

UNITED STATES COURT OF APPEALS

FILED

FOR THE NINTH CIRCUIT

JUL 21 2020

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

In re: ALFRED E. CARAFFA.

No. 20-71782

ALFRED E. CARAFFA,

D.C. Nos.

2:19-cv-05492-MTL-ESW

2:20-cv-00227-MTL-ESW

Petitioner,

District of Arizona,

Phoenix

v.

ORDER

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA,  
PHOENIX,

Exhibit

Respondent,

TEMPE POLICE DEPARTMENT; et al.,

~~A-1~~  
"B-1"

Real Parties in Interest.

Before: THOMAS, Chief Judge, SCHROEDER and CALLAHAN, Circuit Judges.

Petitioner has not demonstrated that this case warrants the intervention of the court by means of the extraordinary remedy of mandamus. *See Bauman v. U.S. Dist. Court*, 557 F.2d 650 (9th Cir. 1977). Accordingly, the petition is denied.

Petitioner's motion to proceed in forma pauperis (Docket Entry No. 2) is denied as moot.

No further filings will be accepted in this closed case.

**DENIED.**

3 of 10

Alfred E. Caraffa, #T602433  
LBJ - LOWER BUCKEYE JAIL  
Maricopa County Jail  
3250 W. Lower Buckeye  
Phoenix, AZ 85009

Exhibit  
"A-2"

4 of 10

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MDR

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

Alfred E. Caraffa,

Plaintiff,

v.

Maricopa County Sheriff's Office, et al.,

Defendants.

No. CV 20-00227-PHX-MTL (ESW)

**ORDER**

On January 30, 2020, Plaintiff Alfred E. Caraffa, who is confined in a Maricopa County Jail, filed a pro se civil rights Complaint pursuant to 42 U.S.C. § 1983 and *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), and an Application to Proceed In Forma Pauperis. In a February 4, 2020 Order, the Court granted the Application to Proceed and dismissed the Complaint for failure to comply with Rule 8 of the Federal Rules of Civil Procedure and Rule 3.4 of the Local Rules of Civil Procedure. The Court gave Plaintiff thirty days to file an amended complaint that cured the deficiencies identified in the Order.

On March 3, 2020, Plaintiff filed a Motion for Default Judgment. In a March 6, 2020 Order, the Court dismissed the First Amended Complaint because Plaintiff had failed to state a claim and denied the Motion for Default Judgment. The Court gave Plaintiff 30 days to file a second amended complaint that cured the deficiencies identified in the Order.

1 On March 23, 2020, Plaintiff filed a Second Amended Complaint (Doc. 10) and  
2 another Motion for Default Judgment (Doc. 11). On March 24, 2020, he filed a Motion for  
3 Injunction (Doc. 12). The Court will dismiss the Second Amended Complaint and this  
4 action and will deny the pending motions.

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

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

12 A pleading must contain a “short and plain statement of the claim *showing* that the  
13 pleader is entitled to relief.” Fed. R. Civ. P. 8(a)(2) (emphasis added). While Rule 8 does  
14 not demand detailed factual allegations, “it demands more than an unadorned, the-  
15 defendant-unlawfully-harmed-me accusation.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678  
16 (2009). “Threadbare recitals of the elements of a cause of action, supported by mere  
17 conclusory statements, do not suffice.” *Id.*

18 “[A] complaint must contain sufficient factual matter, accepted as true, to ‘state a  
19 claim to relief that is plausible on its face.’” *Id.* (quoting *Bell Atlantic Corp. v. Twombly*,  
20 550 U.S. 544, 570 (2007)). A claim is plausible “when the plaintiff pleads factual content  
21 that allows the court to draw the reasonable inference that the defendant is liable for the  
22 misconduct alleged.” *Id.* “Determining whether a complaint states a plausible claim for  
23 relief [is] . . . a context-specific task that requires the reviewing court to draw on its judicial  
24 experience and common sense.” *Id.* at 679. Thus, although a plaintiff’s specific factual  
25 allegations may be consistent with a constitutional claim, a court must assess whether there  
26 are other “more likely explanations” for a defendant’s conduct. *Id.* at 681.

27 But as the United States Court of Appeals for the Ninth Circuit has instructed, courts  
28 must “continue to construe *pro se* filings liberally.” *Hebbe v. Pliler*, 627 F.3d 338, 342

1 (9th Cir. 2010). A “complaint [filed by a pro se prisoner] ‘must be held to less stringent  
2 standards than formal pleadings drafted by lawyers.’” *Id.* (quoting *Erickson v. Pardus*, 551  
3 U.S. 89, 94 (2007) (per curiam)).

## 4 **II. Second Amended Complaint**

5 In his two-count *Bivens* Complaint, Plaintiff sues Defendant United States and seeks  
6 899 million dollars in damages.

7 In Count One, Plaintiff raises a due process claim, claiming the City of Tempe and  
8 Tempe Police Department are subparts of the State of Arizona, which is a subpart of the  
9 United States, and, therefore, “under the United States Constitution.” He asserts the City  
10 of Tempe and Tempe Police Department are government entities of the United States and  
11 “do not maintain policies or customs to violate the federal Constitution.”

12 In Count Two, Plaintiff raises a due process claim regarding his access to the courts.  
13 He claims the Court denied him a default judgment. He asserts that his “legal documents  
14 had case numbers” and that “the Court claims ‘that the City of Tempe and Tempe Police  
15 Dept. are not parties under the United States to this lawsuit,’ . . . [b]ut the defendants accept  
16 federally funded money.”

## 17 **III. Failure to State a Claim**

18 A remedy does not exist under *Bivens* against the United States because a *Bivens*  
19 action is only available against federal *officers*, not against the United States or agencies  
20 of the federal government. *F.D.I.C. v. Meyer*, 510 U.S. 471, 484-86 (1994). Thus, the  
21 Court will dismiss Defendant United States and the Second Amended Complaint.

## 22 **IV. Dismissal Without Leave to Amend**

23 Because Plaintiff has failed to state a claim in his Second Amended Complaint, the  
24 Court will dismiss his Second Amended Complaint. “Leave to amend need not be given  
25 if a complaint, as amended, is subject to dismissal.” *Moore v. Kayport Package Express,*  
26 *Inc.*, 885 F.2d 531, 538 (9th Cir. 1989). The Court’s discretion to deny leave to amend is  
27 particularly broad where Plaintiff has previously been permitted to amend his complaint.  
28 *Sisseton-Wahpeton Sioux Tribe v. United States*, 90 F.3d 351, 355 (9th Cir. 1996).

1 Repeated failure to cure deficiencies is one of the factors to be considered in deciding  
2 whether justice requires granting leave to amend. *Moore*, 885 F.2d at 538.

3 Plaintiff has made three efforts at crafting a viable complaint and appears unable to  
4 do so despite specific instructions from the Court. The Court finds that further  
5 opportunities to amend would be futile. Therefore, the Court, in its discretion, will dismiss  
6 Plaintiff's Second Amended Complaint without leave to amend.

7 **V. Motion for Default Judgment**

8 An entry of default is only appropriate "[w]hen a party against whom a judgment  
9 for affirmative relief is sought has failed to plead or otherwise defend." Fed. R. Civ. P.  
10 55(a). Defendant has not been served and, therefore, was not required to file a response.  
11 See Fed. R. Civ. P. 12(a). Thus, the Court will deny Plaintiff's Motion for Default  
12 Judgment.

13 **VI. Motion For Injunction**

14 An injunction or restraining order is appropriate to grant intermediate relief of the  
15 same character as which may be granted finally, and relief is not proper when requested on  
16 matters lying wholly outside the issues in suit. See *DeBeers Consol. Mines v. United*  
17 *States*, 325 U.S. 212, 220 (1945); *Kaimowitz v. Orlando, Fla.*, 122 F.3d 41, 43 (11th Cir.),  
18 *amended*, 131 F.3d 950 (11th Cir. 1997). To obtain injunctive relief, the party "must  
19 necessarily establish a relationship between the injury claimed in the party's motion and  
20 the conduct asserted in the complaint." *Devose v. Herrington*, 42 F.3d 470, 471 (8th Cir.  
21 1994). In other words, Plaintiff must seek injunctive relief related to the merits of his  
22 underlying claims. Because the Court has dismissed the Second Amended Complaint and  
23 this action, the Court will deny the Motion for Injunction.

24 **IT IS ORDERED:**

25 (1) Plaintiff's Second Amended Complaint (Doc. 10) and this action are  
26 **dismissed** for failure to state a claim, and the Clerk of Court must enter judgment  
27 accordingly.

28 . . . .

(3) Plaintiff's Motion for Default Judgment (Doc. 11) and Motion for Injunction (Doc. 12) are **denied**.

Dated this 30th day of March, 2020.

Michael T. Liburdi  
United States District Judge

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

9 Alfred E Caraffa,

10 Plaintiff,

11 v.

12 Maricopa County Sheriff's Office, et al.,

13 Defendants.  
14

**NO. CV-20-00227-PHX-MTL (ESW)**

**JUDGMENT IN A CIVIL CASE**

15 **Decision by Court.** This action came for consideration before the Court. The  
16 issues have been considered and a decision has been rendered.

17 IT IS ORDERED AND ADJUDGED that pursuant to the Court's order filed  
18 March 30, 2020, Plaintiff to take nothing, and the complaint and action are dismissed for  
19 failure to state a claim. This dismissal may count as a "strike" under 28 U.S.C. §  
20 1915(g).

21 Debra D. Lucas  
22 Acting District Court Executive/Clerk of Court

23 March 30, 2020

24 By s/ E. Aragon  
25 Deputy Clerk  
26  
27  
28



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

In the matter of )

MANDATORY INITIAL )  
DISCOVERY PILOT PROJECT )

NOTICE TO PARTIES -  
MANDATORY INITIAL DISCOVERY  
PILOT PROJECT

Effective May 1, 2017, this Court began participating in a Mandatory Initial Discovery Pilot ("MIDP") project approved by the Judicial Conference of the United States. This case is subject to the pilot project. The details of the MIDP are set forth in General Order 17-08, a copy of which is attached. It is the responsibility of the parties to read the General Order carefully to ensure familiarity and compliance with the requirements. Please note that the General Order was amended on November 1, 2018. The amendment eliminates the MIDP's previous requirement that parties file answers even when certain motions have been filed under Federal Rule of Civil Procedure 12, including Rule 12(b)(6). Answers – which trigger the obligation to make MIDP disclosures – are now due within the time specified in Rule 12(a). A Checklist summarizing the key features and deadlines of the MIDP is also attached to this Notice for the parties' convenience. Particular attention should be paid to the deadline for filing the initial and supplemental MIDP responses. Any party seeking affirmative relief must serve a copy of this Notice, including General Order 17-08 and the MIDP Checklist, on each new party when the Complaint, Counterclaim, Crossclaim, or Third-Party Complaint is served.

1 During the Fed. R. Civ. P. 26(f) conference, parties must discuss the MIDP  
2 responses and seek to resolve any limitations or objections they have made or intend to  
3 make in their responses. A description of the discussion regarding the MIDP responses  
4 must be included in the Rule 26(f) report to the Court.

5 MIDP responses are not required to be filed if the parties submit (and the Court  
6 approves) a written stipulation by all parties that no discovery will be conducted in the  
7 case. Similarly, a party may defer the submission of MIDP responses once for 30 days if  
8 all parties file a notice with the Court certifying that they are attempting to settle the case  
9 and have a good faith belief that it will be resolved within 30 days of the due date of the  
10 MIDP responses. The deadline for final supplementation of the MIDP responses normally  
11 will be stated in the Court's Case Management Order. If no deadline is stated, final  
12 supplementation must occur by the fact discovery deadline set in the Case Management  
13 Order.

14 A notice must be filed with the Court when filing the MIDP responses and  
15 supplements, but there is no requirement to file the documents themselves, unless there is  
16 an unresolved dispute regarding the responses and supplements that the Court must  
17 resolve during the Rule 16(b)(1) conference.

18 After the MIDP responses have been served, discovery under Fed. R. Civ. P. 30-  
19 36 and 45 may commence.  
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NOVEMBER 1, 2018

CLERK US DISTRICT COURT  
DISTRICT OF ARIZONA

BY s/ M. Everette DEPUTY

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

In the matter of

MANDATORY INITIAL DISCOVERY  
PILOT PROJECT IN THE DISTRICT OF  
ARIZONA

GENERAL ORDER 17-08

**(AS AMENDED NOVEMBER 1, 2018)**

**IT IS HEREBY ORDERED:** Effective May 1, 2017, the United States District Court for the District of Arizona will begin participation in a Mandatory Initial Discovery Pilot Project approved by the Judicial Conference of the United States.

The Mandatory Initial Discovery Pilot Project applies to all civil cases filed on or after May 1, 2017, other than cases listed in Rule 26(a)(1)(B), actions under the Private Securities Litigation Reform Act ("PSLRA"), cases transferred for consolidated administration in the District by the Judicial Panel on Multidistrict Litigation, and cases under the 1980 Hague Convention on the Civil Aspects of International Child Abduction. The discovery obligations addressed in this General Order supersede the disclosures required by Rule 26(a)(1) and are framed as court-ordered mandatory initial discovery pursuant to the Court's inherent authority to manage cases, Rule 16(b)(3)(B)(ii), (iii), and (vi), and Rule 26(b)(2)(C). Unlike initial disclosures required by current Rule 26(a)(1)(A) & (C), this General Order does not allow the parties to opt out.

**A. Instructions to Parties.**

1. Any party seeking affirmative relief must serve a copy of the Notice to the Parties of Mandatory Initial Discovery Pilot Project, including this General Order and the

1 MIDP Checklist, on each new party when the Complaint, Counterclaim, Crossclaim, or  
2 Third-Party Complaint is served.

3 2. The parties to this litigation are ordered to provide mandatory initial  
4 discovery responses before initiating any further discovery in this case. The responses are  
5 called for by the Court, not by discovery requests actually served by an opposing party.  
6 Part B of this order sets forth the categories of information that must be provided in each  
7 party's mandatory initial discovery responses. After the mandatory initial discovery  
8 responses have been provided, additional discovery may proceed under the Federal Rules  
9 of Civil Procedure and as set forth in a case management order to be entered by the Court.

10 3. Each party's response must be based on the information then reasonably  
11 available to it. A party is not excused from providing its response because it has not fully  
12 investigated the case, it challenges the sufficiency of another party's response, or another  
13 party has not provided a response. Responses must be signed under oath by the party,  
14 certifying that it is complete and correct as of the time it was made based on the party's  
15 knowledge, information, and belief formed after a reasonable inquiry, and signed under  
16 Rule 26(g) by the attorney.

17 4. Parties must provide the requested information as to facts that are relevant to  
18 the claims and defenses in the case, whether favorable or unfavorable, and regardless of  
19 whether they intend to use the information in presenting their claims or defenses. The  
20 parties also must provide relevant legal theories in response to paragraph B.4 below. If a  
21 party limits the scope of its response on the basis of privilege or work product, the party  
22 must produce a privilege log as required by Rule 26(b)(5) unless the parties agree or the  
23 Court orders otherwise. If a party limits its response on the basis of any other objection,  
24 including an objection that providing the required information would involve  
25 disproportionate expense or burden, it must explain with particularity the nature of the  
26 objection and its legal basis, and provide a fair description of the information being  
27 withheld.  
28

1           5.       Parties must file answers, counterclaims, crossclaims, and replies within the  
2 time set forth in Rule 12(a). Upon a showing that a defendant cannot reasonably respond  
3 to a complaint within the time set forth in Rule 12(a), the court may, with or without  
4 awaiting a response from the opposing party, grant a one-time extension of up to 30 days  
5 to respond to the complaint.

6           6.       A party seeking affirmative relief must serve its responses to the mandatory  
7 initial discovery no later than 30 days after the first pleading filed under Rule 12(a) in  
8 response to its complaint, counterclaim, crossclaim, or third-party complaint. A party  
9 filing a responsive pleading, whether or not it also seeks affirmative relief, must serve its  
10 initial discovery responses no later than 30 days after it files its responsive pleading under  
11 Rule 12(a). In cases removed from state court, the responses must be filed within 30 days  
12 of removal if a responsive pleading was filed in state court before removal, and within 30  
13 days of the response date set in Rule 81(c)(2) if a responsive pleading was not filed in state  
14 court before removal. In all cases, (a) no initial discovery responses need be served if the  
15 Court approves a written stipulation by the parties that no discovery will be conducted in  
16 the case; or (b) initial discovery responses may be deferred, one time, for 30 days if the  
17 parties jointly certify to the Court that they are seeking to settle the case and have a good  
18 faith belief that it will be resolved within 30 days of the due date for their responses, and  
19 the Court approves the deferral.

20           7.       Unless the Court orders otherwise, initial responses and later supplements  
21 shall not be filed with the Court, but Parties shall file a notice of service of their initial  
22 responses and later supplements.

23           8.       The duty to provide mandatory initial discovery responses set forth in this  
24 order is a continuing duty, and each party must serve supplemental responses when new or  
25 additional information is discovered or revealed. A party must serve such supplemental  
26 responses in a timely manner, but in any event no later than 30 days after the information  
27 is discovered by or revealed to the party. The Court normally will set a deadline in its Rule  
28 16(b) case management order for final supplementation of responses, and full and complete

1 supplementation must occur by the deadline. If the Court fails to set a deadline, final  
2 supplementation must occur by the fact discovery deadline set by the Court in its case  
3 management order. If new information is revealed in a written discovery response or a  
4 deposition in a manner that reasonably informs all parties of the information, the  
5 information need not be presented in a supplemental response.

6 9. Parties should include in the Rule 26(f) report to the Court a concise  
7 description of their discussions of the mandatory initial discovery responses. The report  
8 should also include a concise description of the resolution of any limitations invoked by  
9 any party in its response, as well as any existing disagreements requiring resolution by the  
10 court. The parties shall attach the initial and supplemental responses and any other  
11 discovery requests, objections, and responses involved in any existing disagreements.  
12 During the Rule 26(f) conference, parties should discuss the mandatory initial discovery  
13 responses and seek to resolve any limitations they have made or intend to make.

14 10. Production of information under this General Order does not constitute an  
15 admission that information is relevant, authentic, or admissible.

16 11. Rule 37(b)(2) shall apply to mandatory discovery responses required by this  
17 order.

18 **B. Mandatory Initial Discovery Requests.**

19 The parties must respond to the following Court-issued discovery requests without  
20 awaiting discovery requests from the opposing parties, and at the times set forth above.

21 1. State the names and, if known, the addresses and telephone numbers of all  
22 persons who you believe are likely to have discoverable information relevant to any party's  
23 claims or defenses, and provide a fair description of the nature of the information each such  
24 person is believed to possess.

25 2. State the names and, if known, the addresses and telephone numbers of all  
26 persons who you believe have given written or recorded statements relevant to any party's  
27 claims or defenses. Unless you assert a privilege or work product protection against  
28 disclosure under applicable law, attach a copy of each such statement if it is in your

1 possession, custody, or control. If not in your possession, custody, or control, state the  
2 name and, if known, the address and telephone number of each person who you believe  
3 has custody of a copy.

4 3. List the documents, electronically stored information (“ESI”), tangible  
5 things, land, or other property known by you to exist, whether or not in your possession,  
6 custody or control, that you believe may be relevant to any party’s claims or defenses. To  
7 the extent the volume of any such materials makes listing them individually impracticable,  
8 you may group similar documents or ESI into categories and describe the specific  
9 categories with particularity. Include in your response the names and, if known, the  
10 addresses and telephone numbers of the custodians of the documents, ESI, or tangible  
11 things, land, or other property that are not in your possession, custody, or control. For  
12 documents and tangible things in your possession, custody, or control, you may produce  
13 them with your response, or make them available for inspection on the date of the response,  
14 instead of listing them. Production of ESI will occur in accordance with paragraph C.2  
15 below.

16 4. For each of your claims or defenses, state the facts relevant to it and the legal  
17 theories upon which it is based.

18 5. Provide a computation of each category of damages claimed by you, and a  
19 description of the documents or other evidentiary material on which it is based, including  
20 materials bearing on the nature and extent of the injuries suffered. You may produce the  
21 documents or other evidentiary materials with your response instead of describing them.

22 6. Specifically identify and describe any insurance or other agreement under  
23 which an insurance business or other person or entity may be liable to satisfy all or part of  
24 a possible judgment in the action or to indemnify or reimburse a party for payments made  
25 by the party to satisfy the judgment. You may produce a copy of the agreement with your  
26 response instead of describing it.

27 7. A party receiving the list described in Paragraph 3, the description of  
28 materials identified in Paragraph 5, or a description of agreements referred to in Paragraph

1 6 may request more detailed or thorough responses to these mandatory discovery requests  
2 if it believes the responses are deficient. A party may also serve requests pursuant to Rule  
3 34 to inspect, copy, test, or sample any or all of the listed or described items, to the extent  
4 not already produced in response to these mandatory discovery requests, or to enter onto  
5 designated land or other property identified or described.

6 **C. Disclosure of Hard-Copy Documents and ESI.**

7 1. *Hard-Copy Documents.* Hard-copy documents must be produced as they are  
8 kept in the usual course of business.

9 2. *Electronically Stored Information (ESI).*

10 a. *Duty to Confer.* When the existence of ESI is disclosed or discovered,  
11 the parties must promptly confer and attempt to agree on matters relating to  
12 its disclosure and production, including:

13 i. requirements and limits on the preservation, disclosure, and  
14 production of ESI;

15 ii. appropriate ESI searches, including custodians and search  
16 terms, or other use of technology assisted review; and

17 iii. the form in which the ESI will be produced.

18 b. *Resolution of Disputes.* If the parties are unable to resolve any dispute  
19 regarding ESI and seek resolution from the Court, they must present the  
20 dispute in a single joint motion or, if the Court directs, in a conference call  
21 with the Court. Any joint motion must include the parties' positions and the  
22 separate certification of counsel required under Rule 26(g).


23 c. *Production of ESI.* Unless the Court orders otherwise, a party must  
24 produce the ESI identified under paragraph B.3 within 40 days after serving  
25 its initial response. Absent good cause, no party need produce ESI in more  
26 than one form.

27 d. *Presumptive Form of Production.* Unless the parties agree or the  
28 Court orders otherwise, a party must produce ESI in the form requested by



1 the receiving party. If the receiving party does not specify a form, the  
2 producing party may produce the ESI in any reasonably usable form that will  
3 enable the receiving party to have the same ability to access, search, and  
4 display the ESI as the producing party.

5 DATED this 1st day of November, 2018.

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8 G. Murray Snow  
9 Chief United States District Judge  
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**MANDATORY INITIAL DISCOVERY PILOT PROJECT  
CHECKLIST**

☐ **Applicability of the MIDP Project General Order:**

- Is this a civil case filed prior to May 1, 2017?
- Is the proceeding exempt from initial disclosure under Rule 26(a)(1)(B)?
- Is this an action under the Private Securities Litigation Reform Act?
- Was the case transferred for consolidation by the MDL panel?
  - If the answer is ‘yes’ to any of these questions, the case is not subject to the MIDP.

☐ **Rule 26(f) Conference:**

- The parties must discuss the mandatory initial discovery responses, which probably will have been made by the time of the conference, and seek to resolve any disagreements on the scope of their responses.
- The parties should include a description of their discussions, including resolved and unresolved disagreements or other discovery issues, in their Rule 26(f) report to the Court.
  - Parties must file the Rule 26(f) report in the CM/ECF system using the *Rule 26(f) Report re MIDP* event under the “MIDP Filings” category.

☐ **Responsive Pleadings [answer/counterclaim/crossclaim/reply]:**

- Must be filed within the time set in Rule 12(a).

***Exception:** Upon a showing that a defendant cannot reasonably respond to a complaint within the time set forth in Rule 12(a), the court may, with or without awaiting a response from the opposing party, grant a one-time extension of up to 30 days to respond to the complaint.*

☐ **Initial Discovery Responses:**

- *Party seeking affirmative relief:* must serve its initial discovery responses and file a notice of service with the Court within 30 days after the first responsive pleading filed in response to its complaint, counterclaim, crossclaim, or third-party complaint.
  - Parties must file the notice of service in the CM/ECF system using the *Notice of Service of Mandatory Initial Discovery Responses* event under the “MIDP Filings” category.

- *Party filing a responsive pleading:* must serve its initial discovery responses and file a notice of service with the Court within 30 days after it files its responsive pleading.
  - Parties must file the notice of service in the CM/ECF system using the *Notice of Service of Mandatory Initial Discovery Responses* event under the “MIDP Filings” category.

***Exceptions:*** *No discovery responses required if the Court approves a written stipulation by the parties that no discovery will be conducted in the case.*

*Deadline for serving initial discovery responses may be deferred once for 30 days if the parties jointly certify to the Court that they are seeking to settle the case and have a good faith belief that it will be resolved within 30 days of the due date for their responses.*

- Initial responses and later supplements will not be filed with the Court on the date they are served, but a notice of service must be filed with the Court.
  - Parties must file the notice of service for initial responses in the CM/ECF system using the *Notice of Service of Mandatory Initial Discovery Responses* event under the “MIDP Filings” category.
  - Parties must file the notice of service for supplements in the CM/ECF system using the *Notice of Service of Supplemental Mandatory Initial Discovery Responses* event under the “MIDP Filings” category.

***Exception:*** *Parties must file initial responses and later supplements with their 26(f) report or discovery dispute filings if there is an unresolved dispute regarding the responses or supplements that the Court must resolve.*

- Responses must be signed by the party, under oath, and by counsel under Rule 26(g).
- Limitations to scope of initial response asserted by the parties:
  - If based on a claim of privilege or work product, the party must produce a privilege log under Rule 26(b)(5).

***Exception:*** *No privilege log required if the parties agree or the Court orders otherwise.*

- If based on any other objection, the party's response must explain with particularity the nature of the objection and provide a fair description of the information withheld.

☐ **Electronically Stored Information (ESI):**

- If the existence of ESI is disclosed or discovered, the parties must confer and address the issues listed in ¶ (C)(2)(a)(i)-(iii) of the General Order.
- The party must produce its ESI within 40 days after serving its initial response (unless modified by the court).
  - ESI must be produced in the form requested by the receiving party, or if no form is specified, in any reasonable form that will enable the receiving party to access, search, and display the ESI.

☐ **Rule 16 Conference and Case Management Order:**

- Rule 16 conference should be held within the time specified in Rule 16(b)(2) (as soon as possible but not later than the *earlier* of 90 days after any party has been *served* or 60 days after *appearance* by any party).
- Case management order should set deadline for final supplementation of responses.
  - If the Court fails to set a deadline, final supplementation must occur by the fact discovery deadline set by the Court in its case management order.
  -

☐ **Supplemental Responses:**

- Must be served in a timely manner, and no later than 30 days after the information is discovered or revealed. If new information is revealed in a written discovery response or a deposition in a manner that reasonably informs all parties of the information, the information need not be presented in a supplemental response. A notice of service must be filed when a supplemental response is served.

Case 2:19-cv-05492-MTL-ESW Document 9 Filed 02/14/20 Page 1 of 1  
ALFRED E. CARAFFA  
T602433  
3250 W. Lower buckeye Rd.  
Phoenix Arizona 85009

|   |                                 |
|---|---------------------------------|
| <input checked="" type="checkbox"/> FILED | <input type="checkbox"/> LODGED |
| <input type="checkbox"/> RECEIVED         | <input type="checkbox"/> COPY   |
| FEB 14 2020                               |                                 |
| CLERK U.S. DISTRICT COURT                 |                                 |
| DISTRICT OF ARIZONA                       |                                 |
| BY <u>88</u>                              | DEPUTY                          |

IN THE UNITED STATES DISTRICT  
COURT IN the District of Arizona

Alfred E. Caraffa  
Plaintiff

Case No. CV-19-05492-PHX-MTL-ESW

v.  
Tempe Police Dept.  
Defendant

Motion For:  
Seizure of personal  
property for  
payment under  
Default Judgment

I ALFRED E. CARAFFA, Hereby  
Enter To the Courts this Motion for  
Seizing of All Personal property owned  
by Defendant #2 in the Above mentioned  
Civil action as the Civil action is in  
Default Judgment.

Alfred E. Caraffa

*[Signature]*

1/26/2020

4086  
Last 4 of Social

Alfred Caraffa T602433  
Name and Prisoner/Booking Number

Lower Buckeye Jail  
Place of Confinement

3250 W. Lower Buckeye Rd.  
Mailing Address

Phoenix, Arizona 85009  
City, State, Zip Code

|   |                                 |
|---|---------------------------------|
| <input checked="" type="checkbox"/> FILED       | <input type="checkbox"/> LODGED |
| <input type="checkbox"/> RECEIVED               | <input type="checkbox"/> COPY   |
| FEB 14 2020                                     |                                 |
| CLERK U S DISTRICT COURT<br>DISTRICT OF ARIZONA |                                 |
| BY <u>86</u>                                    | DEPUTY                          |

(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**

Alfred Caraffa Jr.  
(Full Name of Plaintiff)

Plaintiff,

v.

(1) Tempe Police Dept.  
(Full Name of Defendant)

(2) Mayor of City of Tempe

(3) Officer Guajardo

(4) Chief of Police Tempe

Defendant(s).

CASE NO. 19-cv-05492-PHE  
(To be supplied by the Clerk)

**CIVIL RIGHTS COMPLAINT  
BY A PRISONER**

- ☐ Original Complaint  
☒ First Amended Complaint  
☐ Second Amended Complaint

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

**A. JURISDICTION**

1. This Court has jurisdiction over this action pursuant to:

☒ 28 U.S.C. § 1343(a); 42 U.S.C. § 1983

☒ 28 U.S.C. § 1331; *Bivens v. Six Unknown Federal Narcotics Agents*, 403 U.S. 388 (1971).

☐ Other: \_\_\_\_\_

2. Institution/city where violation occurred: Tempe Arizona

### B. DEFENDANTS

1. Name of first Defendant: Tempe Police Dept. The first Defendant is employed as: Police Dept. at Tempe Arizona  
(Position and Title) (Institution)
2. Name of second Defendant: Mayor of Tempe The second Defendant is employed as: The Mayor of Tempe AZ at City Hall of Tempe  
(Position and Title) (Institution)
3. Name of third Defendant: Officer Gaujardo The third Defendant is employed as: Police Officer at Tempe Police Dept.  
(Position and Title) (Institution)
4. Name of fourth Defendant: Chief of Police The fourth Defendant is employed as: Chief of Police in Tempe at City Hall of Tempe  
(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? 4 Describe the previous lawsuits:

- a. First prior lawsuit:
  1. Parties: Caraffa v. MCSD
  2. Court and case number: 20-00013-PHX-MTL(ESW)
  3. Result: (Was the case dismissed? Was it appealed? Is it still pending?)  
2nd Amended Complaint Filed
- b. Second prior lawsuit:
  1. Parties: Caraffa v. MCSD
  2. Court and case number: 20-00015-PHX-MTL(ESW)
  3. Result: (Was the case dismissed? Was it appealed? Is it still pending?)  
Pending
- c. Third prior lawsuit:
  1. Parties: Caraffa v. MCSD
  2. Court and case number: 20-00017-PHX-MTL(ESW)
  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:

UNUSUAL PUNISHMENTCruel and

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 argument.

Officer Guajardo under color of Law and with the authority of the Tempe Police Dept. Ran up Behind me and restrained my right Arm while Standing on the Sidewalk in front of A Bar and Grill on Mills in Tempe, AZ without stating he was an police Officer And detained me against my will.

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

UNLAWFULLY Restrained, Deprived of Life, Liberty and property.

5. Administrative Remedies:

a. Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution? ☒ Yes ☐ Nob. Did you submit a request for administrative relief on Count I? ☐ Yes ☒ Noc. 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.

Does Not Apply



## COUNT II

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

UNUSUAL PUNISHMENTCruel and

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

☐ Basic necessities☐ Mail☐ Access to the court☐ Medical care☐ Disciplinary proceedings☐ Property☐ Exercise of religion☐ Retaliation☐ Excessive force by an officer☐ Threat to safety☒ Other: False Arrest

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

Officer Guajardo under color of Law Detained me, Placing me UNDER Arrest For Disorderly Conduct - Fighting (As per Tempe Police Report) while I was standing on the sidewalk in front of a Bar and Grill on Mills in Tempe, AZ. I was given a one page report (the Complaint) on 10-20-19. I was Not Fighting with Any Person

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

Deprived of Life, Liberty and Property and violations of U.S.C.A

5. Administrative Remedies.

a. Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution? ☒ Yes ☐ Nob. Did you submit a request for administrative relief on Count II? ☐ Yes ☒ Noc. Did you appeal your request for relief on Count II to the highest level? ☐ Yes ☒ No

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

Does Not Apply

COUNT III

1. State the constitutional or other federal civil right that was violated: CRUEL AND UNUSUAL PUNISHMENT

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: FALSE IMPRISONMENT

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.

Alfred E. Caraffa was arrested by officer Guajardo for Disorderly Conduct - Fighting. Officer Guajardo Acting Under Color of Law handcuffed, detained, Arrested and Placed in the County Jail. The Judge later released me from Confinement Days later until the prosecutor dismissed the Charge ON 11-15-19 for INSUFFICIENT EVIDENCE

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

DEPRIVATION OF LIFE, LIBERTY AND PROPERTY / VIOLATIONS OF U.S.C.A.

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.

Does Not Apply

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:

Against City of Tempe, Arizona  
For the claims herein I seek 440  
Million Dollars In Relief. And the  
Returning of my colon collection MCB

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

Executed on

2/7/2020  
DATE

  
SIGNATURE OF PLAINTIFF

Alfred E. Caraffa

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

NONE

(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.

Part C

Fourth prior lawsuit CONT.

Caraffa v. CHS

NO./court Pending (PHX)

Result - Awaiting case Number

Fifth prior lawsuit.

Caraffa v. Taco Bell Cantina

NO./court - N/A on case NO.  
In Phoenix Court.

Result - went to leave to Amend.  
was incarcerated with All my legal  
papers in pounded by Phoenix Police  
Dept.

Sixth prior Lawsuit

Caraffa v. Phoenix Police Dept.

NO./court - PHX / case NO. N/A

Result - went to leave to Amend  
Same as Result in #5

## CAUSE OF ACTION COUNT II CONTINUED.

Before the officer ran up behind me and restrained me with NO probable cause to Arrest Alfred Caraffa for Fighting-disorderly Conduct. which was the only charge I was given after the Arrest by the Tempe Police officer. the Courts (prosecutor) dismissed the charge ON INSUFFICIENT EVIDENCE ON 11-15-19.

The arrest was NOT Supported by PROBABLE CAUSE under the charge IN which Alfred E. Caraffa was charged. there was NO probable cause for any arrest. there was only one (And NO other charges Brought against the Plaintiff for anything) charge. that one charge cited "Fighting" As the disorderly Conduct.

2 of 15

In which Alfred Caraffa was arrested  
the Chief of Police is in charge of  
training of the Police officers  
and responsible under color of Law  
For Being the Superior officer of the  
Police Department of Tempe AZ.  
His/Her Superior is the Mayor of  
the City of Tempe Arizona  
therefore Alfred Caraffa was  
Falsely Arrested and Falsely detained  
by officer Guajardo a Police officer  
For the Tempe Police Dept. In the  
City of Tempe Arizona which violates  
Alfred Caraffa's United States  
Constitutional Rights. And is an  
denial of his Basic rights as an  
American in the United States of  
America

~~Case of Mr. Alfredo~~  
**COUNT III****CONTINUED:**

therefore Alfredo Caraffa was  
Falsely Imprisoned and held illegally  
and confined to the Lower Buckeye  
County Jail Based on "insufficient  
evidence" of the statement and  
Document of Tempe city court and  
the Prosecutor in the case Number  
19-038379-2 of Alfredo Caraffa  
in the Tempe Municipal Court  
the City of Tempe Arizona, the  
Tempe Police Dept. and officer  
GuaJARdo violated Alfredo Caraffa's  
United States Constitutional rights  
As An American in the United  
States of America.

## CAUSE OF ACTION

### COUNT IV

1- Constitutional violation of Due process of the Law.

2- No probable Cause

3. Supporting Facts - Due to the fact that Tempe Municipal Court dismissed the case Alfred Caraffa (19-03837-2) against him, for Insufficient evidence to prosecute, with the facts in the default Judgment, which was relied on by Tempe Municipal Court, to dismiss the case, the evidence clearly shows that there is NO probable Cause for An Arrest for Fighting-disorderly Conduct or NO probable Cause for Any Arrest to have been made or for handcuffing Alfred Caraffa and Detaining Alfred Caraffa.



1 Injury.

Officer Guajardo violated Alfred Caraffa's United States Constitutional rights to Due process under no proable cause for Arrest No proable cause for detainment and No proable Cause for the use of Force (Restraining And handcuffing) which lead to imprisonment of confinement in Maricopa County's Lower Buckeye Jail In Phoenix Arizona. (AND MCSO is Not Liable due to the facts of Non-involvement in the process).

5- Remedies Do Not Apply In this Civil action case.

## Cause of Action Count IV

1. Constitutional violation of Due Process of Law.

2- Count IV: Illegal search and seizures.

3. Supporting Facts - Due to the facts based on the evidence there was no Due process of the Law to probable cause for detainment or arrest of Alfred Camacho. So his property was illegally searched by officials at Tempe Police Dept. and illegally impounded by the Tempe Police Dept. for almost 3 days (approx.) under color of Law by officer Guajardo and other officers unknown to myself at Tempe Police Dept. under authority of the Chief of Police and the Mayor of the City of Tempe Arizona.

4. Injury - Because the Arrest should not

have happen due to NO Probable  
Cause to Arrest, the illegal search  
and Seizure (Impounding) shouldn't  
have happen. But it did cuz of Actions  
of Officer Guajardo. Deprived of  
personal property. and Liberty to  
my personal property.

5- Remedies Don't Apply to this  
Claim.

Cause of Action  
Count (VI)

1- Federal Rights Violated- Retaliation

2- Count 6- Retaliation

3- Supporting Facts- on the day in  
Question in October 2019. Four  
Tempe Police officers stopped to  
check Alfred Caraffa's I.D. at the  
place where Alfred Caraffa was arrested  
by officer Guarardo a few hours later.  
Tempe Police officers (3 males and  
one blond female) detained Alfred  
Caraffa and told him "They didn't  
care about any judges ruling, you  
are not to set foot on AME/chase  
Bank property. Also Alfred Caraffa  
had donated to the Tempe Public  
Museum/Library an 1992 Sporting  
News (Colon collection) MLB Trading

Card. which the player had Died in Tempe Arizona, (As Stated/Listed on Reverse Side of Trading Card).

Alfred Caraffa had Asked if they wanted to use the card in the Museum in Tempe that his name be displayed as the Donor to the Tempe Library/Museum. The woman At the Front Desk took two pictures with her cell phone of two Baseball cards Alfred Caraffa had. (The other was A player who died in Scottsdale AZ. thru people on the Street. I heard conversation that the Tempe AZ Baseball card in Question was Valued at \$30,000<sup>00</sup> dollars. For historitel value to Tempe Arizona.

Alfred Caraffa later Destroyed  
Several COLON Collection Baseball  
Cards at the Federal Courthouse  
IN Phoenix AZ. Due to Red Spots  
that Formed on the Back of EACH  
Card. ONE of these Cards had  
the Last Name of Liburdias  
one of the players.

4- Injury- Deprived of Life, Liberty  
and property. violations of my U.S.C.  
rights over AN Baseball card owned by  
A transgender and homeless. kept home-  
less and tormented by lies from Tempe  
Police Dept. To Deprive me of reclaiming  
my personal Property of A MLB Card.  
And Deprive me of the honor of that  
Donation by NAME sake of the claim.

5-Remedies Do Not Apply-

12 of 15

## D- Request for Relief CONTINUED.

- Trading card. For being the entity responsible for Tempe Police Dept.
- 2- Against Tempe Police Dept. For being the Governmental Department which employs Officer Guajardo who under color of Law violated my U.S. Civil rights as stated in this Amended Complaint I am seeking 15 million Dollars in Relief.
- 3- Against the Mayor of the City of Tempe Arizona for being the person in charge of and responsible for the actions of Tempe Police Dept. and the Chief of Police I am seeking \$2500 dollars in Relief.
- 4- Against the Chief of Police of the Tempe Police Dept. For being responsible for the orderly running and discipline of the Police officers in the Tempe Police Dept. I am seeking \$3500<sup>00</sup> dollars.



~~Request for Relief~~  
CONTINUED

5- Against officer Guajardo of the Tempe Police Dept. For under color of Law his actions, violated my United States Constitutional Rights As An American of the United States I am seeking \$299,000.<sup>00</sup> Dollars. in Relief!

B- Defendants  
Continued

5. The Fifth defendant is the City of Tempe Arizona which is the City of Tempe Arizona in Tempe Arizona.

## MARICOPA COUNTY SHERIFF'S OFFICE

### CERTIFICATION

I hereby certify that on this date February 11, 2020

In accordance with the instruction received from the inmate and the rules of this Court, I mailed the original to the Clerk of the United States District Court, District of Arizona.

I further certify that copies of the original have been forwarded to:

\_\_\_ Hon \_\_\_\_\_ United States District Court, District of Arizona.

\_\_\_ Hon \_\_\_\_\_ United States District Court, District of Arizona.

\_\_\_ Attorney General, State of Arizona, \_\_\_\_\_

\_\_\_ Judge \_\_\_\_\_ Superior Court, Maricopa County, State of Arizona.

\_\_\_ County Attorney, Maricopa County, State of Arizona \_\_\_\_\_

\_\_\_ Public Defender, Maricopa County, State of Arizona \_\_\_\_\_

\_\_\_ Attorney \_\_\_\_\_

\_\_\_ Other \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_



\_\_\_\_\_  
Legal Support Specialist Signature

B1300  
S/N

INMATE LEGAL SERVICES  
Maricopa County Sheriff's Office  
3250 W. Lower Buckeye Rd.  
Phoenix, AZ 85009

**Additional material  
from this filing is  
available in the  
Clerk's Office.**