Lawsuit and Request for Waiver form, you should complete only the caption section (the top part of the page) and the “To:” and “Address:” lines. For the Waiver of Service of Summons form, you should complete only the caption section.

The caption section of each form should match the caption section of your complaint. If you have not yet been assigned a case number, which will be the case for any new complaint, leave that portion of the caption blank and the Clerk of Court will fill in the case number for you. The only sections that will change from one form to the next are the “To:” and “Address:” lines on the Notice of Lawsuit and Request for Waiver form (where you identify the specific defendant that the form should be sent to and where it should be sent), since you must complete a separate form for each defendant.

4. **Filing instructions.** To file your case, you must mail the following items to the Clerk of Court:
- a. Complaint Form to Be Used by a *Pro Se* Prisoner
 - b. Either the \$350.00 filing fee and \$52.00 administrative fee or the Application to Proceed *In Forma Pauperis*
 - c. One Notice of Lawsuit and Request for Waiver form for each defendant
 - d. One Waiver of Service of Summons form for each defendant

The Clerk’s Office mailing addresses are:

| Scranton | Harrisburg |
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| United States District Court Middle District of Pennsylvania 235 N. Washington Avenue P.O. Box 1148 Scranton, PA 18501 | United States District Court Middle District of Pennsylvania 228 Walnut Street P.O. Box 983 Harrisburg, PA 17108 |
| Williamsport | Wilkes-Barre |
| United States District Court Middle District of Pennsylvania U.S. Courthouse & Federal Office Building 240 West Third Street, Suite 218 Williamsport, PA 17701 | United States District Court Middle District of Pennsylvania Max Rosenn U.S. Courthouse 197 South Main Street Wilkes-Barre, PA 18701 |

B. General Instructions

1. **Legibility.** Your complaint must be legibly handwritten or typewritten on the attached form complaint. All questions must be answered concisely in either the proper space provided on the form or on clearly labeled additional pages. Do not write on the back of any page.
2. **Signature.** You must sign your complaint where indicated on the last page of the form. If there are multiple plaintiffs, the complaint must be signed by each plaintiff.
3. **Attachments.** You are not required to submit exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office together with your complaint. Only documents which clearly relate to and support the factual allegations of your complaint are permitted. Be sure to explain the relevance of any attached documents in your complaint.
4. **Copies of filings.** The court will not return the original of your complaint or any attached document, application to proceed *in forma pauperis*, or other filing to you. Be sure to keep a copy of all filings for your records. Regardless of *in forma pauperis* status, copies of filed documents are not free of charge. Any requests for copies must include payment of \$0.10 per page and must include a self-addressed, stamped envelope.

C. Notices

1. **Federal and local rules notice.** *Pro se* prisoners must comply with the Federal Rules of Civil Procedure, the Federal Rules of Evidence, and the Local Rules of Court. Included with this packet are copies of the rules of procedure that arise most often in *pro se* prisoner civil cases. Although this packet includes copies of certain rules for your reference, you are responsible for reviewing and following all of the Federal Rules of Civil Procedure, the Federal Rules of Evidence, and the Local Rules of Court.
2. **Privacy notice.** Federal Rule of Civil Procedure 5.2 and Local Rule of Court 5.2(d) and (e) address the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court *may not* contain: an individual's full Social Security number or full birth date, the full name of a person known to be a minor, or a complete financial account number. A filing may include only: the last four digits of a Social Security number, the year of an individual's birth, a minor's initials, and the last four digits of a financial account number.
3. **Change-of-address notice.** Local Rule of Court 83.18 requires *pro se* plaintiffs to keep the court informed of their current address. If your address changes while your lawsuit is being litigated, you must immediately inform the court of the change in writing. By signing and submitting the complaint form, you agree to provide the Clerk's Office with any changes to your address where case-related papers may be served, and you

acknowledge that your failure to keep a current address on file with the Clerk's Office may result in dismissal of your case.

4. ***Exhaustion notice.*** Under the Prison Litigation Reform Act, you are required to exhaust all remedies in your prison's grievance system that are available to you before filing suit. This generally means that you must file a grievance and, if it is denied, appeal it through all available levels of review. Your case may be dismissed if you fail to exhaust administrative remedies. However, you are not required to plead or show that you have exhausted your claim in your complaint.
5. ***"Three Strikes" notice.*** Review your case carefully before filing. If your case is dismissed, it may affect your ability to file future civil actions while incarcerated without prepaying the full filing fee. Under what is known as the "Three Strikes Rule" of the Prison Litigation Reform Act, a prisoner who has had three or more civil actions or appeals dismissed as frivolous, malicious, or for failure to state a claim cannot file a new action without first paying the full filing fee, unless the prisoner is in imminent danger of serious bodily injury.
6. ***Damages notice.*** If your case proceeds and you are awarded compensatory damages against a correctional facility or an official or agent of a correctional facility, the damage award will first be used to satisfy any outstanding restitution orders that may be pending. Before payment of any compensatory damages, reasonable attempts will be made to notify the victims of the crime for which you were convicted concerning payment of those damages. Any outstanding restitution orders must be paid in full before any part of the damages award goes to you.