

## INFORMATION FOR PRISONERS SEEKING TO PROCEED IN FORMA PAUPERIS

**If you have the money to pay the filing fee, you should send a cashier's check or money order payable to the Clerk of the Court with your complaint, petition, or notice of appeal.**

**If you are unable to pay the filing fee when you file your action, you must concurrently submit a fully completed in forma pauperis (IFP) application with your complaint.** If you are granted IFP status, as a prisoner you are nonetheless required to pay the full filing fee for filing a civil action in the federal district court. *See* 28 U.S.C. § 1915(b)(1). You will be exempt from paying the administrative fee assessed to other litigants, however. If you later file an appeal, you will be obligated to pay the filing fee for the appeal. IFP status allows you to pay your filing fee in installment payments and entitles you to have the U.S. Marshals Service serve your complaint and approved subpoenas. It does not authorize free photocopying or deferment of other court costs.

To proceed IFP you must complete and sign the attached form and return it to the court with your complaint. **You must have a prison or jail official complete the Certification section on the form and attach a certified copy of your prison or jail account statement for the last six months.** If you were incarcerated in a different institution during any of the past six months, you must attach a certificate and a certified copy of your account statement from each institution at which you were confined. If your form is incomplete or you fail to submit your prison account statement, the court will deny your request to proceed IFP.

The court will assess an initial partial filing fee equal to 20% of the average monthly deposits or the average monthly balance of your prison account for the six months preceding the date you filed your lawsuit, whichever amount is greater. The court will order the agency that has custody of you to withdraw the initial partial filing fee from your prison account when funds are available and forward the money to the court.

After the initial partial filing fee is paid, you will owe the balance of the filing fee. Until the filing fee is paid in full, you will owe 20% of your preceding month's income toward the balance. The agency that has custody of you will collect and send payments to the court when the amount in your account exceeds \$10.00. The balance of the filing fee will be collected even if the action is dismissed, summary judgment is granted against you, or you fail to prevail at trial.

Regardless of payment of the filing fee or IFP status, the court is required to screen and **dismiss** your complaint if (1) your allegation of poverty is untrue; (2) the action is frivolous or malicious; (3) you fail to state a claim on which relief can be granted; or (4) you sue a defendant who is immune from liability for money damages.

If you have had three or more civil actions or appeals dismissed as frivolous, malicious, or for failure to state a claim on which relief can be granted, you are prohibited from proceeding IFP in another civil action unless you plausibly allege that you are in "imminent danger of serious physical injury." 28 U.S.C. § 1915(g). This restriction does not apply to petitions for writ of habeas corpus under 28 U.S.C. §§ 2241 or 2254.

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

Plaintiff,  
vs.

APPLICATION TO PROCEED  
IN FORMA PAUPERIS  
BY A PRISONER

Defendant.

CASE NUMBER:

I, \_\_\_\_\_, declare, in support of my request to proceed in the above entitled case without prepayment of fees under 28 U.S.C. § 1915, that I am unable to pay the fees for these proceedings or to give security therefor and that I believe I am entitled to the relief sought in the complaint.

In support of this application, I answer the following questions under penalty of perjury:

- 1. Are you currently incarcerated?  Yes  No (If "No," do not use this form)  
If "Yes," state the place of your incarceration: \_\_\_\_\_
- 2. Are you currently employed at the institution where you are confined?  Yes  No  
If "Yes," state the amount of your pay: \_\_\_\_\_
- 3. Do you have other sources of income, savings, or assets?  Yes  No  
If "Yes," state the source and the amount of the payments (attach an additional sheet if necessary):  
\_\_\_\_\_
- 4. Do you own real estate, stocks, bonds, securities, other financial instruments, automobiles, or other property?  
 Yes  No  
If "Yes" describe the property and state its value: \_\_\_\_\_
- 5. List the persons who are dependent on you for support, state your relationship to each person, and indicated how much you contribute to their support:  
\_\_\_\_\_
- 6. Have you brought three or more prior actions or appeals in federal court while a prisoner that were dismissed because they were frivolous, malicious, or failed to state a claim on which relief may be granted?  
 Yes\*  No.

\*You may not proceed in forma pauperis as a prisoner in a civil action if you have had three or more actions dismissed as frivolous, malicious, or for failure to state a claim, unless you are under imminent danger of serious physical injury. 28 U.S.C. § 1915(g). **This restriction does not apply to petitions for writ of habeas corpus.**

I declare under penalty of perjury that the above information is true and correct.

DATE

SIGNATURE and PRISON NUMBER OF APPLICANT

**FINANCIAL CERTIFICATE AND CONSENT TO COLLECTION OF FEES**

I request an authorized officer of the institution in which I am confined, or other designated entity, complete the Certificate below. I authorize the agency having custody of me to collect and forward to the Clerk of the United States District Court payments from my trust account to comply with this order for the payment of the filing fee in accordance with 28 U.S.C. § 1915(b). I understand that if I cause a civil action to be opened, I am required to pay the full \$350.00 civil filing fee. Further:

- (1) if my current account balance is sufficient to qualify as a pauper, yet in excess of \$360.00, I will be granted in forma pauperis status for service purposes, but I will be required to immediately pay the filing fee in full.**
- (2) if my current account balance is sufficient to qualify as a pauper, and the amount in my account is below \$350.00, I will be required to pay 20% of my average monthly balance, or 20% of the average monthly deposits to my account, whichever is greater, and thereafter I must pay installments of 20% of the preceding month's deposits to my account in months when my account balance exceeds \$10.00.**
- (3) I must continue to make installment payments until the \$350.00 filing fee is fully paid without regard to whether my action is closed or my release from confinement.**

An inmate granted in forma pauperis status in a habeas corpus action will not be required to make installment payments on the \$5.00 filing fee. *See Naddi v. Hill*, 106 F.3d 275, 276 (9th Cir. 1997).

I declare under penalty of perjury that the above information is true and correct.

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DATE SIGNATURE and PRISON NUMBER OF APPLICANT

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**CERTIFICATE**

(To be completed by the institution of incarceration)

- 1. I certify that the applicant named herein has the sum of \$ \_\_\_\_\_ on account [spendable and restricted] to his/her credit at \_\_\_\_\_ (name of institution).
- 2. I further certify that during the past six months the applicant's average monthly balance was \$ \_\_\_\_\_.
- 3. I further certify that during the past six months the average of monthly deposits to the applicant's account was \$ \_\_\_\_\_.
- 4. I have attached a certified copy of the applicant's trust fund account statement showing transactions for the past six months.

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DATE SIGNATURE OF AUTHORIZED OFFICER

**\* attach copy of prisoner's past six month's prison trust account balance statement \***