

**INSTRUCTIONS FOR FILING A PRISONER
CIVIL RIGHTS COMPLAINT UNDER 42 U.S.C. § 1983 or
BIVENS V. SIX UNKNOWN FED. NARCOTICS AGENTS
IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY**

COMPLAINT (FORM “A”)

- (1) The complaint must be legibly handwritten or typewritten on the form provided by the Court. It must be signed by each plaintiff. All questions must be answered concisely in the proper space provided on the form. Do NOT write on the back of any page.
- (2) Additional pages are not permitted except with respect to the facts which you rely upon to support your grounds for relief. No citation to authorities is necessary. If briefs or arguments are submitted, they should be submitted in the form of a separate memorandum.
- (3) **Keep a copy of the complaint for your files.**
- (4) Exhaustion of available administrative remedies is mandatory and unexhausted claims cannot be brought in court. However, you are **not** required to specifically plead or demonstrate exhaustion in your complaint.
- (5) On the form complaint, you will be asked to state whether you are suing each defendant in his/her “individual capacity” or “official capacity” or in both capacities. To illustrate the difference, when you sue someone in his/her “individual capacity” for monetary relief, you are asking the Court to make that person pay you money from his/her own funds because of something he/she did or did not do that violated your constitutional rights. By contrast, when you sue someone in an “official capacity” for monetary relief, even though you name the person, the law views the claim as being brought only against the person’s employer, which is usually a city, county or state. Thus, when you sue someone in his/her “official capacity,” you are asking the Court to make a city, county or state pay you money because the city, county or state caused the constitutional violation. You may sue a defendant in either his/her individual capacity or official capacity or you may sue a defendant in both capacities.
- (6) You must support your claim(s) with facts. Failure to assert a factual basis in support of your claim(s) will result in its dismissal.

SUMMONS (FORM “B”)

- (1) Prepare a summons for each defendant you have sued.
- (2) Write or type the defendant’s name and address on the summons in the space provided. You are responsible for providing the address for each defendant and preparing the summons. The Court cannot prepare your summonses.
- (3) Write or type your name in the space provided.
- (4) **DO NOT** fill in any other part of the summons form.
- (5) **DO NOT** mail the summons to any of the defendants.

FILING FEE/APPLICATION TO PROCEED WITHOUT PREPAYMENT (FORM "C")

- (1) You must submit a **filing fee of \$350.00** when you file your complaint.
- (2) If you do not have the necessary funds to pay the filing fee, you may seek to proceed *in forma pauperis* by filing an **application to proceed without prepayment of filing fees**. If the Court grants the request, you will be permitted to pay the \$350.00 filing fee in installments per the assessment procedure set forth in 28 U.S.C. § 1915(b).

To the application to proceed without prepayment of fees, you **MUST** attach a certified copy of your inmate or prison trust account statement for the 6-month period *immediately* preceding the filing of the complaint. If after notice and an opportunity to comply, you fail to provide the necessary documentation, the Court will deny the application.

If the Court dismisses your case because you failed to provide all the necessary documentation, because you requested a voluntary dismissal, or for any other reason, **YOU WILL STILL BE REQUIRED TO PAY THE FILING FEE IN FULL**. Your responsibility to pay is not dependent upon your winning your case.

FILING THE COMPLAINT

Mail the following to the Clerk for filing:

- (1) The original complaint. (Form "A").
- (2) A summons for each defendant. (Form "B").
- (3) (a) A check or money order in the amount of \$350.00 made payable to the **Clerk, United States District Court**; **OR** (b) an application to proceed without prepayment of filing fees (Form "C") along with a certified copy of your inmate or prison trust account statement for the 6-month period immediately preceding the filing of the complaint.

The Clerk's Office mailing addresses are:

LOUISVILLE	PADUCAH
601 W. Broadway, Rm 106 Gene Snyder United States Courthouse Louisville, KY 40202	501 Broadway, Suite 127 Paducah, KY 42001-6801
BOWLING GREEN	OWENSBORO
241 East Main Street, Suite 120 Bowling Green, KY 42101-2175	423 Frederica Street, Suite 126 Owensboro, KY 42301-3013

PRIVACY NOTICE

Review the attached amended notice of electronic availability of civil case file information. It is your responsibility to exclude and/or redact (blackout) sensitive information identified in documents that you file.

FORM A

CIVIL RIGHTS COMPLAINT TO BE USED BY A *PRO SE* PRISONER
UNDER 42 U.S.C. § 1983 or
UNDER *BIVENS V. SIX UNKNOWN FED. NARCOTICS AGENTS*

Rev. 10/10

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY

(Full name of the Plaintiff(s) in this action)

v.

CIVIL ACTION NO. _____
(To be supplied by the clerk)

DEMAND FOR JURY TRIAL

NO JURY TRIAL DEMAND
(Check only one)

(Full name of the Defendant(s) in this action)

I. PARTIES

(A) **Plaintiff(s)**. Place the full name of the Plaintiff in the first blank below, his/her place of confinement, address, and status. Repeat this procedure for each additional Plaintiff named, if any.

(1) Name of Plaintiff: _____

Place of Confinement: _____

Address: _____

Status of Plaintiff: CONVICTED PRETRIAL DETAINEE

(2) Name of Plaintiff: _____

Place of Confinement: _____

Address: _____

Status of Plaintiff: CONVICTED () PRETRIAL DETAINEE ()

(3) Name of Plaintiff: _____

Place of Confinement: _____

Address: _____

Status of Plaintiff: CONVICTED () PRETRIAL DETAINEE ()

(B) Defendant(s). Place the full name of the Defendant in the first blank below, his/her official position title in the second blank, and his/her place of employment in the third blank. Mark the capacity in which the Defendant is being sued. Repeat this procedure for each additional Defendant named, if any.

(1) Defendant _____ is employed
as _____ at _____.

The Defendant is being sued in his/her () individual and/or () official capacity.

(2) Defendant _____ is employed
as _____ at _____.

The Defendant is being sued in his/her () individual and/or () official capacity.

(3) Defendant _____ is employed
as _____ at _____.

The Defendant is being sued in his/her () individual and/or () official capacity.

(4) Defendant _____ is employed
as _____ at _____.

The Defendant is being sued in his/her () individual and/or () official capacity.

(5) Defendant _____ is employed
as _____ at _____.

The Defendant is being sued in his/her () individual and/or () official capacity.

II. PREVIOUS LAWSUITS

(A) Have you begun other lawsuits in State or Federal court dealing with the same facts involved in this action? YES () NO ()

(B) If your answer to “A” is YES, describe the lawsuit in the spaces below. If there is more than one lawsuit, you must describe the additional lawsuits on another sheet of paper, using the same outline.

Parties to the previous lawsuit:

Plaintiff(s): _____

Defendant(s): _____

Court (if federal court, name the district. If state court, name the county):

Docket number: _____

Name of judge to whom the case was assigned: _____

Type of case (for example, habeas corpus or civil rights action): _____

Disposition (for example, Was the case dismissed? Is it still pending? Is it on appeal?):

Approximate date of filing lawsuit: _____

Approximate date of disposition: _____

IV. RELIEF

State exactly what you want the Court to do for you. (If you seek relief which affects the fact or duration of your imprisonment (for example: release from illegal detention, restoration of good time, expungement of records, release on parole), you must also file your claim under 28 U.S.C. §§ 2241, 2254 or 2255.) The Plaintiff(s) want(s) the Court to:

_____ award money damages in the amount of \$ _____

_____ grant injunctive relief by _____

_____ award punitive damages in the amount of \$ _____

_____ other: _____

**V. DECLARATION UNDER PENALTY OF PERJURY
(each Plaintiff must sign for him/herself)**

I, the undersigned, declare under penalty of perjury that the information contained in this document is true and correct.

This ___ day of _____, 20__.

(Signature of Plaintiff)

(Signature of additional Plaintiff)

(Signature of additional Plaintiff)

I hereby certify that a copy of this complaint was delivered to the prisoner mail system for mailing on _____.

(Signature)

FORM B

AO 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT
for the

_____)
 Plaintiff)
 v.)
_____)) Civil Action No.
 Defendant)

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify)*: _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

FORM B

AO 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

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

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify)*: _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

FORM B

AO 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT
for the

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

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify)*: _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

FORM B

AO 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT
for the

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

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____; or

I returned the summons unexecuted because _____; or

Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

FORM C

United States District Court WESTERN DISTRICT OF KENTUCKY

PRISONER APPLICATION TO PROCEED WITHOUT PREPAYMENT OF FEES AND AFFIDAVIT

_____, Plaintiff

v.

_____, Defendant(s)

CASE NUMBER: _____

I, _____, swear or affirm under penalty of perjury that I am the (check appropriate box)

petitioner/plaintiff/movant other _____

in the above-named proceeding, that I am unable to pay the costs of these proceedings, and that I believe I am entitled to the relief sought in the complaint/petition/motion. I further swear or affirm under penalty of perjury under United States laws that my answers on this form and any attachments are true and correct.

Complete all questions in this application and then sign it. Do not leave any blanks: if the answer to a question is "0" or "none," write in that response. If you need more space to answer a question or to explain your answer, attach a separate sheet of paper identified with your name and the question number.

Signed: _____

Date: _____

Print your Name: _____

1. State the place of your incarceration: _____
Your prisoner identification number: _____
2. Are you currently employed at the jail/prison/correctional facility? Yes No
Do you receive payment from the jail/prison/correctional facility? Yes No
3. Estimate the average amount of money received from each of the following sources during the past 12 months. Use gross amounts, that is, amounts before any deductions for taxes or otherwise.

Income Source	Amount received during the past 12 months	Amount expected to receive in the future
Employment/Self-employment	\$ _____	\$ _____
Income from real property (such as rental income)	\$ _____	\$ _____
Interest & dividends	\$ _____	\$ _____
Gifts or Inheritance	\$ _____	\$ _____
Retirement (such as social security, pensions, annuities, insurance)	\$ _____	\$ _____

Income Source	Amount received during the past 12 months	Amount expected to receive in the future
Disability (such as social security, insurance payments)	\$ _____	\$ _____
Other (specify) _____	\$ _____	\$ _____
Total Monthly Income	\$ _____	\$ _____

4. How much cash do you have? \$ _____
 State any money you have in any prison account, or in any checking or savings accounts, or in any other financial institution.

Where is the money? (include name of bank, savings & loan, prison account)	Type of Account	Amount You Have
a.		\$ _____
b.		\$ _____
c.		\$ _____

NOTE: You must attach a statement certified by the appropriate prison or jail officer (see the last page of this document) showing all receipts, expenditures, and balances during the last six months in your prison or jail account(s).

5. List the assets, and their values, which you own. Do not list clothing and ordinary household furnishings.

Asset	Description	Value
a. Stocks, bonds, securities or other financial instruments)		\$ _____
b. Other valuable property (for example, automobiles)		\$ _____

6. State every person, business, or organization owing you money, and the amount owed.

Who owes you money?	Amount owed to you
a.	\$ _____
b.	\$ _____
c.	\$ _____
d.	\$ _____

7. Do you expect any major changes to your income, or in your assets or liabilities during the next 12 months?

Yes No

If yes, describe on an attached sheet.

8. Provide any other information that will help explain why you cannot, or cannot without undue hardship, pre-pay the fees or costs for this case.

* * * * *

CERTIFICATE

(Incarcerated applicants only)

(To be completed by the institution of incarceration)

I certify that the applicant named in the attached Application to Proceed Without Prepayment of Fees and Affidavit has the sum of \$ _____ on account to his/her credit at (name of institution) _____ . I further certify that the applicant has the following securities to his/her credit: _____ . I further certify that during the past six months the applicant's average balance was \$ _____ , and the following statement of all receipts, expenditures, and balances during the last six months is true and correct.

Date: _____

Signature of Authorized Officer: _____

Printed Name: _____

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN AND WESTERN DISTRICT OF KENTUCKY

AMENDED

NOTICE OF ELECTRONIC AVAILABILITY OF CIVIL CASE FILE INFORMATION

(AMENDED TO COMPLY WITH THE AUGUST 2, 2004 AMENDMENTS
TO THE E-GOVERNMENT ACT OF 2002)

The United States District Courts for the Eastern and Western Districts of Kentucky are making the content of documents filed in electronic form or converted from a paper filing to electronic form available on the court's Internet web site via WebPACER. Any subscriber to WebPACER will be able to read, download, store and print the full content of electronically filed or electronically converted documents. The clerk's office will not make available over the Internet electronic documents that have been sealed or otherwise restricted by court order.¹

You should not include sensitive information in any document filed with the court unless such inclusion is necessary and relevant to the case. Any personal information not otherwise protected will be made available over the Internet via WebPACER. If sensitive information must be included, the following personal identifiers must be partially redacted from the document, whether it is filed on paper or electronically:

- A. **SOCIAL SECURITY NUMBERS.** If an individual's social security number must be included in a document, only the last four digits of that number should be used.
- B. **NAMES OF MINOR CHILDREN.** If the involvement of a minor child must be mentioned, only the initials of that child should be used.
- C. **DATES OF BIRTH.** If an individual's date of birth must be included in a document, only the year should be used.
- D. **FINANCIAL ACCOUNT NUMBERS.** If financial account numbers are relevant, only the last four digits of these numbers should be used.

In compliance with the E-Government Act of 2002, and as amended August 2, 2004, a party filing a document containing any of the personal data identifiers specified above may:

- (a) file an unredacted copy under seal. This document shall be retained by the court as part of the record. A redacted copy for the public record must be filed along with the unredacted document under seal. OR

¹Reference Electronic Case Filing Administrative Policies and Procedures for the Eastern and Western Districts of Kentucky

- (b) file a reference list under seal. The reference list shall contain the complete personal data identifier(s) and the redacted identifier(s) used in its (their) place in the filing. All references in the case to the redacted identifiers included in the reference list will be construed to refer to the corresponding complete identifier. The reference list must be filed under seal, and may be amended as of right. It shall be retained by the court as part of the record.

The Court recognizes that parties may need to include in the record a document containing information such as any personal identifying number such as a driver's license number; medical records, treatment and diagnosis; employment history; individual financial information; and proprietary or trade secret information. Technical and administrative procedures to effectuate the filing of these documents along with other important information can be found in the Court's Electronic Case Filing Administrative Policies and Procedures (Reference Number 15.2) and the User Manual. The Court's Electronic Case Filing Administrative Policies and Procedures and the Court's User Manuals are available through the Courts' web sites at www.kywd.uscourts.gov and www.kyed.uscourts.gov, or can be obtained from any Division of the Court.

Counsel is strongly urged to share this notice with all clients so that an informed decision about the inclusion of certain materials may be made. **It is the sole responsibility of counsel and the parties to be sure that all pleadings and other papers comply with the rules of this court requiring redaction of personal data identifiers. The clerk will not review each document for redaction.**