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Your Responsibility When Using this Information:

When we wrote this Informational Material we did our best to give you useful and accurate information because we know that prisoners often have difficulty obtaining legal information and we cannot provide specific advice to all the prisoners who request it. The laws change frequently and are subject to differing interpretations. We do not always have the resources to make changes to this material every time the law changes. If you use this pamphlet it is your responsibility to make sure that the law has not changed and is applicable to your situation. Most of the materials you need should be available in your institution law library.

LAWSUITS FOR MONEY DAMAGES AGAINST PRISON OFFICIALS

Updated July 2012

When a prisoner is harmed by the actions of prison officials, he or she may want to sue for money damages. This letter provides information about suing California state prison officials to get money damages for personal injuries. In some cases, the laws discussed in this letter can also be used to get injunctive relief (a court order requiring prison officials to do something or stop doing something). A separate letter is available from the Prison Law Office regarding actions a prisoner can take when personal property is lost or damaged by prison officials.

A prisoner who has been harmed or who believes his or her rights have been violated should take immediate action to preserve the right to bring a lawsuit. To preserve the right to file a federal civil rights suit, a prisoner must file an administrative appeal (such as a CDCR 602, 602-HC or 1824), within the administrative appeal timeline (usually 30 days of the date of the harm or the action that may be the subject of the lawsuit); if the prisoner cannot meet that deadline, he or she should file the appeal as soon as possible. To preserve the right to file a state tort action, a prisoner normally must file a government claim form within six months of the date of the action that caused the harm. These requirements, and the deadlines for filing the actual lawsuits, are discussed in detail in this information packet. FAILURE TO FILE A CLAIM AND/OR A LAWSUIT WITHIN THE REQUISITE TIME MAY MEAN THAT YOU COULD BE BARRED FOREVER FROM PURSUING YOUR ACTION.

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It is difficult to bring a lawsuit without a lawyer, so prisoners should try to get an attorney. However, the Prison Law Office generally does not represent prisoners in lawsuits that ask for money damages, and neither do many other lawyers. Although personal injury lawsuits are sometimes taken by lawyers on a "contingency fee" basis (where the lawyer's fee is a percentage of money recovered, if any), only the most exceptional prisoner cases will appeal to most lawyers. Thus, finding a lawyer is extremely difficult and often impossible. To try to find a lawyer, prisoners can write to attorneys whose names are listed in the "civil rights law" and "personal injury" section of the "Attorney" listings in the yellow pages of the local phone book or to the local lawyer referral service.

Because it is extremely difficult to find an attorney for a money damages lawsuit, a prisoner usually will have to proceed on his or her own because there are time limits which must be met to protect the right to sue. This letter provides an overview of the steps a prisoner needs to take to protect the right to sue state officials for money damages under both federal and state law.

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INTRODUCTION

A prisoner can file a lawsuit for money damages against prison or parole officials who cause physical injuries or other harm. Depending on the circumstances, such a lawsuit can be based on violations of federal or state law, and can be filed in either federal or state court. This letter will give an overview of the two main types of suits that prisoners can bring to try to get money damages.

The most common type of lawsuit filed by prisoners seeking money damages is a "federal civil rights" or "section 1983" action. Under federal law, the Civil Rights Act allows a prisoner to sue state officials who violate federal constitutional or statutory rights.^{1/}

The other type of lawsuit that prisoners may use to seek money damages for injury is a state law "personal injury" or "tort" action. Under California law, a prisoner can sue prison officials if their wrongful or negligent acts or omissions cause the prisoner to suffer injury.^{2/}

The decision whether to sue a prison official under the federal civil rights act or under state tort law (or both) should be based on the facts of the individual case. However, a prisoner should always take the initial steps that will protect the right to sue under both federal and state law. The next section of this letter discusses who can be sued. The letter then describes in more detail the basic requirements for federal civil rights and state tort lawsuits. Finally, the letter ends with a discussion of how to decide which type of claims to raise and where the claims should be filed.

WHO TO SUE

The question of who to sue^{3/} can be very complicated, and the following information covers only the most general rules.

The basic rule regarding who to sue, under either federal or state law, is that the prisoner should sue every state employee or state contractor who caused the injuries or damages.

For example, consider a case where a prisoner wants to file a lawsuit because he suffered injuries when an officer assaulted him without justification, and the assault occurred because of orders from another officer. The prisoner can sue the officer who actually assaulted him. The prisoner could also sue the officer who ordered the assault, as the order was a part of the cause of the injuries. The prisoner might also be able to sue the persons who were supposed to be

1. See 42 U.S.C. § 1983.

2. See Government Code § 844.6(d).

3. A person who is being sued is called a "defendant." A person who is filing the lawsuit is called a "plaintiff."

supervising the two officers, if specific facts can be shown that failure to properly supervise or train the officers caused the injury.^{4/}

Prisoners who bring federal civil rights suits should be aware that prison staff can be sued in either their “individual capacity” or “official capacity.” The basic rule is that if a prisoner is suing for money damages, the complaint should state that the defendants are being sued in an individual capacity. If a prisoner is bringing a claim for injunctive relief, the defendants should be named in an official capacity.^{5/} If the prisoner is requesting both types of relief, then the defendants should be sued in both official and individual capacities.

In addition to suing the individual prison staff who caused the injury, some prisoners would also like to sue the state of California, the Department of Corrections and Rehabilitation (CDCR) or the prison. However, the State of California and its agencies (such as the CDCR and the individual prisons) cannot be sued in most cases. Federal civil rights law requires that the defendant to the lawsuit be a “person,” and states and state agencies are not considered to be “persons” under the Civil Rights Act.^{6/} Also, under the Eleventh Amendment to the U.S. Constitution, states have “sovereign immunity” such that a person can almost never sue a state for money in federal court.^{7/} There are very limited exceptions allowing prisoners to sue the state itself in some actions involving Americans with Disability Act (ADA) or Rehabilitation Act Section 504 claims, where the state has waived immunity by accepting federal funds for its prison programs.^{8/}

In addition, under California law, the State of California itself is generally “immune” from liability for an injury to a prisoner.^{9/} The State or the CDCR itself can be sued for money

4. Prisoners who wish to do further research on the legal issue of “causation” should read Rizzo v. Goode (1976) 423 U.S. 362 [96 S.Ct. 598; 46 L.Ed.2d 561]; Johnson v. Duffy (9th Cir. 1978) 588 F.2d 740; and Leer v. Murphy (9th Cir. 1988) 844 F.2d 628.

5. Will v. Michigan Dept. of State Police (1989) 491 U.S. 58 [109 S.Ct. 2304; 105 L.Ed.2d 45].

6. Ibid; Hale v. Arizona (9th Cir. 1993) 993 F.2d 1387, 1398. A good discussion of who can be sued, and in what capacities, is included in Taormina v. California Dept. of Corrections (S.D. Cal. 1996) 946 F.Supp. 830.

7. See Quern v. Jordan (1979) 440 U.S. 332 [99 S.Ct. 1139; 59 L.Ed.2d. 358]; Edelman v. Jordan (1974) 415 U.S. 651 [94 S.Ct. 1347; 39 L.Ed.2d 662].

8. Clark v. California (9th Cir. 1997) 123 F.3d 1267; United States v. Georgia (2006) 546 U.S. 151 [126S.Ct.877; 163 L.Ed.2d 650].)

9. Government Code § 844.6(a). At least one court has held that this immunity does not apply to parolees. Fearon v. California Dept. of Corrections (1984) 162 Cal.App.3d 1254 [209 Cal.Rptr. 309](allowing parolee to sue CDCR for negligently losing his property).

damages in a lawsuit filed under state law and in state court only if the suit is for on of the following types of claims:

- Intentional and unjustifiable interference with the right to obtain judicial review of the legality of confinement. However, no cause of action accrues until it has been determined that the confinement was illegal.^{10/}
- Motor vehicle injuries.^{11/}
- Injuries received when participating in biomedical or behavioral research.^{12/}
- Failure to summon medical care when there is, or should be, knowledge of a need for immediate medical care.^{13/}
- Damage suffered as a result of a breach of a contract.^{14/}
- Liability arising from the Worker's Compensation law.^{15/}
- Claims for which non-monetary relief is sought.^{16/}

10. Government Code § 844.6(a) and § 845.4.

11. Government Code § 844.6(b).

12. Penal Code § 3524.

13. Government Code §§ 844.6(a) and 845.6.

14. Government Code §§ 844.6(a) and 814.

15. Government Code §§ 844.6(a) and 814.2.

16. Government Code §§ 844.6(a) and 814.

FEDERAL CIVIL RIGHTS LAWSUITS

Under the federal Civil Rights Act, a person may sue any other person who, while acting “under color of state law,” violates a right protected by federal law.^{17/} Prison staff, as employees of the state working in their jobs, act under color of state law. A more difficult question is whether there has been a violation of a federally protected right.

ISSUES THAT MAY BE RAISED IN A FEDERAL CIVIL RIGHTS SUIT

A prisoner can bring a federal civil rights action if a state official violates the prisoner's federal constitutional or statutory rights. The question of whether prison staff have violated a federal right can be very complicated. Courts often balance prisoners' rights against prison officials' reasons for taking away those rights, and courts usually defer a great deal to the decisions made by prison staff. In many cases, a prisoner who wants to prove violation of a federal right must show both that he or she suffered harm and that the prison officials who caused the violation acted with a certain state of mind. The general standards under which courts review prisoner claims have been established for many common types of complaints:

- Inadequate medical care violates the U.S. Constitution's Eighth Amendment prohibition on cruel and unusual punishment only if the lack of care amounts to “deliberate indifference” to a serious medical need. Negligent medical treatment alone does not violate the Eight Amendment.^{18/}
- The use of excessive force by prison staff violates the Eighth Amendment prohibition against cruel and unusual punishment only if the force was not used in a good faith effort to maintain or restore order, but was applied “maliciously or sadistically for the very purpose of causing harm.”^{19/}
- Bad living conditions are cruel and unusual punishment under the Eighth Amendment if those conditions amount to a serious deprivation of the “minimal civilized measures of life's necessities.”^{20/} These basic human needs include

17. 42 U.S.C. § 1983.

18. Estelle v. Gamble (1976) 429 U.S. 97 [97 S.Ct. 285; 50 L.Ed.2d. 251]. The same standard applies to mental health care. See Coleman v. Wilson (N.D. Cal. 1995) 912 F.Supp. 1282.

19. Hudson v. McMillan (1992) 501 U.S. 294 [112 S.Ct. 995; 117 L.Ed.2d 156]; Whitley v. Albers (1986) 475 U.S. 312 [106 S.Ct. 1078; 89 L.Ed.2d 251].

20. Hudson v. McMillan (1992) 503 U.S. 1 [112 S.Ct. 995; 117 L.Ed.2d 156]; Rhodes v. Chapman (1981) 452 U.S. 337, 347 [101 S.Ct. 2392; 69 L.Ed.2d 59].

adequate food, clothing, shelter, sanitation, and personal safety.^{21/} To be liable under the civil rights action, prison officials must be deliberately indifferent to the violation.^{22/}

- Restrictions on a prisoner’s First Amendment rights to free speech or association are permissible if they are reasonably related to a legitimate penological interest; courts give great deference to prison officials’ reasons for imposing such restrictions.^{23/}
- A program that receives federal funding (which includes CDCR), cannot impose a substantial burden on a prisoner’s exercise of religion unless it furthers a compelling governmental interest and is the least restrictive means of doing so.^{24/}
- Race discrimination by prison officials must be analyzed under a “strict scrutiny” test. “Strict scrutiny” means that race discrimination will be found unlawful unless the government can prove that the policies “are narrowly tailored measures that further compelling governmental interests.”^{25/}
- Under the federal Americans with Disabilities Act (ADA) and the Rehabilitation Act of 1973, a prisoner who is disabled may not be subject to discrimination or denied the benefits of a program or activity if the prisoner can meet the essential eligibility requirements of the program, with or without reasonable modifications.^{26/} Prisoners should be aware that they might have to respond to an argument that prison officials’ penological concerns limit ADA rights.^{27/}

21. Hoptowit v. Ray (9th Cir. 1982) 682 F.2d 1237, 1246.

22. Wilson v. Seiter (1991) 501 U.S. 294, 302 [111 S.Ct. 2321; 115 L.Ed.2d 271].

23. Turner v. Safley (1987) 482 U.S. 78 [107 S.Ct. 2254; 96 L.Ed.2d 64]; Frost v. Symington (9th Cir. 1999) 197 F.3d 348.

24. 42 U.S.C. § 2000 et seq. [the Religious Land Use and Institutionalized Persons Act of 2000, known as “RLUIPA”]; Mayweathers v. Newland (9th Cir. 2002) 314 F.3d 1062; Cutter v. Wilkinson (2005) 544 U.S. 709 [125 S.Ct. 2113; 161 L.Ed.2d 1020].

25. Johnson v. California (2005) 543 U.S. 499 [125 S.Ct. 1141, 1146, 1148-1149; 160 L.Ed.2d 949].

26. 42 U.S.C. § 12131 et seq. (ADA); 29 U.S.C § 794 (Rehabilitation Act); Pennsylvania Dept. Of Corrections v. Yeskey (1998) 524 U.S. 206 [118 S.Ct. 1952; 141 L.Ed.2d 215].

27. See Armstrong v. Davis (9th Cir. 2001) 275 F.3d 849; Gates v. Rowland (9th Cir. 1994) 39 F.3d 1439.

- Prisoners retain some due process rights under the Fourteenth Amendment (for example, the rights to notice, a hearing, and a decision supported by “some evidence” in disciplinary cases).^{28/} However, placement in segregation will not support a due process violation claim unless the segregation causes a deprivation that imposes an “atypical and significant hardship on the inmate in relation to the ordinary incidents of prison life.”^{29/}
- If a prisoner wants to challenge the legality of a criminal conviction or the length and validity of a sentence (including challenges to prison disciplinary hearings resulting in loss of credit, improper deductions of work credit by a job supervisor, revocation of work furlough, or denial of parole), he or she must file a habeas petition instead of a federal civil rights suit. In such cases, a civil rights case for damages can be brought only after the conviction, sentence or disciplinary finding has been declared invalid in a habeas proceeding or other action.^{30/} However, claims involving parole or disciplinary matters may be brought initially as federal civil rights cases if they do not directly challenge “the fact or duration of confinement.”^{31/}
- A prisoner’s cell is not protected by the U.S. Constitution’s Fourth Amendment prohibition against unreasonable searches and seizures.^{32/}
- Neither the negligent destruction of a prisoner’s property, nor the intentional destruction of property violates federal law, except where the property loss occurred pursuant to an established state procedure.^{33/}

28. Wolff v. McDonnell (1974) 418 U.S. 539 [94 S.Ct. 2963; 41 L.Ed.2d 935]; Superintendent v. Hill (1985) 472 U.S. 445 [105 S.Ct. 276; 86 L.Ed.2d 356]; Zimmerlee v. Keeney (9th Cir. 1987) 831 F.2d 183.

29. Sandin v. Conner (1995) 515 U.S. 472, 483 [115 S.Ct. 2293; 132 L.Ed.2d 418].

30. Heck v. Humphrey (1994) 512 U.S. 477 [114 S.Ct. 2364; 129 L.Ed.2d 383]; Edwards v. Balisok (1997) 520 U.S. 641 [117 S.Ct. 1584; 137 L.Ed.2d 906].

31. See Muhammad v. Close (2004) 540 U.S. 749 [124 S.Ct. 1303; 158 L.Ed.2d 32]; Wilkinson v. Dotson (2005) 544 U.S. 74 [125 S.Ct. 1242, 161 L.Ed.2d 253]; Ramirez v. Galaza (9th Cir. 2003) 334 F.3d 950.)

32. Hudson v. Palmer (1984) 468 U.S. 517 [104 S.Ct. 3194; 82 L.Ed.2d 393].

33. Parratt v. Taylor (1981) 451 U.S. 527 [101 S.Ct. 1920, 68 L.Ed.2d 420]; Hudson v. Palmer (1984) 468 U.S. 517 [104 S.Ct. 3194; 82 L.Ed.2d 393]; Daniels v. Williams (1986) 474 U.S. 327 [106 S.Ct. 662; 88 L.Ed.2d 662]; Davidson v. Cannon (1986) 474 U.S. 344 [106 S.Ct. 668; 88 L.Ed.2d 677].

Two other factors can prevent prisoners from winning money damages in a federal civil rights case, even when they can prove that their rights have been violated. First, prison officials have “qualified immunity” against money damages awards in civil rights actions; this means that unless the state officials’ conduct violated constitutional rights that were clearly established at the time of the conduct, a claim for money damages will be defeated.^{34/} Also, prisoners cannot usually bring a federal civil rights case for emotional or mental injury unless there was also a physical injury;^{35/} however, the meaning of this restriction is being explored by the courts and it may not apply to First Amendment claims, claims for injunctive relief, or other legal injuries that are independent of any physical, emotional, or mental consequences.^{36/}

The preceding list of issues that can be raised in a federal civil rights case is not complete nor are the cases discussed in detail. Prisoners considering a civil rights lawsuits should do further research to determine whether their rights have been violated. The following resources may be helpful:

- An annotated edition of Title 42, section 1983 of the United States Code. Thousands of cases decided on prisoners rights are listed in the annotations to the civil rights statute. Note, however, that a case decided in the past may have been overturned. A prisoner should “shepardize” every case to try to determine if it is still good law.
- Rights of Prisoners, Fourth Edition (2009 plus updates) by Michael Mushlin, published by West Group Publishing, www.store.westlaw.com.

PROTECTING THE RIGHT TO BRING A FEDERAL CIVIL RIGHTS SUIT

A prisoner must “exhaust administrative remedies” before filing a federal civil rights action.^{37/} Administrative remedies must be exhausted even if the federal lawsuit requests money damages and money is not a remedy that can be obtained through the prison’s administrative appeal process.^{38/} Thus, a prisoner who wants to bring a federal civil rights suit should always file (or at least attempt to file) a CDCR administrative appeal (Form 602, 602-HC or 1824, depending on the type of issue) through the Director’s or Third Level of Review. Prisoners

34. Hope v. Pelzer (2002) 536 U.S. 730 [122 S.Ct. 2508; 153 L.Ed.2d 666]; Saucier v. Katz (2001) 533 U.S. 194 [121 S.Ct. 2151; 150 L.Ed.2d 272].

35. 42 U.S.C. § 1997e(e). See Oliver v. Keller (9th Cir 2002) 289 F.3d 623.

36. See, e.g., Canell v. Lightner (9th Cir. 1998) 143 F.3d 1342, 1346.

37. 42 U.S.C. § 1997e(a).

38. Booth v. Churner (2001) 253 U.S. 731 [121 S.Ct. 1819; 149 L.Ed.2d 958]; Porter v. Nussle (2002) 534 U.S. 516; 122 S.Ct. 983; 152 L.Ed.2d 12].

should make sure that the administrative appeal is specific enough to give the prison officials fair notice of their complaints.^{39/} Also, CDCR regulations require prisoners to submit an appeal within 30 working days of the event or decision being appealed, or of receiving an unsatisfactory lower level decision; prisoners who are filing an appeal or re-filing it to the next level should make every effort to meet this deadline because CDCR officials may refuse to accept a late appeal.^{40/} If a prisoner's appeal is screened out as untimely, the prisoner should challenge the screen-out and ask prison officials to process the appeal.^{41/}

If a grievance is fully granted at one of the lower levels, the full extent of relief under the administrative system has already been achieved. Thus, the prisoner is not obligated to pursue the appeal through the Third Level in order to exhaust administrative remedies.^{42/}

There is also a time limit (statute of limitations) for filing a civil rights lawsuit. Section 1983 doesn't contain a specific statute of limitations, so the courts apply the time limits of the state in which the injury occurred.^{43/} California law gives a person two years to file a lawsuit

39. See Gomez v. Winslow (N.D. Cal. 2001) 177 F.Supp.2d 977, (general grievance about inadequate medical care may satisfy exhaustion requirement as to specific aspects of a medical care claim if it puts prison officials on notice of the complaints); Irvin v. Zamora (S.D. Cal. 2001) 161 F.Supp.2d 1125 (grievance that puts officials on notice of the potential claims may be adequate even if it does not specifically name all the defendants responsible for the incident).

40. 15 C.C.R. §§ 3084.3 (c)(6) and 3084.6(c).

41. But see Woodford v. Ngo (2006) 548 U.S.81 [126 S.Ct. 2378]. (finding prisoner had not exhausted all available administrative remedies when 602 appeal was screened out as untimely and prisoner had unsuccessfully appealed the screen-out decision).

42. Brady v. Attygala (9th Cir. 2002) 196 F. Supp.2d 1016; Gomez v. Winslow (N.D. Cal. 2001) 177 F.Supp.2d 977, 984-985. More complicated scenarios arise when a prisoner receives partial relief before the final level of review. In Brown v. Valoff (9th Cir. 2005) 422 F.3d 926, the Ninth Circuit Court of Appeals reached different conclusions in two cases (decided jointly) involving prisoners who filed grievances regarding staff abuse; each of the prisoners received a response that the matter had been referred for investigation, and neither pursued his grievance further. In one case, the court concluded that no further relief was available and administrative remedies had been exhausted where the prisoner received a "partially granted" response that an investigation would be conducted, he would not be apprized of any disciplinary action and monetary compensation could not be granted. The Court held that the other prisoner failed to exhaust available remedies where he receive a "denied" response telling him that his staff misconduct complaint would be investigated, he must separately grieve other issues raised in the appeal, and further review was available if he was dissatisfied.

43. Wilson v. Garcia (1985) 471 U.S. 261, 266 [105 S.Ct. 1938; 85 L.Ed.2d 254]; Vaghan v Grijslva (9th Cir. 1991) 927 F.2d 476.

seeking money damages.^{44/} In addition, for prisoners serving determinate sentences or life with the possibility of parole, the time limits for filing a civil rights action for damages are "tolled" (or do not begin) for two additional years.^{45/} Thus, prisoners who want to file a section 1983 lawsuit for money damages can wait for four years before the filing timeline runs out. However, prisoners should note that the tolling provisions do NOT apply to federal law claims seeking injunctive relief or to state law claims brought under the "California Tort Claims Act."^{46/}

Each federal court district has its own form for filing a civil rights complaint. Prisoners can usually find these forms in the prison law library or can obtain the forms by sending a request to the clerk of the federal district court. There is a \$350 fee for filing a federal civil rights complaint, but prisoners who have no money can proceed without paying the fee by filing a request to proceed "in forma pauperis" and providing a certified trust account statement. A form for such a request can be obtained from the court clerk.^{47/}

If the civil rights lawsuit is filed in federal court, the prisoner can try to show that there are "exceptional circumstances" and ask the court to ask a lawyer to take the case.^{48/} The statute only allows a court to ask a lawyer to take the case; the court cannot force a lawyer to represent the prisoner.

Once a complaint is filed, the prisoner or the prisoner's attorney must prosecute the lawsuit by seeking discovery and working toward bringing the case to trial or settlement. Prosecuting a lawsuit is difficult, and requires gathering and organizing evidence and a thorough understanding of the rules of civil procedure and the local rules of the court. A useful manual with information that can help prisoners prosecute federal civil rights lawsuits is Protecting Your Health and Safety (2009) by the Southern Poverty Law Center; to order this book, send a check or money order for \$16 to Prison Legal News, PO Box 2420, West Brattleboro, VT 05303. Another good source of information is the Jailhouse Lawyer's Handbook (2010); download this book for free at www.nlg.org/publications/jailhouse-lawyers-handbook or send a request along with \$2.00 in money order, check, or stamps to the National Lawyers Guild, 132 Nassau St., Rm. 922 New York, NY 10038

44. Code of Civil Procedure § 335.1.

45. Code of Civil Procedures § 352.1; Martinez v. Gomez (9th Cir 1998) 137 F.3d 1124 (tolling applies to prisoners serving life with possibility of parole). There is no tolling of the time limit for prisoners sentenced to life without parole. It is not clear whether tolling applies to prisoners serving death sentences.

46. Code of Civil Procedure § 352.1(b) and (c). See also Govt. Code § 945.6(c).

47. 28 U.S.C. § 1915(a). Even if a prisoner proceeds "in forma pauperis," the prisoner will have to make partial payments toward the filing fee if he or she has or gets any money. 28 U.S. § 1915(b).

48. 28 U.S.C. § 1915(d).

STATE TORT LAWSUITS

ISSUES THAT MAY BE RAISED IN A STATE TORT SUIT

A prison or parole official can be sued for money damages under state law if the official's wrongful or negligent act or failure to act causes injury or harm to a prisoner.^{49/} For example, an officer who uses excessive force can be sued under state law for assault and battery, and an officer whose carelessness causes a prisoner to suffer harm can be sued under state law for negligence. This kind of lawsuit is known as a state "personal injury" or "tort" action. As with federal civil rights law, there are many rules regarding the various types of claims that can be raised; a good starting point for researching state tort law is the multi-volume Witken's Summary of California Law.

PROTECTING THE RIGHT TO BRING A STATE TORT LAWSUIT (GOVERNMENT CLAIMS BOARD CLAIMS)

The law requires that a written claim be made to the State Victim Compensation and Government Claims Board before a state tort lawsuit can be filed against the state or a state official or employee.^{50/} If a Government Claims Board claim has not been filed, then a state tort action against prison officials will be dismissed by the court.

Prisoners are not required to complete the CDCR administrative appeal process before filing a Government Claims Board claim. However, prisoners who want to file state tort lawsuits must exhaust administrative remedies by completing the administrative appeal process prior to filing a state tort lawsuit, even where the relief sought is money damages.^{51/} In addition, a plaintiff bringing a medical malpractice case against a health care provider must give the defendant notice of the intention to sue 90 days before filing the suit.^{52/}

A prisoner must send his or her claim to the Victim Compensation and Government Claims Board ; the envelope containing the claim must be postmarked no later than six months after the accrual of the cause of action.^{53/} In general, a cause of action accrues on the date of the wrongful or negligent act that causes the injury. There is a special procedure for asking the Board to accept a late claim, which is discussed in more detail below.

49. Government Code § 844.6(d).

50. Government Code §§ 945.4 and 950.2.

51. Wright v. California (2004) 122 Cal.App.4th 659 [19 Cal.Rptr.3d 92].

52. Code of Civil Procedure § 364.

53. Government Code §§ 911.2 and 901.

The Victim Compensation and Government Claims Board has a standard claim form that prisoners should use; the Board's claim booklet, which includes instructions and the form, is attached to this letter. The claim must be signed and the original and three copies must be sent to the Victim Compensation and Government Claims Board, P.O. Box 3035, Sacramento, CA 95812. It is also a good idea to send an additional copy of the claim to the Board, along with a pre-addressed stamped return envelope, and a letter requesting that the Board return a file-stamped copy of the claim. A prisoner should also keep copy of the claim.

Prisoners are required to pay a \$25 fee when filing a Government Claims Board claim. However, the fee requirement may be waived if a prisoner is unable to pay the fee. A form for requesting a fee waiver is included in the attach forms.

The Board should act on the claim within 45 days.^{54/} The Board routinely denies all claims for damages arising from alleged personal injuries, so a prisoner should not get discouraged if a claim is rejected. However, even if the Board is likely to deny the claim, it is still necessary to file the claim before filing a state tort lawsuit.

If a prisoner receives a notice of denial from the Board, a state tort action must be filed within six months of the date the notice was placed in the mail.^{55/} The state tort complaint (the legal document which begins a lawsuit) must state that the claim was presented to the Victim Compensation and Government Claims Board. One case has held that any time needed to complete the CDCR administrative appeal process past the time that the Board claim is denied does not count toward the six month deadline for filing a state tort lawsuit.^{56/}

In some cases, the Board does not formally deny a claim or does not send out a notice of its action. If the Board does not act on a claim, the claim is considered to be denied 45 days after the claim was presented.^{57/} If the Board does not send a notice of denial, then any state tort action must be filed within two years of the date of the cause of action.^{58/} Again, the complaint must state that a claim was presented to the Victim Compensation and Government Claims Board.

54. Government Code § 912.4.

55. Government Code § 945.6(a)(1). The six month time period means either six calendar months or 182 days, whichever is longer. Gonzales v. County of Los Angeles (1988) 199 Cal.App.3d 601 [245 Cal.Rptr. 112].

56. Wright v. California (2004) 122 Cal.App.4th 659 [19 Cal.Rptr.3d 92].

57. Government Code § 912.4(c).

58. Government Code § 945.6(a)(2); imprisonment does not toll or extend the timeline for filing a state tort suit; however, a prisoner's state tort complaint is timely filed if it is delivered to prison officials for mailing on or before the filing due date. Moore v. Twomey (2004) 120 Cal.App.4th 910 [16 Cal.Rptr.3d 163].

Prisoners can get the forms for filing California tort law actions based on personal injury and negligence from a law library or the county court clerk. These forms usually include a complaint, a summons and a civil cover sheet. There is also a form that a prisoner can use to ask permission to proceed without payment of court fees.

As with federal civil rights cases, it is very difficult for a prisoner to bringing a state tort lawsuit to trial or settlement. Books that describe the procedures for filing, serving, and prosecuting a state court lawsuit include the Continuing Education of the Bar (C.E.B.) publications Civil Procedure Before Trial, California Civil Discovery Practice, and Civil Procedure During Trial, 2100 Franklin Street, Suite 500, Oakland, CA 94612. Anyone bringing a state tort lawsuit should also become familiar with the local court rules.

LATE GOVERNMENT CLAIMS BOARD CLAIMS

If the six-month deadline for filing a Victim Compensation and Government Claims Board claim has passed, a prisoner can apply for permission to file a late claim. A request to file a late claim is made by sending a complete claim form to the Board, along with a letter explaining why the claim was not filed on time.^{59/} The prisoner should send the original and three copies of both the letter and claim form. The prisoner must present the request to file a late claim within a reasonable time, and no later than one year after the cause of action accrued.^{60/}

The courts have generally held that mere ignorance of the six months time limit is not a sufficient excuse for missing the deadline.^{61/} However, the Board must allow a late claim in certain circumstances, such as when:

- The failure to present the claim within six months was through mistake, inadvertence, surprise or excusable neglect and the state was not prejudiced by the failure to present the claim on time.^{62/}
- The person who had the injury, loss, or damage was physically or mentally incapacitated during all of the six months period, and because of that disability failed to present a claim on time.^{63/}

59. Government Code § 911.4(a).

60. Government Code § 911.4(b).

61. See Harrison v. County of Del Norte (1985) 168 Cal.App.3d. 1 [213 Cal. Rptr. 658].

62. Government Code § 911.6(b)(1).

63. Ibid. Late claims must also be processed if the person who suffered the injury was a minor during all of the six-month time period or died before the time period ran out. Government Code § 911.6(b)(2) and (b)(4).

The Board must act on a request to file a late claim within 45 days.^{64/} If the Board grants the request to file a late claim, the claim is considered to have been presented on the day that the request to file a late claim was granted.^{65/}

If the Board does not act on the request to file a late claim within 45 days, the request is considered to be denied.^{66/} If the Board does not act on the late claim request, or if the Board notifies the prisoner that it has denied the late claim request, then the prisoner can file a petition in the superior court of the county where lawsuit would be filed.^{67/} The petition must state that a late claim application was made to the Board and denied, give the reasons for the late filing of the claim, and state all facts relating to the claim itself. The petition must be filed within six months of the date that the request to file a late claim was denied or deemed denied by the Board.^{68/}

Copies of the petition and written notice of the time and place for a hearing on the petition must be served on the Attorney General at least 16 days before the hearing if they are delivered in person; the notice and petition can also be served by mail, but they must be served at least 21 days before the hearing.^{69/} If the prisoner cannot get a hearing date before serving the notice and petition, the prisoner can file those documents in the court along with a request that the court itself set a hearing and notify the parties of the date.

Because the law favors trial on the merits of an action, a court considering a petition for to file a late claim must resolve any doubts in favor of granting permission for the case to proceed.^{70/} If the court grants the petition, the state tort action must be filed in the granting court within 30 days after the order.^{71/} If relief is denied, no state tort action may be filed; however, the court's denial of the petition can be appealed to the state Court of Appeal.

64. Government Code § 911.6(a).

65. Government Code § 912.2.

66. Government Code § 911.6(c).

67. Government Code § 946.6(a).

68. Government Code § 946.6(b).

69. Government Code § 946.6(d); Code of Civil Procedure § 1005 (b).

70. Bettencourt v. Los Rios Community College District (1986) 42 Cal.3d. 270 [228 Cal. Rptr. 190]; Ebersol v. Cowan (1983) 35 Cal.3d. 427 [197 Cal.Rptr. 601].

71. Government Code § 946.6(f).

SUMMARY: WHICH TYPE OF LAWSUIT SHOULD BE FILED AND IN WHAT COURT?

This letter has described the two main types of money damages suits that prisoners can bring. Prisoners should always take the initial steps to preserve their rights to sue under both federal and state law by filing a timely CDCR administrative appeal and a timely Government Claims Board claim. However, a prisoner must eventually decide which type of claims he or she can bring and where the lawsuit should be filed. The decision will rest on the facts of the individual case, as well as other factors such as which court is most likely to give the prisoner a fair hearing. Money damages lawsuits thus break down into three categories:

- Cases raising federal civil rights claims only: A claim under the federal civil rights act can be brought only if a prison official violated a federal law. For most prisoners, the case must be brought within four years. The lawsuit can be filed in either state or federal court, but prisoners should almost always file in federal court, where the judges are far more familiar with prisoner civil rights cases. There are four federal court districts in California, and a lawsuit should usually be filed in the court district that covers the region where the acts giving rise to the complaint occurred.
- Cases raising state tort law claims only: If there was no violation of a federal right, then the only type of action that the prisoner can bring is a case for negligence or a wrongful act under state tort law. A lawsuit based only on a claim violation of state law must be filed in state municipal or superior court in the county where the cause of action arose (usually the county where the prisoner is incarcerated).^{72/} The lawsuit should be filed within six months of receiving notice of a decision from the Victim Compensation and Government Claims . If notice is not given by the Board, then the lawsuit should be filed within two years from the time the claim arose.
- Cases raising both federal and state law claims: When a prisoner wants to make claims based on both state and federal law, he or she may be able to file a federal civil rights suit that also raises state law claims. If claims can be brought under both state and federal law, a prisoner should always raise both types of claims and should bring them in a single lawsuit. (Under the legal principle of "res judicata," all claims arising out of an incident should be raised in the one lawsuit or the right to bring the claims may be forfeited.)

A lawsuit raising both federal and state law claims should be filed within the time limit for the state law claim – six months or two years after the Victim Compensation and Government Claims Board denies the state law claim, depending on how the claim was denied. Such a lawsuit can be filed in either

72. Claims for up to \$10,000 can be filed in small claims court, which offers a simpler and speedier way to resolve claims. The Prison Law Office can provide information on the small claims court process.

state or federal court. However, federal courts are probably the better place for prisoners to file cases raising both state and federal issues, since federal courts usually have greater experience with prisoner cases and may occasionally be able to find an attorney to represent the prisoner.

In addition to asking for money damages, prisoners may also want to seek “injunctive relief,” which is a court order requiring prison officials to do something or stop doing something (for example, to provide medical treatment or to stop refusing to deliver mail). If a prisoner is bringing federal civil rights claims for money damages, he or she can also ask for injunctive relief in the same case (a prisoner can also file a federal civil rights case asking for only injunctive relief if the prisoner does not want or cannot get money damages).

A prisoner who brings state law claims requesting money damages can also ask for injunctive relief. However, an action seeking injunctive relief based on a violation of state law must be filed in state court. Also, a state habeas corpus petition is a much simpler and easier way for a prisoner to ask for injunctive relief based on state law grounds. Thus, prisoners who want only injunctive relief based on state law grounds should almost always file a state petition for writ of habeas corpus rather than a state tort lawsuit. (A free manual on state habeas corpus petitions is available upon request from the Prison Law Office.)

**Attached is a list of the state and federal courts
for California, and the prisons in each court district.**

More information on prisoners’ rights, federal civil rights suits and state tort law suits can be found in The California State Prisoners Handbook (4th Ed. 2008 and 2011 Supplement). This book is available in many prison law libraries. The book can also be ordered by a prisoner or for shipping to a prisoner by sending \$40 and shipping instructions to Reach360 Fulfillment, 440 Tescani Circle, Santa Rosa, CA 95401. The price of the Handbook for non-prisoners is \$182.00. Payment is accepted by check, money order or credit card. Additional information on ordering the book can be obtained by writing to the Prison Law Office, General Delivery, San Quentin, CA 94964 or visiting www.prisonlaw.com.

Government Claims Program Information and Claim Form

California Victim Compensation and Government Claims Board
P.O. Box 3035
Sacramento, CA 95812-3035

1-800-955-0045 • www.governmentclaims.ca.gov



Information and Claim Form

Note: New statute requires \$25 filing fee!

What kind of claims can be filed? Claims can be filed for losses you believe were caused by the action, or inaction, of any state agency. Claims may include:

- Damage to real or personal property
- Reimbursement for state employee property loss, benefits, salary, or travel expenses
- Refund of a tax, fee, or penalty
- Contract disputes

Claims for damages caused by a local government agency must be filed directly with the local agency that is involved. Do not file your claim with the state. If your claim is with an institution in the University of California (UC) system, contact the UC Regents directly. Call the Government Claims Program at 1-800-955-0045 to find out more.

Who can file a claim?

Anyone who believes a state agency caused him or her to suffer monetary loss can file a claim.

What are the time limits for filing a claim?

Claims relating to the death or injury of a person, or damage to personal property or growing crops, must be filed no later than six months after the date of the incident. Other claims must be filed no later than one year after the date of the incident. You can request permission to file a late claim. Some claims have no filing deadline. You may want to consult an attorney if you are not sure how the time limits apply to your claim.

Is your claim against the California Department of Transportation (Caltrans)?

If your claim is against Caltrans and the damages are \$5,000 or less, you can file your claim directly with Caltrans. Contact your local Caltrans office or visit www.dot.ca.gov to locate a Caltrans office near you. No fee is required for Caltrans claims under \$5,000.

Instructions for filling out this form:

1	Provide the full name of the person claiming damage or injury.
2	Provide a daytime telephone number.
3	Provide an email address. <i>(Optional)</i>
4	Provide a complete mailing address.
5	Let us know the best way to contact you if we need to call you.
6	If the claim is being filed on behalf of a minor (someone under the age of 18), please give the minor's date of birth.
7	You may wish to consult an attorney for assistance with filing a claim, however it is not required. If an attorney or other person (such as the parent or legal guardian of a minor or conservator of an adult) is representing you, please complete this section. If this section is completed, all correspondence regarding this claim will be sent to the representative.

8	Provide a daytime telephone number, including area code, for the attorney or representative.
9	Provide an email address for the attorney or representative. <i>(Optional)</i>
10	Provide a complete mailing address for the attorney or representative.
11	Describe the relationship of the attorney or representative to the claimant.
12	If this claim is regarding a stale-dated warrant (an uncashed check) more than three years old, or for an unredeemed bond, provide the date of issue, amount, and the name of the agency that issued it. Attach a copy of the front and back of the warrant or bond. For warrants that are less than three years old, contact the agency that issued the warrant directly to obtain payment.
13	State the exact date of the incident that you believe caused the damage or injury. If the incident took place over more than one date, provide both the beginning and ending dates. If the incident is ongoing, please provide the beginning date and the most recent date it occurred. Late Claims: The Board must receive claims relating to the death or injury of a person, or damage to personal property or growing crops, no later than six months after the date of the incident. If such a claim is filed more than six months from the date of the incident, attach a written explanation for late filing to the claim on a separate sheet. Other claims that have deadlines must be received no later than one year after the incident date. Other claims have no filing deadline. Claimants may wish to consult with an attorney to determine which filing deadline applies.
14	Provide the name of the state agency that you believe caused the damage or injury. "State of California" alone is not sufficient. Please spell out the name of the agency and include the names of any state employees that were involved.
15	Enter the total dollar amount being claimed. If you believe the damages are continuing, or anticipated in the future, show a "+" after the dollar amount. If the total dollar amount exceeds \$10,000, note whether the claim is a limited civil case or a non-limited civil case. Provide an explanation of how you computed the total amount. You may declare expenses incurred as well as expenses you expect to have in the future. Attach copies of all bills, payment receipts, and cost estimates.
16	For all claims involving real property, state-owned buildings or parking lots, and roadway- or vehicle-related claims, provide the street address, city, county, state highway number, road numbers, and/or post mile markers where you believe the damage or injury occurred. Real property includes land, buildings and other fixed structures. Roadway- or vehicle-related claims occurred on a state road or involved a state vehicle.
17	Describe the specific damage or injury that you believe resulted from the incident. Feel free to attach additional information to explain 17 through 19.
18	Describe in full detail the circumstances that led up to the damage or injury. State all the facts that support your claim. If it applies, describe the dangerous condition of the public property. If a law enforcement or insurance Collision/Incident Report is submitted with the claim, this section must still be completed in your own words.
19	Explain why you believe the state agency is responsible for the damage or injury.
20	Provide the vehicle license number and any other identifying information if the claim involves a state vehicle.
21	This section must be completed if the claim involves a motor vehicle. Indicate whether a claim has been filed with your insurance carrier. If a claim has been filed with your insurance carrier, provide the name, telephone number, and mailing address of the insurance carrier. Also include your policy number and the amount of the deductible. If you have received payment, please indicate when and the dollar amount.
22	The claimant or the claimant's attorney or representative must sign this form. The Board will not accept the claim without an original signature.
23	Be sure to attach the \$25 filing fee. Please make your check or money order payable to the State of California. If you cannot afford the filing fee, you can fill out a "Filing Fee Waiver Request", and attach it to this form. You obtain the filing fee waiver request form at www.governmentclaims.ca.gov or by calling 1-800-955-0045.
24	State agencies must submit the agency name, contact information for the agency budget officer, and the name of the fund or budget act appropriation item number. Submit the appropriate schedule if applicable (Example: 0000-000-0000, Budget Act 2004).

Government Claims Form

California Victim Compensation and Government Claims Board
 P.O. Box 3035
 Sacramento, CA 95812-3035

1-800-955-0045 • www.governmentclaims.ca.gov

State of California

For Office Use Only
 Claim No.:

Is your claim complete?

1	New! Include a check or money order for \$25 payable to the State of California.
2	Complete all sections relating to this claim and sign the form. Please print or type all information.
3	Attach receipts, bills, estimates or other documents that back up your claim.
4	Include two copies of this form and all the attached documents with the original.

Claimant Information

1	Last name			First Name			MI	2	Tel:		
								3	Email:		
4	Mailing Address					City		State		Zip	
5	Best time and way to reach you:										
6	Is the claimant under 18?		Yes		No		If YES, give date of birth:				
							MM		DD		YYYY

Attorney or Representative Information

7	Last name			First Name			MI	8	Tel:		
								9	Email:		
10	Mailing Address					City		State		Zip	
11	Relationship to claimant:										

Claim Information

12	Is your claim for a stale-dated warrant (uncashed check) or unredeemed bond?		Yes		No		
	State agency that issued the warrant:					If NO, continue to Step 13 .	
	Dollar amount of warrant:			Date of issue:			
	Proceed to Step 22 .		MM		DD		YYYY
13	Date of Incident:						
	Was the incident more than six months ago?		Yes		No		
	If YES, did you attach a separate sheet with an explanation for the late filing?		Yes		No		
14	State agencies or employees against whom this claim is filed:						
15	Dollar amount of claim:						
	If the amount is more than \$10,000, indicate the type of civil case:			Limited civil case (\$25,000 or less)			
				Non-limited civil case (over \$25,000)			
	Explain how you calculated the amount:						

16	Location of the incident:
17	Describe the specific damage or injury:
18	Explain the circumstances that led to the damage or injury:
19	Explain why you believe the state is responsible for the damage or injury:
20	Does the claim involve a state vehicle? <input type="checkbox"/> Yes <input type="checkbox"/> No If YES, provide the vehicle license number, if known:

Auto Insurance Information

21	Name of Insurance Carrier				
<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:50%; padding: 2px;">Mailing Address</td> <td style="width:20%; padding: 2px;">City</td> <td style="width:10%; padding: 2px;">State</td> <td style="width:15%; padding: 2px;">Zip</td> </tr> </table>		Mailing Address	City	State	Zip
Mailing Address	City	State	Zip		
Policy Number: _____ Tel: _____					
Are you the registered owner of the vehicle? Yes <input type="checkbox"/> No <input type="checkbox"/>					
If NO, state name of owner: _____					
Has a claim been filed with your insurance carrier, or will it be filed? Yes <input type="checkbox"/> No <input type="checkbox"/>					
Have you received any payment for this damage or injury? Yes <input type="checkbox"/> No <input type="checkbox"/>					
If yes, what amount did you receive? _____					
Amount of deductible, if any: _____					
Claimant's Drivers License Number: _____ Vehicle License Number: _____					
Make of Vehicle: _____ Model: _____ Year: _____					
Vehicle ID Number: _____					

Notice and Signature

22	I declare under penalty of perjury under the laws of the State of California that all the information I have provided is true and correct to the best of my information and belief. I further understand that if I have provided information that is false, intentionally incomplete, or misleading I may be charged with a felony punishable by up to four years in state prison and/or a fine of up to \$10,000 (Penal Code section 72).		
<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:70%; padding: 2px;">Signature of Claimant or Representative</td> <td style="width:30%; padding: 2px;">Date</td> </tr> </table>		Signature of Claimant or Representative	Date
Signature of Claimant or Representative	Date		

23	Mail the original and two copies of this form and all attachments with the \$25 filing fee or the "Filing Fee Waiver Request" to: Government Claims Program, P.O. Box 3035, Sacramento, CA, 95812-3035. Forms can also be delivered to the Victim Compensation and Government Claims Board, 400 R St., 5th flr, Sacramento.
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For State Agency Use Only

24	Name of State Agency	Fund or Budget Act Appropriation No.
Name of Agency Budget Officer or Representative		Title
Signature		Date

Government Claims Program Fee Waiver Request Packet

California Victim Compensation and Government Claims Board
P.O. Box 3035
Sacramento, CA 95812-3035

1-800-955-0045 • www.governmentclaims.ca.gov



Information and Instructions

Filing Fee for Government Claims Program

Beginning August 17, 2004, anyone wishing to file a government claim for money or damages against the state must pay a \$25 filing fee unless the person qualifies for a fee waiver. (Gov. Code, § 905.2(b).)

To request a fee waiver, you must fill out the attached Affidavit for Waiver of Government Claims Filing Fee and Financial Information Form.

Step *Instructions for filling out each step on the attached form. The form begins on page 3 of this packet.*

- 1** On the attached form, provide the full name of the person requesting the fee waiver.
- 2** Provide a daytime telephone number.
- 3** If you already have a claim number and you know what it is, write it in this space.
- 4** Provide complete contact information for your employer and your spouse's employer, if applicable.
- 5** If you are an inmate in a correctional facility, please attach a certified copy of your trust account balance, provide your Inmate Identification Number, and skip to steps **23** and **24** and complete them.
- 6** Complete this section if you are receiving financial assistance under Supplemental Security Income (SSI), State Supplemental Payments Programs (SSPP), CalWORKS, food stamps, county relief, general relief (GR) or general assistance (GA).
If you answered **yes** in this category check all types of assistance you get, then complete step **24**. You are finished.
If you checked **no**, continue to step **7**.
- 7** Find the number of people in your household and check the box **only** if your total monthly household income is less than the amount shown. For instance, if there are five people in your household and the total monthly household income is less than \$2,294.79 or less check **E**. If there are more than 8 people in your household, calculate the income limit by adding \$331.25 for each additional person to the income level for an eight-person household. List the number of people in your household and total household income in **I**.
If you checked any box in this step, complete steps 9 through 15 then skip to step 24.
- 8** If you cannot pay for the common items needed for daily life, such as food, shelter, medical care and personal safety for you and your household members, check yes in this category.
If you check yes to this question, fill in steps 9 through 24.

-
- 9 What is your gross monthly pay, before any payroll deductions?
-
- 10 If your income changes each month, the amounts you report should be an average for the past twelve months.
-
- 11 Enter the number of persons living in your home who depend on you in whole or in part for support, or on whom you depend in whole or in part for support. List their name, age, relationship to you, and their monthly income in **A** through **F**.
-
- 12 List all other money you get each month. Specify the source and amount. Include spousal support, child support, parental support, support from outside the home, scholarships, retirement or pensions, social security, disability, workers' compensation, unemployment, military basic allowance for quarters (BAQ), veterans payments, dividends, interest or royalty, trust income, annuities, net business income, net rental income, reimbursement of job-related expenses, and net gambling or lottery winnings.
-
- 13 Add 12 **A** through **F** to find your **total other income** each month.
-
- 14 Add 9 (your gross monthly income) plus 13 (your total other income) to find your **total monthly income**.
-
- 15 Add 9 (your gross monthly income), plus 11 **A** through **F** (other household members' income) and 13 (your total other income) to find your **total gross monthly household income**.
-
- 16 List all your payroll deductions. Payroll deductions include items like state and federal taxes, social security (FICA), Medicare, health insurance and retirement contributions
-
- 17 Add 16 **A** through **H** to determine your **total monthly payroll deductions**.
-
- 18 Subtract 17 (total payroll deductions) from 9 (gross monthly pay) to find your **take home pay**.
-
- 19 Add 18 (your take home pay) to 13 (your total other income) to find your **net monthly income**.
-
- 20 List all the property you own or have an interest in. If you have other personal property such as jewelry, furniture, furs, stocks, or bonds, list them separately on another piece of paper.
-
- 21 List all your monthly expenses. Use additional paper if needed. In **J** specify what your installment payments are for, such as a credit card or bank loan. In **K** specify what the wage assignment, earnings withholding, or garnishment is for.
-
- 22 Add 21 **A** through **M** to determine your **monthly expenses**.
-
- 23 If you answer yes to this question, make sure that your name or your claim number is on each sheet you attach.
-
- 24 Sign and date the form in this space.
-

Mail this form to: Government Claims Program, P.O. Box 3035, Sacramento, CA, 95812-3035. Forms can also be delivered to the Victim Compensation and Government Claims Board, 400 R Street, 5th fl., Sacramento. Call the Government Claims Program at 1-800-955-0045 if you have any questions.

**AFFIDAVIT FOR WAIVER OF GOVERNMENT CLAIMS
FILING FEE AND FINANCIAL INFORMATION FORM**

(Request for Permission to Proceed In Forma Pauperis)

California Victim Compensation and Government Claims Board
P.O. Box 3035
Sacramento, CA 95812-3035

1-800-955-0045 • www.governmentclaims.ca.gov

State of California

For Office Use Only

Claim No.:

I request a fee waiver so that I do not have to pay the \$25 fee to file a government claim with the Victim Compensation and Government Claims Board. I cannot pay any part of the fee.

Claimant Information

1	Last name	First Name	MI	2	Tel:
3	Claim Number (if known):				

Employment Information

4	My occupation:				
	My employer:				
	Employer's Mailing Address	City	State	Zip	
	My spouse's or partner's employer:				
	Employer's Mailing Address	City	State	Zip	
5	If you are an inmate in a correctional facility, please attach a certified copy of your trust account balance, enter your inmate identification number below and skip to step 23 .				
	Inmate Identification Number:				

Financial Information

6	I am receiving financial assistance from one or more of the following programs. <input type="checkbox"/> Yes <input type="checkbox"/> No									
	If no, proceed to step 7. If yes, check all that apply, then skip to step 24.									
	<input type="checkbox"/> SSI and SSP: Supplemental Security Income and State Supplemental Payments Programs									
	<input type="checkbox"/> CalWORKS: California Work Opportunity and Responsibility to Kids Act									
	<input type="checkbox"/> Food Stamps									
	<input type="checkbox"/> County Relief, General Relief (GR), or General Assistance (GA)									
7	Number in my household and my gross monthly household income, if it is the following amount or less:									
	A	<input type="checkbox"/>	1	\$969.79	F	<input type="checkbox"/>	6	\$2,626.04		
	B	<input type="checkbox"/>	2	\$1,301.04	G	<input type="checkbox"/>	7	\$2,957.29		
	C	<input type="checkbox"/>	3	\$1,632.29	H	<input type="checkbox"/>	8	\$3,288.54		
	D	<input type="checkbox"/>	4	\$1,963.54	I	<input type="checkbox"/>	There are more than 8 people in my family			
	E	<input type="checkbox"/>	5	\$2,294.79			Add \$331.25 for each additional person.			
							Number:	<input type="text"/>	Total Income:	<input type="text"/>
	If you checked a box in step 7 A through I, complete steps 9 through 15. Then skip to step 24.									
8	My income is not enough to pay for the common necessities of life for me and the people in my family, and also pay the filing fee. <input type="checkbox"/> Yes <input type="checkbox"/> No									
	If yes, fill in steps 9 through 24.									

Monthly Income and Expenses

9	My gross monthly pay is: \$	10	My income changes each month: <input type="checkbox"/> Yes <input type="checkbox"/> No		
11	Number of persons living in my home:		12	Other money I get each month	
	Name	Age	Relationship	Monthly Income	Source:
	A			\$	A
	B			\$	B
	C			\$	C
	D			\$	D
	E			\$	E
	F			\$	F
15	My total gross monthly household income:		\$	13	Total other money: \$
16	My payroll deductions are:			14	My monthly income: \$
	A		\$	E	\$
	B		\$	F	\$
	C		\$	G	\$
	D		\$	H	\$
		17	My total payroll deduction amount is:		\$
18	My monthly take home pay is	\$	19	My net monthly income: \$	
20	I own or have interest in the following property:				
	A	Cash	\$	C	Cars, other vehicles, and boats (List make and year)
	B	Checking and savings (List banks):		J	Property
		1)	\$	1)	Value
		2)	\$	2)	Loan Balance
		3)	\$	3)	\$
		4)	\$	D	Real estate (List addresses)
		1)		1)	\$
		2)		2)	\$
21	My monthly expenses are:				
	A	Rent or house payment	\$	J	Installment payments (specify)
	B	Food and household supplies	\$	1)	\$
	C	Utilities and telephone	\$	2)	\$
	D	Clothing	\$	3)	\$
	E	Laundry and cleaning	\$	Total installment payments: \$	
	F	Medical and dental	\$	K	Wage assignment or withholdings \$
	G	Insurance	\$	L	Spousal or child support \$
	H	School, child care	\$	M	Other:
	I	Transportation and auto expenses	\$	1)	\$
				2)	\$
				Total other expenses: \$	
22	Total monthly expenses:				\$
23	I have attached other information that supports this application on a separate sheet. <input type="checkbox"/> Yes <input type="checkbox"/> No				

Signature Section

24	I declare under penalty of perjury under the laws of the state of California that the information on this form and all the attachments is true and correct.	

Signature of Claimant

Date

CALIFORNIA STATE AND FEDERAL COURTS
(and state prisons in those court districts)
(updated May 2012)

California State Superior Courts

Alameda County Superior Court

1225 Fallon Street
Oakland, CA 94612

Alpine County Superior Court

14777 State Route 89
PO Box 518
Markleeville, CA 96120

Amador County Superior Court

500 Argonaut Lane
Jackson, CA 95642
Mule Creek State Prison

Butte County Superior Court

One Court Street
Oroville, CA 95965

Calaveras County Superior Court

891 Mountain Ranch Road
San Andreas, CA 95249

Colusa County Superior Court

532 Oak St.
Colusa, CA 95932

Contra Costa County Superior Court

725 Court Street
Martinez, CA 94553-1233

Del Norte County Superior Court

450 H Street, Room 209
Crescent City, CA 95531
Pelican Bay State Prison

El Dorado County Superior Court

495 Main Street
Placerville, CA 95667

Fresno County Superior Court

1100 Van Ness
Fresno, CA 93724-0002
Pleasant Valley State Prison

Glenn County Superior Court

526 West Sycamore Street
Willows, CA 95988

Humboldt County Superior Court

825 Fifth Street
Eureka, CA 95501

Imperial County Superior Court

939 West Main Street
El Centro, CA 92243
Calipatria State Prison, Centinela State Prison

Inyo County Superior Court

168 Edwards Street
Independence, CA 93526

Kern County Superior Court

1415 Truxtun Avenue
Bakersfield, CA 93301
Cal. Correctional Institution, Kern Valley State Prison, North Kern State Prison, Wasco State Prison

Kings County Superior Court

1426 South Drive
Hanford, CA 93230
Avenal State Prison, CSP-Corcoran, Substance Abuse Treatment Facility

Lake County Superior Court

255 North Forbes Street
Lakeport, CA 95453

Lassen County Superior Court

220 South Lassen Street
Susanville, CA 96130
California Correctional Center, High Desert State Prison

Los Angeles County Superior Court (main criminal)

210 W. Temple St.
Lancaster, CA 90012
CSP-Los Angeles County

Madera County Superior Court

209 West Yosemite Avenue
Madera, CA 93637
Central California Women's Facility, Valley State Prison for Women

Marin County Superior Court

3501 Civic Center Dr.
PO Box 4988
San Rafael, CA 94913
CSP-San Quentin

Mariposa County Superior Court

5088 Bullion Street, PO Box 28
Mariposa, CA 95338-0028

Mendocino County Superior Court

100 North State Street, Rm 108
Ukiah, CA 95482

Merced County Superior Court

2260 N Street
Merced, CA 95340-3744

Modoc County Superior Court

205 South East Street
Alturas, CA 96101

Mono County Superior Court (south county) or

PO Box 1037
Mammoth Lakes, CA 93546

Mono County Superior Court (north county)

PO Box 537
Bridgeport, CA 93517

Monterey County Superior Court (criminal)

240 Church St
Salinas, CA 93901
Correctional Training Facility, Salinas Valley State Prison

Napa County Superior Court

825 Brown Street
Napa, CA 94559

Nevada County Superior Court

201 Church Street, Suite 5
Nevada City, CA 95959

Orange County Superior Court (criminal)

P.O. Box 1138
Santa Ana, CA 92702

Placer County Superior Court

10820 Justice Center Dr.
P.O. Box 619072
Roseville, CA 95561

Plumas County Superior Court

520 Main Street, Room 104
Quincy, CA 95971

Riverside County Superior Court (criminal)

4100 Main St
Riverside, CA 92501
California Rehabilitation Center, Chuckawalla Valley State Prison, Ironwood State Prison

Sacramento County Superior Court
720 9th Street
Sacramento, CA 95814
CSP-Sacramento, Folsom State Prison

San Benito County Superior Court
440 5th Street
Hollister, CA 95023-3892

San Bernadino County Superior Court
351 N. Arrowhead Ave.
San Bernardino, CA 92415
California Institution for Men, California Institution for Women

San Diego County Superior Court
220 W. Broadway
San Diego, CA 92101
Richard J. Donovan Correctional Facility

San Francisco County Superior Court (criminal)
850 Bryant Street
Francisco, CA 94103

San Joaquin County Superior Court
222 East Weber Avenue #303
Stockton, CA 95202
Deuel Vocational Institution

San Luis Obispo County Superior Court
1035 Palm Street, Room 385
San Luis Obispo, CA 93408
California Men's Colony

San Mateo County Superior Court
400 County Center
Redwood City, CA 94063

Santa Barbara County Superior Court
PO Box 21107
Santa Barbara, CA 93121

Santa Clara County Superior Court
191 North First Street
San Jose, CA 95113

Santa Cruz County Superior Court
701 Ocean Street
Santa Cruz, CA 95060

Shasta County Superior Court

1500 Court Street
Redding, CA 96001

Sierra County Superior Court

100 Courthouse Square
PO Box 476
Downieville, CA 95936

Siskiyou County Superior Court

311 4th St.
P.O. Box 1026
Yreka, CA 96097

Solano County Superior Court

600 Union Avenue
Fairfield, CA 94533
California Medical Facility, CSP-Solano

Sonoma County Superior Court

600 Administration Drive, #107J
Santa Rosa, CA 95403-2818

Stanislaus County Superior Court

PO Box 3488
Modesto, CA 95353

Sutter County Superior Court

446 2nd Street
Yuba City, CA 95991-5525

Tehama County Superior Court

445 Pine Street
PO Box 170
Red Bluff, CA 96080

Trinity County Superior Court

11 Court Street
PO Box 1258
Weaverville, CA 96093

Tulare County Superior Court

221 S. Mooney, Room 201
Visalia, CA 93291

Toulumne County Superior Court

41 West Yaney Avenue
Sonora, CA 95370
Sierra Conservation Center

Ventura County Superior Court

PO Box 6489
Ventura, CA 93006-6489

Yolo County Superior Court
725 Court Street
Woodland, CA 95695

Yuba County Superior Court
215 Fifth Street, Suite 200
Marysville, CA 95901-5794

California State Courts of Appeal

First District Court of Appeal

350 McAllister Street
San Francisco, CA 94102
Pelican Bay State Prison, San Quentin State Prison, California Medical Facility, CSP-Solano
Alameda, Contra Costa, Del Norte, Humboldt, Lake, Marin, Mendocino, Napa, San Francisco,
San Mateo, Solano, and Sonoma counties

Second District Court of Appeal

300 Spring Street, Floor 2, North Tower
Los Angeles, CA 90013
CSP-Los Angeles County
Los Angeles, San Luis Obispo, Santa Barbara, and Ventura counties

Third District Court of Appeal

621 Capitol Mall, 10th Floor
Sacramento, CA 95814
Mule Creek State Prison, California Correctional Center, High Desert State Prison, Folsom State Prison,
Deuel Vocational Institution; CSP-Sacramento
Alpine, Amador, Butte, Calaveras, Colusa, El Dorado, Glenn, Lassen, Modoc, Mono, Nevada, Placer,
Plumas, Sacramento, San Joaquin, Shasta, Sierra, Siskiyou, Sutter, Tehama, Trinity, Yolo, and Yuba
counties

Fourth District Court of Appeal, Division 1

750 B Street, Suite 300
San Diego, CA 92101
Richard J. Donovan Corr. Fac., Centinela State Prison, Calipatria State Prison
Imperial and San Diego counties

Fourth District Court of Appeal, Division 2

3389 12th Street
Riverside, CA 92501
California Institute for Women, California Institute for Men, Cal. Rehabilitation Center, Chuckawalla
Valley State Prison, Ironwood State Prison, California Men's Colony
Inyo, Riverside, and San Bernadino counties

Fourth District Court of Appeal, Division 3

P.O. Box 22055
Santa Ana, CA 92702
Orange County

Fifth District Court of Appeal

2424 Ventura Street
Fresno, CA 93721

CSP-Corcoran, Substance Abuse Treatment Facility, Sierra Conservation Center, Pleasant Valley State Prison, California Correctional Institution, Kern Valley State Prison, North Kern State Prison, Wasco State Prison, Central California Women's Facility, Valley State Prison for Women, Avenal State Prison
Fresno, Kern, Kings, Madera, Mariposa, Merced, Stanislaus, Tulare, and Tuolumne counties

Sixth District Court of Appeal

333 West Santa Clara Street, Suite 1060
San Jose, CA 95113

Correctional Training Facility, Salinas Valley State Prison
Santa Clara, Santa Cruz, Monterey and San Benito counties

California State Supreme Court

California Supreme Court

350 McAllister Street
San Francisco, CA 94102

Federal District Courts

United States District Court for the Central District,

Eastern Division

3470 Twelfth Street
Riverside, CA 92501

California Institute for Men, California Institute for Women, California Rehabilitation Center, Chuckawalla Valley State Prison, CSP-Ironwood,

Western Division

312 North Spring Street #G-8
Los Angeles, CA 90012

CSP-Los Angeles County, California Men's Colony

United States District Court for the Eastern District,

Sacramento Division

501 "I" Street, Suite 4-200
Sacramento, CA 95814

CSP-Solano, California Medical Facility, Mule Creek State Prison, California Correctional Center, High Desert State Prison, Folsom State Prison, Deuel Vocational Institute,

Fresno Division

2500 Tulare Street #1501
Fresno, CA 93721

CSP-Corcoran, Substance Abuse Treatment Facility, Sierra Conservation Center, Pleasant Valley State Prison, California Correctional Institution, Kern Valley State Prison, North Kern State Prison, Wasco State Prison, Central California Women's Facility, Valley State Prison for Women, Avenal State Prison

United States District Court for the Northern District

San Francisco Division

United States District Court
450 Golden Gate Avenue
San Francisco, CA 94102-3483
Pelican Bay State Prison, San Quentin State Prison,

Oakland Division

United States District Court
1301 Clay Street, Suite 400 South
Oakland, CA 94612

San Jose Division

United States District Court
280 South 1st Street
San Jose, CA 95113
Correctional Training Facility, Salinas Valley State Prison

United States District Court for the Southern District

880 Front Street, Suite 4290
San Diego, CA 92101
Richard J. Donovan Correctional Facility, Centinela State Prison, Calipatria State Prison

Federal Court of Appeals

Ninth Circuit Court of Appeals

U.S. Court of Appeals Building
PO Box 193939
San Francisco, CA 94119

United States Supreme Court

United States Supreme Court

1 First Street NE
Washington, DC 20543