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*Your Responsibility When Using this Information: This information is not intended to be legal advice about the facts in your case, but it will give you more information about your rights and what you can do to help yourself. When we wrote this document we did our best to give you useful and accurate information, because we know that people often have difficulty obtaining legal information in jail and we cannot provide specific advice everyone who requests it. But, 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 document, it is your responsibility to make sure that the law has not changed and applies to your situation.*

# LAWSUITS FOR MONEY DAMAGES AGAINST CALIFORNIA JAIL OFFICIALS

*(last updated January 2020)*

This letter provides information about the two main ways to sue California jail officials to seek money damages: (1) federal Section 1983 lawsuits and (2) state tort lawsuits. You can also use some of the laws and procedures discussed in this letter to ask for “injunctive relief” (a court order requiring jail officials to do or stop doing something). However, a state habeas corpus lawsuit is often a much simpler and speedier way to obtain injunctive relief. We can provide information on the habeas process upon request or on our Resources page at [www.prisonlaw.com](http://www.prisonlaw.com).

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**VERY IMPORTANT:** If you have been harmed by the actions of jail staff and believe your rights have been violated, you must take immediate action to preserve the right to bring a lawsuit. Before you file any type of lawsuit about a problem in the jail, **you must file a grievance in the jail and go through all levels of review in the grievance process.** If you want to file a state tort lawsuit, you also need to **file a government claim within six months** of the date of the action that caused the harm. These requirements, and the deadlines and basic procedures for starting a money damages lawsuit, are discussed in detail in this letter. **FAILURE TO FILE AN ADMINISTRATIVE APPEAL, GOVERNMENT CLAIM, OR LAWSUIT WITHIN THE LEGAL TIME LIMITS MAY PERMANENTLY BAR YOU FROM RECEIVING ANY MONEY DAMAGES.**

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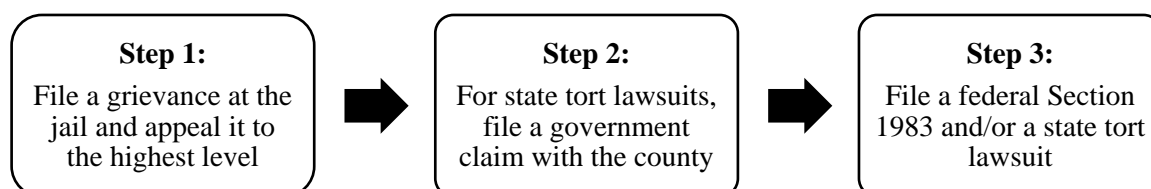
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## I. OVERVIEW

You may be able to file a lawsuit for money damages against jail officials whose actions have caused you to suffer bodily injuries, psychological distress, or other harm. A lawsuit against jail officials might be based on federal or state law (or both) and could be filed in either federal or state court. Deciding how and where to sue can be a complex question that will depend on the facts of the case and other factors. **You should always take all of the initial steps necessary to protect the right to sue under both federal and state law and in both federal and state court.** The basic initial steps are:



The most common type of lawsuit filed by incarcerated people seeking money damages is a “federal civil rights” or “Section 1983” action. This type of lawsuit allows people in jail to sue officials who violate their federal constitutional or statutory rights.<sup>1</sup> Another common type of lawsuit that incarcerated people may use to seek money damages is a state “personal injury” or “tort” action. Under California tort law, incarcerated people can sue jail officials whose wrongful or negligent acts or omissions caused injuries.<sup>2</sup> This letter gives a general overview of both types of lawsuits: who can be sued, what types of issues can be raised, actions necessary for preserving the right to sue, and initial steps in filing a lawsuit. This letter ends with a brief discussion of factors relevant to deciding which type of legal claims to raise and in which court to file the lawsuit.

Filing and litigating a money damages lawsuit without a lawyer is extremely difficult, so you should always try to find an attorney for any money damages case. **The Prison Law Office generally does not represent people in lawsuits that ask for money damages.** Although personal injury lawsuits are sometimes taken by lawyers on a “contingency fee” basis (where the lawyer gets a percentage of any money won in the lawsuit), only the most exceptional cases will appeal to most lawyers. To try to find a lawyer, you 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. While doing legal research or reading prison law news articles, you can also write down the names and contact information for lawyers who have handled similar types of cases and then trying contacting those lawyers.

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<sup>1</sup> See 42 U.S.C. § 1983.

<sup>2</sup> See Cal. Government Code § 844.6(d).

## II. FILING A GRIEVANCE

**Before you file any type of lawsuit in court about a problem in the jail, the law requires that you file a grievance and go through all levels of review at the jail.**<sup>3</sup> In most cases, any lawsuit about your problem will be dismissed by the court if you have not first filed a grievance and gone through all levels of review at the jail. You must go through this process even though money damages are not normally given to people through the grievance process.<sup>4</sup> The general rules that control jail grievances are found in the California Code of Regulations (CCR), Title 15, Section 1073. The specific rules for the grievance process in each jail are often found in the jail's orientation handbook; if you cannot find them, ask a staff member. When filing a grievance, you should closely follow the jail's own rules.

Sometimes grievances are lost or not answered in a timely fashion by jail staff. Before you file your grievance, it is a good idea to make copies of the grievance and all documents that you attach to the grievance. If you cannot get access to a copy machine, make a handwritten copy. You should also keep notes about when and how you submitted your grievance.

### a. How long do I have to file a grievance?

Each jail has different time limits for filing grievances and for submitting grievances to higher levels of review. Some jails have very short time limits (for example, some jails require you file a grievance within 10 days of the problem occurring). These time limits may be described in the jail's orientation handbook, or on the grievance form itself. Even if you think you have missed the time for filing a grievance, you should still file one, as it might be accepted and processed by the jail.

### b. What should I write in the grievance?

In your grievance, you should start by stating the problem. You may file a grievance to complain about an action taken by any jail employee or any jail policy or procedure that negatively affects you. For example, you may file a grievance to complain about problems related to: health care, disciplinary actions, program participation, visiting procedures, food, clothing, bedding, telephone access, mail access, law library access, etc. Try to be as clear as possible about what happened, including when it happened, who did it, and what else you have done to try to fix the problem. If you have supporting documents, attach a copy of them to the grievance if you are able to. You should also explain what you want jail staff to do to fix your problem. Finally, you should completely fill out the jail grievance form, including, if requested, your signature and date.

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<sup>3</sup> See Prison Litigation Reform Act of 1995 (PLRA), 42 U.S.C. § 1997e(a) (exhaustion requirement for federal § 1983 lawsuits); *Kingsley v. Hendrickson* (2015) \_\_ U.S. \_\_ [135 S.Ct. 2466, 2476; 192 L.Ed.2d 416] (noting that the PLRA “applies to both pretrial detainees and convicted prisoners”); *Wright v. California* (2004) 122 Cal.App.4th 659, 664-671 [19 Cal.Rptr.3d 92] (exhaustion requirement for state tort lawsuits); *Parthemore v. Col* (2013) 221 Cal.App.4th 1372, 1376 [165 Cal. Rptr. 3d 367] (same).

<sup>4</sup> See *Booth v. Churner* (2001) 532 U.S. 731, 741 [121 S.Ct. 1819]; *Wright v. California* (2004) 122 Cal.App.4th 659, 668 [19 Cal.Rptr.3d 92]; *Morton v. Hall* (9th Cir. 2010) 599 F.3d 942, 945.

### c. How do I “exhaust” my grievance?

Before you file any type of lawsuit in court about a problem in the jail, the law requires that you file a grievance at the jail and go through all levels of review in the grievance process. Going through all levels of review is called “exhausting your administrative remedies.” The typical jail grievance process consists of two or three levels of review by jail staff. In most cases, you have not completed the grievance process, or “exhausted your administrative remedies,” until you have received a reply from every level of review. After you receive a reply to your grievance, check your orientation handbook to see if there is a procedure for you to submit your grievance to a higher level of review. The grievance form itself, or the reply, may also tell you how to submit your grievance to a higher level of review.

### d. I didn’t file a grievance. Can I still sue?

In very limited circumstances, a court might allow you to file a lawsuit although you have not filed and exhausted a grievance. For federal § 1983 suits, you can sue without exhausting a grievance if you can show that the grievance process at the jail is “effectively unavailable.”<sup>5</sup> For example, you can show that you had a reason to fear retaliation for reporting the incident,<sup>6</sup> or that you did not have access to the grievance forms within the jail’s time limits for filing a grievance.<sup>7</sup> Also note that the law requiring that you exhaust a grievance before filing a lawsuit—the Prison Litigation Reform Act—only applies to people who are still in jail or prison at the time they file their lawsuit. It does NOT apply if you are no longer in jail or prison when you file the lawsuit (if you file after you are released).<sup>8</sup> Beware, though, because you do not have an unlimited amount of time to bring your lawsuit—see Section III.d., below.

For state tort lawsuits, you might similarly be able to argue that the grievance process was unavailable,<sup>9</sup> or that you would be subject to “irreparable harm” if you filed and exhausted a grievance.<sup>10</sup> In very narrow circumstances, you might be able to argue that filing a grievance would be futile; to

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<sup>5</sup> See *Albino v. Baca* (9th Cir. 2014) 747 F.3d 1162, 1172-1173; *Andres v. Marshall* (9th Cir. 2017) 867 F.3d 1076, 1078 (*per curiam*); *Rodriguez v. County of Los Angeles* (9th Cir. 2018) 891 F.3d 776, 792.

<sup>6</sup> See *Rodriguez v. County of Los Angeles* (9th Cir. 2018) 891 F.3d 776, 792 (“In order for a fear of retaliation to excuse the PLRA’s exhaustion requirement, the prisoner must show that (1) ‘he actually believed prison officials would retaliate against him if he filed a grievance’; and (2) ‘a reasonable prisoner of ordinary firmness would have believed that the prison official’s action communicated a threat not to use the prison’s grievance procedure and that the threatened retaliation was of sufficient severity to deter a reasonable prisoner from filing a grievance.’” (quoting *McBride v. Lopez* (9th Cir. 2015) 807 F.3d 982, 987)).

<sup>7</sup> See *Marella v. Terhune* (9th Cir. 2009) 568 F.3d 1024, 1027-1028; *Albino v. Baca* (9th Cir. 2014) 747 F.3d 1162, 1173-1177; *Draper v. Rosario* (9th Cir. 2016) 836 F.3d 1072, 1078.

<sup>8</sup> See 42 U.S.C. § 1997e(a); *Talamantes v. Leyva* (9th Cir. 2009) 575 F.3d 1021, 1024.

<sup>9</sup> See *Westlake Community Hosp. v. Superior Court* (1976) 17 Cal.3d 465, 477-478 [131 Cal.Rptr. 90; 551 P.2d 410]; *Los Globos Corp. v. City of Los Angeles* (2017) 17 Cal.App.5th 627, 633 [225 Cal.Rptr.3d 423]; *Upshaw v. Superior Court* (2018) 22 Cal.App.5th 489, 505 [231 Cal.Rptr.3d 505].

<sup>10</sup> *In re Hudson* (2006) 143 Cal.App.4th 1, 7 [49 Cal.Rptr.3d 74] (quoting *Ogo Associates v. City of Torrance* (1974) 37 Cal.App.3d 830, 834 [112 Cal.Rptr. 761]).

invoke this exception, you must show that the jail had already “declared what its ruling will be in a particular case.”<sup>11</sup> But, again, **the best thing you can do to protect your right to sue is to timely file and exhaust a grievance.**

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<sup>11</sup> *Steinhart v. County of Los Angeles* (2010) 47 Cal.4th 1298, 1313 [104 Cal.Rptr.3d 195; 223 P.3d 57]; *Upshaw v. Superior Court* (2018) 22 Cal.App.5th 489, 505 [231 Cal.Rptr.3d 505].

### III. FEDERAL CIVIL RIGHTS (SECTION 1983) LAWSUITS

The most common type of lawsuit filed by incarcerated people seeking money damages is a “federal civil rights” or “Section 1983” action. These lawsuits allow people to sue for violations of their federal constitutional or statutory rights.<sup>12</sup>

#### a. What issues can I include in a Section 1983 lawsuit?

In order to win a federal civil rights lawsuit, you have to prove that jail officials violated your federal constitutional or statutory rights. The question of whether a federal right was violated can be complicated.

The right involved must be protected either by (1) a section of the U.S. Constitution or (2) a federal law that applies to people in jail.<sup>13</sup> Before filing a § 1983 lawsuit, you should first determine which of your federal rights have been violated or infringed. A court will dismiss a § 1983 case that concerns matters that are not protected by federal law or that only claim a violation of state law.

The courts have set general standards for reviewing various types of incarcerated person’s claims in federal civil rights lawsuits. Sometimes the law will require the courts to balance your rights against jail officials’ reasons for taking away those rights. And, for many types of issues, you will have to show that jail staff both caused a particular amount of harm and acted with a particular state of mind. Below are some very general standards for commonly-raised issues. Before filing a lawsuit, you should do further research to determine whether there is a good argument that your rights have been violated. We have recommended some resources at the end of this section.

Many of the standards that will apply to your lawsuit come from the Eighth Amendment of the U.S. Constitution. That Amendment protects against “cruel and unusual punishment”:

- Inadequate or improper medical, dental, or mental health care violates the Eighth Amendment if jail officials acted with “deliberate indifference” to your serious medical, dental, or mental health need.<sup>14</sup> “Deliberate indifference” means the official must know of and disregard an excessive/serious risk to your health or safety.<sup>15</sup> Negligent treatment (medical malpractice) alone does not violate the Eighth Amendment.<sup>16</sup>

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<sup>12</sup> See 42 U.S.C. § 1983.

<sup>13</sup> 42 U.S.C. § 1983; *Parratt v. Taylor* (1981) 451 U.S. 527, 535 [101 S.Ct. 1908; 68 L.Ed.2d 420], overruled on other grounds in *Daniels v. Williams* (1986) 474 U.S. 327, 328 [106 S.Ct. 662; 88 L.Ed.2d 662]; *Leer v. Murphy* (9th Cir. 1988) 844 F.2d 628, 632-633.

<sup>14</sup> *Estelle v. Gamble* (1976) 429 U.S. 97, 104-105 [97 S.Ct. 285; 50 L.Ed.2d 251]; *Hoptowit v. Ray* (9th Cir. 1982) 682 F.2d 1237, 1253; *Jett v. Penner* (9th Cir. 2006) 439 F.3d 1091, 1096; *Colwell v. Bannister* (9th Cir. 2014) 763 F.3d 1060, 1066.

<sup>15</sup> *Farmer v. Brennan* (1994) 511 U.S. 825, 835 [114 S.Ct. 1970; 128 L.Ed.2d 811]; *Harrington v. Scribner* (9th Cir. 2015) 785 F.3d 1299, 1304.

<sup>16</sup> *Hamby v. Hammond* (9th Cir. 2016) 821 F.3d 1085, 1092 (quoting *Toguchi v. Chung* (9th Cir. 2004) 391 F.3d 1051, 1060).

- The use of excessive force by jail staff violates the Eighth Amendment if the force was not used in a good faith effort to maintain or restore order, but was applied “maliciously and sadistically for the very purpose of causing harm.”<sup>17</sup>
- 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.” Such basic human needs include adequate food, clothing, shelter, sanitation, and personal safety. The Eighth Amendment is violated only if a jail official acted with “deliberate indifference” to those needs.<sup>18</sup>

**\*\*NOTE:** If you are a “pre-trial detainee”—meaning you are in jail waiting for trial/plea negotiations and have not been convicted—your rights are protected by the Fourteenth Amendment, not the Eighth Amendment.<sup>19</sup> Some courts have recognized that the Fourteenth Amendment offers even greater protection than the Eighth Amendment.<sup>20</sup> If you’re pre-trial, you should research whether a better standard applies to your claim.<sup>21</sup>

Other protections include:

- Restrictions on your First Amendment rights, such as the right to free speech or association, are unlawful if they are not reasonably related to a legitimate penological interest.<sup>22</sup>

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<sup>17</sup> *Whitley v. Albers* (1986) 475 U.S. 312, 320-321 [106 S.Ct. 1078; 89 L.Ed.2d 251] (citation omitted); *Hudson v. McMillan* (1992) 503 U.S. 1, 6-7 [112 S.Ct. 995; 117 L.Ed.2d 156].

<sup>18</sup> *Rhodes v. Chapman* (1981) 452 U.S. 337, 345-347 [101 S.Ct. 2392; 69 L.Ed.2d 59]; *Wilson v. Seiter* (1991) 501 U.S. 294, 302-306 [111 S.Ct. 2321; 115 L.Ed.2d 271]; *Hoptowit v. Ray* (9th Cir. 1982) 682 F.2d 1237, 1246.

<sup>19</sup> *Bell v. Wolfish* (1979) 441 U.S. 520, 535 [99 S.Ct. 1861; 60 L.Ed.2d 447]; *Trueblood v. Wash. State Dep’t of Soc. & Health Servs.* (9th Cir. 2016) 822 F.3d 1037, 1043; *Mendiola-Martinez v. Arpaio* (9th Cir. 2016) 836 F.3d 1239, 1246 n.5; *Byrd v. Maricopa County Bd. of Supervisors* (9th Cir. 2017) 845 F.3d 919, 924 n.2.

<sup>20</sup> *Mendiola-Martinez v. Arpaio* (9th Cir. 2016) 836 F.3d 1239, 1246 n.5 (“Eighth Amendment protections apply only once a prisoner has been convicted of a crime, while pretrial detainees are entitled to the potentially more expansive protections of the Due Process Clause of the Fourteenth Amendment.”); see also *Revere v. Mass. Gen. Hosp.* (1983) 463 U.S. 239, 244 [103 S.Ct. 2979; 77 L.Ed.2d 605] (holding that the protections of the Due Process clause “are at least as great as the Eighth Amendment protections available to a convicted prisoner”).

<sup>21</sup> Good starting points for research include: *Bell v. Wolfish* (1979) 441 U.S. 520, 535 [99 S.Ct. 1861; 60 L.Ed.2d 447]; *Kingsley v. Hendrickson* (2015) \_\_\_ U.S. \_\_\_ [135 S.Ct. 2466, 2473; 192 L.Ed.2d 416]; *Stone v. City & County of San Francisco* (9th Cir. 1992) 968 F.2d 850, 857 n.10; *Demery v. Arpaio* (9th Cir. 2004) 378 F.3d 1020, 1028-1029; *Mendiola-Martinez v. Arpaio* (9th Cir. 2016) 836 F.3d 1239, 1246 n.5; *Castro v. County of Los Angeles* (9th Cir. 2016) 833 F.3d 1060, 1069-1070; *Gordon v. County of Orange* (9th Cir. 2018), 888 F.3d 1118, 1122-1125.

<sup>22</sup> *Turner v. Safley* (1987) 482 U.S. 78, 89-91 [107 S.Ct. 2254; 96 L.Ed.2d 64]; *O’Lone v. Estate of Shabazz* (1987) 482 U.S. 342, 349-353 [107 S.Ct. 2400; 96 L.Ed.2d 282]; *Frost v. Symington* (9th Cir. 1999) 197 F.3d 348, 354.



- If the jail receives federal funds, it cannot impose a substantial burden on your exercise of religion unless it is the least restrictive means of furthering a compelling governmental interest.<sup>23</sup>
- Race discrimination by jail 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.”<sup>24</sup>
- Under the federal Americans with Disabilities Act (ADA) and the Rehabilitation Act of 1973, if you have a disability, you may not be subject to discrimination or denied the benefits of a program or activity if you can meet the essential eligibility requirements of the program, with or without reasonable modifications.<sup>25</sup>
- You have some due process rights under the Fourteenth Amendment; for example, in disciplinary matters involving credit losses, you have the rights to notice, a hearing, and a decision supported by “some evidence.”<sup>26</sup> But, other actions such as classification decisions, transfers, or placement in segregation are not protected under the due process clause of the Fourteenth Amendment unless the jail has created a liberty interest by requiring jail officials to follow mandatory procedures before taking such actions. Even if there is a jail-created liberty interest, a classification, transfer, or segregation action does not violate due process unless it imposes an “atypical and significant hardship on the inmate in relation to the ordinary incidents of prison life.”<sup>27</sup>
- Deliberate government interference with the confidential relationship between you and your defense counsel (your lawyer in your criminal case) violates the Sixth Amendment right to counsel if it substantially prejudices you.<sup>28</sup>

Some types of issues **cannot be raised** in federal civil rights actions. These include:

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<sup>23</sup> 42 U.S.C. § 2000 *et seq.* [the Religious Land Use and Institutionalized Persons Act of 2000, known as “RLUIPA”]; *Holt v. Hobbs* (2015) 574 U.S. 352 [135 S.Ct. 853, 862; 190 L.Ed.2d 747]; *Khatib v. County of Orange* (9th Cir. 2011) 639 F.3d 898, 900 (en banc); *Greene v. Solano County Jail* (9th Cir. 2008) 513 F.3d 982, 986.

<sup>24</sup> *Johnson v. California* (2005) 543 U.S. 499, 505 [125 S.Ct. 1141; 160 L.Ed.2d 949] (citation omitted).

<sup>25</sup> 42 U.S.C. § 12131 *et seq.* (ADA); 29 U.S.C § 794 (Rehabilitation Act); *Pa. Dept. of Corrections v. Yeskey* (1998) 524 U.S. 206, 213 [118 S.Ct. 1952; 141 L.Ed.2d 215].

<sup>26</sup> *Wolff v. McDonnell* (1974) 418 U.S. 539, 563-566 [94 S.Ct. 2963; 41 L.Ed.2d 935]; *Superintendent v. Hill* (1985) 472 U.S. 445, 454 [105 S.Ct. 276; 86 L.Ed.2d 356]; *Zimmerlee v. Keeney* (9th Cir. 1987) 831 F.2d 183, 186-188.

<sup>27</sup> *Sandin v. Conner* (1995) 515 U.S. 472, 483-484 [115 S.Ct. 2293; 132 L.Ed.2d 418].

<sup>28</sup> *Williams v. Woodford* (9th Cir. 2004) 384 F.3d 567, 584-585.

- You cannot use a federal civil rights action to seek release or other injunctive relief (a court order requiring the person you sue to do something) due to an unlawful criminal conviction or sentence. This includes challenges to disciplinary losses of credit, improper calculations of credits, or denial or revocation of parole.<sup>29</sup> The proper way to raise these claims in federal court is through a petition for writ of habeas corpus. You can file a federal civil rights case for damages only after the court has declared your conviction, sentence, or disciplinary finding invalid in a habeas proceeding or other court action.<sup>30</sup>
- You cannot challenge a cell search under federal law because a jail cell is not protected by the U.S. Constitution's Fourth Amendment prohibition against unreasonable searches and seizures.<sup>31</sup>
- Except in the most unusual circumstances, you will not be able to get compensation for lost or damaged property through a federal civil rights action. Intentional or negligent loss or destruction of your property by jail officials does not support a civil rights action if state law provides adequate legal remedies for property deprivations; courts have held that California law provides such adequate remedies.<sup>32</sup>

Again, if you are considering a federal civil rights lawsuit, you should do further research to determine whether there is a good argument that your federal rights have been violated and that monetary damages can be awarded. The following resources may be helpful:

- An annotated edition of Title 42, Section 1983 of the United States Code. Thousands of cases are listed in the annotations to the civil rights statute. (Note that cases decided in the past may have been overturned; thus, you should check every case to try to determine if it is still good law.)
- *Rights of Prisoners*, Fifth Edition (2017) by Michael Mushlin, published by Thompson Reuters.

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<sup>29</sup> *Preiser v. Rodriguez* (1973) 411 U.S. 475, 489 [93 S.Ct. 1827; 36 L.Ed.2d 439]; *Edwards v. Balisok* (1997) 520 U.S. 641, 643 [117 S.Ct. 1584; 137 L.Ed.2d 906] (applying bar in case seeking to invalidate a prison disciplinary procedure that resulted in loss of good conduct credits); *Young v. Kenny* (9th Cir. 1990) 907 F.2d 874, 875 (applying bar to claim that prison officials improperly failed to apply jail time credits to prison sentence); *Hawkins v. Risley* (9th Cir. 1993) 984 F.2d 321, 325 (denial of federal habeas challenge to state's revocation of work furlough barred § 1983 suit on challenging that revocation).

<sup>30</sup> *Heck v. Humphrey* (1994) 512 U.S. 477 [114 S.Ct. 2364; 129 L.Ed.2d 383]; see also *Jackson v. Barnes* (9th Cir. 2014) 743 F.3d 755, 759 (*Heck* rule did not bar § 1983 claim following overturned conviction, even though the person was later successfully prosecuted in the same case). If a § 1983 suit clearly is intended to state a habeas claim, a court may treat the complaint as a habeas petition or may dismiss it. *Guerrero v. Gates* (9th Cir. 2006) 442 F.3d 697, 703.

<sup>31</sup> *Hudson v. Palmer* (1984) 468 U.S. 517 [104 S.Ct. 3194; 82 L.Ed.2d 393].

<sup>32</sup> *Hudson v. Palmer* (1984) 468 U.S. 517, 533 [104 S.Ct. 3194; 82 L.Ed.2d 393] (deprivation of property does not violate due process where state has available and adequate post-deprivation remedies); *Barnett v. Centoni* (9th Cir. 1994) 31 F.3d 813, 816-817 (California provides adequate post-deprivation remedies for property damage or confiscation); *Teahan v. Wilhem* (S.D. Cal. 2007) 481 F.Supp.2d 1115, 1120 (same).

- *The California Prison and Parole Law Handbook* (2019), published by the Prison Law Office, available for free online at: <https://prisonlaw.com/resources/prison-handbook>. If you would like a physical copy, you can write to the Prison Law Office, General Delivery, San Quentin, CA 94964 to request an order form. Copies for people in custody are \$20 and copies for people who are not in custody are \$200 (prices include tax, postage, and handling).
- *Jailhouse Lawyer’s Manual*, Eleventh Edition (2017), published by Columbia Human Rights Law Review, available for free online at: <http://jlm.law.columbia.edu>, or send a check or money order for \$30 to Columbia Human Rights Law Review, Attn: JLM Order, 435 W. 116th St., New York, NY 10027.
- *Section 1983 Outline* (updated 2018), prepared by the Ninth Circuit Court of Appeals, Office of Staff Attorneys, available for free online at: [https://www.ca9.uscourts.gov/content/view.php?pk\\_id=0000000724](https://www.ca9.uscourts.gov/content/view.php?pk_id=0000000724).

**b. What remedies are available under Section 1983?**

You can sue under Section 1983 to ask for money (called “money damages”) and/or a court order requiring the defendant to do or admit something (called “prospective relief”).

You can ask for three different types of money damages through § 1983 cases: compensatory damages, punitive damages, and/or nominal damages.<sup>33</sup>

- Compensatory damages are intended to pay you back for harms you suffered. This may include reimbursing money you had to spend for medical expenses, making up for lost income, or compensating you for physical or mental suffering.<sup>34</sup> However, you cannot get money damages for a purely emotional or mental injury—you have to show that there was also a physical injury.<sup>35</sup> The physical injury need not be significant but must be more than trivial or minor.<sup>36</sup>
- Punitive damages are meant to punish defendants for their bad conduct. Punitive damages can be awarded only if the defendant acted with a certain state of mind: (1) maliciously with intent to cause you harm, (2) oppressively, or (3) with recklessness amounting to deliberate indifference.<sup>37</sup>

<sup>33</sup> *Carey v. Phipus* (1978) 435 U.S. 247, 256-259, 266-267 [98 S.Ct. 1042; 55 L.Ed.2d 252]; *Smith v. Wade* (1983) 461 U.S. 30, 46-49 [103 S.Ct. 1625; 75 L.Ed.2d 632]. People who owe restitution on their criminal cases should be aware that the state can take restitution payments out of a money damages award.

<sup>34</sup> *Memphis Community School Dist. v. Starhura* (1986) 477 U.S. 299, 306-307 [106 S.Ct. 2537; 91 L.Ed.2d 249]; *Chalmers v. City of Los Angeles* (9th Cir. 1985) 762 F.2d 753, 760-761; *Knudson v. City of Ellensburg* (9th Cir. 1987) 832 F.2d 1142, 1149; *Borunda v. Richmond* (9th Cir. 1988) 885 F.2d 1384, 1389.

<sup>35</sup> 42 U.S.C. § 1997e(e); see *Zehner v. Trigg* (7th Cir. 1997) 133 F.3d 459, 461; *Oliver v. Keller* (9th Cir. 2002) 289 F.3d 623, 627-628.

<sup>36</sup> *Oliver v. Keller* (9th Cir. 2002) 289 F.3d 623, 627-628. The physical-injury requirement does not apply to First Amendment claims. See *id.* at 627 n.5; *Canell v. Lightner* (9th Cir. 1998) 143 F.3d 1210, 1213.

<sup>37</sup> *Smith v. Wade* (1983) 461 U.S. 30, 35-36, 56 [103 S.Ct. 1625; 75 L.Ed.2d 632]; *Morgan v. Woessner* (9th Cir. 1993) 997 F.2d 1244, 1255; *Dang v. Cross* (9th Cir. 2005) 422 F.3d 800, 806-810.

Note that you cannot get punitive damages from the county itself or from individuals sued in their official capacity (discussed in the next section).<sup>38</sup>

- Nominal damages may be awarded if your constitutional rights were violated, even if you cannot show that you suffered a compensable harm. Nominal damages are usually awarded in the amount of \$1 or some other small sum.<sup>39</sup>

You can also ask for “prospective relief.” Prospective relief may include an injunction (a court order requiring the county to do something or stop doing something) or a declaratory judgment (an order requiring the county to admit in court that it violated your rights).<sup>40</sup> However, a state habeas corpus petition is often a much simpler, easier, and speedier way to ask for injunctive relief. We can provide information on the habeas process upon request or on our Resources page at [www.prisonlaw.com](http://www.prisonlaw.com).

### c. Who should I sue (and who is immune from suit)?

Under § 1983, you may sue any person who, acting “under color of state law,” caused a deprivation of your federal right(s).<sup>41</sup> In legal terms, the people or government agency being sued are called the defendants. A § 1983 lawsuit can name several people as defendants if they all acted under color of state law and were involved in causing the violation of a federal right.

A basic rule is that you should sue each person who caused you injury or damage. For example, consider a case where a person wants to file a lawsuit because he suffered permanent injuries to his hand when a deputy assaulted him without justification, under orders from a sergeant. The person can sue the deputy who assaulted him. The person can also sue the sergeant who ordered the assault, because the order ultimately caused the injuries. If failure to properly train or supervise the deputy caused the assault, then the person might also be able to sue higher-ranking officials who were responsible for training and supervising or for setting policies on the use of force.<sup>42</sup>

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<sup>38</sup> *City of Newport v. Fact Concerts, Inc.* (1981) 453 U.S. 247, 271 [101 S.Ct. 2748; 69 L.Ed.2d 616]; *Smith v. Wade* (1983) 461 U.S. 30, 35 n.5 [103 S.Ct. 1625; 75 L.Ed.2d 632]; *Kentucky v. Graham* (1985) 473 U.S. 159, 167 n.13 [105 S.Ct. 3099; 87 L.Ed.2d 114]; *Mitchell v. Dupnik* (9th Cir. 1996) 75 F.3d 517, 527.

<sup>39</sup> *Carey v. Phipus* (1978) 435 U.S. 247, 266-267 [98 S.Ct. 1042; 55 L.Ed.2d 252]; *Hazel v. Crofoot* (9th Cir. 2013) 727 F.3d 983, 991 n.6.

<sup>40</sup> *Los Angeles County v. Humpheries* (2010) 562 U.S. 29, 36-37 [131 S.Ct. 447; 178 L.Ed.2d 460].

<sup>41</sup> 42 U.S.C. § 1983.

<sup>42</sup> Good starting points for further research on the legal issue of “causation” are *Rizzo v. Goode* (1976) 423 U.S. 362, 373 [96 S.Ct. 598; 46 L.Ed.2d 561]; *City of Canton, Ohio v. Harris* (1989) 489 U.S. 378, 388-391 [109 S.Ct. 1197; 103 L.Ed.2d 412]; *Johnson v. Duffy* (9th Cir. 1978) 588 F.2d 740, 743; *Leer v. Murphy* (9th Cir. 1988) 844 F.2d 628, 633; *Merritt v. County of Los Angeles* (9th Cir. 1989) 875 F.2d 765, 770; *Taylor v. List* (9th Cir. 1989) 880 F.2d 1040, 1045; *Alexander v. City of San Francisco* (9th Cir. 1994) 29 F.3d 1355, 1367; *Starr v. Baca* (9th Cir. 2011) 652 F.3d 1202, 1216-1217; *Hydrick v. Hunter* (9th Cir. 2012) 669 F.3d 937, 941-942.

**Individuals:** Jail employees (including custody and medical staff) are considered “persons” under § 1983. So are teachers or other people who work under contract providing services to people in jail.<sup>43</sup>

If you are suing an individual person, you must decide in what “capacity” you will sue them. You can sue them in their “individual capacities,” in their “official capacities,” or both.

- ➔ Suing a defendant in an **official capacity** means the lawsuit is against the person’s official position. “Official capacity” lawsuits are treated as lawsuits against the local entity (the city or county that the person works for) itself. Thus, if you sue a jail employee in their official capacity, you must prove the local public entity itself is responsible for the violation of your rights (see below).<sup>44</sup>
- ➔ Suing a defendant in an **individual capacity** means the lawsuit is against that individual personally. In “personal capacity” lawsuits, officials have what is called “qualified immunity” against money damages awards in civil rights actions.<sup>45</sup> This means they won’t be held responsible if they reasonably could have believed that their conduct was lawful, even if your rights were indeed violated. In other words, no money damages can be awarded unless it was “clearly established” that what they did was a violation of your rights at the time of the incident.<sup>46</sup> Qualified immunity does not apply to claims against individuals in their official capacity,<sup>47</sup> claims against the county itself,<sup>48</sup> or to claims for injunctive or declaratory relief.<sup>49</sup>

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<sup>43</sup> *Monell v. Dep’t of Soc. Servs. of City of New York* (1978) 436 U.S. 658, 690 n.55 [98 S. Ct. 2018; 56 L. Ed. 2d 611] (local government officials); *West v. Atkins* (1988) 487 U.S. 42, 53–54 [108 S.Ct. 2250; 101 L.Ed.2d 40] (contract medical providers); *Lopez v. Dep’t of Health Servs.* (9th Cir. 1991) 939 F.2d 881, 883 (same).

<sup>44</sup> *Monell v. Dep’t of Soc. Servs. of City of New York* (1978) 436 U.S. 658, 690 n.55 [98 S. Ct. 2018; 56 L. Ed. 2d 611]; *Kentucky v. Graham* (1985) 473 U.S. 159, 165-168 [105 S.Ct. 3099, 87 L.Ed.2d 114]; *Will v. Mich. Dept. of State Police* (1989) 491 U.S. 58, 71 [109 S.Ct. 2304; 105 L.Ed.2d 45]; *Hafer v. Melo* (1991) 502 U.S. 21, 25 [112 S.Ct. 358; 116 L.Ed.2d 301].

<sup>45</sup> *Procunier v. Navarette* (1978) 434 U.S. 555, 561-562 [98 S.Ct. 855; 55 L.Ed.2d 24]; *Harlow v. Fitzgerald* (1982) 457 U.S. 800, 818 [102 S.Ct. 2727; 73 L.Ed.2d 396]; *Kentucky v. Graham* (1985) 473 U.S. 159, 165-168 [105 S.Ct. 3099, 87 L.Ed.2d 114]; *Anderson v. Creighton* (1987) 483 U.S. 635, 639 [107 S.Ct. 3034; 97 L.Ed.2d 523]; *City & County of San Francisco v. Sheehan* (2015) 575 U.S. 600 [135 S. Ct. 1765, 1774; 191 L. Ed. 2d 856].

<sup>46</sup> See *Pearson v. Callahan* (2009) 555 U.S. 223, 232 [129 S.Ct. 808; 172 L.Ed.2d 565]; *City & County of San Francisco v. Sheehan* (2015) 575 U.S. 600 [135 S. Ct. 1765, 1774; 191 L. Ed. 2d 856]; *Allen v. City & County of Honolulu* (9th Cir. 1994) 39 F.3d 936, 938; *Carrillo v. County of Los Angeles* (9th Cir. 2015) 798 F.3d 1210, 1218-1221.

<sup>47</sup> *Kentucky v. Graham* (1985) 473 U.S. 159, 165-168 [105 S.Ct. 3099, 87 L.Ed.2d 114]; *Hallstrom v. City of Garden City* (9th Cir. 1992) 991 F.2d 1473, 1482; *Eng v. Cooley* (9th Cir. 2009) 552 F.3d 1062, 1064 n.1; *Cnty. House, Inc. v. City of Boise, Idaho* (9th Cir. 2010) 623 F.3d 945, 965.

<sup>48</sup> *Owen v. City of Independence, Mo.* (1980) 445 U.S. 622, 638 [100 S.Ct. 1398; 63 L.Ed.2d 673]; *Hallstrom v. City of Garden City* (9th Cir. 1992) 991 F.2d 1473, 1482; *Lee v. City of Los Angeles* (9th Cir. 2001) 250 F.3d 668, 679 n.6; *Eng v. Cooley* (9th Cir. 2009) 552 F.3d 1062, 1064 n.1.

<sup>49</sup> *Hydrick v. Hunter* (9th Cir. 2012) 669 F.3d 937, 939-940.

Local governments: Local public entities—such as cities and counties—are also considered to be “persons” for purposes of a § 1983 lawsuit.<sup>50</sup> For example, if you were injured in the jail, you might be able to sue the county that runs the jail. However, you **cannot** sue a city, county, or town simply because they employed someone who violated your rights.<sup>51</sup> To sue a local government in a § 1983 lawsuit, you must show that the violation of your rights was caused by:

1. An official local government policy such as an ordinance, regulation, or policy statement;<sup>52</sup>
2. A custom/practice that, although not written in formal policy, is persistent, wide-spread, and well-settled;<sup>53</sup>
3. A decision made by someone with “final policymaking authority” for the local government;<sup>54</sup> or
4. A failure to train local government employees adequately.<sup>55</sup>

Note that while you can generally sue a city or county under § 1983, you usually **cannot sue the state of California.**<sup>56</sup>

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<sup>50</sup> *Monell v. Dept. of Soc. Servs.* (1978) 436 U.S. 658, 690-691 [98 S. Ct. 2018; 56 L. Ed. 2d 611]; *Rivera v. County of Los Angeles* (9th Cir. 2014) 745 F.3d 384, 389; *King v. County of Los Angeles* (9th Cir. 2018) 885 F.3d 548, 558.

<sup>51</sup> *Bd. of County Comm’rs v. Brown* (1997) 520 U.S. 397, 403 [117 S.Ct. 1382; 137 L.Ed.2d 626]; *Kirkpatrick v. Cty. of Washoe* (9th Cir. 2016) 843 F.3d 784, 793 (en banc).

<sup>52</sup> *Monell v. Dept. of Soc. Servs.* (1978) 436 U.S. 658, 690 [98 S. Ct. 2018; 56 L. Ed. 2d 611]; *King v. County of Los Angeles* (9th Cir. 2018) 885 F.3d 548, 559.

<sup>53</sup> *City of St. Louis v. Praprotnik* (1988) 485 U.S. 112, 127 [108 S.Ct. 915; 99 L.Ed.2d 107]; *Connick v. Thompson* (2011) 563 U.S. 51, 61 [131 S.Ct. 1350; 179 L.Ed.2d 417]; *Navarro v. Block* (9th Cir. 1995) 72 F.3d 712, 714-715.

<sup>54</sup> *Pembaur v. City of Cincinnati* (1986) 475 U.S. 469, 481-483 [106 S.Ct. 1292; 89 L.Ed.2d 452]; *City of St. Louis v. Praprotnik* (1988) 485 U.S. 112, 127 [108 S.Ct. 915; 99 L.Ed.2d 107].

<sup>55</sup> *City of Canton, Ohio v. Harris* (1989) 489 U.S. 378, 388-391 [109 S.Ct. 1197; 103 L.Ed.2d 412]; *Kirkpatrick v. County of Washoe* (9th Cir. 2016) 843 F.3d 784, 793-794 (en banc). For a “failure to train” claim: (1) the training program must be inadequate “in relation to the tasks the particular officers must perform”; (2) the city officials must have been deliberately indifferent “to the rights of persons with whom the [local officials] come into contact”; and (3) the inadequacy of the training “must be shown to have ‘actually caused’ the constitutional deprivation at issue.” *Merritt v. County of Los Angeles* (9th Cir. 1989) 875 F.2d 765, 770.

<sup>56</sup> See *Will v. Mich. Dep’t of State Police* (1989) 491 U.S. 58, 66, 71 [109 S.Ct. 2304; 105 L.Ed.2d 45]. We have a separate informational packet describing personal injury lawsuits against the state and/or state officials. If you would like a copy, please write to us. It is also available on our Resources page at [www.prisonlaw.com](http://www.prisonlaw.com).

#### d. How long do I have to file the lawsuit?

If you have been harmed, you do not have an unlimited amount of time to bring your lawsuit. There is a time limit for filing a federal civil rights lawsuit. For § 1983 lawsuits, courts apply time limits set by the law of the state where the injury occurred.<sup>57</sup>

Under California law, you have two years to file a personal injury or wrongful death lawsuit seeking money damages.<sup>58</sup> That means you have two years to file a federal § 1983 lawsuit in California. However, you may be allowed more time than that because the time limit is “tolled” (paused) for up to two additional years while you are serving a determinate (set length) sentence or an indeterminate sentence of life with the possibility of parole.<sup>59</sup>

Beware: the two-year tolling provision does not apply to federal law claims for injunctive relief or to any state torts (discussed below). Those claims must be filed within the regular two year deadline.<sup>60</sup>

There are other circumstances that may toll the timeline for a federal civil rights lawsuit. Time is tolled while you exhaust administrative remedies (file and appeal a grievance).<sup>61</sup> Time is also tolled while you bring a direct appeal or habeas corpus petition, if necessary to invalidate an unlawful criminal sentence, loss of credits, or denial or revocation of parole prior to suing for money damages (see Section III.A., above).<sup>62</sup> The statute of limitations also will not run if someone is a minor or lacks the mental capacity to make legal decisions.<sup>63</sup> Also, “equitable tolling” can stop the statute of limitations clock if (1) it is in the interests of justice, (2) you have acted reasonably, and (3) the defendants have adequate notice of the claim, or tolling would not cause prejudice to the defendants. However, it can be difficult to convince a court to apply equitable tolling and you should not rely on this possibility.<sup>64</sup>

For federal case filing deadlines, documents are deemed to be filed on the day the plaintiff properly delivers the documents to jail officials for mailing.<sup>65</sup>

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<sup>57</sup> *Wilson v. Garcia* (1985) 471 U.S. 261, 266-268 [105 S.Ct. 1938; 85 L.Ed.2d 254]; *Vaghan v Grijslva* (9th Cir. 1991) 927 F.2d 476, 478.

<sup>58</sup> Cal. Code of Civil Procedure § 335.1.

<sup>59</sup> Cal. Code of Civil Procedures § 352.1.

<sup>60</sup> Cal. Code of Civil Procedure § 352.1(b) and (c).

<sup>61</sup> *Brown v. Valoff* (9th Cir. 2005) 422 F.3d 926, 942-943.

<sup>62</sup> *Marsh v. San Diego County* (S.D. Cal. 2006) 432 F.Supp.2d 1035, 1055-1056.

<sup>63</sup> Cal. Code of Civil Procedure § 352; *City of Huntington Park v. Superior Court* (1995) 34 Cal.App.4th 1293, 1300 [41 Cal.Rptr.2d 68]. However, this does not apply to state tort claims. See Cal. Code of Civil Procedure § 352(b).

<sup>64</sup> *Jones v. Blanas* (9th Cir. 2004) 393 F.3d 918, 928; *Cross v. City & County of San Francisco* (N.D. Cal. 2019) 386 F. Supp. 3d 1132, 1146; *McDonald v. Antelope Valley Cmty. Coll. Dist.* (2008) 45 Cal.4th 88, 102 [84 Cal.Rptr.3d 734; 194 P.3d 1026]; *Hopkins v. Kedzierski* (2014) 225 Cal.App.4th 736, 746 [170 Cal.Rptr.3d 551].

<sup>65</sup> *Houston v. Lack* (1988) 487 U.S. 266, 270-271 [108 S.Ct. 2379; 101 L.Ed.2d 245]; *Caldwell v. Amend* (9th

**e. Where should I file my lawsuit?**

A federal civil rights lawsuit can be filed in either state or federal court. Federal court is usually the better choice, as federal courts have more experience dealing with federal civil rights suits and have a better understanding of the special rules that apply to these lawsuits, as well as the corresponding forms and procedures. Furthermore, while you do not have a right to be represented by an attorney, in federal court, you can try to convince the court that it should ask a lawyer to take the case.<sup>66</sup> Some federal courts have panels of attorneys who will consider taking these cases on referral by the court.

There are four federal court districts in California (Central, Eastern, Northern, and Southern). As a general rule, you should file your federal civil rights case in the district court covering the area in which the harm occurred. **Attached to this letter is a list of the federal district courts and their addresses (Appendix A). The list explains which counties are located in each district.**

**f. What do I need to do to start the lawsuit?**

To start the lawsuit, you (or your attorney) should file a document called a “complaint.” The complaint must state why the court has jurisdiction (legal authority to hear the case), set forth the claims as to why you are entitled to relief, and a demand whatever types of relief you would like to get.

Each federal court district has its own form and instructions for filing a civil rights complaint. After you figure out in which district you have to file, you should write to the clerk of that district and ask for the model forms. The forms may also be available in the jail’s law library. Many federal district courts also have model complaint forms and instructions for § 1983 actions available on their websites.

Each court has its own rules for filing a complaint. You should try to get a copy of the local “Rules of the Court” for the district where you are filing your lawsuit. You can get a copy of these rules by writing to the clerk of the court and (sometimes) paying a small fee. These rules may also be available in the jail’s law library or on the court’s website.

**g. Does it cost money to file a Section 1983 lawsuit?**

There is a \$400 fee for filing a federal civil rights complaint, but if you are unable to pay the fee, you can file a request to proceed “in forma pauperis.”<sup>67</sup> You can ask for the form from the jail law library or the court clerk, or search on the court website.

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Cir. 1994) 30 F.3d 1199, 1202.

<sup>66</sup> 28 U.S.C. § 1915(e)(1) (“The court may request an attorney to represent any person unable to afford counsel.”).

<sup>67</sup> 28 U.S.C. § 1915(a). Even if you proceed “in forma pauperis,” you will have to make partial payments toward the filing fee if you have or get any money. 28 U.S. § 1915(b).



## **h. What happens after I file the complaint?**

Once a complaint is filed, you or your attorney must take further steps to keep the lawsuit going by seeking discovery, opposing any motions for dismissal or summary judgment that are filed by the defendants, and working toward bringing the case to trial or settlement. Litigating a lawsuit is difficult, and requires gathering and organizing evidence, as well as a thorough understanding of the law, the rules of civil procedure, and the local rules of the court. Potentially useful resources include:

- *Protecting Your Health and Safety: A Litigation Guide for Inmates* (2009) by the Southern Poverty Law Center; order at [www.prisonlegalnews.org/store/](http://www.prisonlegalnews.org/store/) or send a check or money order for \$16 to Prison Legal News, PO Box 1151, Lake Worth, FL 33460.
- *Jailhouse Lawyer's Handbook* (2010) by the National Lawyers Guild. Download this book for free at [www.nlg.org/publications/jailhouse-lawyers-handbook](http://www.nlg.org/publications/jailhouse-lawyers-handbook) or send a request to the National Lawyers Guild, 132 Nassau St., Rm. 922, New York, NY 10038.
- *Jailhouse Lawyer's Manual*, Eleventh Edition (2017), published by Columbia Human Rights Law Review, available for free online at: <http://jlm.law.columbia.edu>, or send a check or money order for \$30 to Columbia Human Rights Law Review, Attn: JLM Order, 435 W. 116th St., New York, NY 10027.
- Some of the federal district courts in California have handbooks available for free online for people who are representing themselves in federal court.
  - Northern District of California: <https://www.cand.uscourts.gov/prosehandbook>
  - Eastern District of California: <http://www.caed.uscourts.gov/caednew/index.cfm/cmecf-e-filing/representing-yourself-pro-se-litigant/>
  - Southern District of California: [https://www.casd.uscourts.gov/\\_assets/pdf/forms/Pro%20Se%20Complaint%20Packet.pdf](https://www.casd.uscourts.gov/_assets/pdf/forms/Pro%20Se%20Complaint%20Packet.pdf)
- The pro bono law firm Public Counsel has helpful resources online for representing yourself in federal court: <http://www.publiccounsel.org/featured?id=0003>.

## IV. STATE TORT LAWSUITS

### a. What issues can I include in a state tort lawsuit?

California law allows plaintiffs to sue for many type of “torts,” which are bad acts or violations of legal duties that cause some type of physical or mental injury. Tort lawsuits are sometimes called personal injury actions. Some of the tort law is common law developed in court cases and some is in statutes. Among the torts that you might allege are assault, battery, false imprisonment, wrongful death, medical malpractice, malicious prosecution, negligence, intentional infliction of emotional distress, and wrongful taking of or damage to personal property. There are many grounds for lawsuits under tort law, and a complete discussion of torts is beyond the scope of this letter.<sup>68</sup>

In tort cases, you must show that the defendant (the jail official) acted with a particular state of mind. The mental state that must be shown depends on the type of tort being alleged. Incarcerated plaintiffs do not have to show any greater degree of harm or any greater mental state than non-incarcerated plaintiffs.

California also has its own civil rights law (similar to the federal § 1983), called the Tom Bane Civil Rights Act.<sup>69</sup> Under the Act, you can sue if the defendant (1) used threats of violence, intimidation or coercion (2) to interfere with your constitutional or statutory right.<sup>70</sup> The Act applies to any “person or persons, whether or not acting under color of law.”<sup>71</sup> Municipalities (like counties or cities) are considered “persons” for the purposes of the statute.<sup>72</sup>

### b. What remedies are available in a state tort lawsuit?

As with Section 1983 lawsuits, you can ask for money damages and/or “prospective relief,” depending on who you sue. (See Section III.b., above, for general information on types of relief.)

### c. Who can be sued (and who is immune from suit)?

The California Government Claims Act (Government Code § 810 et seq.) limits the tort liability of the county and county employees for injuries to incarcerated people. In general, people in jail can very rarely sue the county for money damages under state tort law because the law makes public entities “immune” from liability. However, people in jail sometimes can sue individual county employees for

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<sup>68</sup> As with Section 1983 lawsuits, any person in jail who is considering a state tort lawsuit should do further research to determine whether there is a good argument that monetary damages can be awarded. A good starting point for researching state tort law is Witken’s *Summary of California Law*, which may be available in your law library.

<sup>69</sup> Cal. Civil Code § 52.1.

<sup>70</sup> Cal. Civil Code § 52.1(b); see *Rodriguez v. County of Los Angeles* (9th Cir. 2018) 891 F.3d 776, 799-802; *Venegas v. County of Los Angeles* (2004) 32 Cal.4th 820, 841-843 [11 Cal.Rptr.3d 692; 87 P.3d 1].

<sup>71</sup> Cal. Civil Code § 52.1(b).

<sup>72</sup> *Venegas v. County of Los Angeles* (2004) 32 Cal.4th 820, 841 [11 Cal.Rptr.3d 692; 87 P.3d 1].

their wrongful or negligent acts or omissions, although there are some circumstances in which employees also are immune from liability.

Individual employees: The general rule for public employees like county sheriffs, guards, and jail medical staff is that they may be sued for any negligent or intentional wrongful conduct, unless the law specifically creates an exception.<sup>73</sup> The situations in which public employees are immune to lawsuits (cannot be sued) by people in jail are as follow:

- A public employee generally cannot be sued for an injury resulting from an exercise of their official discretion.<sup>74</sup>
- A public employee is not liable for injury caused by instituting or prosecuting a judicial or administrative proceeding maliciously or without probable cause.<sup>75</sup> Moreover, prosecutors and judges have immunity for their quasi-judicial and judicial actions.<sup>76</sup>
- Public employees can be sued for medical malpractice. However, regarding their duty to *summon* medical care, a public employee is liable only if the condition was serious, the employee should have known of the need for immediate care, and the employee failed to take reasonable action to summon care.<sup>77</sup>
- A public employee is not liable for injuries caused by diagnosing or failing to diagnose or treat mental illness or addiction, or for administering a prescribed mental health treatment. However, a public employee may be liable for injury caused by negligence or wrongdoing in prescribing or administering a mental health treatment.<sup>78</sup>
- A public employee is not liable for any injury resulting from a decision to deny or revoke parole or setting a parole condition.<sup>79</sup>

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<sup>73</sup> Cal. Government Code §§ 820, 844.6(d); *Hayes v. County of San Diego* (2013) 57 Cal.4th 622, 628-629 [160 Cal.Rptr.3d 684].

<sup>74</sup> Cal. Government Code § 820.2.

<sup>75</sup> Cal. Government Code § 821.6.

<sup>76</sup> *Bocanegra v. Jakubowski* (2015) 241 Cal.App.4th 848, 858 [194 Cal.Rptr.3d 327]; *Frost v. Geernaert* (1988) 200 Cal.App.3d 1104, 1107-1108 [246 Cal.Rptr. 440].

<sup>77</sup> Cal. Government Code §§ 844.6(d), 845.6; see *Nelson v. California* (1982) 139 Cal.App.3d 72, 78, 81 [188 Cal.Rptr. 479]; *Watson v. California* (1993) 21 Cal.App.4th 836, 841 [26 Cal. Rptr. 2d 262].

<sup>78</sup> Cal. Government Code § 855.8; see *Johnson v. County of Los Angeles* (1983) 143 Cal.App.3d 298 [191 Cal.Rptr. 704] (discussing difference between failure to summon care and failure to provide treatment in suicide case).

<sup>79</sup> Cal. Government Code § 845.8(a); see *Leyva v. Nielsen* (2000) 83 Cal.App.4th 1061, 1066 [100 Cal.Rptr.2d 231].

When deciding who to sue, the same general rule applies that you should sue every employee who caused your injuries or damages (see Section III.c., above). For state tort law claims, you do not have to state that you are suing the defendant in any particular “capacity.”

Governments: Unlike individual employees, the county is usually “immune” from state tort suits seeking monetary damages for injuries to incarcerated individuals, unless the law creates an exception.<sup>80</sup> That means that the county can only be sued in the following circumstances:

- A county employee failed to take reasonable action to “summon” medical care for you, when your condition was serious and the employee should have known of the need for immediate care. Note that the government can only be sued if an employee failed to “summon” care; the government cannot be sued for medical malpractice.<sup>81</sup>
- A county employee intentionally and unjustifiably interfered with your right to obtain judicial review of the legality of your incarceration. However, you cannot sue on this ground until a court determines that your incarceration was illegal.<sup>82</sup>
- A county employee, acting in the scope of employment, causes death or injury by negligence in the operation of a motor vehicle.<sup>83</sup> However, in some cases, the public entity may be immune for accidents that happen while an employee is responding to an emergency call or pursuing a person suspected of a crime.<sup>84</sup>
- You suffered physical injuries caused by a wrongful or negligent act during the course of biomedical or behavioral research.<sup>85</sup>
- You suffered damage suffered due to a breach of a contract.<sup>86</sup>
- Liability arising from the Worker’s Compensation law.<sup>87</sup>

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<sup>80</sup> Cal. Government Code § 844.6(a).

<sup>81</sup> Cal. Government Code §§ 844.6(a) & 845.6; see *Watson v. California* (1993) 21 Cal.App.4th 836, 841 [26 Cal. Rptr. 2d 262]; *Lucas v. County of Los Angeles* (1996) 47 Cal.App.4th 277 [54 Cal.Rptr.2d 655]; *Castaneda v. Cal. Dept. of Corrections & Rehabilitation* (2013) 212 Cal.App.4th 1051, 1070-1074 [151 Cal.Rptr.3d 648].

<sup>82</sup> Cal. Government Code §§ 844.6(a) & 845.4.

<sup>83</sup> Cal. Government Code § 844.6(b); Cal. Vehicle Code §§ 17000-17004.5.

<sup>84</sup> Cal. Vehicle Code §§ 17004 & 17004.7.

<sup>85</sup> Cal. Penal Code § 3524.

<sup>86</sup> Cal. Government Code §§ 844.6(a) & 814.

<sup>87</sup> Cal. Government Code §§ 844.6(a) & 814.2.

**\*\*NOTE:** These limits only apply to lawsuits for money damages. The County **is not immune** from any suits seeking non-monetary (injunctive or declaratory) relief.<sup>88</sup>

**d. What are the first steps in filing a state tort lawsuit?**

**i. File a Grievance**

As with federal civil rights lawsuits, individuals who want to file state tort lawsuits must exhaust administrative remedies by filing and exhausting a grievance in the jail first, even where the relief sought is money damages.<sup>89</sup>

**ii. File a Government Claim Form**

There is a second pre-requisite that applies to state tort lawsuits. In addition to exhausting a grievance with the jail, a plaintiff must send a written government claim to the county before filing a state tort lawsuit.<sup>90</sup> If a government claim has not been filed, a court will dismiss any state tort action against jail officials.

The deadline to file a government claim is six months after the “accrual” of the cause of action.<sup>91</sup> Generally, a cause of action “accrues” on the date on which the harm was caused or discovered.<sup>92</sup> There is a special procedure for asking the county to accept a late claim, which is discussed below.

The claim must be signed and sent along with any supporting documents to the clerk, secretary, auditor, or governing body of the county.<sup>93</sup> **Attached to this letter is a list of addresses for each county (Appendix C).**

The county will have a specific form you should use.<sup>94</sup> If we have a copy of that form for the county you are in, we have included it with this letter. If we have not sent you a copy of the form for your county, you should write to the county (using the addresses in **Appendix C**) to request a form.

It is a good idea to send an additional copy of the claim, a pre-addressed and stamped return envelope, and a letter requesting that the county return a file-stamped copy of the claim for your records.

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<sup>88</sup> Cal. Government Code §§ 844.6(a) & 814.

<sup>89</sup> *Wright v. California* (2004) 122 Cal.App.4th 659, 664-671 [19 Cal.Rptr.3d 92].

<sup>90</sup> Cal. Government Code §§ 905, 915(a), 945.4, & 950.2.

<sup>91</sup> Cal. Government Code §§ 911.2 & 901. For other types of claims, the claims must be filed no later than a year after the incident. These deadlines are not extended just because a person is in jail. Cal. Government Code § 945.6(c). It is not necessary to complete the administrative appeal process before filing a government claim.

<sup>92</sup> Cal. Government Code § 901.

<sup>93</sup> Cal. Government Code § 915(a).

<sup>94</sup> Cal. Government Code § 910.4.

You should also keep copy of the claim when it is sent, in case the original is lost in the mail or in processing.

If you do not include the correct information in your claim, or if you file the claim late, the county must give you notice of the problem and may allow you to correct the problem. If the county does not give you notice of the problem, it cannot argue in court that you did not follow the correct government claims process.<sup>95</sup>

The county should act on the claim within 45 days.<sup>96</sup> Sometimes, the county does not formally deny a claim or does not send out a notice of denial; in such cases, the claim is considered to be denied as of 45 days after it was presented to the county.<sup>97</sup>

Counties routinely deny claims for damages arising from personal injuries, so you should not get discouraged if your claim is rejected. Even though the county is likely to deny your government claim, it is still necessary to file a claim before filing a state tort lawsuit.

### **iii. Filing a late Government Claim**

If the six-month deadline for filing a government claim has passed, you can apply for permission to file a late claim. A request to file a late claim is made by sending the claim to the county, along with a letter explaining why the claim was not filed on time.<sup>98</sup> You must present the request for permission to file a late claim within a reasonable time, and no later than one year after the decision or action being challenged or the discovery of the harm.<sup>99</sup>

Not knowing about the six-month time limit is usually not a sufficient excuse for missing the deadline for filing a government claim.<sup>100</sup> However, the county must allow a late claim in certain circumstances, such as when:

- Failure to present the claim on time was through mistake, inadvertence, surprise or excusable neglect and the defendant was not prejudiced by the failure to present the claim on time.
- The person who had the injury, loss, or damage failed to present a claim on time because he or she was physically or mentally incapacitated during all of the six-month period.
- The person who suffered the injury was a minor during all of the six-month period.

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<sup>95</sup> Cal. Government Code §§ 910.4, 910.8, 911, 911.3, 911.4.

<sup>96</sup> Cal. Government Code § 912.4.

<sup>97</sup> Cal. Government Code § 912.4(c).

<sup>98</sup> Cal. Government Code §§ 911.4, 915(a).

<sup>99</sup> Cal. Government Code § 911.4(b).

<sup>100</sup> See *Harrison v. County of Del Norte* (1985) 168 Cal.App.3d. 1, 7 [213 Cal. Rptr. 658].

- The person who suffered the injury died before the period ran out.<sup>101</sup>

The county must act on a request for permission to file a late claim within 45 days after the request is presented.<sup>102</sup> If the county grants the request, the government claim is considered to have been filed as of the day that permission to file a late claim was granted.<sup>103</sup> If the county does not act on the request for permission to file a late claim, the request is considered to be denied as of the end of the 45-day period.<sup>104</sup>

You can challenge the county's denial of a request for permission to file a late claim by filing a petition in the superior court for the county where your lawsuit would be filed.<sup>105</sup> **A list of addresses for the superior courts is attached to this letter (Appendix B).** The petition must state that a late claim application was made to the county and was denied, give the reasons for the late filing of the claim, and state all facts relating to the underlying claim. The petition must be filed within six months after the date that the request for permission to file a late claim was denied by the county.<sup>106</sup>

Copies of the petition and a written notice of the time and place for a hearing on the petition must be served on the clerk or secretary or board of the local public entity either (1) through personal service at least 16 days before the hearing or (2) by mail at least 21 days before the hearing.<sup>107</sup> If you cannot get a hearing date before serving the notice and petition, you can file those documents in the court along with a request that the court set a hearing and notify the parties of the date.

If the court grants the petition, the state tort action must be filed within 30 days after the order.<sup>108</sup> If relief is denied, no state tort action may be filed; however, denial of the petition can be appealed to the state Court of Appeal.

#### iv. Notice of Medical Malpractice Suit

In addition to completing an administrative appeal and a government claim, if you want to bring a medical malpractice case against a health care provider, you must give the defendant notice of the intention to sue no less than 90 days before filing the lawsuit.<sup>109</sup>

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<sup>101</sup> Cal. Government Code § 911.6(b); *Draper v. City of Los Angeles* (1990) 52 Cal.3d 502 [276 Cal.Rptr. 864] (relief from untimely filing granted where plaintiff unconscious and brain-damaged throughout time frame).

<sup>102</sup> Cal. Government Code § 911.6.

<sup>103</sup> Cal. Government Code § 912.2.

<sup>104</sup> Cal. Government Code § 911.6(c).

<sup>105</sup> Cal. Government Code § 946.6(a).

<sup>106</sup> Cal. Government Code § 946.6(b).

<sup>107</sup> Cal. Government Code § 946.6(d); Cal. Code of Civil Procedure § 1005(b).

<sup>108</sup> Cal. Government Code § 946.6(f).

<sup>109</sup> Cal. Code of Civil Procedure § 364.

## v. File the lawsuit

If the county sends you a notice denying your government claim, you have six months from the date the notice was placed in the mail to file a state tort lawsuit.<sup>110</sup> However, any time needed to complete the administrative appeal process past the time that the government claim is denied does not count toward the six month deadline for filing a state tort lawsuit.<sup>111</sup>

If the county does not send out a notice of its action or if the county does not act on the government claim, then any state tort action must be filed within two years of the date of the decision or action being challenged.<sup>112</sup>

If you are filing the case yourself (if you do not have a lawyer), then the “prison-delivery rule” applies, which means that your complaint (the legal document which begins the lawsuit) is considered filed on the date that it is properly delivered to jail officials for mailing (rather than on the date it is actually received by the court).<sup>113</sup>

Your state tort complaint must say that the claim was presented to the county and denied.

The California courts have standard forms for filing state tort law actions for personal injuries. The forms may be available from the jail law library, the county court clerk, or the county court website. The California courts website ([www.courts.ca.gov](http://www.courts.ca.gov)) also has many useful court forms on its “Forms and Rules” pages. These forms usually include a complaint for personal injury, property damage, or wrongful death, cause of action pleadings, a summons, and a civil cover sheet. There is also a form that you can use to ask permission to proceed without payment of court fees.

As with federal civil rights cases, it is very difficult for an individual to bring 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 or <https://store.ceb.com/publications>. Anyone bringing a state tort lawsuit should also become familiar with the local court rules.

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<sup>110</sup> Cal. 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, 603 [245 Cal.Rptr. 112].

<sup>111</sup> *Wright v. California* (2004) 122 Cal.App.4th 659, 671 [19 Cal.Rptr.3d 92].

<sup>112</sup> Cal. Government Code § 945.6(a)(2). Imprisonment does not toll or extend the timeline for filing a state tort law claim for money damages against a public entity. Cal. Code of Civil Procedure § 352.1(b).

<sup>113</sup> *Silverbrand v. County of Los Angeles* (2009) 46 Cal.4th 106, 129 [92 Cal.Rptr.3d 595]; see also *Moore v. Twomey* (2004) 120 Cal.App.4th 910, 912 [16 Cal.Rptr.3d 163].



## V. WHICH TYPE OF LAWSUIT SHOULD I FILE AND IN WHAT COURT?

This letter has described the two main types of money damages suits that incarcerated individuals can bring: federal § 1983 lawsuits and state tort lawsuits. You should always take the initial steps to preserve your rights to sue under both federal and state law by filing a timely grievance and a timely government claim. However, you must eventually decide which type of legal claims to make and where the lawsuit should be filed. The decision will rest on the facts of your individual case, as well as other factors, such as which court is most likely to give you a fair hearing.

A federal civil rights action must involve a violation of your federal constitutional or statutory rights. However, if the same action or decision being challenged also violated state tort law, then a federal court can agree to hear the state law claims along with the federal law claims.<sup>114</sup> For example, if you sue an officer for using excessive force in violation of the Fourteenth Amendment, you could also include a claim that the officer violated state law by committing an intentional assault.

To summarize, the options for bringing a money damages lawsuit are as follows:

- Cases raising federal law claims only: A claim under the federal civil rights act can be brought only if a jail official violated a federal law. You must exhaust available administrative appeals before filing. For most people, the case must be filed within two years. The lawsuit can be filed in either state or federal court, but you will almost always be better off filing in federal court. There are four federal court districts in California, and the general rule is that a lawsuit should be filed in the district that covers the region where the unlawful act or decision occurred.
- Cases raising state law claims only: If there was no violation of a federal right, then the only type of action that you can bring is a case under state law. You must exhaust administrative remedies and file a government claim. The lawsuit should be filed within six months after a notice of decision from the county on your government claim, or, if there is no formal notice of decision, then within two years after the date of the action or decision being challenged. The lawsuit must be filed in state superior court in the county where the unlawful act or decision occurred.<sup>115</sup>
- Cases raising both federal and state law claims: Where the same wrongful action or decision of prison officials or staff violated both federal and state law, you can bring both types of claims in a federal civil rights lawsuit under the doctrine of “pendent jurisdiction.”<sup>116</sup> Indeed, under the legal principle of “res judicata,” all claims arising out of an incident should be raised in a single lawsuit; otherwise, the right to raise some of the claims may be forfeited. A federal civil rights lawsuit raising both federal and state law claims should be filed within the time limit for the state law claim—within six months after a notice of decision from the county on the government claim, or,

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<sup>114</sup> 28 U.S.C. § 1367(a). A federal court has the power to decline to hear related state law claims if (1) the state claims raise novel or complex issues of state law, (2) the state claims are substantially more numerous or important than the federal claims, or (3) the Court has dismissed all of the federal claims. 28 U.S.C. § 1367(c).

<sup>115</sup> Claims for up to \$10,000 can be filed in small claims court, which offers a simpler and speedier way to resolve personal injury and property loss disputes. We can provide information on the small claims court process upon request or on our Resources page at [www.prisonlaw.com](http://www.prisonlaw.com).

<sup>116</sup> See n.114.

if there is no formal notice of decision, then within two years after the date of the action or decision being challenged. The lawsuit can be filed in either state or federal court, but federal court is usually the better choice.

**Attached are lists of the federal (Appendix A) and state (Appendix B) courts in California.**

In addition to asking for money damages, you may also want to seek “injunctive relief,” which is a court order requiring jail officials to do something or stop doing something (for example, provide medical treatment or stop segregating a person as a gang member). If you want injunctive relief, you should consider the following points:

- If you are bringing a federal civil rights claim for money damages, you can ask for injunctive relief in the same case.
- If you are bringing a state tort law claim requesting money damages, you can also ask for injunctive relief. However, any action seeking injunctive relief based on a violation of state law must be filed in state court.
- You can also file a federal civil rights case or a state tort law case asking for only injunctive relief. However, a state court habeas corpus petition is a much simpler, easier, and speedier way for a person to ask for injunctive relief based on federal and/or state law grounds. Thus, a person who wants only injunctive relief should consider filing a state court petition for writ of habeas corpus instead of a federal civil rights or state tort case. We can provide information on the habeas process upon request or on our Resources page at [www.prisonlaw.com](http://www.prisonlaw.com).<sup>117</sup>

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<sup>117</sup> Note that a person who challenges jail conditions via a state habeas corpus action, and loses following a reasoned denial on the merits by the state court, will be barred from bringing a § 1983 lawsuit challenging the state court’s decision on the same issues. See *Allen v. McCurry* (1980) 449 U.S. 90, 102-103 [101 S.Ct. 411; 66 L.Ed.2d 308]; *Silverton v. Dept. of Treasury* (9th Cir. 1981) 644 F.2d 1341, 1345-1347; *Sperl v. Deukmejian* (9th Cir. 1981) 642 F.2d 1154, 1155. The government has the burden of showing that the claim was previously litigated in state court. See *Harris v. Jacobs* (9th Cir. 1980) 621 F.2d 341, 343-344; *Gonzales v. California Department of Corrections* (9th Cir. 2014) 739 F.3d 1226, 1231. The bar should not apply if the challenge is not to the prior state court decision but to the constitutionality of the state statute or rule governing the decision. *Skinner v. Switzer* (2011) 562 U.S. 521, 533-534 [131 S.Ct. 1289; 179 L.Ed.2d 233]; compare with *Cooper v. Ramos* (9th Cir. 2012) 704 F.3d 772, 780-781 (federal court will not hear § 1983 claim that is actually an attack on state court’s application of the state statute).

## APPENDIX A: FEDERAL COURT ADDRESSES

(last updated January 2020)

### Federal District Courts

#### United States District Court for the Central District of California

Eastern Division  
3470 Twelfth Street  
Riverside, CA 92501  
*Counties: Riverside and San Bernardino*

Western Division  
255 East Temple Street,  
Los Angeles, CA 90012  
*Counties: Los Angeles, Santa Barbara, San Luis Obispo, and Ventura*

Southern Division  
411 West 4<sup>th</sup> Street, Room 1053  
Santa Ana, CA 92701  
*Counties: Orange*

#### United States District Court for the Eastern District of California

*The following counties should file in the Fresno, Bakersfield, or Yosemite Divisions: Calaveras, Fresno, Inyo, Kern, Kings, Madera, Mariposa, Merced, Stanislaus, Tulare and Tuolumne.*

Bakersfield Division  
1300 18th Street  
Bakersfield, CA 93301

Fresno Division  
2500 Tulare Street #1501  
Fresno, CA 93721

Yosemite Division  
9004 Castle Cliffs, Court  
Yosemite Valley, CA 95389

*The following counties should file in the Redding or the Sacramento Divisions: Alpine, Amador, Butte, Colusa, El Dorado, Glenn, Lassen, Modoc, Mono, Nevada, Placer, Plumas, Sacramento, San Joaquin, Shasta, Sierra, Siskiyou, Solano, Sutter, Tehama, Trinity, Yolo, and Yuba.*

Redding Division  
2986 Bechelli Lane  
Redding, CA 96002

Sacramento Division  
501 "I" Street, Suite 4200  
Sacramento, CA 95814

United States District Court for the Northern District of California

San Jose Division  
280 South 1st Street, Room 2112  
San Jose, CA 95113  
*Counties: Santa Clara, Santa Cruz, San Benito, and Monterey*

San Francisco Division  
450 Golden Gate Avenue  
San Francisco, CA 94102-3483  
*Counties: Del Norte, Humboldt, Lake, Marin, Mendocino, Napa, San Francisco, San Mateo, and Sonoma*

Oakland Division  
1301 Clay Street, Suite 400 South  
Oakland, CA 94612  
*Counties: Alameda and Contra Costa*

United States District Court for the Southern District of California  
333 W Broadway, Suite 420  
San Diego, CA 92101  
*Counties: Imperial and San Diego*

**Federal Court of Appeals**

Ninth Circuit Court of Appeals  
U.S. Court of Appeals Building  
PO Box 193939  
San Francisco, CA 94119  
*All counties*

**United States Supreme Court**

United States Supreme Court  
1 First Street NE  
Washington, DC 20543  
*All counties*

## APPENDIX B: STATE COURT ADDRESSES

(last updated January 2020)

### Superior Courts

Alameda County Superior Court  
1225 Fallon Street  
Oakland, CA 94612

Alpine County Superior Court  
14777 State Route 89  
P.O. Box 518  
Markleeville, CA 96120

Amador County Superior Court  
500 Argonaut Lane  
Jackson, CA 95642

Butte County Superior Court  
One Court Street  
Oroville, CA 95965

Calaveras County Superior Court  
400 Government Center Drive  
San Andreas, CA 95249

Colusa County Superior Court  
532 Oak Street  
Colusa, CA 95932

Contra Costa County Superior Court  
725 Court Street  
Martinez, CA 94553

Del Norte County Superior Court  
450 H Street, Room 209  
Crescent City, CA 95531

El Dorado County Superior Court (*civil*)  
3321 Cameron Park Drive  
Cameron Park, CA 95682

Fresno County Superior Court  
1100 Van Ness Avenue  
Fresno, CA 93724-0002

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

Inyo County Superior Court  
168 North Edwards Street  
Independence, CA 93526

Kern County Superior Court  
1415 Truxtun Avenue  
Bakersfield, CA 93301

Kings County Superior Court  
1640 Kings County Drive  
Hanford, CA 93230

Lake County Superior Court  
255 North Forbes Street  
Lakeport, CA 95453

Lassen County Superior Court  
2610 Riverside Drive  
Susanville, CA 96130

Los Angeles County Superior Court (*if in Twin Towers, Men's Central Jail, or Metropolitan Detention Center*)  
Stanley Mosk Courthouse  
111 North Hill Street  
Los Angeles, CA 90012

Madera County Superior Court  
200 South G Street  
Madera, CA 93637

Marin County Superior Court  
3501 Civic Center Dr.  
P.O. Box 4988  
San Rafael, CA 94913

Mariposa County Superior Court  
5088 Bullion Street  
P.O. 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

Modoc County Superior Court  
205 South East Street  
Alturas, CA 96101

Mono County Superior Court  
P.O. Box 1037  
Mammoth Lakes, CA 93546

Monterey County Superior Court (*civil*)  
1200 Aguajito Road  
Monterey, CA 93940

Napa County Superior Court  
825 Brown Street  
Napa, CA 94559

Nevada County Superior Court  
201 Church Street, Suite 7  
Nevada City, CA 95959

Orange County Superior Court (*civil*)  
700 Civic Center Drive West  
Santa Ana, CA 92701

Placer County Superior Court  
10820 Justice Center Drive  
P.O. Box 619072  
Roseville, CA 95661

Plumas County Superior Court  
520 Main Street, Room 104  
Quincy, CA 95971

Riverside County Superior Court (*civil*)  
4050 Main Street  
Riverside, CA 92501

Sacramento County Superior Court  
720 9th Street  
Sacramento, CA 95814

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

San Bernardino County Superior Court (*civil*)  
247 West Third Street  
San Bernardino, CA 92415

San Diego County Superior Court  
330 W. Broadway  
San Diego, CA 92101

San Francisco County Superior Court (*civil*)  
400 McAllister Street  
San Francisco, CA 94102

San Joaquin County Superior Court  
180 East Weber Avenue  
Stockton, CA 95202

San Luis Obispo County Superior Court  
1035 Palm Street, Room 385  
San Luis Obispo, CA 93408

San Mateo County Superior Court (*civil*)  
400 County Center  
Redwood City, CA 94063

Santa Barbara County Superior Court  
1100 Anacapa Street  
Santa Barbara, CA 93121-1107

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

Santa Cruz County Superior Court (civil)  
701 Ocean Street, Room 110  
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

Sonoma County Superior Court  
600 Administration Drive  
Santa Rosa, CA 95403

Stanislaus County Superior Court  
801 10<sup>th</sup> Street, 4<sup>th</sup> Floor  
Modesto, CA 95353

Sutter County Superior Court  
1175 Civic Center Blvd.  
Yuba City, CA 95993

Tehama County Superior Court  
1740 Walnut Street  
Red Bluff, CA 96080

Trinity County Superior Court  
PO Box 1258  
Weaverville, CA 96093

Tulare County Superior Court  
221 S. Mooney, Room 303  
Visalia, CA 93291

Toulumne County Superior Court (civil)  
41 West Yaney Avenue  
Sonora, CA 95370

Ventura County Superior Court  
PO Box 6489  
Ventura, CA 93006

Yolo County Superior Court  
1000 Main Street  
Woodland, CA 95695

Yuba County Superior Court  
215 Fifth Street, Suite 200  
Marysville, CA 9590

### **Courts of Appeal**

First District Court of Appeal  
350 McAllister Street  
San Francisco, CA 94102

*Counties: Alameda, Contra Costa, Del Norte, Humboldt, Lake, Marin, Mendocino, Napa, San Francisco, San Mateo, Solano, and Sonoma*

Second District Court of Appeal  
300 Spring Street, Floor 2, North Tower  
Los Angeles, CA 90013

*Counties: Los Angeles, San Luis Obispo, Santa Barbara, and Ventura*

Third District Court of Appeal  
914 Capitol Mall, 4th Floor  
Sacramento, CA 95814

*Counties: 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*

Fourth District Court of Appeal, Division 1  
750 B Street, Suite 300  
San Diego, CA 92101

*Counties: Imperial and San Diego*

Fourth District Court of Appeal, Division 2  
3389 12th Street Riverside, CA 92501

*Counties: Inyo, Riverside, and San Bernadino*

Fourth District Court of Appeal, Division 3

P.O. Box 22055  
Santa Ana, CA 92702

*Counties: Orange*

Fifth District Court of Appeal

2424 Ventura Street  
Fresno, CA 93721

*Counties: Fresno, Kern, Kings, Madera, Mariposa, Merced, Stanislaus, Tulare, and Tuolumne*

Sixth District Court of Appeal

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

*Counties: Santa Clara, Santa Cruz, Monterey and San Benito*

### **Supreme Court**

California State Supreme Court

350 McAllister St.  
San Francisco, CA 94102

*All counties*



**APPENDIX C: COUNTY ADDRESSES FOR FILING GOVERNMENT CLAIMS**  
*(last updated January 2020)*

**Alameda County**

Clerk, Board of Supervisors Office  
Administration Building  
1221 Oak Street, Room 536  
Oakland, CA 94612

**Alpine County**

Alpine County Board of Supervisors  
PO Box 158  
Markleeville, CA 96120

**Amador County**

Amador County Board of Supervisors  
810 Court St  
Jackson, CA 95642

**Butte County**

Butte County Risk Management  
25 County Center Drive, Suite 213  
Oroville, CA 95965

**Calaveras County**

Clerk of the Board of Supervisors  
County Clerk's Office  
891 Mountain Ranch Road  
San Andreas, CA 95249

**Colusa County**

Clerk of the Board of Supervisors  
547 Market Street, Ste. 102  
Colusa, CA 95932

**Contra Costa County**

Clerk of the Board of Supervisors  
651 Pine Street, Room 106  
Martinez, CA 94553

**Del Norte County**

Board of Supervisors  
981 H Street, Suite 200  
Crescent City, CA 95531

**El Dorado County**

Clerk of the Board  
County of El Dorado  
330 Fair Lane  
Placerville, CA 95667

**Fresno County**

Clerk of the Board of Supervisors  
2281 Tulare Street, Room 301  
Fresno, CA 93721

**Glenn County**

County of Glenn, Willows Memorial Hall  
525 W. Sycamore Street, Suite B1  
Willows, CA 95988

**Humboldt County**

Humboldt County Clerk of the Board  
Courthouse, 825 5th Street, Room 111  
Eureka, California 95501-1153

**Imperial County**

County of Imperial  
Attn: Blanca Acosta Clerk of the Board of  
Supervisors  
940 West Main Street, Suite 209  
El Centro, CA. 92243

**Inyo County**

Inyo County Board of Supervisors  
P.O Box N  
Independence, CA 93526

**Kern County**

Clerk of the Board of Supervisors  
1115 Truxtun Ave., 5th Floor  
Bakersfield, California 93301

**Kings County**

Board of Supervisors  
1400 W. Lacey Blvd  
Hanford, CA 93230

**Lake County**

Clerk of the Board  
Office of the Board of Supervisors  
255 North Forbes Street, Courthouse  
Lakeport, CA 95453

**Lassen County**

Lassen County Clerk of the Board  
220 S. Lassen St. Suite 5  
Susanville, CA 96130

**Los Angeles County**

Executive Officer, Board of Supervisors  
Attention: Claims  
500 West Temple Street, Room 383  
Kenneth Hahn Hall Of Administration  
Los Angeles, CA 90012

**Madera County**

County of Madera Administrative Office  
Madera County Government Center  
200 W. Fourth St. 4th floor  
Madera, California 93637

**Marin County**

Clerk of the Board of Supervisors  
Marin County Civic Center  
3501 Civic Center Drive, Room 329  
San Rafael, CA 94903

**Mariposa County**

Clerk of the Board  
5100 Bullion St, PO Box 784  
Mariposa, CA 95338

**Mendocino County**

Executive Office, Risk Management  
501 Low Gap Road Rm. 1010  
Ukiah, CA 95482

**Merced County**

Merced County Association of Governments  
369 W. 18th Street  
Merced, CA 95340

**Modoc County**

Board of Supervisors  
204 S. Court Street STE 100  
Alturas, CA 96101

**Mono County**

Clerk of the Board of Supervisors  
PO Box 715  
Bridgeport, CA 93517

**Monterey County**

The Clerk of the Board  
County of Monterey, State of California  
P.O. Box 1728  
Salinas, CA 93902

**Napa County**

Clerk of the Board of Supervisors  
1195 Third Street, Suite 310  
Napa, CA 94559

**Nevada County**

Clerk of the Board  
Eric Rood Administrative Center  
950 Maidu Avenue, Suite 200  
Nevada City, CA 95959

**Orange County**

Clerk of the Board of Supervisors  
333 W. Santa Ana Blvd., Suite 465  
Santa Ana, CA 92710

**Placer County**

Clerk of the Board  
175 Fulweiler Avenue  
Auburn, CA 95603

**Plumas County**

Clerk of the Board  
520 Main St, Rm 309  
Quincy, CA 95971

**Riverside County**

Clerk of the Board of Supervisors  
Claims Division  
PO Box 1147, 4080 Lemon St, 1st Fl.  
Riverside, CA 92502-1147

**Sacramento County**

County of Sacramento  
Clerk, Board of Supervisors  
700 H Street, Rm. 2450  
Sacramento, CA 95814

**San Benito County**

Clerk of the Board  
San Benito County Administration Bldg.  
481 Fourth Street  
Hollister, CA 95023

**San Bernardino County**

Risk Management Division  
County of San Bernardino, State of California  
222 W. Hospitality Lane, 3rd Floor  
San Bernardino, CA 92415-0016

**San Diego County**

County of San Diego  
Claims Division  
1600 Pacific Highway, Room 355  
San Diego, CA 92101

**San Francisco County**

Controller's Office, Claims Division  
1390 Market Street, 7th Floor  
San Francisco, CA 94102

**San Joaquin County**

Clerk of the Board of Supervisors  
San Joaquin County  
44 N. San Joaquin Street, Suite 627  
Stockton, California 95202

**San Luis Obispo County**

County Administration Office  
County Government Center  
1055 Monterey Street, D430  
San Luis Obispo, CA 93408

**San Mateo County**

Clerk of the Board of Supervisors  
400 County Center  
Redwood City, CA 94063

**Santa Barbara County**

Clerk of the Board of Supervisors  
105 East Anapamu Street, Suite 407  
Santa Barbara, CA 93101

**Santa Clara County**

Office of the Clerk of the Board of Supervisors  
70 West Hedding Street  
East Wing, 10th Floor  
San Jose, CA 95110

**Santa Cruz County**

Board of Supervisors  
County of Santa Cruz  
Attn: Clerk of the Board  
Governmental Center  
701 Ocean Street  
Santa Cruz, CA 95060

**Shasta County**

Clerk of the Board of Supervisors  
1450 Court Street, Suite 308B  
Redding, California, 96001

**Sierra County**

County Clerk Sierra County  
PO Drawer D  
100 Courthouse Sq.  
Downieville, CA 95936

**Siskiyou County**

County Clerk  
510 North Main St.  
Yreka, CA 96097

**Solano County**

County of Solano  
675 Texas Street, Suite 6500  
Fairfield, CA 94533-6342

**Sonoma County**

Board of Supervisors  
575 Administration Dr, Ste 100A  
Santa Rosa, CA 95403

**Stanislaus County**

Board of Supervisors of the County of Stanislaus  
1010 10th St., Suite 6500  
Modesto, CA 95354

**Sutter County**

Clerk of the Board of Supervisors  
1160 Civic Center Blvd., Ste. A  
Yuba City, CA 95993

**Tehama County**

Clerk of the Board of Supervisors  
County of Tehama  
633 Washington Street, P.O. Box 250  
Red Bluff, CA 96080

**Trinity County**

Trinity County Board of Supervisors Office  
Attn: Clerk of The Board Courthouse  
P.O. Box 1613  
Weaverville, CA 96093

**Tulare County**

Clerk of the Board of Supervisors  
2800 W. Burrel Ave  
Visalia, CA 93291- 4593

**Tuolumne County**

Tuolumne County Administration Center  
2 S. Green St.  
Sonora, CA 95370

**Ventura County**

Clerk of the Board of Supervisors  
County Of Ventura  
Hall Of Administration Building  
800 South Victoria Avenue, L#1920  
Ventura, California 93009

**Yolo County**

Yolo County Board of Supervisors  
625 Court Street, Room 204  
Woodland, CA 95695

**Yuba County**

915 8th Street, Suite 123  
Marysville, CA 95901