

\_\_\_\_\_  
(full name/prisoner number)

\_\_\_\_\_

\_\_\_\_\_  
(complete mailing address)

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
\_\_\_\_\_ DIVISION**

\_\_\_\_\_

Plaintiff,

vs.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Defendant(s).

Case No. \_\_\_\_\_  
(to be assigned by Court)

**PRISONER CIVIL RIGHTS  
COMPLAINT: *BIVENS* CLAIM**

Jury Trial Requested: \_\_\_ Yes \_\_\_ No

**JURISDICTION**

The United States District Court for the District of Montana has jurisdiction over my claims because they arise under a federal statute or the federal Constitution.

**PLAINTIFF**

My name is \_\_\_\_\_. I am a citizen of the State of \_\_\_\_\_,  
presently residing at \_\_\_\_\_.

**Bivens Claim**

**DEFENDANT’S NAME and TITLE (one only)** \_\_\_\_\_

**DEFENDANT’S EMPLOYER and WORKPLACE** \_\_\_\_\_

*You may bring a civil action for money damages for certain constitutional violations committed by **federal employees or their agents**. This type of claim is called a “Bivens” claim, which permits you to seek money damages from a federal employee or their agents, who, acting under color of federal law, deprived you of certain constitutional rights.*

*You must state facts alleging the following four elements: (1) the Defendant(s) were federal employees or their agents; (2) the Defendant(s) acted or purported to act in the performance of official duties under any federal law; (3) the Defendant(s) ’s acts or failures to act deprived you of a particular constitutional right; and (4) the Defendant(s) ’s acts or failures to act caused your damages or injury. Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403 U.S. 388 (1971).*

*You also must provide facts supporting the elements of the specific constitutional violation you allege. In other words, to prevail on a Bivens claim, you must prove each of the elements of your underlying constitutional claim (for example, the elements of an excessive force claim, a conditions of confinement claim, or a medical care claim) **AND** you must prove the four elements listed above.*

*Note that courts have limited the availability of Bivens claims. See Ziglar v. Abbasi, 582 U.S. 120 (2017), and Hernandez v. Mesa, 140 S. Ct. 735 (2020). The most recent Supreme Court decision discussing the scope of a Bivens claim “emphasized that recognizing a cause of action under Bivens is a ‘disfavored judicial activity.’” Egbert v. Boule, 142 S. Ct. 1793 (2022).*

*The rest of this complaint form contains boxes for your answers. If you need more space, please attach an additional page or pages and write the question number(s) to which you are responding. Fill out all questions to the best of your ability. If you do not know or do not have the information you need to answer the question, state that and then move on to the next question.*

*If you name more than one Defendant, then you will need to copy and fill out pages with questions that ask for specific information about a particular Defendant. For example, if you name three Defendants, then fill out the questions that ask about the role and/or conduct of a specific Defendant a total of three times (once per Defendant).*

- 1. On this date \_\_\_\_\_, at this place \_\_\_\_\_, the Defendant violated this constitutional right: \_\_\_\_\_, by doing the following:

1. (continued):

[Empty box for response to question 1]

2. These are the injuries and/or damages I suffered or may suffer in the future (as a result of this particular Defendant's acts), and this is the monetary value of these damages:

[Empty box for response to question 2]

3. This is a brief list of the evidence (witnesses and documents) I now know of or possess that I intend to present at trial to prove all of the allegations above and a brief explanation of what it proves:

4. **If this is a claim against prison officials:** On these dates, \_\_\_\_\_, this is what I did to exhaust my administrative remedies to bring this claim to the attention of supervisors or authorities before I included this claim in a federal civil rights lawsuit, and I am attaching the grievance forms and grievance appeals to this document, or explaining why I have not used the grievance process or attached the forms:

## DECLARATION UNDER PENALTY OF PERJURY

I declare under penalty of perjury that I am the Plaintiff in this action; that I have read this Complaint; that the information contained in this Complaint is true and correct (28 U.S.C. § 1746; 18 U.S.C. § 1621); and that this Complaint was placed in the prison mailing system or handed to the prison legal resource personnel for e-filing on \_\_\_\_\_.  
(month, date, year)

\_\_\_\_\_  
(signature of Plaintiff)

### **Forms for related claims (available in PDF format from District Court website):**

- Conditions of Confinement claim
- Excessive Force claim
- Medical Care claim
- Retaliation claim