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6 **IN THE UNITED STATES DISTRICT COURT**  
7 **FOR THE DISTRICT OF ARIZONA**  
8

9 Carlos Valez,

No. CV 20-01400-PHX-JAT (DMF)

10 Plaintiff,

11 v.

**ORDER**12 Corrections Corporation of America, et  
13 al.,14 Defendants.  
15

16 On July 15, 2020, Plaintiff Carlos Valez, who is confined in the Northern Nevada  
17 Correctional Center in Carson City, Nevada, filed a pro se civil rights Complaint pursuant  
18 to 42 U.S.C. § 1983 (Doc. 1) and a Motion for Appointment of Counsel (Doc. 2) and paid  
19 the filing and administrative fees. The Court will dismiss the Complaint with leave to  
20 amend and will deny without prejudice the Motion for Appointment of Counsel.

21 **I. Statutory Screening of Prisoner Complaints**

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

28 A pleading must contain a “short and plain statement of the claim showing that the  
pleader is entitled to relief.” Fed. R. Civ. P. 8(a)(2) (emphasis added). While Rule 8 does

1 not demand detailed factual allegations, “it demands more than an unadorned, the-  
2 defendant-unlawfully-harmed-me accusation.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678  
3 (2009). “Threadbare recitals of the elements of a cause of action, supported by mere  
4 conclusory statements, do not suffice.” *Id.*

5 “[A] complaint must contain sufficient factual matter, accepted as true, to ‘state a  
6 claim to relief that is plausible on its face.’” *Id.* (quoting *Bell Atlantic Corp. v. Twombly*,  
7 550 U.S. 544, 570 (2007)). A claim is plausible “when the plaintiff pleads factual content  
8 that allows the court to draw the reasonable inference that the defendant is liable for the  
9 misconduct alleged.” *Id.* “Determining whether a complaint states a plausible claim for  
10 relief [is] . . . a context-specific task that requires the reviewing court to draw on its judicial  
11 experience and common sense.” *Id.* at 679. Thus, although a plaintiff’s specific factual  
12 allegations may be consistent with a constitutional claim, a court must assess whether there  
13 are other “more likely explanations” for a defendant’s conduct. *Id.* at 681.

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

19 If the Court determines that a pleading could be cured by the allegation of other  
20 facts, a pro se litigant is entitled to an opportunity to amend a complaint before dismissal  
21 of the action. See *Lopez v. Smith*, 203 F.3d 1122, 1127-29 (9th Cir. 2000) (en banc).  
22 Plaintiff’s Complaint will be dismissed for failure to state a claim, but because it may  
23 possibly be amended to state a claim, the Court will dismiss it with leave to amend.

## 24 **II. Complaint**

25 In his two-count Complaint, Plaintiff names as Defendants Corrections Corporation  
26 of America (CCA),<sup>1</sup> Warden Thomas B., Lieutenant Perez, Case Counselor Ortega,

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27  
28 <sup>1</sup> Corrections Corporation of America (CCA) has changed its name to CoreCivic as part of a rebranding.

1 Investigator Bawlick, and Case Manager Norvaes. In his Request for Relief, Plaintiff seeks  
2 monetary damages, a federal investigator to investigate the treatment of inmates at all CCA  
3 facilities, and his attorney’s fees and filing fees.

4 In **Count One**, Plaintiff alleges he was subjected to excessive force. He claims that  
5 when he was confined at CCA’s Saguaro Correctional Center in Eloy, Arizona, he woke  
6 up at 11:00 a.m., and noticed there was a lot of noise on his tier. Plaintiff contends  
7 Defendant Perez came to his cell door and, using Defendant Norvaes to communicate to  
8 Plaintiff in Spanish, ordered Plaintiff to strip naked. Plaintiff alleges he did and was  
9 standing naked in front of his cell door. He claims Defendant Perez opened Plaintiff’s food  
10 slot and pointed at Plaintiff’s penis and Defendants Ortega, Bawlick, and Norvaes were  
11 laughing at him. Plaintiff alleges he asked if he could put his boxer shorts back on, but  
12 Defendant Perez, through Defendant Norvaes, told him that he could not and told him to  
13 come out of his cell onto the tier. Plaintiff alleges he was embarrassed and, therefore,  
14 refused. He asserts he then was sprayed in the mouth with pepper spray, without warning,  
15 and “they” opened his cell door, rushed in, hit him in the head, and kicked him in the side.  
16 Plaintiff claims he passed out and, when he regained consciousness, his boxers were on  
17 and “they” told him that they had found a weapon. Plaintiff asserts he never had a weapon.  
18 He alleges he suffered lung issues, long-term breathing difficulty, a bloody nose, a skin  
19 rash, and bruised ribs.

20 In **Count Two**, Plaintiff alleges he was denied access to the court from February 2  
21 to July 23, 2018. He claims he was denied an informal grievance, access to a law library,  
22 pen and paper, his property containing his legal work, the addresses of his family members,  
23 stamps, and envelopes. Plaintiff contends he verbally requested these items daily to  
24 numerous corrections officers, but most corrections officers did not speak Spanish and  
25 ignored him. He claims he was denied an opportunity to pursue administrative remedies,  
26 access to the law library to get help, and pens and paper to communicate.

27 . . . .

28 . . . .

1     **III. Failure to State a Claim**

2             Although pro se pleadings are liberally construed, *Haines v. Kerner*, 404 U.S. 519,  
3 520-21 (1972), conclusory and vague allegations will not support a cause of action. *Ivey*  
4 *v. Bd. of Regents*, 673 F.2d 266, 268 (9th Cir. 1982). Further, a liberal interpretation of a  
5 civil rights complaint may not supply essential elements of the claim that were not initially  
6 pled. *Id.*

7             **A. Defendant CCA**

8             To state a claim under § 1983 against a private entity performing a traditional public  
9 function, such as housing prisoners, a plaintiff must allege facts to support that his  
10 constitutional rights were violated as a result of a policy, decision, or custom promulgated  
11 or endorsed by the private entity. See *Tsao v. Desert Palace, Inc.*, 698 F.3d 1128, 1138-  
12 39 (9th Cir. 2012); *Buckner v. Toro*, 116 F.3d 450, 452 (11th Cir. 1997) (per curiam). A  
13 plaintiff must allege the specific policy or custom and how it violated his constitutional  
14 rights. A private entity is not liable merely because it employs persons who allegedly  
15 violated a plaintiff’s constitutional rights. See *Tsao*, 698 F.3d at 1139; *Buckner*, 116 F.3d  
16 at 452.

17             Plaintiff does not allege that any of the conduct described in the Complaint was the  
18 result of a specific policy or custom of Defendant CCA. Thus, the Court will dismiss  
19 without prejudice Defendant CCA.

20             **B. Defendant Thomas B.**

21             To state a valid claim under § 1983, plaintiffs must allege that they suffered a  
22 specific injury as a result of specific conduct of a defendant and show an affirmative link  
23 between the injury and the conduct of that defendant. See *Rizzo v. Goode*, 423 U.S. 362,  
24 371-72, 377 (1976). There is no respondeat superior liability under § 1983, and therefore,  
25 a defendant’s position as the supervisor of persons who allegedly violated Plaintiff’s  
26 constitutional rights does not impose liability. *Monell v. Dep’t of Soc. Servs.*, 436 U.S. 658  
27 (1978); *Hamilton v. Endell*, 981 F.2d 1062, 1067 (9th Cir. 1992); *Taylor v. List*, 880 F.2d  
28 1040, 1045 (9th Cir. 1989). “Because vicarious liability is inapplicable to . . . § 1983 suits,

1 a plaintiff must plead that each Government-official defendant, through the official's own  
2 individual actions, has violated the Constitution." Iqbal, 556 U.S. at 676.

3 Plaintiff has not alleged that Defendant Thomas B. personally participated in a  
4 deprivation of Plaintiff's constitutional rights, was aware of a deprivation and failed to act,  
5 or formed policies that resulted in Plaintiff's injuries. Plaintiff has made no allegations at  
6 all against Defendant Thomas B. Thus, the Court will dismiss without prejudice Defendant  
7 Thomas B.

### 8 **C. Count One**

9 When an inmate claims that prison officials violated his Eighth Amendment rights  
10 by using excessive physical force, the relevant inquiry is "whether force was applied in a  
11 good-faith effort to maintain or restore discipline, or maliciously and sadistically to cause  
12 harm." Hudson v. McMillian, 503 U.S. 1, 7 (1992). However, the Supreme Court has  
13 made it clear that not every use of physical force violates the Eighth Amendment:

14 That is not to say that every malevolent touch by a prison guard gives  
15 rise to a federal cause of action. See Johnson v. Glick, 481 F.2d [1028,  
16 1033 (2nd Cir. 1973)] ("Not every push or shove, even if it may later  
17 seem unnecessary in the peace of a judge's chambers, violates a  
prisoner's constitutional rights").

18 Id. at 9.

19 Plaintiff's allegations are insufficient to state a claim that any Defendant used force  
20 maliciously or sadistically to cause harm. Plaintiff does not allege that there was no valid  
21 penological reason for Defendant Perez to direct him to leave his cell, despite being nude,  
22 and it appears Plaintiff refused this instruction. Absent more, Plaintiff's allegations are too  
23 vague and conclusory to state a claim. Thus, the Court will dismiss without prejudice  
24 Count One.

### 25 **D. Count Two**

26 Plaintiff has simply made vague and conclusory allegations against groups of  
27 Defendants, without any factual specificity as to what any particular Defendant did or  
28 failed to do. This is insufficient. See Marcilis v. Twp. of Redford, 693 F.3d 589, 596 (6th

1 Cir. 2012) (upholding dismissal of Bivens complaint that referred to all defendants  
2 “generally and categorically” because the plaintiff had failed to “allege, with particularity,  
3 facts that demonstrate what each defendant did to violate the asserted constitutional right.”  
4 (quoting *Lanman v. Hinson*, 529 F.3d 673, 684 (6th Cir. 2008)); *Robbins v. Oklahoma*,  
5 519 F.3d 1242, 1250 (10th Cir. 2008) (“Given the complaint’s use of either the collective  
6 term ‘Defendants’ or a list of the defendants named individually but with no distinction as  
7 to what acts are attributable to whom, it is impossible for any of these individuals to  
8 ascertain what particular unconstitutional acts they are alleged to have committed.”). Thus,  
9 the Court will dismiss without prejudice Count Two.

#### 10 **IV. Leave to Amend**

11 For the foregoing reasons, Plaintiff’s Complaint will be dismissed for failure to state  
12 a claim upon which relief may be granted. Within 30 days, Plaintiff may submit a first  
13 amended complaint to cure the deficiencies outlined above. The Clerk of Court will mail  
14 Plaintiff a court-approved form to use for filing a first amended complaint. If Plaintiff fails  
15 to use the court-approved form, the Court may strike the amended complaint and dismiss  
16 this action without further notice to Plaintiff.

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

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

28 . . . .

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

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

13           If Plaintiff files an amended complaint, he should be aware that prisoners have a  
14 right under the First and Fourteenth Amendments to litigate their claims “without active  
15 interference by prison officials.” *Silva v. DiVittorio*, 658 F.3d 1090, 1103 (9th Cir. 2011)  
16 (emphasis in original), overruled on other grounds as stated in *Richey v. Dahne*, 807 F.3d  
17 1202, 1209 n.6 (9th Cir. 2015). The right of access to the courts is only a right to bring  
18 petitions or complaints to federal court and not a right to discover such claims or even to  
19 litigate them effectively once filed with a court. *Lewis v. Casey*, 518 U.S. 343, 354 (1996).  
20 The right “guarantees no particular methodology but rather the conferral of a capability—  
21 the capability of bringing contemplated challenges to sentences or conditions of  
22 confinement before the courts.” *Id.* at 356.

23           As a matter of standing for an access-to-courts claim, a plaintiff must show that he  
24 suffered an “actual injury”—i.e., “actual prejudice with respect to contemplated or existing  
25 litigation, such as the inability to meet a filing deadline or to present a claim.” *Id.* at 348  
26 (citation omitted); see also *Davis v. Goord*, 320 F.3d 346, 352 (2d Cir. 2003) (“Mere ‘delay  
27 in being able to work on one’s legal action or communicate with the courts does not rise to  
28 the level of a constitutional violation.’”) (citations omitted); cf. *Silva*, 658 F.3d at 1104

1 (actual injury alleged where plaintiff claimed pending lawsuits had been dismissed as the  
2 result of defendants' actions). A prisoner must demonstrate that defendants' conduct  
3 frustrated or impeded him from bringing to court a nonfrivolous or arguable claim he  
4 wished to present. Lewis, 518 U.S. at 353 and n.3.

5 Plaintiff should also take note that although prisoners have a First Amendment right  
6 to file prison grievances, Rhodes v. Robinson, 408 F.3d 559, 567 (9th Cir. 2005), "[t]here  
7 is no legitimate claim of entitlement to a grievance procedure," Mann v. Adams, 855 F.2d  
8 639, 640 (9th Cir. 1988), and the failure to follow grievance procedures does not give rise  
9 to a due process claim. See Flournoy v. Fairman, 897 F. Supp. 350, 354 (N.D. Ill. 1995)  
10 (jail grievance procedures did not create a substantive right enforceable under § 1983);  
11 Spencer v. Moore, 638 F. Supp. 315, 316 (E.D. Mo. 1986) (violations of grievance system  
12 procedures do not deprive inmates of constitutional rights). In addition, "[t]he right to  
13 petition the government for redress of grievances . . . does not guarantee a favorable  
14 response, or indeed any response, from state officials. Moreover, the First Amendment's  
15 right to redress of grievances is satisfied by the availability of a judicial remedy." Baltoski  
16 v. Pretorius, 291 F. Supp. 2d 807, 811 (N.D. Ind. 2003); see also Ashann-Ra v. Virginia,  
17 112 F. Supp. 2d 559, 569 (W.D. Va. 2000) (failure to comply with state's grievance  
18 procedure is not actionable under § 1983 and does not compromise an inmate's right of  
19 access to the courts).

## 20 **V. Motion for Appointment of Counsel**

21 In his Motion for Appointment of Counsel, Plaintiff alleges he is unable to afford  
22 counsel, the "substantive issues and procedural matters in this case are too complex for  
23 [his] comprehension and abilities," and he is housed in a restricted unit, does not  
24 understand American law, only speaks Spanish, and is unable to read or write very well.  
25 He attaches a letter from another inmate who indicates that he prepared the Complaint for  
26 Plaintiff to the best of his abilities, but it is very difficult for Plaintiff to communicate; the  
27 other inmate is being transferred and will be unable to help Plaintiff; and other inmates  
28 cannot come into Plaintiff's restricted unit to help him.

1           There is no constitutional right to the appointment of counsel in a civil case. See  
2 Ivey v. Bd. of Regents, 673 F.2d 266, 269 (9th Cir. 1982). In proceedings in forma pauperis,  
3 the court may request an attorney to represent any person unable to afford one. 28 U.S.C.  
4 § 1915(e)(1). Appointment of counsel under 28 U.S.C. § 1915(e)(1) is required only when  
5 “exceptional circumstances” are present. Terrell v. Brewer, 935 F.2d 1015, 1017 (9th Cir.  
6 1991). A determination with respect to exceptional circumstances requires an evaluation  
7 of the likelihood of success on the merits as well as the ability of Plaintiff to articulate his  
8 claims pro se in light of the complexity of the legal issue involved. Id. “Neither of these  
9 factors is dispositive and both must be viewed together before reaching a decision.” Id.  
10 (quoting Wilborn v. Escalderon, 789 F.2d 1328, 1331 (9th Cir. 1986)).

11           Having considered both elements, it does not appear at this time that exceptional  
12 circumstances are present that would require the appointment of counsel in this case.  
13 Plaintiff is in no different position than many pro se prisoner litigants. Thus, the Court will  
14 deny without prejudice Plaintiff’s Motion for Appointment of Counsel.

## 15 **VI. Warnings**

### 16 **A. Address Changes**

17           Plaintiff must file and serve a notice of a change of address in accordance with Rule  
18 83.3(d) of the Local Rules of Civil Procedure. Plaintiff must not include a motion for other  
19 relief with a notice of change of address. Failure to comply may result in dismissal of this  
20 action.

### 21 **B. Possible “Strike”**

22           Because the Complaint has been dismissed for failure to state a claim, if Plaintiff  
23 fails to file an amended complaint correcting the deficiencies identified in this Order, the  
24 dismissal may count as a “strike” under the “3-strikes” provision of 28 U.S.C. § 1915(g).  
25 Under the 3-strikes provision, a prisoner may not bring a civil action or appeal a civil  
26 judgment in forma pauperis under 28 U.S.C. § 1915 “if the prisoner has, on 3 or more prior  
27 occasions, while incarcerated or detained in any facility, brought an action or appeal in a  
28 court of the United States that was dismissed on the grounds that it is frivolous, malicious,

1 or fails to state a claim upon which relief may be granted, unless the prisoner is under  
2 imminent danger of serious physical injury.” 28 U.S.C. § 1915(g).

3 **C. Possible Dismissal**

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

8 **IT IS ORDERED:**

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

12 (2) If Plaintiff fails to file an amended complaint within 30 days, the Clerk of  
13 Court must, without further notice, enter a judgment of dismissal of this action with  
14 prejudice that states that the dismissal may count as a “strike” under 28 U.S.C. § 1915(g)  
15 and deny any pending unrelated motions as moot.

16 (3) Plaintiff’s Motion for Appointment of Counsel (Doc. 2) is **denied without**  
17 **prejudice**.

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

20 Dated this 8th day of September, 2020.

21  
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24   
25 James A. Teilborg  
26 Senior United States District Judge  
27  
28

**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 and Administrative Fees. The total fees for this action are \$400.00 (\$350.00 filing fee plus \$50.00 administrative fee). If you are unable to immediately pay the fees, 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. **This section does not apply to inmates housed at an Arizona Department of Corrections facility that participates in electronic filing.**
  
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 \$400 filing and administrative fees 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. **This section does not apply to inmates housed at an Arizona Department of Corrections facility that participates in electronic filing.**

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 within 21 days after serving it or within 21 days after any defendant has filed an answer, whichever is earlier. *See Fed. R. Civ. P. 15(a).* Thereafter, 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,

v.

(1) \_\_\_\_\_,  
(Full Name of Defendant)

(2) \_\_\_\_\_,

(3) \_\_\_\_\_,

(4) \_\_\_\_\_,

Defendant(s).

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

**CASE NO.** \_\_\_\_\_  
(To be supplied by the Clerk)

**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.

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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.

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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:

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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)

\_\_\_\_\_  
(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.