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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

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Otis Eugene Bunn,

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No. CV-07-0699-PHX-GMS (LOA)

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Plaintiff,

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ORDER

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vs.

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Ted Evertsen, et al.,

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Defendants.

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Defendants City of Phoenix Police Officers Ted Evertsen and Arlene Gaxiola have filed a Motion for Summary Judgment (docket #30) pursuant to Rule 56 of the Federal Rules of Civil Procedure.

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NOTICE--WARNING TO PLAINTIFF

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THIS NOTICE IS REQUIRED TO BE GIVEN TO YOU BY THE COURT¹

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The Defendants' Motion for Summary Judgment seeks to have your case dismissed. A motion for summary judgment under Rule 56 of the Federal Rules of Civil Procedure will, if granted, end your case.

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Rule 56 tells you what you must do in order to oppose a motion for summary judgment. Generally, summary judgment must be granted when there is no genuine issue of material fact – that is, if there is no real dispute about any fact that would affect the result of your case, the party who asked for summary judgment is entitled to judgment as a matter

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¹ *Rand v. Rowland*, 154 F.3d 952, 962 (9th Cir. 1998) (*en banc*).

1 of law, which will end your case. When a party you are suing makes a motion for summary
2 judgment that is properly supported by declarations (or other sworn testimony), you cannot
3 simply rely on what your complaint says. Instead, you must set out specific facts in
4 declarations, depositions, answers to interrogatories, or authenticated documents, as provided
5 in Rule 56(e), that contradict the facts shown in the Defendants' declarations and documents
6 and show that there is a genuine issue of material fact for trial. If you do not submit your
7 own evidence in opposition, summary judgment, if appropriate, may be entered against you.
8 If summary judgment is granted, your case will be dismissed and there will be no trial.

9 Rule 56.1(b) of the Local Rules of Civil Procedure also requires that you
10 include with your response to the Motion for Summary Judgment a separate statement of
11 facts in opposition to the Motion for Summary Judgment. Your separate statement of facts
12 must include numbered paragraphs corresponding to the Defendants' ("moving party's")
13 separate statement of facts:

14 (b) Any party opposing a motion for summary judgment shall
15 file a statement, separate from that party's memorandum of law,
16 setting forth: (1) for each paragraph of the moving party's
17 separate statement of facts, a correspondingly numbered
18 paragraph indicating whether the party disputes the statement of
19 fact set forth in that paragraph and a reference to the specific
20 admissible portion of the record supporting the party's position
21 [for example, affidavit, deposition, discovery response, etc.] if
22 the fact is disputed; and (2) any additional facts that establish a
23 genuine issue of material fact or otherwise preclude judgment in
24 favor of the moving party. Each additional fact shall be set forth
25 in a separately numbered paragraph and shall refer to a specific
26 admissible portion of the record where the fact finds support.
27 Each numbered paragraph of the statement of facts set forth in
28 the moving party's separate statement of facts shall, unless
otherwise ordered, be deemed admitted for purposes of the
motion for summary judgment if not specifically controverted
by a correspondingly numbered paragraph in the opposing
party's separate statement of facts.

24 LRCiv 56.1(b). You must also cite to the specific paragraph in your statement of facts that
25 supports any factual claims you make in your memorandum of law:

26 (e) Memoranda of law filed in support of or in opposition to a
27 motion for summary judgment, including reply memoranda,
28 shall include citations to the specific paragraph in the statement
of facts that supports factual assertions made in the memoranda.

1 LR.Civ 56.1(e).

2 Additionally, Rule 7.2(e) of the Local Rules of Civil Procedure provides:

3 Unless otherwise permitted by the Court, a motion including its
4 supporting memorandum, and the response including its
5 supporting memorandum, each shall not exceed seventeen (17)
6 pages, exclusive of attachments and any required statement of
7 facts. Unless otherwise permitted by the Court, a reply
8 including its supporting memorandum shall not exceed eleven
9 (11) pages, exclusive of attachments. Attachments shall exclude
10 materials extraneous to genuine issues of material fact or law.

11 LRCiv 7.2(e). Finally, Rule 7.2(i) of the Local Rules of Civil Procedure provides:

12 If a motion does not conform in all substantial respects with the
13 requirements of this Local Rule, or if the unrepresented party or
14 counsel does not serve and file the required answering
15 memoranda, or if the unrepresented party or counsel fails to
16 appear at the time and place assigned for oral argument, such
17 non-compliance may be deemed a consent to the denial or
18 granting of the motion and the Court may dispose of the motion
19 summarily.

20 LRCiv 7.2(i).

21 You must timely respond to all motions. The Court may, in its discretion, treat
22 your failure to respond to Defendants' Motion for Summary Judgment as a consent to the
23 granting of that Motion without further notice, and judgment may be entered dismissing this
24 action with prejudice pursuant to Rule 7.2(i) of the Local Rules of Civil Procedure. *See*
25 *Brydges v. Lewis*, 18 F.3d 651 (9th Cir. 1994) (*per curiam*).

26 **IT IS ORDERED** that Plaintiff must file a response to Defendants' Motion
27 for Summary Judgment, together with a separate Statement of Facts and supporting affidavits
28 or other appropriate exhibits, no later than **November 12, 2008**.

IT IS FURTHER ORDERED that Defendants may file a reply within 15 days
after service of Plaintiff's response.

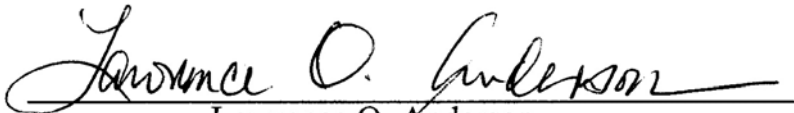
IT IS FURTHER ORDERED that the Motion for Summary Judgment will
be deemed ready for decision without oral argument on the day following the date set for
filing a reply unless otherwise ordered by the Court.

IT IS FURTHER ORDERED that counsel and the Plaintiff shall use proper
capitalization in all future captions as mandated by LRCiv 7.1(a)(3).

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IT IS FURTHER ORDERED, due to the reassignment of this case to Judge G. Murray Snow which was effective September 8, 2008, docket #29, the parties shall use the correct case number of: CV-07-0699-PHX-GMS (LOA) in all future filings.

DATED this 9th day of October, 2008.


Lawrence O. Anderson
United States Magistrate Judge