

ADMINISTRATIVE ORDER OF THE
CHIEF ADMINISTRATIVE JUDGE OF THE COURTS

Pursuant to the authority vested in me, and with the advice and consent of the Administrative Board of the Courts, I hereby amend Part 140 of the Rules of the Chief Administrative Judge and Part 206 of the Uniform Rules for the New York State Trial Courts, effective immediately, to read as follows (additions underlined, deletions in strikethrough):

PART 140. Civil Actions Or Proceedings Brought by ~~Inmates~~Incarcerated Persons

Section 140.1 General.

This Part shall apply where a Federal, State or local ~~inmate~~incarcerated person under sentence for conviction of a crime who is seeking to commence a civil action or proceeding, other than a proceeding brought under CPLR article 78 that alleges a failure to correctly award or certify jail time credit due an ~~inmate~~incarcerated person, brings a motion for permission to proceed as a poor person pursuant to article 11 of the Civil Practice Law and Rules (“CPLR”). For purposes of this Part:

- (i) “appropriate correctional official” shall mean the superintendent or other public official in charge of the facility where the ~~inmate~~incarcerated person is confined and
- (ii) “~~inmate’s~~incarcerated person’s trust fund account” shall mean an ~~inmate’s~~incarcerated person’s correctional facility trust fund account or the institutional equivalent thereof.

Section 140.2 Application.

(a) As required by subdivision (f) of section 1101 of the CPLR, and in addition to such other papers as may be required by law, such ~~inmate~~incarcerated person shall complete and file with the court the form affidavit referred to in subdivision (d) of that section along with the summons and complaint or petition or notice of petition or order to show cause. Such affidavit shall be in the form set forth in Appendix A-1 of this Part.

(b) Upon receipt of an ~~inmate’s~~incarcerated person’s motion, the court may assign an index number to the underlying action or proceeding or, in a court other than Supreme or County Court, such other filing number as is appropriate to the court. The motion shall thereupon be assigned to a judge of the court who, prior to disposition thereof, shall cause to be obtained such information concerning the ~~inmate’s~~incarcerated person’s trust fund account as is required by paragraph one of subdivision (f) of section 1101 of the CPLR.

Section 140.3 Disposition of motion.

(a) Form of order. Upon determining an ~~inmate’s~~incarcerated person’s motion for permission to proceed as a poor person, the court shall issue an order, which shall be in the form set forth in Appendix A-2 of this Part.

(b) Order granting motion. Where a court grants an inmate's-incarcerated person's motion for permission to proceed as a poor person, and the court's order requires the inmate-incarcerated person to make an initial payment of a portion of the filing fee that is imposed, the inmate incarcerated person may not file a request for judicial intervention in the action or proceeding, nor shall the court report any outstanding fee obligation to the appropriate correctional official, to be collected from the inmate's-incarcerated person's trust fund account, until such initial payment is fully received by the court. Once such initial payment is fully received by the court, or where the court's order does not require the inmate-incarcerated person's to make an initial payment, the action or proceeding may go forward as if all fees required therein had been paid and the court shall report such amount of the filing fee as remains unpaid as an outstanding obligation, to be collected from the inmate's-incarcerated person's trust fund account, to the appropriate correctional official.

(c) Order denying motion. Where a court denies an inmate's-incarcerated person's motion for permission to proceed as a poor person, the inmate-incarcerated person may not file a request for judicial intervention in the action or proceeding until the inmate-incarcerated person pays the proper index number or first paper fee, as appropriate, to the court. In the event no such payment is made within 120 days of the date of the order, the action or proceeding shall be dismissed by the court.

Section 140.4 Special procedure where fee is collected from a source other than an inmate's incarcerated person's trust fund account.

Where:

(i) a court issues an order granting an inmate's-incarcerated person's motion for permission to proceed as a poor person and reports some or all of the filing fee imposed pursuant to such order to the appropriate correctional official as an outstanding obligation to be collected from the inmate's-incarcerated person's trust fund account; and

(ii) thereafter the inmate-incarcerated person's or a person acting on his or her behalf pays the amount of the outstanding obligation to the clerk of the court, the court shall forthwith issue an order directing the appropriate correctional official to cease collection of the obligation and to restore to the inmate's-incarcerated person's trust fund account any funds theretofore withheld therefrom to satisfy the obligation. Such order shall be in the form set forth in Appendix A-3 of this Part.

Section 140.5 Claims in the Court of Claims.

This Part shall not apply where an inmate-incarcerated person seeks to commence a claim in the Court of Claims. Such an inmate-incarcerated person must comply with the provisions of section 206.5-b of these rules.

Section 140.6 Appendices.

COURT

COUNTY

X

Plaintiff, Affidavit in Support of Application Pursuant to
CPLR 1101 (Poor Person Status for an ~~Inmate~~
Incarcerated Person)
INDEX/FILE#
DIN#
Defendant,

X
State of New York)

(ss:

County of _____)
_____ being duly sworn, says:

1. I am the Plaintiff/Petitioner in the above-captioned action/proceeding: I am an ~~inmate~~
incarcerated person under sentence for conviction of a crime incarcerated in (include name and
mailing address) _____, a federal / state / local
correctional facility; and I submit this affidavit in support of my application for poor person
status in such proceeding.

2. During the past six months:

[] I was not incarcerated at any other federal/state/local correctional facility.

[] I was incarcerated in the following federal/state/local correctional facilities) (include name(s)
and mailing address(es)) in addition to the facility in which I am now incarcerated:

3. I currently receive income from the following sources, exclusive of correctional facility
wages:

4. I own the following property (list all real and personal property, including bank accounts and
securities in which you have a beneficial interest, other than miscellaneous personal property of
nominal value):

Property:

Value:

5. I am responsible for payment of the following debts:

Debt	Amount:
_____	_____
_____	_____
_____	_____

6. I have no savings, property, assets or income other than as set forth herein.

7. I am unable to pay the costs, fees and expenses necessary to prosecute the above- captioned action/proceeding.

8. There is no other person who has a beneficial interest in the recovery I am seeking in the above-captioned action/proceeding who is able to pay the fees, costs and expenses necessary to its prosecution.

9. The nature of the above-captioned action/proceeding and the facts therein are described in my pleadings and in other papers filed with the court.

10. I have made no prior request for this relief in the above-captioned action/proceeding.

(signature)

Sworn to before me this _____ day

of _____, _____

Notary Public

AUTHORIZATION

I, _____, ~~inmate-incarcerated person~~ number _____ request and authorize the agency holding me in custody to send to the Clerk of the Court certifies copies of the correctional facility trust fund account statement (or the institutional equivalent) for the past six months.

In the event my application for poor person status in the above-captioned action/proceeding is granted by the Court, I further request and authorize the agency in which I an incarcerated to deduct the amount of any outstanding obligation reported so such agency by the Court pursuant to CPLR 1101(f)(2) from my correctional facility trust fund account (or institutional equivalent) and to disburse such money as instructed by the Court.

This authorization is furnished in connection with the above-captioned action/proceeding, and shall be valid as to any agency into whose custody I may hereafter be transferred.

I UNDERSTAND THAT THE FULL AMOUNT OF THE OUTSTANDING OBLIGATION REFERRED TO HEREIN WILL BE PAID BY AUTOMATIC DEDUCTION FROM MY CORRECTIONAL FACILITY TRUST FUND ACCOUNT EVEN IF MY CASE IS DISMISSED.

(signature)

(APPENDIX A-2)

COURT
STATE OF NEW YORK

COUNTY

x

Plaintiff, ORDER Determining Application for Poor
Person Status for an ~~Inmate~~ Incarcerated Person
(CPLR 1101)
INDEX/FILE#
DIN#
NYSID#
Defendant, ORI#

x

Nature of action/proceeding: _____, being a federal/state/local ~~inmate~~ incarcerated person under sentence for conviction of a crime and having made application pursuant to CPLR 1101 poor person status in the above-captioned action/proceeding.

It is hereby ORDERED that this application is:

[] DENIED, and, as required by section 1101 of the CPLR, all applicable filing fees in the action/proceeding must be paid within 120 days of the date of this order, or else the action/proceeding shall be deemed dismissed without further order of the Court.

[] GRANTED, and the applicant/~~inmate-incarcerated person~~ is directed to pay a reduced filing fee of \$ _____ dollars and he or she shall be liable for no other fees in the action/proceeding before this Court unless a recovery by judgment or by settlement is had in his or her favor in which event the Court may direct him or her to pay out of the recovery all or part of such fees as are hereby forgiven.

It is further ORDERED:

[] That, the Court having found that the applicant/~~inmate-incarcerated person~~ can reasonably afford same, the applicant/~~inmate-incarcerated person~~ IS REQUIRED to make an initial payment of \$ _____ of the reduced filing fee required hereunder; and that, once such initial payment is fully received by the court, the amount of the difference between such initial payment and the

reduced filing fee required hereunder, or \$ _____, shall be assessed as an outstanding obligation of the applicant ~~inmate-incarcerated person~~ and reported to the superintendent or other public official in charge of the facility where the applicant/~~inmate-incarcerated person~~ is confined, who shall collect such amount from the applicant/~~inmate-incarcerated person~~ in the same manner as mandatory surcharges are collected pursuant to section 60.35(5) of the Penal Law.

[] That, the Court having found that exceptional circumstances render the applicant/~~inmate~~ unable to pay any filing fee at this time, the applicant/~~inmate~~ IS NOT REQUIRED to make any initial payment to the Court of a portion of the reduced filing fee required hereunder; and that the full amount of the filing fee required hereunder, or \$ _____, shall be reported to the superintendent or other public official in charge of the facility where the applicant/~~inmate~~ is confined, who shall collect such amount from the applicant/~~inmate~~ in the same manner as mandatory surcharges are collected pursuant to section 60.35(5) of the Penal Law.

[] _____

Date

Judge

(APPENDIX A-3)

_____ COURT
STATE OF NEW YORK

_____ COUNTY

_____ x

ORDER to Rescind Order of Collection of a
Civil Filing Fee from an ~~Inmate's Incarcerated~~
In the Matter of the Correctional Facility Trust Person's Trust Account
Fund Account of

INDEX/FILE#
ORI#

_____ x

This Court,

Having issued an order dated ___/___/___: (1) granting _____, an ~~inmate incarcerated person~~ at _____ (name of Correctional Facility), poor person status in _____ (name of case); (2) requiring such ~~inmate-incarcerated person~~ to pay a filing fee in such case in the amount of \$ _____; and (3) directing the Superintendent or other public official in charge of the aforesaid Correctional Facility to collect some or all of such filing

fee from the ~~inmate's~~ incarcerated person's Correctional Facility Trust Fund Account or institutional equivalent, and

Now having received notice that the Clerk of this Court has received payment of the filing fee in full directly from the ~~inmate~~-incarcerated person or a person or persons acting on his/her behalf,

It is hereby ORDERED that so much of the aforesaid order directing the Superintendent or other public official in charge of the aforesaid Correctional Facility to collect some or all of such filing fee from the ~~inmate's~~ incarcerated person's Correctional Facility Trust Fund Account or institutional equivalent is rescinded, and that any funds heretofore withheld from such Account pursuant to the aforesaid order shall be restored to such Account.

Date

Judge

Part 206. Uniform Rules for the Court of Claims

* * * *

Section 206.3 Individual assignment system; structure.

* * * *

(c) Exceptions.

- (1) Assignment of public construction contract claims and ~~prisoner~~ incarcerated persons pro se claims shall be made at a time and in a manner authorized by the Chief Administrator.
- (2) Where the requirements of matters already assigned to a judge are such as to limit the ability of that judge to handle additional cases, the Chief Administrator may authorize that new assignments to that judge be suspended until the judge is able to handle additional cases.
- (3) The Chief Administrator may authorize the establishment of special categories of actions, including but not limited to public construction contract actions, ~~prisoner~~ incarcerated person pro se actions, medical malpractice actions, appropriation actions and actions requiring protracted consideration, for assignment to judges specially assigned to hear such actions. Where more than one judge is specially assigned to hear a particular category of action or proceeding, the assignment of such actions or proceedings to the judges so assigned shall be at random.

* * * *

Section 206.5-aa Filing by Electronic Means.

- (a) All designated claims in the Court of Claims shall be subject to electronic filing in accordance with the provisions of section 202.5-b of this Title.
- (b) For purpose of this section:
 - (1) The term "action" as used in section 202.5-b of this Title, shall also include a claim in the Court of Claims;

(2) The term “designated claim” shall mean a claim falling within one or more categories of claims designated pursuant to subdivision (c) of this section; provided, however the terms designated claim may not include a claim commenced by a Federal, State or local ~~inmate~~ incarcerated person under sentence for conviction of a crime; and

* * * *

Section 206.8 Calendaring of motions; uniform notice of motion form.

(a) There shall be compliance with the procedures prescribed in the CPLR for the bringing of motions. In addition, no motion shall be filed with the court unless a notice of motion is served and filed, with proof of service, with the motion papers.

(b) No motion relating to disclosure shall be placed on the calendar without counsel for the respective parties first conferring with the assigned judge. This subdivision shall not apply to ~~prisoner~~ incarcerated person pro se claims.

* * * *

Section 206.10 Conferences

(a) In all matters, except appropriation claims and ~~prisoner~~ incarcerated person pro se claims, the court shall order a preliminary conference as soon as practicable, but no later than six months, after the action has been assigned.

* * * *

Section 206.12 Note of issue and certificate of readiness.


(a) General. No action shall be deemed ready for trial until there is a filed note of issue accompanied by a certificate of readiness, with proof of service on all parties entitled to notice, in the form prescribed by this section. Filing of a note of issue and certificate of readiness shall not be required for ~~prisoner~~ incarcerated person pro se claims, for an application for court approval of the settlement of the claim of an infant, incompetent or conservatee; or an application for court approval of a settlement pursuant to section 20-a of the Court of Claims Act. The note of issue shall include the claim number, the name of the judge to whom the action is assigned, and the name, office address and telephone number of each attorney or individual who has appeared. Within 10 days after service, the original note of issue and certificate of readiness, with proof of service, shall be filed with the clerk.

* * * *

Section 206.13 Calendars.

A judge to whom claims are assigned under the individual assignment system may establish such calendars of claims as the judge shall deem necessary or desirable for proper case management.

Judges to whom claims are assigned pursuant to the individual assignment system may schedule calls of any calendars they have established at such times as they may deem appropriate. The Presiding Judge may schedule calls of any claim appearing on a public construction contract calendar or ~~prisoner~~ incarcerated person pro se calendar at such times as he or she may deem appropriate.



Chief Administrative Judge of the Courts

Date: November 22, 2023

AO/278/23