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

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10	Robert Lee Timberman,	)	No. CV 12-0092-PHX-RCB (DKD)
11	Plaintiff,	)	<b>ORDER</b>
12	vs.	)	
13		)	
14	Arizona Department of Corrections, et al.,	)	
15	Defendants.	)	

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17 On January 13, 2012, Plaintiff Robert Lee Timberman, who is confined in the Arizona  
18 State Prison Complex-Yuma in San Luis, Arizona, filed a *pro se* civil rights Complaint  
19 pursuant to 42 U.S.C. § 1983, an Application to Proceed *In Forma Pauperis*, and a Motion  
20 for Appointment of Counsel. In a February 2, 2012 Order, the Court granted the Application  
21 to Proceed, denied the Motion for Appointment of Counsel, and dismissed the Complaint  
22 because Plaintiff had failed to comply with Local Rule of Civil Procedure 3.4. The Court  
23 gave Plaintiff 30 days to file an amended complaint that cured the deficiencies identified in  
24 the Order.

25 On February 21, 2012, Plaintiff filed a Motion for Appointment of Counsel and a First  
26 Amended Complaint. In a March 16, 2012 Order, the Court denied the Motion for  
27 Appointment of Counsel and dismissed the First Amended Complaint for failure to state a  
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1 claim. The Court gave Plaintiff 30 days to file a second amended complaint that cured the  
2 deficiencies identified in the Order.

3 On April 9, 2012, Plaintiff filed a third Motion for Appointment of Counsel (Doc. 11)  
4 and a Second Amended Complaint (Doc. 12). The Court will deny the Motion for  
5 Appointment of Counsel and will dismiss the Second Amended Complaint with leave to  
6 amend.

### 7 **I. Motion for Appointment of Counsel**

8 Plaintiff's third Motion for Appointment of Counsel is identical to his prior motions  
9 for appointment of counsel. As stated in the Court's February 2nd and March 16th Orders,  
10 there is no constitutional right to the appointment of counsel in a civil case. See Ivey v.  
11 Board of Regents of the University of Alaska, 673 F.2d 266, 269 (9th Cir. 1982). In  
12 proceedings *in forma pauperis*, the court may request an attorney to represent any person  
13 unable to afford one. 28 U.S.C. § 1915(e)(1). Appointment of counsel under 28 U.S.C.  
14 § 1915(e)(1) is required only when "exceptional circumstances" are present. Terrell v.  
15 Brewer, 935 F.2d 1015, 1017 (9th Cir. 1991). A determination with respect to exceptional  
16 circumstances requires an evaluation of the likelihood of success on the merits as well as the  
17 ability of Plaintiff to articulate his claims *pro se* in light of the complexity of the legal issue  
18 involved. Id. "Neither of these factors is dispositive and both must be viewed together  
19 before reaching a decision." Id. (quoting Wilborn v. Escalderon, 789 F.2d 1328, 1331 (9th  
20 Cir. 1986)).

21 The Court has again considered both elements and it does not appear at this time that  
22 exceptional circumstances are present that would require the appointment of counsel in this  
23 case. Plaintiff is in no different position than many *pro se* prisoner litigants. Thus, the Court  
24 will deny without prejudice Plaintiff's third Motion for Appointment of Counsel.

### 25 **II. Statutory Screening of Prisoner Complaints**

26 The Court is required to screen complaints brought by prisoners seeking relief against  
27 a governmental entity or an officer or an employee of a governmental entity. 28 U.S.C.  
28 § 1915A(a). The Court must dismiss a complaint or portion thereof if a plaintiff has raised

1 claims that are legally frivolous or malicious, that fail to state a claim upon which relief may  
2 be granted, or that seek monetary relief from a defendant who is immune from such relief.  
3 28 U.S.C. § 1915A(b)(1), (2).

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

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

19 But as the United States Court of Appeals for the Ninth Circuit has instructed, courts  
20 must “continue to construe *pro se* filings liberally.” Hebbe v. Pliler, 627 F.3d 338, 342 (9th  
21 Cir. 2010). A “complaint [filed by a *pro se* prisoner] ‘must be held to less stringent standards  
22 than formal pleadings drafted by lawyers.’” Id. (quoting Erickson v. Pardus, 551 U.S. 89,  
23 94 (2007) (*per curiam*)).

24 If the Court determines that a pleading could be cured by the allegation of other facts,  
25 a *pro se* litigant is entitled to an opportunity to amend a complaint before dismissal of the  
26 action. See Lopez v. Smith, 203 F.3d 1122, 1127-29 (9th Cir. 2000) (*en banc*). The Court  
27 should not, however, advise the litigant how to cure the defects. This type of advice “would  
28 undermine district judges’ role as impartial decisionmakers.” Pliler v. Ford, 542 U.S. 225,

1 231 (2004); see also Lopez, 203 F.3d at 1131 n.13 (declining to decide whether the court was  
2 required to inform a litigant of deficiencies). The Court will dismiss Plaintiff’s Second  
3 Amended Complaint for failure to comply with Rule 8 of the Federal Rules of Civil  
4 Procedure and Rule 3.4 of the Local Rules of Civil Procedure, but because the Second  
5 Amended Complaint may possibly be saved by amendment, will dismiss the Second  
6 Amended Complaint with leave to amend.

7 **III. Second Amended Complaint**

8 Rule 8(a) of the Federal Rules of Civil Procedure requires a “short and plain statement  
9 of the claim.” Fed. R. Civ. P. 8(a)(2). Rule 8(d)(1) states that “[e]ach allegation must be  
10 simple, concise, and direct.” A complaint having the factual elements of a cause of action  
11 scattered throughout the complaint and not organized into a “short and plain statement of the  
12 claim” may be dismissed for failure to satisfy Rule 8(a). See Sparling v. Hoffman Constr.  
13 Co., 864 F.2d 635, 640 (9th Cir. 1988); see also McHenry v. Renne, 84 F.3d 1172 (9th Cir.  
14 1996). It is not the responsibility of the Court to review a rambling narrative in an attempt  
15 to determine the number and nature of a plaintiff’s claims.

16 The Court has reviewed Plaintiff’s Second Amended Complaint and concludes that  
17 it fails to comply with Rule 8 of the Federal Rules of Civil Procedure. Plaintiff’s three-count  
18 Second Amended Complaint is rambling and disorganized. In addition, it violates the “one  
19 claim per count” rule set forth in the form Complaint and accompanying instructions. See  
20 LRCiv 3.4 (complaint must be in accordance with the instructions provided with the form).  
21 Plaintiff’s three-count Second Amended Complaint contains more than three claims. For  
22 example, Count One alleges violations of Plaintiff’s equal protection and due process rights,  
23 and appears to also raise a deliberate indifference claim. Count Two, which contains many  
24 of the same allegations, raises due process and equal protection claims and claims regarding  
25 negligence, a failure to protect, “obstruction of justice,” and “willfully interfe[.]ring with a  
26 judicial proceeding.”<sup>1</sup> Count Three reiterates many of the same allegations that are in the

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28 <sup>1</sup>Also buried in Count Two is a request for a preliminary injunction to require the  
Arizona Department of Corrections to disclose the names of potential defendants.

1 prior counts and alleges an Eighth Amendment threat to safety claim, a negligence claim, due  
2 process and equal protection claims, and a claim regarding a “conspiracy” to prevent Plaintiff  
3 from exercising his “freedom to redress the issues.”

4 The Court cannot meaningfully review the Second Amended Complaint, as required  
5 by 28 U.S.C. § 1915A(a). Accordingly, the Court will dismiss the Second Amended  
6 Complaint with leave to amend.

#### 7 **IV. Leave to Amend**

8 For the foregoing reasons, Plaintiff’s Second Amended Complaint will be dismissed  
9 for failure to comply with Federal Rule of Civil Procedure 8 and Local Rule of Civil  
10 Procedure 3.4. Within 30 days, Plaintiff may submit a third amended complaint to cure the  
11 deficiencies outlined above. The Clerk of Court will mail Plaintiff a court-approved form  
12 to use for filing a third amended complaint. If Plaintiff fails to use the court-approved form,  
13 the Court may strike the amended complaint and dismiss this action without further notice  
14 to Plaintiff.

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

20 If Plaintiff files a third amended complaint, Plaintiff must write short, plain statements  
21 telling the Court: (1) the constitutional right Plaintiff believes was violated; (2) the name of  
22 the Defendant who violated the right; (3) exactly what that Defendant did or failed to do;  
23 (4) how the action or inaction of that Defendant is connected to the violation of Plaintiff’s  
24 constitutional right; and (5) what specific injury Plaintiff suffered because of that  
25 Defendant’s conduct. See Rizzo v. Goode, 423 U.S. 362, 371-72, 377 (1976).

26 Plaintiff must repeat this process for each person he names as a Defendant. If Plaintiff  
27 fails to affirmatively link the conduct of each named Defendant with the specific injury  
28 suffered by Plaintiff, the allegations against that Defendant will be dismissed for failure to

1 state a claim. **Conclusory allegations that a Defendant or group of Defendants have**  
2 **violated a constitutional right are not acceptable and will be dismissed.**

3 Although it is preferable to use the actual name of an individual who allegedly  
4 violated a constitutional right, it is acceptable to identify an individual as a “Doe” Defendant  
5 when the individual’s identity is unknown.<sup>2</sup> If a plaintiff states a claim against a Doe  
6 Defendant, the Court will not dismiss the claim simply because the identify of the individual  
7 is currently unknown. See Wakefield v. Thompson, 177 F.3d 1160, 1163 (9th Cir. 1999)  
8 (where identity of defendants is unknown prior to filing of complaint, plaintiff should be  
9 given an opportunity through discovery to identify the unknown defendants, unless it is clear  
10 that discovery would not uncover the identities or that the complaint would be dismissed on  
11 other grounds).

12 Plaintiff should also take note that there is no *respondeat superior* liability under  
13 § 1983, and therefore, a defendant’s position as the supervisor of persons who allegedly  
14 violated Plaintiff’s constitutional rights does not impose liability. Monell v. New York City  
15 Department of Social Services, 436 U.S. 658, 691-92 (1978); Hamilton v. Endell, 981 F.2d  
16 1062, 1067 (9th Cir. 1992); Taylor v. List, 880 F.2d 1040, 1045 (9th Cir. 1989). “Because  
17 vicarious liability is inapplicable to Bivens and § 1983 suits, a plaintiff must plead that each  
18 Government-official defendant, through the official’s own individual actions, has violated  
19 the Constitution.” Iqbal, 129 S. Ct. at 1948.

20 A supervisory official may be liable if he implements a policy “so deficient that the  
21 policy ‘itself is a repudiation of constitutional rights’ and is the ‘moving force of the  
22 constitutional violation.’” Redman v. County of San Diego, 942 F.2d 1435, 1446 (9th Cir.  
23 1991) (citation omitted). To premise a supervisor’s alleged liability on a custom or policy,  
24 the plaintiff must identify a *specific policy* and establish a “direct causal link” between that  
25 policy and the alleged constitutional deprivation. See City of Canton v. Harris, 489 U.S. 378,

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27 <sup>2</sup>For example, if Plaintiff does not know the name of the bus driver, it is permissible  
28 to identify that person as “John Doe Bus Driver.” However, each unknown individual must  
be separately identified; for example, it is not acceptable to identify a group of Defendants  
as “John Doe Correctional Officers.”

1 385 (1989). It is insufficient for Plaintiff to simply assert that certain supervisory officials  
2 are “personal[l]y responsible for mak[ing] and enacting the policies and procedures that all  
3 correctional officials follow.”

4 In addition, a government official can be held liable for his or her failure to supervise  
5 or train subordinates. Ting v. United States, 927 F.2d 1504, 1512 (9th Cir. 1991). However,  
6 in order to state a claim, a plaintiff must allege facts to support that the alleged failure  
7 amounted to deliberate indifference. Canell v. Lightner, 143 F.3d 1210, 1213 (9th Cir.  
8 1998). A plaintiff must allege facts to support that not only was the particular supervision  
9 inadequate, but also that such inadequacy was the result of “a ‘deliberate’ or ‘conscious’  
10 choice” on the part of the defendant. Id. at 1213-14.

11 If Plaintiff files a third amended complaint, he should also take note that under the  
12 Eleventh Amendment to the Constitution of the United States, a state or state agency may not  
13 be sued in federal court without its consent. Pennhurst State Sch. & Hosp. v. Halderman, 465  
14 U.S. 89, 100 (1984); Taylor v. List, 880 F.2d 1040, 1045 (9th Cir. 1989). Furthermore, “a  
15 state is not a ‘person’ for purposes of section 1983. Likewise ‘arms of the State’ such as the  
16 Arizona Department of Corrections are not ‘persons’ under section 1983.” Gilbreath v.  
17 Cutter Biological, Inc., 931 F.2d 1320, 1327 (9th Cir. 1991) (citation omitted)

18 A third amended complaint supersedes the original, First Amended, and Second  
19 Amended Complaints. Ferdik v. Bonzelet, 963 F.2d 1258, 1262 (9th Cir. 1992); Hal Roach  
20 Studios v. Richard Feiner & Co., 896 F.2d 1542, 1546 (9th Cir. 1990). After amendment,  
21 the Court will treat the original, First Amended, and Second Amended Complaints as  
22 nonexistent. Ferdik, 963 F.2d at 1262. Any cause of action that was raised in the original,  
23 First Amended, or Second Amended Complaints is waived if it is not raised in a third  
24 amended complaint. King v. Atiyeh, 814 F.2d 565, 567 (9th Cir. 1987).

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1 **V. Warnings**

2 **A. Release**

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

7 **B. Address Changes**

8 Plaintiff must file and serve a notice of a change of address in accordance with Rule  
9 83.3(d) of the Local Rules of Civil Procedure. Plaintiff must not include a motion for other  
10 relief with a notice of change of address. Failure to comply may result in dismissal of this  
11 action.

12 **C. Copies**

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

16 **D. Possible “Strike”**

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

26 **E. Possible Dismissal**

27 If Plaintiff fails to timely comply with every provision of this Order, including these  
28 warnings, the Court may dismiss this action without further notice. See Ferdik, 963 F.2d at



1 1260-61 (a district court may dismiss an action for failure to comply with any order of the  
2 Court).

3 **IT IS ORDERED:**

4 (1) Plaintiff's Motion for Appointment of Counsel (Doc. 11) is **denied without**  
5 **prejudice.**

6 (2) The Second Amended Complaint (Doc. 12) is **dismissed** for failure to state a  
7 claim. Plaintiff has **30 days** from the date this Order is filed to file a third amended  
8 complaint in compliance with this Order.

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

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

14 DATED this 11th day of May, 2012.

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18 Robert C. Broomfield  
19 Senior United States District Judge  
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**Instructions for a Prisoner Filing a Civil Rights Complaint  
in the United States District Court for the District of Arizona**

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

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.

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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.

<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.

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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)

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\_\_\_\_\_  
(Attorney's address & telephone number)

**ADDITIONAL PAGES**

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