#### NOTICE TO INMATES FILING SECTION 1983 COMPLAINTS

On April 26, 1996, legislation was enacted which states (1) that an action cannot be brought by a prisoner confined in any jail, prison, or other correctional facility with respect to prison conditions until such administrative remedies that are available have been exhausted and (2) that a prisoner seeking to bring a civil action (or appeal a judgment in a civil action or proceeding) without prepayment of fees must submit a certified copy of his/her trust fund account for the 6-month period immediately preceding the filing of the complaint or notice of appeal.

This legislation requires a prisoner to pay the full filing fee plus an administrative fee if bringing an action in federal court (or if filing a notice of appeal). In the event a prisoner is unable to pay the full filing fee of \$402.00 (\$350.00 filing fee plus \$52.00 administrative fee) at the time the action is brought, the court is required to assess an initial partial filing fee and after the initial partial filing fee is made, the prison at which the prisoner is incarcerated is required to forward to the Clerk's office monthly payments of 20 percent of the preceding month's income credited to the inmate's account until the filing fee of \$350.00 is paid. If you are a prisoner and seek permission to file a case without prepayment of the required fees and costs, you can fill out the application to proceed without the prepayment of fees. If your application to proceed without the prepayment of fees is granted, you will only be assessed the \$350.00 filing fee and not the \$52.00 administrative fee. **Otherwise**, you must pay \$402.00 (\$350.00 filing fee plus \$52.00 administrative fee) at the time you send your complaint and the fee may be paid in cash, or by check or money order made payable to "Clerk, U.S. District Court."

You should be aware that this legislation also states that a prisoner proceeding without prepayment of the filing fees cannot bring an action if on 3 or more prior occasions the prisoner has brought an action that was dismissed as frivolous, malicious or fails to state a claim upon which relief can be granted **unless** the prisoner is under imminent danger of serious physical injury.

When filing a complaint, you **must** submit the following:

(1) A copy of your inmate trust fund account for the 6-month period prior to filing the complaint. If you have been housed at more than one facility, you must submit a copy from each of the facilities during that 6-month time period;

#### and

(2) A sworn statement that all administrative remedies have been exhausted. Attached is a form that can be used when submitting your complaint for filing.

# Notice to Inmates Filing Civil Actions

As a result of legislation passed in April, 1996, once an action is filed and given a civil action number, you will be responsible for the entire filing fee, regardless of the final disposition of the case. This includes a voluntary dismissal.

# INSTRUCTIONS FOR FILING A COMPLAINT BY A STATE PRISONER UNDER THE CIVIL RIGHTS ACT 42 UNITED STATES CODE SECTION 1983 OR BY A FEDERAL PRISONER IN FILING A BIVENS CLAIM

This packet contains two (2) copies of a complaint form and one (1) financial affidavit form. To start an action you MUST file an original complaint with original signature, one copy of your complaint for the court AND one copy for each defendant you name. For example, if you name two defendants, you must file an original and three copies of the complaint. Pursuant to Rule 4(c)(l) of the Federal Rules of Civil Procedure, a summons must be served with a copy of the complaint. Also, Rule 4(i) indicates if serving the United States and Its Agencies, Corporation, Officers, or Employees, a copy of the summons must be served to the United States Attorney for the District and the Attorney General of the United States. If a Federal Agency or Federal employee is a defendant, you must file four additional copies. You should keep or photocopy an additional copy of the complaint for your own records. THE COURT CANNOT PROVIDE FREE PHOTOCOPIES TO LITIGANTS EXCEPT IN SPECIAL INSTANCES. If you should name more than two defendants, additional copies of the complaint form will be made available to you. Do not argue law or facts in the complaint, as such argument is improper. Try to avoid use of extra sheets and do not submit exhibits or other evidentiary matters unless the Court directs you to do so. All copies of the complaint must be identical to the original.

The processing of the complaint will be delayed unless it conforms to these instructions and to these forms.

Your complaint must be legibly typewritten or handwritten. You, the plaintiff, must sign and declare under penalty of perjury that the facts are correct. Your complaint can be brought in this Court only if one or more of the named defendants is located within this district (see attached list). Further, you must file a separate complaint for each claim that you have unless they are all related to the same incident or issue. You are also required to furnish, so that the U.S. Marshal can complete service, the correct name and address of each person you have named as a defendant.

If you seek permission to file a case without prepayment of the required fees and costs (the filing fee and Marshal Service fee for each defendant served), you can fill out the application to proceed without the prepayment of fees. Your application must be accurate, for it is subject to close scrutiny and the Court will seek financial information about you from prison or jail officials. If you choose the pay \$400.00 (\$350.00 filing fee plus \$50 administrative fee) at the time you send your complaint, the fee may be paid in cash, or by check or money order made payable to "Clerk, U.S. District Court." The U.S. Marshal will notify you regarding the fees for service and any monies should be forwarded to the U.S. Marshal Service.

When these forms are completed, mail the original with original signature to the:

Clerk, United States District Court Eastern District of North Carolina P.O. Box 25670 Raleigh, NC 27611 EASTERN DISTRICT OF NORTH CAROLINA Clerk's Office, United States District Court, Eastern District of North Carolina, P.O. Box 25670, Raleigh,

NC 27611

**BEAUFORT BERTIE BLADEN BRUNSWICK CAMDEN CARTERET CHOWAN COLUMBUS CRAVEN CUMBERLAND CURRITUCK DARE** 

**DUPLIN EDGECOMBE FRANKLIN GATES GRANVILLE GREENE HALIFAX** HARNETT **HERTFORD HYDE JOHNSTON** 

**JONES LENOIR** 

NASH

**MARTIN** 

**NEW HANOVER** NORTHAMPTON

**ONSLOW PAMLICO PASQUOTANK PENDER PEROUIMANS** 

**PITT ROBESON SAMPSON TYRRELL VANCE** WAKE **WARREN** WASHINGTON WAYNE WILSON

MIDDLE DISTRICT OF NORTH CAROLINA Clerk's Office, United States District Court Middle District of North Carolina, 324 W. Market St., Greensboro, NC 27401

**ALAMANCE CABARRUS CASWELL CHATHAM** 

**DAVIDSON DAVIE DURHAM FORSYTH GUILFORD HOKE** LEE

**MONTGOMERY** 

**MOORE ORANGE PERSON RANDOLPH RICHMOND ROCKINGHAM** 

**ROWAN SCOTLAND STANLY** STOKES SURRY YADKIN

WESTERN DISTRICT OF NORTH CAROLINA Clerk's Office, United States District Court, Western District of North Carolina, Federal Building, Room 204, 401 West Trade Street, Charlotte, NC 28202

**ALEXANDER ALLEGHANY ANSON ASHE AVERY BUNCOMBE** BURKE **CALDWELL CATAWBA CHEROKEE CLAY CLEVELAND** 

**GASTON GRAHAM HAYWOOD HENDERSON IREDELL JACKSON** LINCOLN MACON **MADISON** McDOWELL **MECKLENBURG** 

MITCHELL

**POLK** 

**RUTHERFORD** 

**SWAIN** 

**TRANSYLVANIA** 

UNION WATAUGA WILKES YANCEY

# United States District Court Eastern District of North Carolina Western Division

nly)
Inmate Number
COMPLAINT (Pro Se Prisoner)
Jury Demand? □Yes □ No

#### **NOTICE**

Federal Rule of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *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.

#### I. COMPLAINT

are of	prisoners challenging the constitutionality of their conditions of confinement, claims which ten brought under 42 U.S.C. § 1983 (against state, county, or municipal defendants) or in a ns" action (against federal defendants).
	42 U.S.C. § 1983 (state, county, or municipal defendants)
	Action under <i>Bivens v. Six Unknown Federal Narcotics Agents</i> , 403 U.S. 388 (1971) (federal defendants)
	Action under Federal Tort Claims Act (United States is the proper defendant; must have presented claim in writing to the appropriate Federal agency and received a notice of final denial of the claim pursuant to 28 U.S.C. § 2401(b))
II.	PLAINTIFF INFORMATION
Nar	ne
Pris	oner ID #
Plac	ce of Detention
Inst	itutional Address
City	State Zip Code
III.	PRISONER STATUS
Indica	ate whether you are a prisoner or other confined person as follows:
	Pretrial detainee □ State □ Federal
	Civilly committed detainee
	Immigration detainee
	Convicted and sentenced state prisoner
	Convicted and sentenced federal prisoner

Indicate below the federal legal basis for your claim, if known. This form is designed primarily for

#### IV. DEFENDANT(S) INFORMATION

Please list the following information for each defendant. If the correct information is not provided, it could result in the delay or prevention of service. Make sure that the defendant(s) listed below are identical to those contained in the above caption. Attach additional sheets of paper as necessary.

Defendant 1:			
	Name		
	Current Job Title		
	Current Work Addre	ess	
	City	State	Zip Code
	Capacity in which be	eing sued:   Individual  Off	icial □ Both
Defendant 2:			
	Name		
	Current Job Title		
	Current Work Addre	ess	
	City	State	Zip Code
	Capacity in which be	eing sued:   Individual  Off	ïcial □ Both

## **Defendant(s) Continued**

Defendant 3:				
	Name			
	Current Job Title			
	Current Work Address			
	City	State	Zip Code	
	Capacity in which being sued	: □ Individual □ Offic	ial 🗆 Both	
Defendant 4:				
	Name			
	Current Job Title			
	Current Work Address			
	City	State	Zip Code	
	Capacity in which being sued	l: □ Individual □ Offic	cial 🗆 Both	

#### V. STATEMENT OF CLAIM

	Place(s)	of occurrence:
	Date(s)	of occurrence:
	State wh	ich of your federal constitutional or federal statutory rights have been violated:
- -		
	involved those act	re briefly the FACTS that support your case. Describe how each defendant was personally in the alleged wrongful actions, state whether you were physically injured as a result of tions, and if so, state your injury and what medical attention was provided to you.
	FACTS:	
Who did what	t to	
you?		

What		
happened to you?		
to you:		
When did it		
happen to		
you?		
Where did it		
happen to you?		
,		

Rev. 5/2017 Prisoner Complaint

What was	
your	
injury?	

Rev. 10/2015 Prisoner Complain

### VI. ADMINISTRATIVE PROCEDURES

court	NING: Prisoners must exhaust administrative procedures before filing about prison conditions. 42 U.S.C. § 1997e(a). Your case may be dism		•
	sted your administrative remedies.  you filed a grievance concerning the facts relating to this complaint?  If no, explain why not:	□ Yes	□ No
Is the	grievance process completed?  If no, explain why not:	□ Yes	□ No
VII.	RELIEF		
State statut	briefly what you want the court to do for you. Make no legal argument es.	s. Cite no c	ases or

#### VIII. PRISONER'S LITIGATION HISTORY

in federal court if that prisoner has "on three or more occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury." 28 U.S.C. §1915(g).			
Have you brought any other lawsuits in state or federal court while a prisoner?	□ Yes	□ No	
If yes, how many?			
Number each different lawsuit below and include the following:			
<ul> <li>Name of case (including defendants' names), court, and docket num</li> <li>Nature of claim made</li> <li>How did it end? (For example, if it was dismissed, appealed, or is st below.)</li> </ul>		explain	
ociow.)			

#### IX. PLAINTIFF'S DECLARATION AND WARNING

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending or modifying existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Each Plaintiff must sign and date the complaint and provide prison identification number and

prison address.			
Dated	Plaintiff	's Signature	
Printed Name			
Prison Identification #			
Prison Address	City	State	Zip Code

## UNITED STATES DISTRICT COURT

for the

Eastern District of North Carolina

Plaintiff/Petitioner v. Defendant/Respondent	) ) Civil Action No.	o. 5:	
APPLICATION TO PROCEED IN DISTRICT	COURT WITHOUT hort Form)	PREPAYING FEES OR COST	S
I am a plaintiff or petitioner in this case and dec that I am entitled to the relief requested.	lare that I am unable to	pay the costs of these proceedings	and
In support of this application, I answer the follow	wing questions under pe	nalty of perjury:	
1. <i>If incarcerated</i> . I am being held at:  If employed there, or have an account in the institution, appropriate institutional officer showing all receipts, expinstitutional account in my name. I am also submitting a incarcerated during the last six months.  2. <i>If not incarcerated</i> . If I am employed, my employed, my employed.	penditures, and balances a similar statement from	during the last six months for any any other institution where I was	y
My gross pay or wages are: \$, and (specify pay period)	l my take-home pay or v	vages are: \$	_per
3. Other Income. In the past 12 months, I have r	eceived income from the	e following sources (check all that ap	pply):
<ul> <li>(a) Business, profession, or other self-employment</li> <li>(b) Rent payments, interest, or dividends</li> <li>(c) Pension, annuity, or life insurance payments</li> <li>(d) Disability, or worker's compensation payments</li> <li>(e) Gifts, or inheritances</li> <li>(f) Any other sources</li> </ul>	□ Yes □ Yes	□ No	

If you answered "Yes" to any question above, describe below or on separate pages each source of money and state the amount that you received and what you expect to receive in the future.

		Printed name
Date: _		Applicant's signature
statement	<i>eclaration:</i> I declare under penalty of perjury that the may result in a dismissal of my claims.	above information is true and understand that a false
8.	Any debts or financial obligations (describe the amounts	owed and to whom they are payable):
	Names (or, if under 18, initials only) of all persons w person, and how much I contribute to their support:	ho are dependent on me for support, my relationship
	Any housing, transportation, utilities, or loan payment of the monthly expense):	ts, or other regular monthly expenses (describe and provide
	Any automobile, real estate, stock, bond, security, trual alue that I own, including any item of value held in sor	
4.	Amount of money that I have in cash or in a checking	g or savings account: \$