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**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA**

Steven James Budge, ) No. CV 10-2481-PHX-JAT (DKD)  
Plaintiff, )  
vs. ) **ORDER**  
Joseph Arpaio, et al., )  
Defendants. )

Plaintiff Steven James Budge, who is confined in the Maricopa County Durango Jail, has filed a *pro se* civil rights Complaint pursuant to 42 U.S.C. § 1983 (Doc. 1) and an Application to Proceed *In Forma Pauperis* (Doc. 2). The Court will dismiss the Complaint with leave to amend.

## I. Application to Proceed *In Forma Pauperis* and Filing Fee

20 Plaintiff's Application to Proceed *In Forma Pauperis* will be granted. 28 U.S.C.  
21 § 1915(a). Plaintiff must pay the statutory filing fee of \$350.00. 28 U.S.C. § 1915(b)(1).  
22 The Court will not assess an initial partial filing fee. 28 U.S.C. § 1915(b)(1). The statutory  
23 fee will be collected monthly in payments of 20% of the previous month's income each time  
24 the amount in the account exceeds \$10.00. 28 U.S.C. § 1915(b)(2). The Court will enter a  
25 separate Order requiring the appropriate government agency to collect and forward the fees  
26 according to the statutory formula.

27 | Page

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1           **II. Statutory Screening of Prisoner Complaints**

2           The Court is required to screen complaints brought by prisoners seeking relief against  
3           a governmental entity or an officer or an employee of a governmental entity. 28 U.S.C.  
4           § 1915A(a). The Court must dismiss a complaint or portion thereof if a plaintiff has raised  
5           claims that are legally frivolous or malicious, that fail to state a claim upon which relief may  
6           be granted, or that seek monetary relief from a defendant who is immune from such relief.  
7           28 U.S.C. § 1915A(b)(1), (2).

8           A pleading must contain a “short and plain statement of the claim *showing* that the  
9           pleader is entitled to relief.” Fed. R. Civ. P. 8(a)(2) (emphasis added). While Rule 8 does not  
10          demand detailed factual allegations, “it demands more than an unadorned, the-defendant-  
11          unlawfully-harmed-me accusation.” Ashcroft v. Iqbal, 129 S. Ct. 1937, 1949 (2009).  
12          “Threadbare recitals of the elements of a cause of action, supported by mere conclusory  
13          statements, do not suffice.” Id.

14           “[A] complaint must contain sufficient factual matter, accepted as true, to ‘state a  
15          claim to relief that is plausible on its face.’” Id. (quoting Bell Atlantic Corp. v. Twombly,  
16          550 U.S. 544, 570 (2007)). A claim is plausible “when the plaintiff pleads factual content  
17          that allows the court to draw the reasonable inference that the defendant is liable for the  
18          misconduct alleged.” Id. “Determining whether a complaint states a plausible claim for  
19          relief [is] . . . a context-specific task that requires the reviewing court to draw on its judicial  
20          experience and common sense.” Id. at 1950. Thus, although a plaintiff’s specific factual  
21          allegations may be consistent with a constitutional claim, a court must assess whether there  
22          are other “more likely explanations” for a defendant’s conduct. Id. at 1951.

23          But as the United States Court of Appeals for the Ninth Circuit has instructed, courts  
24          must “continue to construe *pro se* filings liberally.” Hebbe v. Pliler, No. 07-17265, 2010 WL  
25          2947323, at \*3 (9th Cir. Jul. 29, 2010). A “complaint [filed by a *pro se* prisoner] ‘must be  
26          held to less stringent standards than formal pleadings drafted by lawyers.’” Id. (quoting  
27          Erickson v. Pardus, 551 U.S. 89, 94 (2007) (*per curiam*)).

1        If the Court determines that a pleading could be cured by the allegation of other facts,  
2 a *pro se* litigant is entitled to an opportunity to amend a complaint before dismissal of the  
3 action. See Lopez v. Smith, 203 F.3d 1122, 1127-29 (9th Cir. 2000) (*en banc*). The Court  
4 should not, however, advise the litigant how to cure the defects. This type of advice “would  
5 undermine district judges’ role as impartial decisionmakers.” Pliler v. Ford, 542 U.S. 225,  
6 231 (2004); see also Lopez, 203 F.3d at 1131 n.13 (declining to decide whether the court was  
7 required to inform a litigant of deficiencies). Plaintiff’s Complaint will be dismissed for  
8 failure to state a claim, with leave to amend because the Complaint may possibly be saved  
9 by amendment.

10 **III. Complaint**

11        In his seven-count Complaint, Plaintiff sues the following Defendants: Maricopa  
12 County Sheriff Joseph Arpaio, Maricopa County Supervisors Fulton Brock, Andrew  
13 Kunasek, Max W. Wilson, Mary Rose Wilcox, and Don Stapley; “Rick Romley/Associates  
14 of Maricopa County Prosecutor[’]s Office”; the “Maricopa County Defender[’]s  
15 Office/Associates”; and “Maricopa County Adult Probation/Associates.”

16        In Count One, Plaintiff alleges that “M.C.S.O was cruel & inhumane” because  
17 detainees are entitled to basic accommodations and that he was housed in overcrowded  
18 conditions. In Count Two, Plaintiff claims he was subjected to cruel and inhumane treatment  
19 and that there was a lack of regard for federal laws or regulations. In Count Three, he  
20 contends that the “[q]uality of food was terrible and often expired, causing cruel and  
21 inhumane suffering.”

22        In Count Four, Plaintiff contends that there are unsanitary conditions caused by  
23 “[n]egligence and ignorance of Maricopa County[’s] own Health Dept. Rules and  
24 Regulations”; he also asserts that “[f]ederal laws [were] completely disregarded by  
25 M.C.S.O.” In Count Five, Plaintiff claims that there is insufficient medical care and a  
26 refusal to provide services to the visually impaired, which violates the Americans with  
27 Disabilities Act and constitutes cruel and inhumane treatment. In Count Six, Plaintiff  
28 alleges that “[d]isciplinary proceedings and [the] grievance process proved to be cruel and

1 inhum[ ]ne[, w]hile grievances were simply considered frivolous and ignored by M.C.S.O.  
2 staff.” In Count Seven, Plaintiff contends that he was not permitted outdoor recreation,  
3 which constituted cruel and inhumane treatment of pretrial detainees.

4       In his Request for Relief, Plaintiff seeks monetary damages.

5 **IV. Failure to State a Claim**

6       Although *pro se* pleadings are liberally construed, Haines v. Kerner, 404 U.S. 519,  
7 520-21 (1972), conclusory and vague allegations will not support a cause of action. Ivey v.  
8 Board of Regents of the University of Alaska, 673 F.2d 266, 268 (9th Cir. 1982). Further,  
9 a liberal interpretation of a civil rights complaint may not supply essential elements of the  
10 claim that were not initially pled. Id.

11       To state a valid claim under § 1983, plaintiffs must allege that they suffered a specific  
12 injury as a result of specific conduct of a defendant and show an affirmative link between the  
13 injury and the conduct of that defendant. See Rizzo v. Goode, 423 U.S. 362, 371-72, 377  
14 (1976). There is no *respondeat superior* liability under § 1983, and therefore, a defendant’s  
15 position as the supervisor of persons who allegedly violated Plaintiff’s constitutional rights  
16 does not impose liability. Monell v. New York City Department of Social Services, 436 U.S.  
17 658, 691-92 (1978); Hamilton v. Endell, 981 F.2d 1062, 1067 (9th Cir. 1992); Taylor v. List,  
18 880 F.2d 1040, 1045 (9th Cir. 1989). “Because vicarious liability is inapplicable to Bivens  
19 and § 1983 suits, a plaintiff must plead that each Government-official defendant, through the  
20 official’s own individual actions, has violated the Constitution.” Iqbal, 129 S. Ct. at 1948.

21       Plaintiff has not alleged that any Defendant personally participated in a deprivation  
22 of Plaintiff’s constitutional rights, was aware of a deprivation and failed to act, or formed  
23 policies that resulted in Plaintiff’s injuries. Plaintiff’s sole reference to any Defendant is a  
24 vague and conclusory reference to Defendant Arpaio in Count Six; Plaintiff alleges that  
25 Defendant Arpaio “has no regard for life and limb or regulatory laws that pertain to his  
26 facilities.” This is insufficient to state a claim against Defendant Arpaio.

27       Thus, the Court will dismiss the Complaint, without prejudice.

28 . . . .

1       **V. Leave to Amend**

2           For the foregoing reasons, Plaintiff's Complaint will be dismissed for failure to state  
3 a claim upon which relief may be granted. Within 30 days, Plaintiff may submit a first  
4 amended complaint to cure the deficiencies outlined above. The Clerk of Court will mail  
5 Plaintiff a court-approved form to use for filing a first amended complaint. If Plaintiff fails  
6 to use the court-approved form, the Court may strike the amended complaint and dismiss this  
7 action without further notice to Plaintiff.

8           Plaintiff must clearly designate on the face of the document that it is the "First  
9 Amended Complaint." The first amended complaint must be retyped or rewritten in its  
10 entirety on the court-approved form and may not incorporate any part of the original  
11 Complaint by reference. Plaintiff may include only one claim per count.

12          If Plaintiff files an amended complaint, Plaintiff must write short, plain statements  
13 telling the Court: (1) the constitutional right Plaintiff believes was violated; (2) the name of  
14 the Defendant who violated the right; (3) exactly what that Defendant did or failed to do;  
15 (4) how the action or inaction of that Defendant is connected to the violation of Plaintiff's  
16 constitutional right; and (5) what specific injury Plaintiff suffered because of that  
17 Defendant's conduct. See Rizzo, 423 U.S. at 371-72, 377.

18          Plaintiff must repeat this process for each person he names as a Defendant. If Plaintiff  
19 fails to affirmatively link the conduct of each named Defendant with the specific injury  
20 suffered by Plaintiff, the allegations against that Defendant will be dismissed for failure to  
21 state a claim. **Conclusory allegations that a Defendant or group of Defendants have**  
**22 violated a constitutional right are not acceptable and will be dismissed.**

23          Plaintiff should take note that a pretrial detainee's claim for unconstitutional  
24 conditions of confinement arises from the Fourteenth Amendment Due Process Clause rather  
25 than from the Eighth Amendment prohibition against cruel and unusual punishment. Bell  
26 v. Wolfish, 441 U.S. 520, 535 and n.16 (1979). Nevertheless, the same standards are applied,  
27 requiring proof that the defendant acted with deliberate indifference. See Frost v. Agnos,  
28 152 F.3d 1124, 1128 (9th Cir. 1998).

1       Deliberate indifference is a higher standard than negligence or lack of ordinary due  
2 care for the prisoner's safety. Farmer v. Brennan, 511 U.S. 825, 835 (1994). To state a claim  
3 of deliberate indifference, plaintiffs must meet a two-part test. First, the alleged  
4 constitutional deprivation must be, objectively, "sufficiently serious"; the official's act or  
5 omission must result in the denial of "the minimal civilized measure of life's necessities."  
6 Id. at 834. Second, the prison official must have a "sufficiently culpable state of mind," *i.e.*,  
7 he must act with deliberate indifference to inmate health or safety. Id. In defining  
8 "deliberate indifference" in this context, the Supreme Court has imposed a subjective test:  
9 "the official must both be aware of facts from which the inference could be drawn that a  
10 substantial risk of serious harm exists, and he must also draw the inference." Id. at 837  
11 (emphasis added).

12       In addition, not every claim by a prisoner relating to inadequate medical treatment  
13 states a violation of the Fourteenth Amendment. To state a § 1983 medical claim, a plaintiff  
14 must show that the defendants acted with "deliberate indifference to serious medical needs."  
15 Jett v. Penner, 439 F.3d 1091, 1096 (9th Cir. 2006) (quoting Estelle v. Gamble, 429 U.S. 97,  
16 104 (1976)). A plaintiff must show (1) a "serious medical need" by demonstrating that  
17 failure to treat the condition could result in further significant injury or the unnecessary and  
18 wanton infliction of pain and (2) the defendant's response was deliberately indifferent. Jett,  
19 439 F.3d at 1096 (quotations omitted).

20       "Deliberate indifference is a high legal standard." Toguchi v. Chung, 391 F.3d 1051,  
21 1060 (9th Cir. 2004). Deliberate indifference in the medical context may be shown by a  
22 purposeful act or failure to respond to a prisoner's pain or possible medical need and harm  
23 caused by the indifference. Jett, 439 F.3d at 1096. Deliberate indifference may also be  
24 shown when a prison official intentionally denies, delays, or interferes with medical  
25 treatment or by the way prison doctors respond to the prisoner's medical needs. Estelle, 429  
26 U.S. at 104-05; Jett, 439 F.3d at 1096.

27       Deliberate indifference is a higher standard than negligence or lack of ordinary due  
28 care for the prisoner's safety. Farmer, 511 U.S. at 835. "Neither negligence nor gross

1 negligence will constitute deliberate indifference.” Clement v. California Dep’t of  
2 Corrections, 220 F. Supp. 2d 1098, 1105 (N.D. Cal. 2002); see also Broughton v. Cutter  
3 Labs., 622 F.2d 458, 460 (9th Cir. 1980) (mere claims of “indifference,” “negligence,” or  
4 “medical malpractice” do not support a claim under § 1983). “A difference of opinion does  
5 not amount to deliberate indifference to [a plaintiff’s] serious medical needs.” Sanchez v.  
6 Vild, 891 F.2d 240, 242 (9th Cir. 1989). A mere delay in medical care, without more, is  
7 insufficient to state a claim against prison officials for deliberate indifference. See Shapley  
8 v. Nevada Bd. of State Prison Comm’rs, 766 F.2d 404, 407 (9th Cir. 1985). The indifference  
9 must be substantial. The action must rise to a level of “unnecessary and wanton infliction  
10 of pain.” Estelle, 429 U.S. at 105.

11 Plaintiff should also take note that under Title II of the Americans with Disabilities  
12 Act (ADA), “no qualified individual with a disability shall, by reason of such disability, be  
13 excluded in participation in or be denied the benefits of the services, programs, or activities  
14 of a public entity, or be subjected to discrimination by any such entity.” 42 U.S.C. § 12132.  
15 As used in this provision, a “public entity” is defined, in part, as “(A) any State or local  
16 government; [or] (B) any department, agency, special purpose district, or other  
17 instrumentality of a State or States or local government.” 42 U.S.C. § 12131.

18 The Rehabilitation Act (RA) “is materially identical to and the model for the ADA,  
19 except that it is limited to programs that receive federal financial assistance.” Armstrong v.  
20 Davis, 275 F.3d 849, 862 n.17 (9th Cir. 2001) (internal quotation omitted). Title II of the  
21 ADA was expressly modeled after § 504 of the RA. Zuckle v. Regents of the University of  
22 California, 166 F.3d 1041, 1045 (9th Cir. 1999). Because the ADA has a broader scope, the  
23 Ninth Circuit analyzes both Acts under an ADA standard. See Armstrong, 275 F.3d at 862;  
24 Zuckle, 166 F.3d at 1045 n.11 (“There is no significant difference in analysis of the rights  
25 and obligations created by the ADA and the Rehabilitation Act.”).

26 To state an ADA or RA claim, a plaintiff must demonstrate that he:

27 (1) is a handicapped person; (2) that he is otherwise qualified;  
28 and that [prison officials’] actions either (3) excluded his participation in or denied him the benefits of a service, program,

1 or activity; or (4) otherwise subjected him to discrimination on  
2 the basis of his physical handicap.

3 Duffy v. Riveland, 98 F.3d 447, 455 (9th Cir. 1996).

4 In addition, Plaintiff should take note that, although he refers repeatedly in his  
5 Complaint to “M.C.S.O.,” the Maricopa County Sheriff’s Department is not a proper  
6 defendant. In Arizona, the responsibility of operating jails and caring for prisoners is placed  
7 by law upon the sheriff. See Ariz. Rev. Stat. § 11-441(A)(5); Ariz. Rev. Stat. § 31-101. A  
8 sheriff’s office is simply an administrative creation of the county sheriff to allow him to carry  
9 out his statutory duties and not a “person” amenable to suit pursuant to § 1983. Moreover,  
10 the County, not the Sheriff, is responsible for providing medical care to county jail inmates.  
11 See Ariz. Rev. Stat. § 11-291(A).

12 A first amended complaint supersedes the original complaint. Ferdik v. Bonzelet, 963  
13 F.2d 1258, 1262 (9th Cir. 1992); Hal Roach Studios v. Richard Feiner & Co., 896 F.2d 1542,  
14 1546 (9th Cir. 1990). After amendment, the Court will treat an original complaint as  
15 nonexistent. Ferdik, 963 F.2d at 1262. Any cause of action that was raised in the original  
16 complaint is waived if it is not raised in a first amended complaint. King v. Atiyeh, 814 F.2d  
17 565, 567 (9th Cir. 1987).

## 18 VI. Warnings

### 19 A. Release

20 Plaintiff must pay the unpaid balance of the filing fee within 120 days of his release.  
21 Also, within 30 days of his release, he must either (1) notify the Court that he intends to pay  
22 the balance or (2) show good cause, in writing, why he cannot. Failure to comply may result  
23 in dismissal of this action.

### 24 B. Address Changes

25 Plaintiff must file and serve a notice of a change of address in accordance with Rule  
26 83.3(d) of the Local Rules of Civil Procedure. Plaintiff must not include a motion for other  
27 relief with a notice of change of address. Failure to comply may result in dismissal of this  
28 action.

1           **C. Copies**

2           Plaintiff must submit an additional copy of every filing for use by the Court. See  
3 LRCiv 5.4. Failure to comply may result in the filing being stricken without further notice  
4 to Plaintiff.

5           **D. Possible “Strike”**

6           Because the Complaint has been dismissed for failure to state a claim, if Plaintiff fails  
7 to file an amended complaint correcting the deficiencies identified in this Order, the  
8 dismissal may count as a “strike” under the “3-strikes” provision of 28 U.S.C. § 1915(g).  
9 Under the 3-strikes provision, a prisoner may not bring a civil action or appeal a civil  
10 judgment *in forma pauperis* under 28 U.S.C. § 1915 “if the prisoner has, on 3 or more prior  
11 occasions, while incarcerated or detained in any facility, brought an action or appeal in a  
12 court of the United States that was dismissed on the grounds that it is frivolous, malicious,  
13 or fails to state a claim upon which relief may be granted, unless the prisoner is under  
14 imminent danger of serious physical injury.” 28 U.S.C. § 1915(g).

15           **E. Possible Dismissal**

16           If Plaintiff fails to timely comply with every provision of this Order, including these  
17 warnings, the Court may dismiss this action without further notice. See Ferdik, 963 F.2d at  
18 1260-61 (a district court may dismiss an action for failure to comply with any order of the  
19 Court).

20 **IT IS ORDERED:**

- 21           (1) Plaintiff’s Application to Proceed *In Forma Pauperis* (Doc. 2) is **granted**.
- 22           (2) As required by the accompanying Order to the appropriate government agency,  
23 Plaintiff must pay the \$350.00 filing fee and is not assessed an initial partial filing fee.
- 24           (3) The Complaint (Doc. 1) is **dismissed** for failure to state a claim. Plaintiff has  
25 **30 days** from the date this Order is filed to file a first amended complaint in compliance with  
26 this Order.

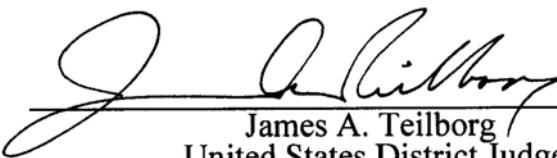
27           ....

28           ....

1                   (4) If Plaintiff fails to file an amended complaint within 30 days, the Clerk of  
2 Court must, without further notice, enter a judgment of dismissal of this action with prejudice  
3 that states that the dismissal may count as a “strike” under 28 U.S.C. § 1915(g).

4                   (5) The Clerk of Court must mail Plaintiff a court-approved form for filing a civil  
5 rights complaint by a prisoner.

6                   DATED this 24<sup>th</sup> day of November, 2010.

7                     
8                   James A. Teilborg  
9                   United States District Judge

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## **Instructions for a Prisoner Filing a Civil Rights Complaint in the United States District Court for the District of Arizona**

1. **Who May Use This Form.** The civil rights complaint form is designed to help incarcerated persons prepare a complaint seeking relief for a violation of their federal civil rights. These complaints typically concern, but are not limited to, conditions of confinement. **This form should not be used to challenge your conviction or sentence.** If you want to challenge a state conviction or sentence, you should file a petition under 28 U.S.C. § 2254 for a writ of habeas corpus by a person in state custody. If you want to challenge a federal conviction or sentence, you should file a motion under 28 U.S.C. § 2255 to vacate sentence in the federal court that entered the judgment.
2. **The Form.** **Local Rule of Civil Procedure (LRCiv) 3.4(a) provides that complaints by incarcerated persons must be filed on the court-approved form.** The form must be typed or neatly handwritten. The form must be completely filled in to the extent applicable. All questions must be answered clearly and concisely in the appropriate space on the form. If needed, you may attach additional pages, **but no more than fifteen additional pages**, of standard letter-sized paper. You must identify which part of the complaint is being continued and number all pages. If you do not fill out the form properly, you will be asked to submit additional or corrected information, which may delay the processing of your action. You do not need to cite law.
3. **Your Signature.** You must tell the truth and sign the form. If you make a false statement of a material fact, you may be prosecuted for perjury.
4. **The Filing Fee.** The filing fee for this action is \$350.00. If you are unable to immediately pay the filing fee, you may request leave to proceed *in forma pauperis*. Please review the “Information for Prisoners Seeking Leave to Proceed with a (Non-Habeas) Civil Action in Federal Court *In Forma Pauperis* Pursuant to 28 U.S.C. § 1915” for additional instructions.
5. **Original and Judge’s Copy.** You must send an **original plus one copy** of your complaint and of any other documents submitted to the Court. You must send one additional copy to the Court if you wish to have a file-stamped copy of the document returned to you. All copies must be identical to the original. Copies may be legibly handwritten.
6. **Where to File.** You should file your complaint in the division **where you were confined when your rights were allegedly violated.** See LRCiv 5.1(a) and 77.1(a). If you were confined in Maricopa, Pinal, Yuma, La Paz, or Gila County, file in the Phoenix Division. If you were confined in Apache, Navajo, Coconino, Mohave, or Yavapai County, file in the Prescott Division. If you were confined in Pima, Cochise, Santa Cruz, Graham, or Greenlee County, file in the Tucson Division. **Mail the original and one copy of the complaint with the \$350 filing fee or the application to proceed *in forma pauperis* to:**

<u>Phoenix &amp; Prescott Divisions:</u>	<b>OR</b>	<u>Tucson Division:</u>
U.S. District Court Clerk		U.S. District Court Clerk
U.S. Courthouse, Suite 130		U.S. Courthouse, Suite 1500
401 West Washington Street, SPC 10		405 West Congress Street
Phoenix, Arizona 85003-2119		Tucson, Arizona 85701-5010

7. **Change of Address.** You must immediately notify the Court and the defendants in writing of any change in your mailing address. **Failure to notify the Court of any change in your mailing address may result in the dismissal of your case.**

8. **Certificate of Service.** You must furnish the defendants with a copy of any document you submit to the Court (except the initial complaint and application to proceed *in forma pauperis*). Each original document (except the initial complaint and application to proceed *in forma pauperis*) must include a certificate of service on the last page of the document stating the date a copy of the document was mailed to the defendants and the address to which it was mailed. See Fed. R. Civ. P. 5(a), (d). Any document received by the Court that does not include a certificate of service may be stricken. A certificate of service should be in the following form:

I hereby certify that a copy of the foregoing document was mailed  
this \_\_\_\_\_ (month, day, year) to:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Attorney for Defendant(s)

\_\_\_\_\_  
(Signature)

9. **Amended Complaint.** If you need to change any of the information in the initial complaint, you must file an amended complaint. The amended complaint must be written on the court-approved civil rights complaint form. You may file one amended complaint without leave (permission) of Court before any defendant has answered your original complaint. See Fed. R. Civ. P. 15(a). After any defendant has filed an answer, you must file a motion for leave to amend and lodge (submit) a proposed amended complaint. LRCiv 15.1. In addition, an amended complaint may not incorporate by reference any part of your prior complaint. LRCiv 15.1(a)(2). **Any allegations or defendants not included in the amended complaint are considered dismissed.** All amended complaints are subject to screening under the Prison Litigation Reform Act; screening your amendment will take additional processing time.

10. **Exhibits.** You should not submit exhibits with the complaint or amended complaint. Instead, the relevant information should be paraphrased. You should keep the exhibits to use to support or oppose a motion to dismiss, a motion for summary judgment, or at trial.

11. **Letters and Motions.** It is generally inappropriate to write a letter to any judge or the staff of any judge. The only appropriate way to communicate with the Court is by filing a written pleading or motion.

## **12. Completing the Civil Rights Complaint Form.**

### **HEADING:**

1. Your Name. Print your name, prison or inmate number, and institutional mailing address on the lines provided.
2. Defendants. If there are **four or fewer** defendants, print the name of each. If you name **more than four** defendants, print the name of the first defendant on the first line, write the words “and others” on the second line, and attach an additional page listing the names of **all** of the defendants. Insert the additional page after page 1 and number it “1-A” at the bottom.
3. Jury Demand. If you want a jury trial, you must write “JURY TRIAL DEMANDED” in the space below “CIVIL RIGHTS COMPLAINT BY A PRISONER.” Failure to do so may result in the loss of the right to a jury trial. A jury trial is not available if you are seeking only injunctive relief.

### **Part A. JURISDICTION:**

1. Nature of Suit. Mark whether you are filing the complaint pursuant to 42 U.S.C. § 1983 for state, county, or city defendants; “Bivens v. Six Unknown Federal Narcotics Agents” for federal defendants; or “other.” If you mark “other,” identify the source of that authority.
2. Location. Identify the institution and city where the alleged violation of your rights occurred.
3. Defendants. Print all of the requested information about each of the defendants in the spaces provided. If you are naming more than four defendants, you must provide the necessary information about each additional defendant on separate pages labeled “2-A,” “2-B,” etc., at the bottom. Insert the additional page(s) immediately behind page 2.

### **Part B. PREVIOUS LAWSUITS:**

You must identify any other lawsuit you have filed in either state or federal court while you were a prisoner. Print all of the requested information about each lawsuit in the spaces provided. If you have filed more than three lawsuits, you must provide the necessary information about each additional lawsuit on a separate page. Label the page(s) as “2-A,” “2-B,” etc., at the bottom of the page and insert the additional page(s) immediately behind page 2.

### **Part C. CAUSE OF ACTION:**

You must identify what rights each defendant violated. The form provides space to allege three separate counts (**one violation per count**). If you are alleging more than three counts, you must provide the necessary information about each additional count on a separate page. Number the additional pages “5-A,” “5-B,” etc., and insert them immediately behind page 5. Remember that you are limited to a total of fifteen additional pages.

1. **Counts**. You must identify which civil right was violated. **You may allege the violation of only one civil right per count.**
2. **Issue Involved**. Check the box that most closely identifies the issue involved in your claim. **You may check only one box per count.** If you check the box marked "Other," you must identify the specific issue involved.
3. **Supporting Facts**. After you have identified which civil right was violated, you must state the supporting facts. Be as specific as possible. You must state what each individual defendant did to violate your rights. If there is more than one defendant, you must identify which defendant did what act. You also should state the date(s) on which the act(s) occurred, if possible.
4. **Injury**. State precisely how you were injured by the alleged violation of your rights.
5. **Administrative Remedies**. You must exhaust any available administrative remedies before you file a civil rights complaint. See 42 U.S.C. § 1997e. Consequently, you should disclose whether you have exhausted the inmate grievance procedures or administrative appeals for each count in your complaint. If the grievance procedures were not available for any of your counts, fully explain why on the lines provided.

#### **Part D. REQUEST FOR RELIEF:**

Print the relief you are seeking in the space provided.

#### **SIGNATURE:**

You must sign your name and print the date you signed the complaint. Failure to sign the complaint will delay the processing of your action. Unless you are an attorney, you may not bring an action on behalf of anyone but yourself.

#### **FINAL NOTE**

You should follow these instructions carefully. Failure to do so may result in your complaint being stricken or dismissed. All questions must be answered concisely in the proper space on the form. If you need more space, you may attach no more than fifteen additional pages. But the form must be completely filled in to the extent applicable. If you attach additional pages, be sure to identify which section of the complaint is being continued and number the pages.

Name and Prisoner/Booking Number

### Place of Confinement

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#### Mailing Address

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City, State, Zip Code

**(Failure to notify the Court of your change of address may result in dismissal of this action.)**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA**

(Full Name of Plaintiff)	Plaintiff,	)	)	)	)	)	)	)	)	)	)	)	)	CASE NO. _____
	vs.	)	)	)	)	)	)	)	)	)	)	)	(To be supplied by the Clerk)	
<u>(1)</u>	,	)	)	)	)	)	)	)	)	)	)	)		
(Full Name of Defendant)		)	)	)	)	)	)	)	)	)	)	)		
<u>(2)</u>	,	)	)	)	)	)	)	)	)	)	)	)		
<u>(3)</u>	,	)	)	)	)	)	)	)	)	)	)	)		
<u>(4)</u>	,	)	)	)	)	)	)	)	)	)	)	)		
<b>CIVIL RIGHTS COMPLAINT BY A PRISONER</b>														
<input type="checkbox"/> Original Complaint <input type="checkbox"/> First Amended Complaint <input type="checkbox"/> Second Amended Complaint														
<input type="checkbox"/> Check if there are additional Defendants and attach page 1-A listing them.														

#### A. JURISDICTION

1. This Court has jurisdiction over this action pursuant to:
    - 28 U.S.C. § 1343(a); 42 U.S.C. § 1983
    - 28 U.S.C. § 1331; Bivens v. Six Unknown Federal Narcotics Agents, 403 U.S. 388 (1971).
    - Other: \_\_\_\_\_.
  2. Institution/city where violation occurred: \_\_\_\_\_.

## B. DEFENDANTS

1. Name of first Defendant: \_\_\_\_\_ . The first Defendant is employed as:  
\_\_\_\_\_  
(Position and Title) \_\_\_\_\_  
(Institution)
2. Name of second Defendant: \_\_\_\_\_ . The second Defendant is employed as:  
\_\_\_\_\_  
(Position and Title) \_\_\_\_\_  
(Institution)
3. Name of third Defendant: \_\_\_\_\_ . The third Defendant is employed as:  
\_\_\_\_\_  
(Position and Title) \_\_\_\_\_  
(Institution)
4. Name of fourth Defendant: \_\_\_\_\_ . The fourth Defendant is employed as:  
\_\_\_\_\_  
(Position and Title) \_\_\_\_\_  
(Institution)

If you name more than four Defendants, answer the questions listed above for each additional Defendant on a separate page.

## C. PREVIOUS LAWSUITS

1. Have you filed any other lawsuits while you were a prisoner?       Yes       No
2. If yes, how many lawsuits have you filed? \_\_\_\_\_. Describe the previous lawsuits:
  - a. First prior lawsuit:
    1. Parties: \_\_\_\_\_ v. \_\_\_\_\_
    2. Court and case number: \_\_\_\_\_
    3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) \_\_\_\_\_
  - b. Second prior lawsuit:
    1. Parties: \_\_\_\_\_ v. \_\_\_\_\_
    2. Court and case number: \_\_\_\_\_
    3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) \_\_\_\_\_
  - c. Third prior lawsuit:
    1. Parties: \_\_\_\_\_ v. \_\_\_\_\_
    2. Court and case number: \_\_\_\_\_
    3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) \_\_\_\_\_

If you filed more than three lawsuits, answer the questions listed above for each additional lawsuit on a separate page.

#### **D. CAUSE OF ACTION**

## COUNT I

1. State the constitutional or other federal civil right that was violated: \_\_\_\_\_.
  2. **Count I.** Identify the issue involved. Check **only one**. State additional issues in separate counts.  
 Basic necessities       Mail       Access to the court       Medical care  
 Disciplinary proceedings       Property       Exercise of religion       Retaliation  
 Excessive force by an officer       Threat to safety       Other: \_\_\_\_\_.
  3. **Supporting Facts.** State as briefly as possible the FACTS supporting Count I. Describe exactly what **each Defendant** did or did not do that violated your rights. State the facts clearly in your own words without citing legal authority or arguments.

4. **Injury.** State how you were injured by the actions or inactions of the Defendant(s).

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- ## **5. Administrative Remedies:**

- a. Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution?  Yes  No

b. Did you submit a request for administrative relief on Count I?  Yes  No

c. Did you appeal your request for relief on Count I to the highest level?  Yes  No

d. If you did not submit or appeal a request for administrative relief at any level, briefly explain why you did not. \_\_\_\_\_

## COUNT II

1. State the constitutional or other federal civil right that was violated: \_\_\_\_\_

2. **Count II.** Identify the issue involved. Check **only one**. State additional issues in separate counts.

Basic necessities       Mail       Access to the court       Medical care  
 Disciplinary proceedings       Property       Exercise of religion       Retaliation  
 Excessive force by an officer       Threat to safety       Other: \_\_\_\_\_.

- 3. Supporting Facts.** State as briefly as possible the FACTS supporting Count II. Describe exactly what each Defendant did or did not do that violated your rights. State the facts clearly in your own words without citing legal authority or arguments.

4. **Injury.** State how you were injured by the actions or inactions of the Defendant(s).

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- ## **5. Administrative Remedies.**

- a. Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution?  Yes  No

b. Did you submit a request for administrative relief on Count II?  Yes  No

c. Did you appeal your request for relief on Count II to the highest level?  Yes  No

d. If you did not submit or appeal a request for administrative relief at any level, briefly explain why you did not. \_\_\_\_\_

## COUNT III

1. State the constitutional or other federal civil right that was violated: \_\_\_\_\_  
\_\_\_\_\_:

2. **Count III.** Identify the issue involved. Check **only one**. State additional issues in separate counts.

Basic necessities       Mail       Access to the court       Medical care  
 Disciplinary proceedings       Property       Exercise of religion       Retaliation  
 Excessive force by an officer       Threat to safety       Other: \_\_\_\_\_.

- 3. Supporting Facts.** State as briefly as possible the FACTS supporting Count III. Describe exactly what each Defendant did or did not do that violated your rights. State the facts clearly in your own words without citing legal authority or arguments.

4. **Injury.** State how you were injured by the actions or inactions of the Defendant(s).

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- ## **5. Administrative Remedies.**

- a. Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution?  Yes  No

b. Did you submit a request for administrative relief on Count III?  Yes  No

c. Did you appeal your request for relief on Count III to the highest level?  Yes  No

d. If you did not submit or appeal a request for administrative relief at any level, briefly explain why you did not. \_\_\_\_\_

**If you assert more than three Counts, answer the questions listed above for each additional Count on a separate page.**

#### **E. REQUEST FOR RELIEF**

**State the relief you are seeking:**

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

Executed on \_\_\_\_\_  
DATE

**SIGNATURE OF PLAINTIFF**

(Name and title of paralegal, legal assistant, or other person who helped prepare this complaint)

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(Signature of attorney, if any)

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(Attorney's address & telephone number)

## **ADDITIONAL PAGES**

All questions must be answered concisely in the proper space on the form. If you need more space, you may attach no more than fifteen additional pages. But the form must be completely filled in to the extent applicable. If you attach additional pages, be sure to identify which section of the complaint is being continued and number all pages.