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7 *Attorney for Plaintiff*

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

10 William Kitchen,

11 **Plaintiff,**

12 v.

13 City of Phoenix, a municipality, Michael
14 Sullivan, in his official capacity, Michael
15 Meelhuysen, Erick Selvius, and Rene Beltran, in
16 their official and individual capacities,

17 **Defendants.**

ORIGINAL COMPLAINT
(JURY TRIAL REQUESTED)

18 Plaintiff William Kitchen, by and through undersigned counsel, seeks relief in this Original
19 Complaint against Defendants as follows:

20 **INTRODUCTION**

21 1. This case involves an African-American male who was arrested, cited under false
22 pretenses, and then unreasonably handcuffed and taken to jail for the night for engaging
23 respectfully in protected activity with the police officers on scene.

24 **PARTIES**

- 25 2. Plaintiff Wiliam Kitchen is a single resident of Maricopa County, Arizona.
- 26 3. Defendant City of Phoenix is a local municipality in the State of Arizona, capable of
27 being sued under the statutes identified herein.
- 28 4. Defendant Michael Sullivan was at all relevant times the interim Police Chief for the



1 Phoenix Police Department. This defendant is sued in his official capacity.

2 5. Defendant Michael Meelhuysen was at all relevant times a sergeant with the
3 Phoenix Police Department. This defendant is sued in his individual and official capacities.

4 6. Defendant Erick Selvius was at all relevant times a sergeant with the Phoenix Police
5 Department. This defendant is sued in his individual and official capacities.

6 7. Defendant Rene Beltran was at all relevant times an officer (of unknown rank) with
7 the Phoenix Police Department. This defendant is sued in his individual and official capacities.

8 8. Defendants Meelhuysen, Selvius, and Beltran are collectively referred to as the
9 “Officers” as they jointly participated in the tort, statutory, and constitutional violations against
10 Plaintiff.

11 JURISDICTION AND VENUE

12 9. The jurisdiction of this Court is invoked pursuant to 42 U.S.C. § 1983, 28 U.S.C. §
13 1331, and 28 U.S.C. § 1367.

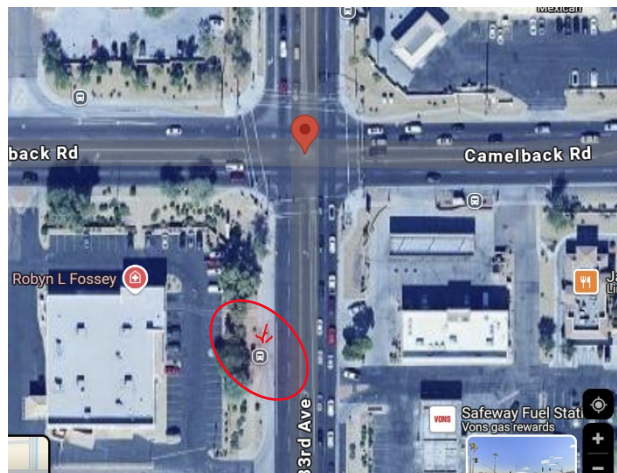
14 10. The unlawful acts described herein were committed within the City of Phoenix
15 located in Maricopa County, State of Arizona.

16 11. Accordingly, venue in this Court is proper pursuant to 28 U.S.C. § 1391(b).

17 ALLEGATIONS COMMON TO ALL CLAIMS

18 12. Mr. Kitchen is an African-American citizen.

19 13. On February 6, 2024, at approximately 6:25 p.m., the Officers arrested Mr. Kitchen
20 at the bus stop on the west side of 83rd Avenue in Phoenix, just south of Camelback Road, right
21 after he crossed 83rd Avenue.



1 14. The Officers later claimed that he had “obstructed a thoroughfare” (referring to
2 83rd Avenue) in violation of A.R.S. § 13-2906(A)(1).

3 15. At the time of the arrest, the Officers were fully aware that no such violation had
4 taken place, as at least Meelhuysen and Selvius were already present in an unmarked vehicle at
5 the time and witnessed Mr. Kitchen crossing the road.

6 16. When the northbound light was red, Mr. Kitchen crossed 83rd Avenue – four lanes
7 - from east to west approximately level with the bus stop where he was headed.

8 17. There were no cars in the first northbound lane. In the second northbound lane, all
9 cars were stopped.

10 18. Mr. Kitchen cautiously proceeded towards the second northbound lane until he
11 caught the eye of a driver stopped near him, who motioned him to cross in the car-sized space she
12 had left in front of her vehicle when she stopped.

13 19. As he did so, he then looked right to make sure the two southbound lanes of 83rd
14 Avenue were also free of oncoming traffic.

15 20. They were and he finished crossing the thoroughfare safely.

16 21. As he did so, the truck located behind the car that had let him cross honked its horn
17 and someone inside the truck yelled at him.

18 22. Mr. Kitchen ignored the honk and the yelling, and seated himself at the bus stop –
19 where he continued to ignore the truck so as to avoid trouble.

20 23. Suddenly, the truck turned on its bright headlights flipped a sharp turn and aimed
21 directly at him, while marked law enforcement vehicles arrived on the scene.

22 24. The unmarked truck turned out to contain Sgts. Meelhuysen and Selvius in
23 plainclothes.

24 25. Upon information and belief, they and other officers were heavily patrolling the
25 transit areas looking for criminal activity.

26 26. They, together with Officer Beltran who arrived on the scene shortly thereafter,
27 caused Mr. Kitchen to be placed in handcuffs.

28 27. Mr. Kitchen remained cooperative and respectful throughout the process.



1 28. Upon information and belief, law enforcement had already been called regarding
2 another African-American male (unconnected to Mr. Kitchen) already waiting at the bus stop,
3 who was allegedly intoxicated.

4 29. As multiple officers arrived on scene (including the Officers), they initially
5 suggested that Mr. Kitchen had called the police regarding this other man or that they were
6 somehow associated together.

7 30. Mr. Kitchen denied this then, and denies it now - he was there to ride the bus home.

8 31. After initially placing Mr. Kitchen in handcuffs and seizing Mr. Kitchen's phone
9 and property, all of the officers remained primarily focused on the other African-American, saying
10 "we finally got him" and referred to him as "James Brown" (a reference to the singer based on
11 the man's appearance).

12 32. After the initial hubbub died down at the bus stop, the Officers removed Mr.
13 Kitchen's handcuffs and gave him back his phone.

14 33. He continued to speak courteously to the Officers and asked for the citation to the
15 statute he was accused to have violated, stating specifically that he had "LegalShield" (formerly
16 Prepaid Legal) and that he wanted to share it with his attorneys at Davis Miles McGuire Gardner
17 (the LegalShield firm in Arizona).

18 34. Sgt. Meelhuysen rattled off the citation to A.R.S. § 13-2906(A)(1) too quickly for
19 Mr. Kitchen to hear it clearly.

20 35. Mr. Kitchen respectfully asked for him to repeat it and then asked for his name and
21 badge number.

22 36. At that point, Sgt. Meelhuysen directed Officer Beltran to place Mr. Kitchen back
23 in handcuffs.

24 37. All of this is plainly evident on body-camera footage.

25 38. Several of the police reports by the Officers and others (although none has yet been
26 seen from Meelhuysen) are falsely written in that they claim that "a vehicle" honked at Mr.
27 Kitchen (instead of acknowledging that they themselves did that), and that there was a vehicle
28 travelling southbound on 83rd Avenue that had to brake sharply to avoid Mr. Kitchen - there was



1 no such vehicle.

2 39. Mr. Kitchen waited at the middle line before finishing his crossing of 83rd Avenue to
3 make sure that no vehicles were coming and that it was safe.

4 40. It appears obvious that the Officers were prepared to let Mr. Kitchen go, until Mr.
5 Kitchen asked for Sgt. Meelhuysen's name and badge number.

6 41. At that point, Meelhuysen and the other Officers clearly decided to teach Mr.
7 Kitchen a lesson, in violation of Mr. Kitchen's state and federal rights.

8 42. This is not Sgt. Meelhuysen's first time with such allegations. *See Musselman v.*
9 *Meelhuysen*, No. 18-15322 (9th Cir. Jul 16, 2019).

10 43. And as the Department of Justice has recently reported, this behavior is a pattern
11 and practice unfortunately typical of the Phoenix Police Department. See USDOJ, "Investigation
12 of the City of Phoenix and the Phoenix Police Department," June 13, 2024,
13 (<https://www.justice.gov/crt/media/1355866/dl?inline>)

14 44. Interim Chief Sullivan has failed to correct the pattern and practice of these
15 violations, which directly contributed to Mr. Kitchen's harm.

16 45. Mr. Kitchen was placed (still in handcuffs behind his back) by one or more Officers
17 in a squad car along with the other African-American male.

18 46. The squad car left the scene and drove around the block where the officer and his
19 partner arrested a Hispanic gentleman.

20 47. They approached the car, and suddenly Sergeant Meelhuysen was there again and
21 ordered Mr. Kitchen to move to the middle of the backseat.

22 48. Mr. Kitchen is 6'4" tall and was wearing steel-toed boots.

23 49. He respectfully responded that with his height and shoes it would be impossible for
24 him to physically sit in the middle with the hump between the floorboards and the bulge in the
25 protective glass.

26 50. Sergeant Meelhuysen said "Mr. Kitchen, you need to make room or I'm going to
27 make you" or words to that effect.

28 51. Mr. Kitchen asked for the opportunity to explain the physicality of the situation, and



1 Sergeant Meelhuysen eventually relented and allowed Mr. Kitchen to exit the vehicle and placed
2 the (much shorter) Hispanic gentleman in the middle instead.

3 52. The other African-American asked if the air conditioning could be turned on or
4 windows cracked as all three men in the backseat were crowded and sweating profusely – the
5 officer driving and his partner refused.

6 53. The car then transported all three prisoners to the county jail where Mr. Kitchen
7 was booked, processed, and placed in a cell overnight.

8 54. While handcuffed to the bars in the holding cell, the officer who handcuffed him
9 (upon information and belief, Sergeant Beltran), Mr. Kitchen again specifically noted that this
10 entire process was a violation of his First Amendment rights.

11 55. The officer responded solely by saying “do you have any priors?”

12 56. During his confinement Mr. Kitchen experienced a panic attack and severe
13 emotional distress.

14 57. Mr. Kitchen was released the next afternoon.

15 58. City of Phoenix and the Officers pressed charges against Mr. Kitchen for violating
16 A.R.S. § 13-2906(A)(1), which states: “A. A person commits obstructing a highway or other public
17 thoroughfare if the person, alone or with other persons, does any of the following: 1. Having no
18 legal privilege to do so, recklessly interferes with the passage of any highway or public
19 thoroughfare by creating an unreasonable inconvenience or hazard.”

20 59. As a result of the criminal charges, Mr. Kitchen had to hire a criminal defense
21 attorney to clear his name.

22 60. The charges against him were eventually dismissed by the City without a trial.

23 61. Mr. Kitchen timely served a notice of claim upon all Defendants under A.R.S. § 12-
24 821.01 for all state law claims, which notice of claim has been denied by operation of law.

25 62. All conditions precedent necessary to the filing of this lawsuit have been performed
26 or have occurred.

27 63. Additionally, the Plaintiff’s rights herein are clearly established and therefore no
28 qualified immunity will apply.



**FIRST CAUSE OF ACTION - SECTION 1983 - FOURTEENTH AMENDMENT
EQUAL PROTECTION AND 34 U.S.C. § 12601**

64. By reference hereto, Plaintiff hereby incorporates the preceding paragraphs.

65. Defendant Officers acted under color of state law.

66. Defendant Officers' actions deprived Plaintiff of particular rights under the United States Constitution and 34 U.S.C. § 12601(a), namely, the right to equal protection of the laws regardless of his race or ethnicity in violation of 42 U.S.C. § 1983.

67. Defendant Officers' targeted, detained, arrested and pursued criminal charges against Plaintiff and profiled Plaintiff because of his race.

68. Defendant Officers' actions caused Plaintiff's injuries.

69. For purposes of *Monell* liability, Defendant Officers' actions were either a) based on official practice or custom, b) ratified by a final policy maker of Defendant City of Phoenix, or c) the result of a failure to train by Defendant City of Phoenix.

70. Defendant City of Phoenix was deliberately indifferent to the proper training and supervision of their employees, including the Defendant Officers, regarding racial discrimination and profiling.

71. Defendant City of Phoenix has policies, customs, or procedures that were deliberately indifferent to the rights of citizens, including the following:

- a. Failing to train its officers regarding the proper use of force and/or the First, Fourth, and Fourteenth Amendments;
- b. Allowing and encouraging Phoenix Police Officers to escalate situations by using force that was not reasonable or necessary under the circumstances; and/or
- c. Failing to review, investigate, discipline, and retrain officers involved in constitutional or tortious incidents, and therefore creating a culture of impunity that encouraged Officers to continue in constitutional or tortious violations.

72. Plaintiff is therefore entitled to compensatory damages jointly and severally from Defendant City of Phoenix and all Defendant Officers.

73. Because Defendant Officers' actions were intentional or committed with reckless or



1 callous disregard for the Plaintiff’s rights, Plaintiff is entitled to punitive damages from the
2 individual Defendant Officers.

3 74. Plaintiff is entitled to injunctive relief against all Defendants.

4 **SECOND CAUSE OF ACTION - SECTION 1983 - SECTION 1981**

5 75. By reference hereto, Plaintiff hereby incorporates the preceding paragraphs.

6 76. Defendant Officers acted under color of state law.

7 77. Defendant Officers’ actions deprived Plaintiff of particular rights under the laws of
8 the United States, namely, the right to “full and equal benefit of all laws and proceedings for the
9 security of persons and property as is enjoyed by white citizens, and shall be subject to like
10 punishment, pains, penalties, taxes, licenses, and exactions of every kind, and to no other.” 42
11 U.S.C. § 1981.

12 78. Defendant Officers imposed different punishment, pains, penalty, etc. against
13 Plaintiff than they would have imposed on a white citizen, and therefore deprived Plaintiff of “full
14 and equal benefit of all laws and proceedings.”

15 79. Defendant Officers’ actions caused Plaintiff’s injuries.

16 80. Section 1983 is a proper vehicle for a Section 1981 claim against government
17 defendants. *Yoshikawa v. Seguirant*, 74 F.4th 1042, 1047 (9th Cir. 2023)(en banc).

18 81. For purposes of *Monell* liability, Defendant Officers’ actions were either a) based on
19 official practice or custom, b) ratified by a final policy maker of Defendant City of Phoenix, or c)
20 the result of a failure to train by Defendant City of Phoenix.

21 82. Defendant City of Phoenix was deliberately indifferent to the proper training and
22 supervision of their employees, including the Defendant Officers, regarding racial discrimination
23 and profiling.

24 83. Defendant City of Phoenix has policies, customs, or procedures that were
25 deliberately indifferent to the rights of citizens, including the following:

- 26 a. Failing to train its officers regarding the proper use of force and/or the First, Fourth, and
27 Fourteenth Amendments;
- 28 b. Allowing and encouraging Phoenix Police Officers to escalate situations by using force that



1 was not reasonable or necessary under the circumstances; and/or

2 c. Failing to review, investigate, discipline, and retrain officers involved in constitutional or
3 tortious incidents, and therefore creating a culture of impunity that encouraged Officers to
4 continue in constitutional or tortious violations.

5 84. Plaintiff is therefore entitled to compensatory damages jointly and severally from
6 Defendant City of Phoenix and all Defendant Officers.

7 85. Because Defendant Officers' actions were intentional or committed with reckless or
8 callous disregard for the Plaintiff's rights, Plaintiff is entitled to punitive damages from the
9 individual Defendant Officers.

10 86. Plaintiff is entitled to injunctive relief against all Defendants.

11 **THIRD CAUSE OF ACTION - SECTION 1983 - FIRST AMENDMENT**
12 **RETALIATION**

13 87. By reference hereto, Plaintiff hereby incorporates the preceding paragraphs.

14 88. Defendant Officers acted under color of state law.

15 89. Defendant Officers' actions deprived Plaintiff of particular rights under the United
16 States Constitution, namely the First Amendment.

17 90. Under the First Amendment, a citizen has the right to free expression, including but
18 not limited to the right to question or express disapproval of a government official's actions.

19 91. Plaintiff engaged in those rights with Defendant Officers.

20 92. Defendant Officers arrested Plaintiff because of his speech.

21 93. Defendant Officers' actions against the Plaintiff would chill a person of ordinary
22 firmness from continuing to engage in the protected activity

23 94. The Plaintiff's protected activity was a substantial or motivating factor in Defendant
24 Officers' conduct.

25 95. For purposes of *Monell* liability, Defendant Officers' actions were either a) based on
26 official practice or custom, b) ratified by a final policy maker of Defendant City of Phoenix, or c)
27 the result of a failure to train by Defendant City of Phoenix.

28 96. Defendant City of Phoenix was deliberately indifferent to the proper training and



1 supervision of their employees, including the Defendant Officers, regarding the First
2 Amendment.

3 97. Defendant City of Phoenix has policies, customs, or procedures that were
4 deliberately indifferent to the rights of citizens, including the following:

- 5 a. Failing to train its officers regarding the proper use of force and/or the First, Fourth, and
6 Fourteenth Amendments;
- 7 b. Allowing and encouraging Phoenix Police Officers to escalate situations by using force that
8 was not reasonable or necessary under the circumstances; and/or
- 9 c. Failing to review, investigate, discipline, and retrain officers involved in constitutional or
10 tortious incidents, and therefore creating a culture of impunity that encouraged Officers to
11 continue in constitutional or tortious violations.

12 98. Plaintiff is therefore entitled to compensatory damages jointly and severally from
13 Defendant City of Phoenix and all Defendant Officers.

14 99. Because Defendant Officers' actions were intentional or committed with reckless or
15 callous disregard for the Plaintiff's rights, Plaintiff is entitled to punitive damages from the
16 individual Defendant Officers.

17 100. Plaintiff is entitled to injunctive relief against all Defendants.

18 **FOURTH CAUSE OF ACTION - SECTION 1983 - FOURTH AMENDMENT**
19 **MALICIOUS PROSECUTION**

20 101. By reference hereto, Plaintiff hereby incorporates the preceding paragraphs.

21 102. Defendant Officers acted under color of state law.

22 103. Defendant Officers' actions deprived Plaintiff of particular rights under the United
23 States Constitution, namely the Fourth Amendment right to be free from malicious prosecution.

24 104. Defendant Officers arrested Plaintiff, detained him, and charged him without
25 probable cause, which led to an unreasonable seizure of Plaintiff's person, causing Plaintiff's
26 injuries.

27 105. The criminal prosecution was dismissed without a conviction.

28 106. For purposes of *Monell* liability, Defendant Officers' actions were either a) based on



1 official practice or custom, b) ratified by a final policy maker of Defendant City of Phoenix, or c)
2 the result of a failure to train by Defendant City of Phoenix.

3 107. Defendant City of Phoenix was deliberately indifferent to the proper training and
4 supervision of their employees, including the Defendant Officers, regarding appropriate arrests
5 and prosecutions.

6 108. Defendant City of Phoenix has policies, customs, or procedures that were
7 deliberately indifferent to the rights of citizens, including the following:

- 8 a. Failing to train its officers regarding the proper use of force and/or the First, Fourth, and
9 Fourteenth Amendments;
- 10 b. Allowing and encouraging Phoenix Police Officers to escalate situations by using force that
11 was not reasonable or necessary under the circumstances; and/or
- 12 c. Failing to review, investigate, discipline, and retrain officers involved in constitutional or
13 tortious incidents, and therefore creating a culture of impunity that encouraged Officers to
14 continue in constitutional or tortious violations.

15 109. Plaintiff is therefore entitled to compensatory damages jointly and severally from
16 Defendant City of Phoenix and all Defendant Officers.

17 110. Because Defendant Officers' actions were intentional or committed with reckless or
18 callous disregard for the Plaintiff's rights, Plaintiff is entitled to punitive damages from the
19 individual Defendant Officers.

20 111. Plaintiff is entitled to injunctive relief against all Defendants.

21 **FIFTH CAUSE OF ACTION - SECTION 1983 - FOURTH AMENDMENT**
22 **UNREASONABLE SEARCH AND SEIZURE**

23 112. By reference hereto, Plaintiff hereby incorporates the preceding paragraphs.

24 113. Defendant Officers acted under color of state law.

25 114. Defendant Officers' actions deprived Plaintiff of particular rights under the United
26 States Constitution, namely the Fourth Amendment right to be free from unreasonable searches
27 and seizures.

28 115. Defendant Officers arrested Plaintiff, detained him, began to release him, and then



1 re-arrested and handcuffed him, which led to an unreasonable seizure of Plaintiff's person, causing
2 Plaintiff's injuries.

3 116. For purposes of *Monell* liability, Defendant Officers' actions were either a) based on
4 official practice or custom, b) ratified by a final policy maker of Defendant City of Phoenix, or c)
5 the result of a failure to train by Defendant City of Phoenix.

6 117. Defendant City of Phoenix was deliberately indifferent to the proper training and
7 supervision of their employees, including the Defendant Officers, regarding appropriate search
8 and seizure.

9 118. Defendant City of Phoenix has policies, customs, or procedures that were
10 deliberately indifferent to the rights of citizens, including the following:

- 11 a. Failing to train its officers regarding the proper use of force and/or the First, Fourth, and
12 Fourteenth Amendments;
- 13 b. Allowing and encouraging Phoenix Police Officers to escalate situations by using force that
14 was not reasonable or necessary under the circumstances; and/or
- 15 c. Failing to review, investigate, discipline, and retrain officers involved in constitutional or
16 tortious incidents, and therefore creating a culture of impunity that encouraged Officers to
17 continue in constitutional or tortious violations.

18 119. Plaintiff is therefore entitled to compensatory damages jointly and severally from
19 Defendant City of Phoenix and all Defendant Officers.

20 120. Because Defendant Officers' actions were intentional or committed with reckless or
21 callous disregard for the Plaintiff's rights, Plaintiff is entitled to punitive damages from the
22 individual Defendant Officers.

23 121. Plaintiff is entitled to injunctive relief against all Defendants.

24 **SIXTH CAUSE OF ACTION - TITLE VI DISCRIMINATION**

25 122. By reference hereto, Plaintiff hereby incorporates the preceding paragraphs.

26 123. Defendant City of Phoenix was the recipient of federal funds, including funds
27 related to law enforcement, at all relevant times.

28 124. Title VI forbids recipients of federal funds from discriminating on the basis of race,



1 *inter alia*, in the administration of any program or activity benefiting from those funds.

2 125. Plaintiff was treated disparately and profiled because of his race.

3 126. This disparate treatment caused him damages.

4 127. Because Defendants' actions were done knowingly, intentionally, and maliciously,
5 Plaintiff is entitled to recover compensatory and punitive damages.

6 **SEVENTH CAUSE OF ACTION - MALICIOUS PROSECUTION**

7 128. By reference hereto, Plaintiff hereby incorporates the preceding paragraphs.

8 129. Defendants initiated or took active part in the prosecution of a criminal action
9 against Plaintiff.

10 130. The action or proceeding terminated in Plaintiff's favor.

11 131. Defendants acted without probable cause.

12 132. Defendant Officers acted with malice, which may be imputed to Defendant City of
13 Phoenix for purposes of liability.

14 133. Defendant Officers' malicious conduct caused Plaintiff's injuries.

15 134. Defendant City of Phoenix is responsible under common law grounds of *respondeat*
16 *superior* and agency for Defendant Officers' actions.

17 135. Plaintiff is therefore entitled to compensatory damages jointly and severally from
18 Defendant City of Phoenix and all Defendant Officers.

19 136. Because Defendant Officers' actions were intentional or committed with reckless or
20 callous disregard for the Plaintiff's rights, Plaintiff is entitled to punitive damages from the
21 individual Defendant Officers.

22 **EIGHTH CAUSE OF ACTION - INTENTIONAL INFLICTION OF EMOTIONAL**
23 **DISTRESS**

24 137. By reference hereto, Plaintiff hereby incorporates the preceding paragraphs.

25 138. The wrongful acts described herein are so outrageous in character, so shocking in
26 nature, so extreme in degree, as to go beyond all bounds of decency, and to be regarded as atrocious
27 and utterly intolerable in a civilized community.

28 139. Said acts were intended to cause Plaintiff severe emotional distress, or carried out



1 in reckless disregard of the near certainty that such distress would result from the wrongful acts.

2 140. As a direct and proximate result of said acts, Plaintiff has suffered and will continue
3 to suffer extreme emotional distress, which entitles him to compensatory damages in an amount
4 to be proven at trial.

5 141. Further, as said conduct was intentional, oppressive, malicious, done with an evil
6 mind and with reckless indifference to the constitutionally and statutorily protected rights of
7 Plaintiff, he is entitled to an award of punitive or exemplary damages.

8 142. Defendant City of Phoenix is responsible under common law grounds of *respondeat*
9 *superior* and agency for Defendant Officers' actions.

10 143. Defendants are therefore jointly and severally liable for all damages.

11 **NINTH CAUSE OF ACTION - NEGLIGENCE & GROSS NEGLIGENCE**

12 144. By reference hereto, Plaintiff hereby incorporates the preceding paragraphs.

13 145. Defendant Officers owed a duty to Plaintiff, namely the duty to act reasonably
14 towards Plaintiff.

15 146. Defendant Officers breached that duty by arresting Plaintiff and taking him to jail
16 instead of merely citing him or warning him under these circumstances.

17 147. Defendant Officers' breach involved gross, willful, or wanton conduct.

18 148. Defendant Officers' conduct was motivated by spite or ill will, or was outrageous,
19 oppressive, or intolerable, and they knew or intentionally disregarded that their conduct created a
20 substantial risk of significant harm to Plaintiff.

21 149. Defendant Officers' breach caused Plaintiff's damages.

22 150. Defendant City of Phoenix is responsible under common law grounds of *respondeat*
23 *superior* and agency for Defendant Officers' actions.

24 151. Additionally, Defendant City of Phoenix owes a duty of care to members of the
25 public with whom its officers come into contact and/or investigate, including Plaintiff.

26 152. Defendant City of Phoenix breached this duty by failing to adequately supervise its
27 officers, including the Defendant Officers.

28 153. Defendant City of Phoenix breached this duty by failing to adequately train its



1 officers with respect to the seizure of suspects and use of force.

2 154. Defendant City of Phoenix breached this duty by failing to adopt adequate and
3 reasonable policies and training with respect to the seizure of suspects and the risks of using force.

4 155. Defendants are therefore jointly and severally liable for compensatory damages.

5 156. Plaintiff is entitled to punitive damages from Defendant Officers.

6 **TENTH CAUSE OF ACTION - AIDING AND ABETTING**

7 157. By reference hereto, Plaintiff hereby incorporates the preceding paragraphs.

8 158. Each and every Defendant has committed tortious acts against Plaintiff as described
9 above.

10 159. As described above, there is a causal connection between each Defendant's conduct
11 and the remaining Defendants' commission of those torts.

12 160. Each Defendants' conduct in aiding and abetting caused Plaintiff's harm.

13 161. Defendants had knowledge of the primary tort being committed.

14 162. Defendants' conduct contributed to Plaintiff's damages.

15 163. Thus, Defendants are all liable to Plaintiff for all categories of compensatory
16 damages permissible under Arizona tort law.

17 164. Defendants' conduct towards Plaintiff harmed Plaintiff and was malicious,
18 oppressive, or in reckless disregard of his rights. Defendants therefore should be required to
19 respond to Plaintiff in the form of a punitive or exemplary damage award.

20 **JURY TRIAL DEMANDED**

21 165. Plaintiff demands a trial by jury.

22 **PRAYER FOR RELIEF**

23 WHEREFORE, Plaintiff respectfully requests that this Court enter judgment as follows:

- 24 A. Declaring that the acts and practices complained of herein are in violation of federal and
25 state law;
- 26 B. Directing Defendants to take such affirmative action as is necessary to ensure that the
27 effects of these unlawful acts are eliminated and do not continue to affect Plaintiff;
- 28 C. Awarding Plaintiff compensatory damages in amounts to be determined by the jury;



1 D. Awarding punitive damages against Defendant Officers;

2 E. Awarding Plaintiff pre- and post-judgment interest, the costs of this action, and reasonable
3 attorneys' fees as provided by 42 U.S.C. § 1988; and

4 F. Granting such other and further relief, including injunctive relief, as this Court deems
5 necessary and proper.

6 Respectfully submitted on this 21st day of November, 2024,

7 CARDEN LIVESAY, LTD.

8 By: s/Joshua W. Carden

9 Joshua W. Carden

10 *Attorney for Plaintiff*

11 *William Kitchen*

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Civil Cover Sheet

This automated JS-44 conforms generally to the manual JS-44 approved by the Judicial Conference of the United States in September 1974. The data is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. The information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is authorized for use only in the District of Arizona.

The completed cover sheet must be printed directly to PDF and filed as an attachment to the Complaint or Notice of Removal.

Plaintiff(s): William Kitchen , ;

Defendant(s): City of Phoenix , ; Michael Sullivan , ; Michael Meelhuysen , ; Erick Selvius , ; Rene Beltran , ;

County of Residence: Maricopa

County of Residence: Maricopa

County Where Claim For Relief Arose: Maricopa

Plaintiff's Atty(s):

Defendant's Atty(s):

Joshua W. Carden ,
 Carden Livesay, Ltd.
 419 E Juanita Ave, Ste. 103
 Mesa, AZ 85204
 4803459500

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IFP REQUESTED

REMOVAL FROM COUNTY, CASE #

II. Basis of Jurisdiction: **3. Federal Question (U.S. not a party)**

III. Citizenship of Principal Parties(Diversity Cases Only)

Plaintiff:- **N/A**

Defendant:- **N/A**

IV. Origin : **1. Original Proceeding**

V. Nature of Suit: **440 Other Civil Rights**

VI.Cause of Action: **42 USC § 1983 - constitutional and statutory violations connected with an arrest, including 1st, 4th, and 14th Amendments, 42 U.S.C. § 1981, 34 U.S.C. § 12601; and 42 U.S.C. § 2000d**

VII. Requested in Complaint
 Class Action: **No**

Dollar Demand:
 Jury Demand: **Yes**

VIII. This case is not related to another case.

Signature: s/Joshua W. Carden

Date: 11/21/2024

If any of this information is incorrect, please go back to the Civil Cover Sheet Input form using the *Back* button in your browser and change it. Once correct, save this form as a PDF and include it as an attachment to your case opening documents.