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

Richard LeGrand Gause,
Plaintiff,

vs.

Maricopa County Correctional Health
Services, et al.,
Defendants.

No. CV 13-2555-PHX-RCB (MEA)

ORDER

Plaintiff Richard LeGrand Gause, who is confined in the Maricopa County Fourth Avenue 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

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

....

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

2 The Court is required to screen complaints brought by prisoners seeking relief
3 against a governmental entity or an officer or an employee of a governmental entity. 28
4 U.S.C. § 1915A(a). The Court must dismiss a complaint or portion thereof if a plaintiff
5 has raised claims that are legally frivolous or malicious, that fail to state a claim upon
6 which relief may be granted, or that seek monetary relief from a defendant who is
7 immune from such relief. 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
10 does not demand detailed factual allegations, “it demands more than an unadorned, the-
11 defendant-unlawfully-harmed-me accusation.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678
12 (2009). “Threadbare recitals of the elements of a cause of action, supported by mere
13 conclusory 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
17 content that allows the court to draw the reasonable inference that the defendant is liable
18 for the misconduct alleged.” *Id.* “Determining whether a complaint states a plausible
19 claim for relief [is] . . . a context-specific task that requires the reviewing court to draw
20 on its judicial experience and common sense.” *Id.* at 679. Thus, although a plaintiff’s
21 specific factual allegations may be consistent with a constitutional claim, a court must
22 assess whether there are other “more likely explanations” for a defendant’s conduct. *Id.*
23 at 681.

24 But as the United States Court of Appeals for the Ninth Circuit has instructed,
25 courts must “continue to construe *pro se* filings liberally.” *Hebbe v. Pliler*, 627 F.3d 338,
26 342 (9th Cir. 2010). A “complaint [filed by a *pro se* prisoner] ‘must be held to less
27 stringent standards than formal pleadings drafted by lawyers.’” *Id.* (quoting *Erickson v.*
28 *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
2 facts, a *pro se* litigant is entitled to an opportunity to amend a complaint before dismissal
3 of the action. *See Lopez v. Smith*, 203 F.3d 1122, 1127-29 (9th Cir. 2000) (*en banc*). The
4 Court should not, however, advise the litigant how to cure the defects. This type of
5 advice “would undermine district judges’ role as impartial decisionmakers.” *Pliler v.*
6 *Ford*, 542 U.S. 225, 231 (2004); *see also Lopez*, 203 F.3d at 1131 n.13 (declining to
7 decide whether the court was required to inform a litigant of deficiencies). Plaintiff’s
8 Complaint will be dismissed for failure to state a claim, but because it may possibly be
9 amended to state a claim, the Court will dismiss it with leave to amend.

10 **III. Complaint**

11 In his one-count Complaint, Plaintiff sues the following Defendants: Maricopa
12 County Correctional Health Services, Maricopa County Mental Health Services,
13 Maricopa County Jail Medical Staff, Physician’s Assistant Doctor Matt, Maricopa
14 County Dental Doctor Unknown, and Psychiatric Doctor Unknown.

15 Plaintiff alleges a violation of his Eighth Amendment rights regarding medical
16 care. He states that he was involved in a severe motorcycle accident in April 2013 and,
17 as a result, he suffered multiple facial fractures, leg and knee fractures, and brain damage.
18 He claims that he was placed in a full leg cast and that his doctor told him he had
19 approximately one year to treat the brain damage, that whatever remaining effects he had
20 at that point would become permanent, and he needed to consult with a neuro-
21 psychiatrist.

22 Plaintiff states that on July 1, 2013, he was arrested and jail personnel took his
23 cane and his leg brace containing metal sheets. Plaintiff contends that he was told that
24 these items would be replaced with a jail-approved brace and cane, but he did not receive
25 them from July 1 to August 30, 2013, despite submitting multiple health needs request
26 forms. Plaintiff states that he was given pain medication, was scheduled to see an
27 orthopedist (although it can take up to six months to see one), and was told by Defendant
28 Doctor Matt and other doctors and medical staff members that he needed to see the

1 orthopedist before he could receive a brace, a cane, or treatment for his knee. Plaintiff
2 claims the medical staff had his hospital records, which stated that he should have been in
3 a brace until August 2, but no doctor followed that directive.

4 Plaintiff next claims he saw Defendant Dental Doctor Unknown because the
5 “screw holding [his] face together came un-anchored.” Plaintiff states that he told
6 “medical and dental” that the pain was occasionally incapacitating and preventing him
7 from eating and that the unanchored screw was causing him intense headaches and partial
8 blindness in one eye. Plaintiff contends that “they” ordered him to be seen by a plastic
9 surgeon, told him it could take up to six months to be seen by a plastic surgeon, ordered
10 pain medications, and refused to provide further treatment because only the plastic
11 surgeon could treat him.

12 Plaintiff also contends that he requested to see a neuro-psychiatrist regarding his
13 memory loss, was eventually told he had been scheduled to be seen, but was not seen by
14 a neuro-psychiatrist. A mental health assistant completed his “initial mental health
15 packet” on August 1, and told Plaintiff that he would be seen by a psychiatric doctor
16 within ten days. Plaintiff states that he was not seen by a psychiatric doctor and was
17 ultimately released on his own recognizance on August 30 because he was not being
18 treated by the medical staff.

19 Plaintiff states that he was out of the jail for two months, but returned in
20 November 2013. He claims he has the exact same problems “except worse.” He alleges:
21 it will again take 3-6 months to see the plastic surgeon; he met with the psychiatric
22 assistant and was supposed to be seen by a psychiatric doctor within ten days, but did not
23 see one; the psychiatric assistant said she would provide him with a workbook with
24 exercises for his memory loss, but has not provided it yet; and Defendant Dr. Matt
25 refused to treat Plaintiff’s knee or submit a request for Plaintiff to see an orthopedist until
26 he received Plaintiff’s entire medical file, yet ordered Plaintiff’s nerve medication
27 without the entire medical file. Plaintiff also contends that because he has nerve damage
28 in his hands, he was given bi-lateral wrist splints the first time he was in the jail.

1 However, Defendant Dr. Matt refused to reorder the wrist splints when Plaintiff was
2 returned to jail because it “cost[s] too much for Maricopa County to keep re-ordering
3 them every[]time [Plaintiff] get[s] out and come[s] back.” Plaintiff claims Defendant Dr.
4 Matt authorized Plaintiff’s family to bring splints to the jail, but Plaintiff advised
5 Defendant Dr. Matt that his family was not financially able to do so. Plaintiff claims that
6 Defendant Dr. Matt told Plaintiff that the Fourth Avenue Jail was not financially able “to
7 keep buying them for [Plaintiff] so maybe [he will] quit coming back.”

8 In his Request for Relief, Plaintiff seeks treatment for his ailments and monetary
9 damages.

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

11 Although *pro se* pleadings are liberally construed, *Haines v. Kerner*, 404 U.S. 519,
12 520-21 (1972), conclusory and vague allegations will not support a cause of action. *Ivey*
13 *v. Bd. of Regents of the Univ. of Alaska*, 673 F.2d 266, 268 (9th Cir. 1982). Further, a
14 liberal interpretation of a civil rights complaint may not supply essential elements of the
15 claim that were not initially pled. *Id.*

16 **A. Defendants Maricopa County Correctional Health Services and** 17 **Maricopa County Mental Health Services**

18 Defendant Maricopa County Correctional Health Services (CHS) is an improper
19 Defendant. Municipalities and other local governing bodies are included among those
20 “persons” who may be sued under § 1983. *Monell v. New York City Dep’t of Soc. Servs.*,
21 436 U.S. 658, 690-91 (1978). Because Defendant CHS is an administrative subdivision
22 of Maricopa County and not a municipal corporation, a local governing body or a private
23 corporation, it is not a “person” amenable to suit under § 1983. Maricopa County is
24 responsible for providing medical care to county jail inmates. *See Ariz. Rev. Stat. § 11-*
25 *291(A)*. Any actions concerning a county policy must be brought against the county
26 itself and not against an administrative subdivision of the county. Thus, Defendant CHS
27 is an improper defendant and will be dismissed from this action. Similarly, because
28 mental health services for Maricopa County inmates are provided by Defendant CHS,

1 Defendant Maricopa County Mental Health Services is also an improper defendant and
2 will be dismissed from this action.

3 **B. Defendant Maricopa County Jail Medical Staff**

4 To state a claim under 42 U.S.C. § 1983, a plaintiff must allege facts supporting
5 that (1) the conduct about which he complains was committed by a person acting under
6 the color of state law and (2) the conduct deprived him of a federal constitutional or
7 statutory right. *Wood v. Outlander*, 879 F.2d 583, 587 (9th Cir. 1989). In addition, a
8 plaintiff must allege that he suffered a specific injury as a result of the conduct of a
9 particular defendant and he must allege an affirmative link between the injury and the
10 conduct of that defendant. *Rizzo v. Goode*, 423 U.S. 362, 371-72, 377 (1976).
11 Conclusory allegations that a Defendant or group of Defendants has violated a
12 constitutional right are insufficient.

13 Plaintiff's allegations against Defendant Maricopa County Jail Medical Staff are
14 nothing more than insufficient allegations against a group of individuals, without any
15 factual specificity as to what a particular individual did or failed to do. Thus, Plaintiff
16 has failed to state a claim against Defendant Maricopa County Jail Medical Staff and the
17 Court will dismiss this Defendant.

18 **C. Defendants Maricopa County Dental Doctor Unknown, Unknown**
19 **Psychiatric Doctor, and Dr. Matt**

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

28 "Deliberate indifference is a high legal standard." *Toguchi v. Chung*, 391 F.3d

1 1051, 1060 (9th Cir. 2004). To act with deliberate indifference, a prison official must
2 both know of and disregard an excessive risk to inmate health; “the official must both be
3 aware of facts from which the inference could be drawn that a substantial risk of serious
4 harm exists, and he must also draw the inference.” *Farmer v. Brennan*, 511 U.S. 825,
5 837 (1994). Deliberate indifference in the medical context may be shown by a
6 purposeful act or failure to respond to a prisoner’s pain or possible medical need and
7 harm caused by the indifference. *Jett*, 439 F.3d at 1096. Deliberate indifference may
8 also be shown when a prison official intentionally denies, delays, or interferes with
9 medical treatment or by the way prison doctors respond to the prisoner’s medical needs.
10 *Estelle*, 429 U.S. at 104-05; *Jett*, 439 F.3d at 1096.

11 Deliberate indifference is a higher standard than negligence or lack of ordinary
12 due care for the prisoner’s safety. *Farmer*, 511 U.S. at 835. “Neither negligence nor
13 gross negligence will constitute deliberate indifference.” *Clement v. California Dep’t of*
14 *Corr.*, 220 F. Supp. 2d 1098, 1105 (N.D. Cal. 2002); *see also Broughton v. Cutter Labs.*,
15 622 F.2d 458, 460 (9th Cir. 1980) (mere claims of “indifference,” “negligence,” or
16 “medical malpractice” do not support a claim under § 1983). “A difference of opinion
17 does not amount to deliberate indifference to [a plaintiff’s] serious medical needs.”
18 *Sanchez v. Vild*, 891 F.2d 240, 242 (9th Cir. 1989). A mere delay in medical care,
19 without more, is insufficient to state a claim against prison officials for deliberate
20 indifference. *See Shapley v. Nevada Bd. of State Prison Comm’rs*, 766 F.2d 404, 407
21 (9th Cir. 1985). The indifference must be substantial. The action must rise to a level of
22 “unnecessary and wanton infliction of pain.” *Estelle*, 429 U.S. at 105.

23 Plaintiff states that Defendant Dental Doctor Unknown provided pain medication,
24 ordered Plaintiff to be seen by a plastic surgeon, and stated that only the plastic surgeon
25 could treat the issue regarding the unanchored face screw. Nothing in these allegations
26 supports a claim that Defendant Dental Doctor Unknown was deliberately indifferent to
27 Plaintiff’s serious medical needs. Thus, the Court will dismiss without prejudice
28 Defendant Dental Doctor Unknown.

1 Plaintiff does not allege that Defendant Psychiatric Doctor Unknown knew of and
2 intentionally disregarded a substantial risk of serious harm to Plaintiff. In fact, Plaintiff
3 alleges that he was not seen by Defendant Psychiatric Doctor Unknown. Thus, Plaintiff
4 has failed to state a claim against Defendant Psychiatric Doctor Unknown and the Court
5 will dismiss without prejudice this Defendant.

6 Plaintiff's allegations against Defendant Dr. Matt also do not support a claim of
7 deliberate indifference. At best, Plaintiff's allegations that Defendant Dr. Matt stated that
8 Plaintiff needed to see an orthopedist before he could receive a brace, cane, or treatment
9 for his knee, and failed to provide a brace despite Plaintiff's hospital records stating that
10 Plaintiff needed one, support a claim that Defendant Dr. Matt was negligent or committed
11 malpractice, neither of which are sufficient to state a deliberate indifference claim. *See*
12 *Farmer*, 511 U.S. at 835; *Broughton*, 622 F.2d at 460. In addition, Plaintiff's allegations
13 concerning Defendant Dr. Matt's refusal to provide wrist splints are too vague and
14 conclusory to state a claim. Although Plaintiff alleges that he was provided with the
15 splints the first time he was in jail, he does not allege that the splints were ordered by a
16 doctor, that they were medically necessary, or that Plaintiff suffered any pain without
17 them. Moreover, Plaintiff alleges that Defendant Dr. Matt approved Plaintiff's family to
18 bring in splints, and it is unclear why his family did not bring in the splints Plaintiff
19 received initially. Plaintiff's allegations are insufficient to state a claim of deliberate
20 indifference. Thus, the Court will dismiss without prejudice Defendant Dr. Matt.

21 **V. Leave to Amend**

22 For the foregoing reasons, Plaintiff's Complaint will be dismissed for failure to
23 state a claim upon which relief may be granted. Within 30 days, Plaintiff may submit a
24 first amended complaint to cure the deficiencies outlined above. The Clerk of Court will
25 mail Plaintiff a court-approved form to use for filing a first amended complaint. If
26 Plaintiff fails to use the court-approved form, the Court may strike the amended
27 complaint and dismiss this action without further notice to Plaintiff.
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1 Plaintiff must clearly designate on the face of the document that it is the “First
2 Amended Complaint.” The first amended complaint must be retyped or rewritten in its
3 entirety on the court-approved form and may not incorporate any part of the original
4 Complaint by reference. Plaintiff may include only one claim per count.

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

11 Plaintiff must repeat this process for each person he names as a Defendant. If
12 Plaintiff fails to affirmatively link the conduct of each named Defendant with the specific
13 injury suffered by Plaintiff, the allegations against that Defendant will be dismissed for
14 failure to state a claim. **Conclusory allegations that a Defendant or group of**
15 **Defendants has violated a constitutional right are not acceptable and will be**
16 **dismissed.**

17 A first amended complaint supersedes the original complaint. *Ferdik v. Bonzelet*,
18 963 F.2d 1258, 1262 (9th Cir. 1992); *Hal Roach Studios v. Richard Feiner & Co.*, 896
19 F.2d 1542, 1546 (9th Cir. 1990). After amendment, the Court will treat an original
20 complaint as nonexistent. *Ferdik*, 963 F.2d at 1262. Any cause of action that was raised
21 in the original complaint and that was voluntarily dismissed or was dismissed without
22 prejudice is waived if it is not alleged in a first amended complaint. *Lacey v. Maricopa*
23 *County*, 693 F.3d 896, 928 (9th Cir. 2012) (en banc).

24 **VI. Warnings**

25 **A. Release**

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

3 **B. Address Changes**

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

8 **C. Copies**

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

12 **D. Possible “Strike”**

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

22 **E. Possible Dismissal**

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

27 **IT IS ORDERED:**

28 (1) Plaintiff’s Application to Proceed *In Forma Pauperis* (Doc. 2) is **granted**.

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(2) As required by the accompanying Order to the appropriate government agency, Plaintiff must pay the \$350.00 filing fee and is not assessed an initial partial filing fee.

(3) The Complaint (Doc. 1) is **dismissed** for failure to state a claim. Plaintiff has **30 days** from the date this Order is filed to file a first amended complaint in compliance with this Order.

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

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

DATED this 2nd day of February, 2014.



Robert C. Broomfield
Senior 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.

<input type="checkbox"/> Basic necessities	<input type="checkbox"/> Mail	<input type="checkbox"/> Access to the court	<input type="checkbox"/> Medical care
<input type="checkbox"/> Disciplinary proceedings	<input type="checkbox"/> Property	<input type="checkbox"/> Exercise of religion	<input type="checkbox"/> Retaliation
<input type="checkbox"/> Excessive force by an officer	<input type="checkbox"/> Threat to safety	<input type="checkbox"/> 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.