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

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Steven L. Shook,

No. CV 11-0253-PHX-JAT (DKD)

10

Plaintiff,

ORDER

11

vs.

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Officer Bristow, et al.,

13

Defendants.

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Plaintiff Steven L. Shook, who is confined in the Arizona State Prison Complex, South Unit, in Florence, Arizona, filed a *pro se* civil rights Complaint pursuant to 42 U.S.C. § 1983, which the Court dismissed with leave to amend for failure to comply with the Federal Rules of Civil Procedure and this District’s Local Rules. (Doc. 1, 6.) Plaintiff has filed a First Amended Complaint. (Doc. 8.) The Court will dismiss the First Amended Complaint, with leave to amend, for failure to comply with the Federal Rules of Civil Procedure, this District’s Local Rules, and this Court’s previous Order.

22

I. Statutory Screening of Prisoner Complaints

23

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

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

7 “[A] complaint must contain sufficient factual matter, accepted as true, to ‘state a
8 claim to relief that is plausible on its face.’” Id. (quoting Bell Atlantic Corp. v. Twombly,
9 550 U.S. 544, 570 (2007)). A claim is plausible “when the plaintiff pleads factual content
10 that allows the court to draw the reasonable inference that the defendant is liable for the
11 misconduct alleged.” Id. “Determining whether a complaint states a plausible claim for
12 relief [is] . . . a context-specific task that requires the reviewing court to draw on its judicial
13 experience and common sense.” Id. at 1950. Thus, although a plaintiff’s specific factual
14 allegations may be consistent with a constitutional claim, a court must assess whether there
15 are other “more likely explanations” for a defendant’s conduct. Id. at 1951.

16 But as the United States Court of Appeals for the Ninth Circuit has instructed, courts
17 must “continue to construe *pro se* filings liberally.” Hebbe v. Pliler, 627 F.3d 338, 342 (9th
18 Cir. 2010). A “complaint [filed by a *pro se* prisoner] ‘must be held to less stringent standards
19 than formal pleadings drafted by lawyers.’” Id. (quoting Erickson v. Pardus, 551 U.S. 89,
20 94 (2007) (*per curiam*)).

21 If the Court determines that a pleading could be cured by the allegation of other facts,
22 a *pro se* litigant is entitled to an opportunity to amend a complaint before dismissal of the
23 action. See Lopez v. Smith, 203 F.3d 1122, 1127-29 (9th Cir. 2000) (*en banc*). The Court
24 should not, however, advise the litigant how to cure the defects. This type of advice “would
25 undermine district judges’ role as impartial decisionmakers.” Pliler v. Ford, 542 U.S. 225,
26 231 (2004); see also Lopez, 203 F.3d at 1131 n.13 (declining to decide whether the court was
27 required to inform a litigant of deficiencies). Plaintiff’s First Amended Complaint will be
28 dismissed for failure to comply with the Rules and this Court’s prior Order, with leave to

1 amend, because the First Amended Complaint may possibly be saved by amendment.

2 **II. First Amended Complaint**

3 Plaintiff alleges 34 counts asserting denial of constitutionally adequate medical care,
4 retaliation, use of excessive force, and privacy violations. Plaintiff sues the following
5 employees of the Arizona Department of Corrections (ADC): Director Charles Ryan;
6 Officers Bristow, Swanda, St. George, Hernandez, Chamberlain, and Scinvo; Drs. Sharp,
7 Kendell, Baird, and Adututu; Nurses Judy, Rosa, Marge, and Marty; Sergeant Evans;
8 Director of Inmate Services Baylor; and South Unit Records Clerk Joan. Plaintiff seeks
9 compensatory relief.

10 **III. Failure to Comply with Instructions and Rules**

11 As the Court previously informed Plaintiff: Local Rule 3.4(a) requires prisoners to
12 use court-approved form complaints. The Instructions for completing the court-approved
13 form complaint state in relevant part that:

14 **Local Rule of Civil Procedure (LRCiv) 3.4(a) provides that complaints by**
15 **incarcerated persons must be filed on the court-approved form.** The form
16 must be typed or neatly handwritten. The form must be completely filled in
17 to the extent applicable. All questions must be answered *clearly and concisely*
18 in the appropriate space on the form. If needed, you may attach additional
19 pages, ***but no more than fifteen additional pages***, of standard letter-sized
20 paper. You must identify which part of the complaint is being continued and
21 number all pages. *If you do not fill out the form properly, you will be asked to*
22 *submit additional or corrected information, which may delay the processing*
23 *of your action. You do not need to cite law.*

24 (Instructions at ¶ 1) (italics added). The Instructions further provide that:

- 25 1. Counts. You must identify which civil right was violated. ***You may allege***
26 ***the violation of only one civil right per count.***
27 2. Issue Involved. Check the box that most closely identifies the issue
28 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.

(Instructions, part C) (italics added).

1 While Plaintiff used the court-approved form complaint and corrected some
2 previously cited deficiencies, he still failed to comply with the page limit requirement and
3 again substantially exceeded the page limit. In many counts, Plaintiff fails to adequately
4 allege facts to support how each individual Defendant violated his rights, when, and where.
5 Finally, Plaintiff's hand-writing is frequently impossible to read. Local Rule 3.4(a) provides
6 that a complaint filed by an incarcerated person "shall be signed and legibly written" or
7 typed. In a second amended complaint, Plaintiff should ensure that every word is legibly
8 written. Because Plaintiff failed to comply with the Instructions for completing the court-
9 approved form complaint, his First Amended Complaint will be dismissed with leave to
10 amend in compliance with the Instructions.

11 **IV. Standard to State a Claim Under § 1983**

12 As discussed above, the Court will dismiss the First Amended Complaint for failure
13 to comply with the Instructions for completing the court-approved form. The Court again
14 informs Plaintiff of the standard to state particular types of claims under § 1983.

15 Section 1983 provides a cause of action against persons acting under color of state law
16 who have violated rights guaranteed by the United States Constitution and federal law. 42
17 U.S.C. § 1983; see also Buckley v. City of Redding, 66 F.3d 188, 190 (9th Cir. 1995). To
18 state a claim under § 1983, a plaintiff must allege facts supporting that (1) the conduct about
19 which he complains was committed by a person acting under the color of state law and (2)
20 the conduct deprived him of a federal constitutional or statutory right. Wood v. Ostrander,
21 879 F.2d 583, 587 (9th Cir. 1989). A "plaintiff generally must assert his own legal rights
22 and interests, and cannot assert the legal rights or interests of third parties." Mothershed v.
23 Justices of the Supreme Court, 410 F.3d 602, 610 (9th Cir. 2005) (quoting Warth v. Seldin,
24 422 U.S. 490, 499 (1975)). A plaintiff must also allege that he suffered a specific injury as
25 a result of the conduct of a particular defendant and he must allege an affirmative link
26 between the injury and the conduct of that defendant. Rizzo v. Goode, 423 U.S. 362, 371-72,
27 377 (1976).

1 Plaintiff is additionally informed that to state a claim against a particular individual
2 Defendant, a “plaintiff must allege facts, not simply conclusions, that show that [the]
3 individual was personally involved in the deprivation of his civil rights.” Barren v.
4 Harrington, 152 F.3d 1193, 1194 (9th Cir. 1998). For an individual to be liable in his official
5 capacity, a plaintiff must allege that the official acted as a result of a policy, practice, or
6 custom. See Cortez v. County of Los Angeles, 294 F.3d 1186, 1188 (9th Cir. 2001). In
7 addition, there is no *respondeat superior* liability under § 1983, so a defendant’s position as
8 the supervisor of someone who allegedly violated a plaintiff’s constitutional rights does not
9 make him liable. Monell v. Dep’t of Soc. Servs., 436 U.S. 658, 691 (1978); Taylor, 880 F.2d
10 at 1045. A supervisor in his individual capacity, “is only liable for constitutional violations
11 of his subordinates if the supervisor participated in or directed the violations, or knew of the
12 violations and failed to act to prevent them.” Taylor, 880 F.2d at 1045.

13 **A. Medical Care**

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

23 “Deliberate indifference is a high legal standard.” Toguchi v. Chung, 391 F.3d 1051,
24 1060 (9th Cir. 2004). To act with deliberate indifference, a prison official must both know
25 of and disregard an excessive risk to inmate health; “the official must both be aware of facts
26 from which the inference could be drawn that a substantial risk of serious harm exists, and
27 he must also draw the inference.” Farmer v. Brennan, 511 U.S. 825, 837 (1994). Deliberate
28 indifference in the medical context may be shown by a purposeful act or failure to respond

1 to a prisoner’s pain or possible medical need and harm caused by the indifference. Jett, 439
2 F.3d at 1096. Deliberate indifference may also be shown when a prison official intentionally
3 denies, delays, or interferes with medical treatment or by the way prison doctors respond to
4 the prisoner’s medical needs. Estelle, 429 U.S. at 104-05; Jett, 439 F.3d at 1096.

5 Deliberate indifference is a higher standard than negligence or lack of ordinary due
6 care for the prisoner’s safety. Farmer, 511 U.S. at 835. “Neither negligence nor gross
7 negligence will constitute deliberate indifference.” Clement v. California Dep’t of
8 Corrections, 220 F. Supp. 2d 1098, 1105 (N.D. Cal. 2002); see also Broughton v. Cutter
9 Labs., 622 F.2d 458, 460 (9th Cir. 1980) (mere claims of “indifference,” “negligence,” or
10 “medical malpractice” do not support a claim under § 1983). “A difference of opinion does
11 not amount to deliberate indifference to [a plaintiff’s] serious medical needs.” Sanchez v.
12 Vild, 891 F.2d 240, 242 (9th Cir. 1989). A mere delay in medical care, without more, is
13 insufficient to state a claim against prison officials for deliberate indifference. See Shapley
14 v. Nevada Bd. of State Prison Comm’rs, 766 F.2d 404, 407 (9th Cir. 1985). The indifference
15 must be substantial. The action must rise to a level of “unnecessary and wanton infliction
16 of pain.” Estelle, 429 U.S. at 105.

17 **B. Retaliation**

18 Plaintiff also alleges several counts of retaliation. To state a constitutional claim for
19 retaliation, a plaintiff must allege that a defendant acting under color of state law took
20 adverse action against him because he engaged in constitutionally-protected conduct, the
21 adverse action was not narrowly tailored to advance legitimate goals, and the adverse action
22 chilled the plaintiff’s exercise of his First Amendment rights or caused him to suffer more
23 than minimal harm. Rhodes v. Robinson, 408 F.3d 559, 567-58 (9th Cir. 2005); see also
24 Hines v. Gomez, 108 F.3d 265, 267 (9th Cir. 1997) (retaliation claims requires an inmate
25 must show (1) that the prison official acted in retaliation for the exercise of a
26 constitutionally-protected right, and (2) that the action “advanced no legitimate penological
27 interest”).

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1 **C. Americans with Disabilities Act (ADA)**

2 Plaintiff also asserts violation or discrimination against him based on a disability. The
3 Americans with Disabilities Act (ADA), 42 U.S.C. §§ 12131-34, is applicable in the prison
4 context. Pennsylvania Dep’t of Corr. v. Yeskey, 524 U.S. 206, 213 (1998). Under Title II
5 of the ADA, “no qualified individual with a disability shall, by reason of such disability, be
6 excluded from participation in or be denied the benefits of the services, programs, or
7 activities of a public entity, or be subjected to discrimination by any such entity.” 42 U.S.C.
8 § 12132. A “public entity” is “any State or local government; [or] (B) any department,
9 agency, special purpose district, or other instrumentality of a State or States or local
10 government....” 42 U.S.C. § 12131. Individuals, however, may *only* be sued under the ADA
11 in their official, rather than, their individual capacities. Vinson v. Thomas, 288 F.3d 1145,
12 1156 (9th Cir. 2002) (plaintiff cannot sue state officials in their individual capacities to
13 vindicate rights created by Title II of the ADA). To state an ADA claim, a plaintiff must
14 allege facts to support that he: “(1) is a handicapped person; (2) that he is otherwise qualified;
15 and that [prison officials’] actions either (3) excluded his participation in or denied him the
16 benefits of a service, program, or activity; or (4) otherwise subjected him to discrimination
17 on the basis of his physical handicap.” Duffy v. Riveland, 98 F.3d 447, 455 (9th Cir. 1996).

18 If Plaintiff wishes to bring a claim for ADA violations, he should allege facts to
19 support that he is a handicapped person who is otherwise qualified, that particular
20 Defendants’ actions excluded his participation in or denied him the benefits of any service,
21 program, or activity, or otherwise discriminated against him based on a physical handicap.
22 Plaintiff should specifically allege when and what service, program, or activity he was denied
23 due to his disability.

24 **D. Privacy**

25 Plaintiff also asserts violation of his privacy rights concerning disclosures by and to
26 non-medical staff about Plaintiff’s medical conditions, including suffering from Tourette’s
27 Syndrome, kidney stones, and gall bladder flare-ups. Plaintiff appears to be attempting to
28 assert a claim pursuant to the Health Insurance Portability and Accountability Act (HIPAA),

1 42 U.S.C. §§ 1320d-1 to d-8. As the Court previously informed Plaintiff, HIPAA does not
2 provide for a private cause of action. Webb v. Smart Document Solutions, 499 F.3d 1078,
3 1080 (9th Cir. 2007). For that reason, Plaintiff can not state a claim for violation of HIPAA.

4 **V. Leave to Amend**

5 As discussed above, Plaintiff's First Amended Complaint will be dismissed for failure
6 to comply with the Rules. Within 30 days, Plaintiff may submit a second amended complaint
7 to cure the deficiencies outlined above. The Clerk of Court will mail Plaintiff a court-
8 approved form to use for filing a second amended complaint. If Plaintiff fails to use the
9 court-approved form, the Court may strike the amended complaint and dismiss this action
10 without further notice to Plaintiff.

11 Plaintiff must clearly designate on the face of the document that it is the "Second
12 Amended Complaint." The second amended complaint must be retyped or rewritten in its
13 entirety on the court-approved form and may not incorporate any part of any prior complaint
14 by reference. Plaintiff may include only one claim per count.

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

21 **VI. Warnings**

22 **A. Release**

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

27 **B. Address Changes**

28 Plaintiff must file and serve a notice of a change of address in accordance with Rule

1 83.3(d) of the Local Rules of Civil Procedure. Plaintiff must not include a motion for other
2 relief with a notice of change of address. Failure to comply may result in dismissal of this
3 action.

4 **C. Copies**

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

8 **D. Possible “Strike”**

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

19 **E. Possible Dismissal**

20 If Plaintiff fails to timely comply with every provision of this Order, including these
21 warnings, the Court may dismiss this action without further notice. See Ferdik, 963 F.2d at
22 1260-61 (a district court may dismiss an action for failure to comply with any order of the
23 Court).

24 **IT IS ORDERED:**

25 (1) The First Amended Complaint is **dismissed** for failure to comply with the
26 Rules. (Doc. 8.) Plaintiff has **30 days** from the date this Order is filed to file a second
27 amended complaint in compliance with this Order.

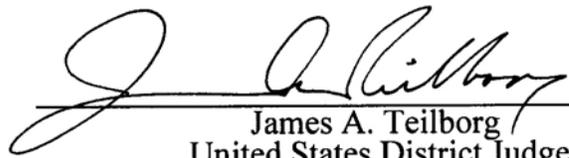
28 (2) If Plaintiff fails to file an amended complaint within 30 days, the Clerk of

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Court must, without further notice, enter a judgment of dismissal of this action with prejudice that states that the dismissal may count as a “strike” under 28 U.S.C. § 1915(g).

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

DATED this 31st day of May, 2011.


James A. Teilborg
United States District Judge

**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:**

Phoenix & Prescott Divisions:
U.S. District Court Clerk
U.S. Courthouse, Suite 130
401 West Washington Street, SPC 10
Phoenix, Arizona 85003-2119

OR

Tucson Division:
U.S. District Court Clerk
U.S. Courthouse, Suite 1500
405 West Congress Street
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

Mailing Address

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,

vs.

CASE NO. _____
(To be supplied by the Clerk)

(1) _____
(Full Name of Defendant)

(2) _____

(3) _____

(4) _____

Defendant(s).

Check if there are additional Defendants and attach page 1-A listing them.

**CIVIL RIGHTS COMPLAINT
BY A PRISONER**

- Original Complaint
- First Amended Complaint
- Second Amended Complaint

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:
_____ at _____ .
(Position and Title) (Institution)
- 2. Name of second Defendant: _____ . The second Defendant is employed as:
_____ at _____ .
(Position and Title) (Institution)
- 3. Name of third Defendant: _____ . The third Defendant is employed as:
_____ at _____ .
(Position and Title) (Institution)
- 4. Name of fourth Defendant: _____ . The fourth Defendant is employed as:
_____ at _____ .
(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).

_____.

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 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).

_____.

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:

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)

(Signature of attorney, if any)

(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.