

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

NOTICE TO PRISONERS FILING
CIVIL RIGHTS ACTIONS UNDER
42 U.S.C. § 1983

On April 26, 1996, the President signed into law the Prison Litigation Reform Act. This law makes a number of changes affecting section 1983 lawsuits by inmates. You should be aware of the following aspects of the new law:

WHO THE LAW AFFECTS

The law applies to federal and state (Commonwealth of Puerto Rico) prisoners. Prisoners are persons incarcerated or detained in a facility who have been accused of, convicted of, sentenced for, or adjudicated delinquent for violations of (1) criminal law, or (2) the terms and conditions of parole, probation, pretrial release, or diversionary program.

EXHAUSTION

You may not bring an action challenging prison conditions under § 1983 or any other federal law until you have exhausted available administrative remedies, including any grievance system.

FILING

When you bring a civil action or file an appeal, you must pay the full amount of the filing fee (\$120 for civil actions) if you have money to pay it. If you cannot pay the full fee at the time of filing, you must apply to proceed in forma pauperis.

- ▶ To file an application to proceed in forma pauperis, you must submit (1) an affidavit that includes a statement of all assets you possess, and (2) a certified copy of your prisoner account statement for the past six months, obtained from the appropriate official at your institution.
- ▶ After receiving your complaint, the Court will assess and collect an initial partial filing fee of the greater of the following: 20 percent of the average monthly deposits or 20 percent of the average monthly balance in your prisoner account for the past six months.

If you have no assets and no means to pay the initial partial fee, you will not be prohibited from bringing an in forma pauperis action. 28 U.S.C. § 1915(b)(4). However, any money you later receive will be collected as described below.

- ▶ After paying this initial partial filing fee, you must pay 20 percent of each future month's income received in your prisoner account. The agency having custody of you will send these payments to the clerk of court when your prisoner account has more than \$10 in it, until the full filing fee is paid. 28 U.S.C. § 1915(b). The full fee will be collected even if the court dismisses the case because it is frivolous or malicious, fails to state a claim on which relief may be granted, or seeks money damages against a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2). The filing fee debt is not dischargeable in bankruptcy.

DISMISSAL

The Court must dismiss your case at any time if it determines that: your allegation of poverty is untrue, or your case is frivolous or malicious, fails to state a claim on which relief may be granted, or seeks money from a defendant who is immune from such relief. Even if your case is dismissed for one of these reasons, you are still responsible for paying any unpaid portion of the filing fee.

THREE-DISMISSAL RULE

If you have, on three or more times in the past, while incarcerated, brought a civil action or appeal in federal court that was dismissed because it was frivolous or malicious, or failed to state a claim on which relief may be granted, you cannot bring a new civil action or appeal a judgment in a civil action in forma pauperis. The only exception to this is if you are in "imminent danger of serious physical injury." 28 U.S.C. § 1915(g). If you are not proceeding in forma pauperis, you may file a new civil action or appeal even if you have three or more of these dismissals. Regardless of whether you proceed in forma pauperis in a civil case, if your case is dismissed as frivolous, malicious, or for failure to state a claim at any time, the dismissal will count against you for purposes of the three-dismissal rule if you seek to bring a case in forma pauperis in the future.

COMPENSATORY DAMAGES

If your case is allowed to proceed and you are awarded compensatory damages against a correctional facility or an official or agent of a correctional facility, the damages award will first be used to satisfy any outstanding restitution orders 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 such damages. The restitution orders must be fully paid before any part of the award goes to you.

ATTORNEY FEES

If you were granted appointment of counsel and you won attorney fees from the defendant, a portion of your award (but not more than 25 percent of it) will be used to pay the attorney fees.