

PRISONER LITIGATION MANUAL

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON**

April 9, 2006

TABLE OF CONTENTS

GENERAL INFORMATION	1
IN FORMA PAUPERIS APPLICATION	2
Checklist	2
Filing Information and Instructions	3
42 U.S.C. § 1983 CIVIL RIGHTS COMPLAINT	4
Checklist	4
Filing Information and Instructions	5
28 U.S.C. § 2254 and 2241 WRITS OF HABEAS CORPUS	7
Checklist	7
Filing Information and Instructions	8
28 U.S.C. § 2255 MOTION	9
Checklist	9
Filing Information and Instructions	10

GENERAL INFORMATION

A. Rules

The Federal Rules of Civil Procedure (FRCP) and the Local Rules of this court control how civil cases must be filed and processed. This manual is intended only as a general guide. It does not take the place of the FRCP or the Local Rules. To purchase a copy of the Local Rules for the Western District of Washington, you may write:

LEXIS/NEXIS
Matthew Bender & Company, Inc.
P.O. Box 7587
Charlottesville, VA 22906-7587

B. Filed Documents

All documents filed with the court must be on 8½ x 11 inch paper. An original signature, date and your current address must be included. The document must also have the case number printed clearly on the front page.

File all documents with the Clerk's Office. A copy of each document must also be sent for the Judge. All copies must be identical to the original and must contain all pages, including any attachments or accompanying exhibits. The originals and copies must state in the upper right-hand corner the name of the District Judge or Magistrate Judge to whom the copies are to be delivered. You should keep a copy of any filed document for your records.

C. Change of Address

If you change your address anytime after you have filed your case, you must notify the court in writing within 60 days. Failure to do so may result in the dismissal of your case.

D. Discovery

Do not submit discovery material (i.e., interrogatories, requests for production) to the court. The material is not for the court's use.

IN FORMA PAUPERIS APPLICATION

CHECKLIST

The court must have:

- Fully completed Application to Proceed In Forma Pauperis (IFP)
- Signed Consent for Payment of Costs
- Signed Acknowledgment and Authorization
- A certified copy of your prison trust account showing transactions for the past six months.

Failure to comply with any of the above may cause the court to deny your application.

IN FORMA PAUPERIS APPLICATION

FILING INFORMATION AND INSTRUCTIONS

A. What Is "In Forma Pauperis" Status?

"In Forma Pauperis" (IFP) means "in the manner of a pauper." The court grants IFP status to plaintiffs who cannot afford to pay filing fees, service fees, and witness fees for actions they file in the U.S. District Court. (See Attachment A). However, IFP status does NOT mean free photocopies. A case cannot be opened for you unless you pay the filing fee or submit an IFP application. IFP status applies only to your current action. You must refile for IFP approval with each new action. IFP status applies to the following types of actions:

- 42 U.S.C. § 1983 civil rights actions
- 28 U.S.C. § 2254 habeas corpus actions
- 28 U.S.C. § 2241 habeas corpus actions

B. How to Apply for IFP Status:

To apply for IFP status, complete the following forms and send them to the court with your complaint or petition:

1) Application to Proceed In Forma Pauperis

Local Rule CR 3 requires you to use the court's form entitled, "Application to Proceed In Forma Pauperis, Supporting Documentation and Order." It contains the information the court needs to decide whether you qualify for IFP status. The form must be typewritten or *clearly* printed. Be sure to answer all questions. Review the form to make sure it is complete. Finally, sign and date the form. If an IFP application does not comply with the rules and is not corrected or a filing fee is not paid within 30 days, the entire case may be dismissed.

2) Consent for Payment of Costs**

You must also sign the Consent for Payment of Costs page. This shows your consent to a reduction in any award you may receive in the case by the amount of costs. The IFP application is not complete without this consent.

3) Acknowledgment and Authorization**

By signing the Acknowledgment and Authorization page, you authorize the court to check your financial status so that a ruling may be made on your IFP application. The IFP application is not complete without this page.

42 U.S.C. § 1983 CIVIL RIGHTS COMPLAINT (See Attachment B)

CHECKLIST

The court must have:

- Complaint on this court's form
- Copies of the complaint for each defendant, plus one for the judge
- Names and addresses of defendants to be served
- \$350.00 filing fee or an IFP application.

Failure to comply with any of the above may result in the dismissal of your case.

42 U.S.C. § 1983 CIVIL RIGHTS COMPLAINTS

FILING INFORMATION AND INSTRUCTIONS

A. What is a 42 U.S.C. § 1983 Civil Rights Action?

A 42 U.S.C. § 1983 action may be brought by anyone who believes that his or her federal constitutional rights have been violated.

B. How to File a 42 U.S.C. § 1983 Civil Rights Action:

1) Civil Rights Complaint Form

Prisoners filing a civil rights complaint must use the form entitled, "Prisoner Civil Rights Complaint, 42 U.S.C. § 1983." It must be typewritten or legibly handwritten. **DO NOT WRITE ON THE BACK OF ANY PAGE OR IN THE MARGINS.** If additional space is needed, you may attach additional pages of standard letter size paper and indicate the sections that are being continued. You must use this form.

Be sure to answer all of the questions on the complaint form. The name and address for each defendant must be provided on the front page of the complaint or on a separate sheet of paper. If you do not provide this information, the court will be unable to serve the defendants. Finally, write your original signature and date the last page.

When the form is complete, make the required number of copies. In addition to the original, you must provide a copy for the judge, plus one copy for each defendant. For example, if there are three named defendants, you must provide the court the original complaint, plus four copies. All copies must be identical to the original. The Clerk's Office will not make copies for you. If photocopying is unavailable, carbon or handwritten copies are acceptable so long as they are identical to the original.

2) Filing Fee

A \$350 filing fee is required for all civil rights actions. The fee must accompany the complaint. Checks or money orders must be made payable to the U.S. District Court. If you cannot afford the filing fee, you may ask to proceed *in forma pauperis* (IFP). If you meet the requirements for proceeding IFP, an initial partial filing fee will be assessed and collected. You are still responsible for your own copying costs. The Clerk's Office will not make copies for you. To file an application for IFP status, refer to that section in this manual.

NOTE: Your case cannot be opened unless you pay the filing fee or submit a declaration and application to proceed IFP, together with the initial partial filing fee.

3) Name and Address for Each Defendant

In order to serve the complaint on the defendants, you must supply enough information so that the Court can personally serve them. You may do this by submitting the defendants' names and addresses on the front of the complaint or on a separate sheet of paper. Be sure to include the person's name, title (if any) and physical address (i.e., a P.O. Box does *not* help). Complete and accurate information is very important for service.

4) Where to File

The Western District of Washington has a court in Seattle and another court in Tacoma. The place to file a civil rights action is determined by where the defendants reside or where the action occurred. The local rule states:

"All civil cases in which all defendants reside, or in which the claim arose, in the counties of Clallam, Clark, Cowlitz, Grays Harbor, Jefferson, Kitsap, Lewis, Mason, Pacific, Pierce, Skamania, Thurston and Wahkiakum, shall be filed at Tacoma." CR 5(e)(1).

Actions in which the defendants reside or in which the claim arose in Island, King, San Juan, Skagit, Snohomish and Whatcom Counties must be filed in Seattle.

The addresses for both courts are:

Clerk's Office
US Courthouse, Lobby Level
700 Stewart St
Seattle WA 98101-1271

Clerk's Office
US Courthouse
1717 Pacific Avenue Rm 3100
Tacoma WA 98402

WRIT OF HABEAS CORPUS

CHECKLIST

The court must have:

- Petition submitted on this court's form
- Copies of the petition for each defendant, plus one for the judge
- \$5.00 Filing fee or IFP application

Failure to comply with any of the above may result in the dismissal of your writ.

WRIT OF HABEAS CORPUS

FILING INFORMATION AND INSTRUCTIONS

A. What is a Writ of Habeas Corpus?

There are two types of writs of habeas corpus. A writ of habeas corpus brought under 28 U.S.C. § 2254 challenges confinement of a prisoner in *state* custody in violation of the Constitution, law, or treaties of the United States. A 28 U.S.C. § 2241 writ challenges confinement of a prisoner in *federal* custody.

B. How to File a Petition:

1) Writ of Habeas Corpus Form

Local Rule CR 100 requires everyone filing a writ of habeas corpus to use the forms supplied by the court. To file a 28 U.S.C. § 2254 writ, use the form entitled, "Petition Under 28 U.S.C. § 2254 for Writ of Habeas Corpus by a Person in State Custody." To file a 28 U.S.C. § 2241 writ, use the form entitled, "Petition for Writ of Habeas Corpus Under 28 U.S.C. § 2241."

The forms are designed to help you file your petition. The petition must be typewritten or *legibly* handwritten. **DO NOT WRITE ON THE BACK OF ANY PAGE OR IN THE MARGINS.** If additional space is needed, you may attach additional pages of standard letter size paper. Any additional briefs or memoranda must be filed separately. **DO NOT** attach additional briefs or motions to your petition.

Answer *all* questions on the form. Be sure to include the criminal case number, judge, date and location of the court where you were convicted and sentenced, if applicable. Once the form is complete, sign and date it. You must supply the judge with a copy, plus a copy for every party. All copies must be *identical* to the original. If a photocopy machine is not available, carbon copies or handwritten copies are acceptable so long as they are identical to the original.

2) Filing Fee

A \$5.00 filing fee is required. The filing fee must accompany the petition. If you meet the requirements for proceeding *In Forma Pauperis* (IFP), the fee will be waived. To file an IFP application, refer to that section in this manual.

28 U.S.C. § 2255 MOTION

CHECKLIST

The court must have:

- Motion submitted on this court's form

Failure to comply with the above may result in the dismissal of your motion.

28 U.S.C. § 2255 MOTION

FILING INFORMATION AND INSTRUCTIONS

A. What is a 28 U.S.C. § 2255 Motion?

These are motions to vacate, set aside or correct a sentence by a person in federal custody. You may file this motion *only* if you are attacking your *federal* sentence. A federal sentence is a sentence imposed by a federal court. The fact that you may be located in a federal institution has nothing to do with this motion. If you are attacking a *state* sentence, a 28 U.S.C. § 2254 Habeas Corpus Petition may be the proper procedure.

B. Where can a motion be brought?

All 2255 motions must be brought in the court that imposed your sentence. Therefore, you may bring a 2255 motion in the Western District of Washington if you were sentenced by this court. You *must* provide the case number of the original criminal matter. Your case will be reassigned to the judge who sentenced you.

C. How to file a motion:

1) 28 U.S.C. § 2255 Motion Form

Local Rule CR 100 requires everyone filing a 2255 motion to use the form entitled, "Motion under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody." The form is designed to help you prepare your motion. It must be typewritten or *legibly* handwritten. **DO NOT WRITE ON THE BACK OF ANY PAGE OR IN THE MARGINS.** If additional space is needed, you may attach additional pages of standard letter size paper. Any additional briefs or memoranda must be filed separately. **DO NOT** attach additional documents to your motion.

Answer *all* questions on the form. Be sure to include the criminal case number, judge and the date of your conviction and sentencing. Once the form is complete, sign and date it. You must supply the judge with a copy, plus a copy for every party. All copies must be *identical* to the original. If a photocopy machine is not available, carbon copies or handwritten copies are acceptable.

2) Filing Fee

No filing fee is required. Therefore, an application for IFP status is not necessary.