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7 *Officer Jon Brambila, Police Chief Amy Bonney, Lieutenant Novak, and Sergeant*  
8 *Brandon Gerlach*

9 **IN THE SUPERIOR COURT FOR THE STATE OF ARIZONA**

10 **IN AND FOR THE COUNTY OF YAVAPAI**

11  
12 ELI DALTON-WEBB,

13 Plaintiff,

14 v.

15 CITY OF PRESCOTT, a municipal  
16 corporation in Arizona; OFFICER  
17 CARON (#517); OFFICER TRUILLO;  
18 SGT. GERLACH; LT. NOVAK;  
19 OFFICER BRAMBILA; CHIEF  
20 BONNEY, peace officers of the Prescott  
21 Police Department, JOHN DOESI-X;  
22 JANE DOES I-X; ABC  
CORPORATIONS 8-X; XYZ  
PARTNERSHIPS I-X; UNKNOWN  
ENTITIES I-X,

23 Defendants.

Case No. S1300CV202500445

**MOTION TO DISMISS INDIVIDUAL  
DEFENDANTS**

(Assigned to Honorable Kristyne M. Schaaf-  
Olson)

**(Oral Argument Requested)**

24  
25 Defendants Officer Tanner Caron, Officer Nathan Trujillo, Sgt. Brandon Gerlach,  
26 Lt. Novak, Officer Jon Brambila, and Chief Amy Bonney (the “Individual Defendants”), by  
27 and through undersigned counsel, hereby move to dismiss all claims against them pursuant  
28 to Rule 12(b)(6), Arizona Rules of Civil Procedure because 1) the individual Defendants

1 were not properly served with a notice of claim; 2) there is not private right of action for  
2 money damages based on an alleged violation of the Arizona Constitution; 3) punitive  
3 damages are not authorized, and 4) any claim of injunctive, equitable, or declaratory relief  
4 is properly directed at the City of Prescott, and not at any of the Individual Defendants.  
5 This Motion is supported by the following Memorandum of Points and Authorities, and the  
6 Rule 7.1 and 12 Good Faith Consultation Certificate is filed concurrently herewith as  
7 Exhibit A.

8 **MEMORANDUM OF POINTS AND AUTHORITIES**

9 **I. INTRODUCTION**

10 Plaintiff Eli Dalton-Webb alleges various violations of the Arizona Constitution  
11 arising out of brief encounters with Prescott Police officers on May 22, 2024 as he went  
12 door-to-door attempting to solicit roofing repairs or installation. No arrests were made, no  
13 citations issued, and the allegations are devoid of specific conduct giving rise to individual  
14 liability. The Individual Defendants, however, seek dismissal from all claims against them  
15 for the reasons described in more detail below.

16 **II. STANDARD OF REVIEW**

17 To survive a motion to dismiss, a complaint must “contain sufficient factual matter,  
18 accepted as true, to state a claim to relief that is plausible on its face.” *Coleman v. City of*  
19 *Mesa*, 230 Ariz. 352, 356, ¶ 8 (2012) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544,  
20 570 (2007)). While courts accept well-pled factual allegations as true, they do not accept  
21 legal conclusions, unsupported inferences, or formulaic recitations of elements. *Id.* A  
22 complaint must allege specific conduct by each individual defendant that gives rise to  
23 liability. *Medina v. Ariz.*, 202 Ariz. 570, 575, ¶ 22 (App. 2002).

24 Arizona courts assess the sufficiency of a claim under Rule 8’s requirement that a  
25 pleading contain a “short and plain statement of the claim showing that the pleader is  
26 entitled to relief.” Ariz.R.Civ.P. 8. Accordingly, under Ariz.R.Civ.P. 8, Arizona follows the  
27 notice pleading standard, the purpose of which is to “give the opponent fair notice of the  
28 nature and basis of the claim and indicate generally the type of litigation involved.” Mackey

1 v. Spangler, 81 Ariz. 113, 115 (1956). If a pleading does not comply with Rule 8, an  
2 opposing party may move to dismiss the action for “[f]ailure to state a claim upon which  
3 relief can be granted.” Ariz. R. Civ. P. 12(b)(6). When adjudicating a Rule 12(b)(6) motion  
4 to dismiss, Arizona courts look only to the pleading itself and consider the well-pled factual  
5 allegations contained therein. *See, e.g., Dressler v. Morrison*, 212 Ariz. 279, 281 (2006);  
6 *Long v. Ariz. Portland Cement Co.*, 89 Ariz. 366, 367-68 (1961). Courts must also assume  
7 the truth of the well-pled factual allegations and indulge all reasonable inferences therefrom.  
8 *Doe ex rel. Doe v. State*, 200 Ariz. 174, 175 (2001); *Long*, 89 Ariz. at 367. Because Arizona  
9 courts evaluate a complaint’s well-pled facts, mere conclusory statements are insufficient  
10 to state a claim upon which relief can be granted. The inclusion of conclusory statements  
11 does not invalidate a complaint, *Long*, 89 Ariz. at 369, but a complaint that states only legal  
12 conclusions, without any supporting factual allegations, does not satisfy Arizona’s notice  
13 pleading standard under Rule 8. *Cullen v. Auto-Owners Ins. Co.*, 218 Ariz. 417, 419 (Ariz.  
14 2008). A motion to dismiss under Rule 12(b)(6) tests the legal sufficiency of the complaint.  
15 Dismissal is proper when, accepting all well-pled allegations as true, the complaint fails to  
16 state a claim for which relief may be granted. *Cullen*, 218 Ariz. 417. Legal conclusions and  
17 conclusory allegations are not entitled to the assumption of truth. *Id.* at 419 ¶ 7.

18 The notice of claim defense should ordinarily be raised early in the litigation and  
19 before engaging in extensive discovery. *See, e.g., City of Phoenix v. Fields*, 219 Ariz. 568,  
20 574 (2009); *Jones v. Cochise County*, 218 Ariz. 372, 380–81 (App. 2008).

### 21 **III. STATEMENT OF FACTS**<sup>1</sup>

22 On May 22, 2024, Plaintiff Eli Dalton-Webb, a resident of Cochise County,  
23 Arizona, was conducting door-to-door commercial activity in Prescott, Arizona, allegedly  
24 on behalf of a licensed roofing contractor; engaging residents in conversation to solicit  
25 roofing inspections, and possible repairs, remediation, or installation. [Compl. ¶¶1, 6, 31–

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26  
27 <sup>1</sup> As it must for purposes of this Motion, the Individual Defendants recite the non-  
28 conclusory factual allegations in the Complaint whether they agree, or disagree, with those  
allegations.

1 33]. At approximately 3:38 p.m., Officer Tanner Caron (#517) of the Prescott Police  
2 Department approached Plaintiff near 240 S. Penn Avenue and inquired about his activity.  
3 Plaintiff asserted his Fifth Amendment and Arizona constitutional rights not to answer  
4 questions and asked whether he was being detained. [*Id.*, ¶ 7]. When no detention was  
5 stated, Plaintiff walked away. [*Id.* ¶¶ 6-7]. Officer Trujillo, who was nearby and in a  
6 separate vehicle, observed the interaction and allegedly conferred with Officer Caron. [*Id.*  
7 ¶¶ 8-11]. The officers proceeded to loosely follow Plaintiff and interview neighbors. [*Id.*  
8 ¶¶ 13-16].

9 At around 4:00 p.m., Officer Caron again engaged Plaintiff in conversation, stating,  
10 “If you’re just looking for work and going door-to-door that’s all I really needed to hear,”  
11 and indicated he did not wish to interfere with Plaintiff’s business if it was lawful. [*Id.* ¶  
12 17]. Plaintiff expressed feeling harassed but continued the conversation. [*Id.* ¶¶ 18-19].  
13 After the conversation, Officer Caron continued to follow Plaintiff and reengaged him again  
14 around 4:06 p.m., informing Plaintiff that a license was required for Plaintiff’s door-to-door  
15 activity and allegedly threatening criminal trespass charges if Plaintiff continued. [*Id.* ¶¶  
16 23-26]. Plaintiff asserts that Officer Caron never identified a specific municipal law or type  
17 of license required and had no authority to speak on behalf of property owners regarding  
18 trespass absent express direction from those owners, as required under A.R.S. § 13-1502(B).  
19 [*Id.* ¶¶ 25-26].

20 Plaintiff alleges that he informed Officer Caron of A.R.S. § 32-1101.01, which  
21 prohibits cities from requiring licenses of licensed contractors or their agents to perform  
22 contracting work, and that Officer Caron refused to consider or look up the statute. [*Id.* ¶  
23 29]. Plaintiff claims that the officers’ continued actions caused him to cease his commercial  
24 activity under duress, thereby chilling his rights under Article 2 §§ 4, 5, and 6 of the Arizona  
25 Constitution. [*Id.* ¶¶ 21, 30].

26 Plaintiff also contends that the Prescott City Code does not apply to his conduct, as  
27 he did not qualify as a “peddler” or “solicitor” under P.C.C. § 4-4-1, and that the municipal  
28 licensing regime is inconsistent with public policy and unconstitutional for failing to

1 accommodate indigent applicants and for infringing on natural rights to work and speak  
2 freely [*Id.* ¶¶ 58-74]. At the time of the incident, Plaintiff alleges he had less than \$34 in  
3 total personal and business accounts and no access to transportation or other means of  
4 subsistence, as he had been transported to Prescott by his employer and left in a  
5 neighborhood to conduct his sales activity [*Id.* ¶ 34]. Plaintiff ultimately seeks declaratory,  
6 injunctive, monetary relief, and punitive damages for alleged violations of state  
7 constitutional rights. [¶¶ 104-138].

8 **IV. LEGAL ANALYSIS**

9 **A. The Individual Defendants are Entitled to Dismissal from Any Claim for**  
10 **Damages as None Were Properly Served With a Pre-Litigation Notice of**  
11 **Claim.**

12 Under Arizona law, a plaintiff must file a notice of claim with a public entity and/or  
13 public employee within 180 days of the incident from which the claim arose. Ariz. Rev.  
14 Stat. § 12-821.01(A); *Crum v. Superior Court in and for the County of Maricopa*, 186 Ariz.  
15 351, 352 (App. 1996.) The statute provides, in relevant part:

16 Persons who have claims against a public entity, public school or a *public*  
17 *employee* shall file claims with the person or persons authorized to accept  
18 service for the public entity public school *or public employee as set forth*  
19 *in the Arizona rules of civil procedure* within one hundred eighty days  
20 after the cause of action accrues ... Any claim that is not filed within one  
hundred eighty days after the cause of action accrues is barred and no  
action may be maintained thereon.

21 Arizona Revised Statute § 12-821.01(A) (emphasis added). Arizona Rule of Civil  
22 Procedure 4.1(d) outlines the requirements of service of process of an individual as follows:

23 [A]n individual may be served by: (1) delivering a copy of the summons  
24 and the pleading being served to that person individually; (2) leaving a  
25 copy of each at that individual's dwelling or usual place of abode with  
26 someone of suitable age and discretion who resides there; or (3)  
27 delivering a copy of each to an agent authorized by appointment or by  
law to receive service of process.

28 Plaintiff has not, and cannot, show the strict compliance with the statute as to the

1 individual Defendants because he did not timely or properly serve them with a Notice of  
2 Claim. While Plaintiff did deliver a copy of the notice of claim to the City Clerk (Exhibit  
3 B hereto), Plaintiff failed to individually serve any of the Individual Defendants, instead  
4 dropping off the notice of claim at the Prescott Police Department front-counter. (Exhibit  
5 C hereto).

6 A.R.S. § 12-821.01 provides, in part, that “[p]ersons who have claims against a  
7 public entity or a public employee shall file claims with the person or persons authorized to  
8 accept service for the public entity or public employee as set forth in the Arizona rules of  
9 civil procedure within one hundred eighty days after the cause of action accrues.” This  
10 means that where a claimant wishes to bring suit against both a public entity and public  
11 employee, the notice of claim must be directed and served on the public employee, or else  
12 the notice is not effective as to the individual public employee. *Crum*, 186 Ariz. at 353  
13 (App. 1996). “A claimant who asserts that a public employee’s conduct giving rise to a  
14 claim for damages was committed within the course and scope of employment must give  
15 notice of the claim to *both* the employee individually and to his employer.” *Id.*, citing  
16 *Johnson v. Superior Court*, 158 Ariz. 507, 509 (App.1988). Arizona courts have repeatedly  
17 held a prospective plaintiff must furnish a copy of the notice on “both the employee  
18 individually and to his employer” within 180 days. *Harris v. Cochise Health Sys.*, 215 Ariz.  
19 344, 351 (App. 2007); *Crum*, 186 Ariz. at 352; *see also Johnson v. Superior Court*, 158  
20 Ariz. 507, 509 (App. 1988).

21  
22  
23 If a Notice of Claim is not properly maintained within the statutory time limits, a  
24 plaintiff’s claim is barred by statute. *See, e.g., Falcon ex. rel. Sandoval v. Maricopa County*,  
25 213 Ariz. 525, 528 (Ariz. 2006). Arizona’s notice of claim statute originally contained an  
26 exception for “excusable neglect,” which provided claimants some flexibility in complying  
27 with the procedural requirements. In 1994, however, the Arizona Legislature amended the  
28

1 statute to remove the exception of “excusable neglect.” A.R.S. 12-821.01; *see Simon v.*  
2 *Maricopa Med. Ctr.*, 225 Ariz. 55, 62 (App. 2010). Following this amendment, “actual  
3 notice and substantial compliance do not excuse failure to comply with the statutory  
4 requirements of A.R.S. 12-821.01(A).” *Falcon ex rel. Sandoval v. Maricopa County*, 213  
5 Ariz. 525, 527 (2006). Substantial compliance is now insufficient. *Simon*, 225 Ariz. at 61-  
6 62.<sup>2</sup> Post-amendment, courts have consistently required *strict* compliance with the notice  
7 of claim statute as a prerequisite to filing suit. *See, Simon, supra.; Chen v. Maricopa*  
8 *County*, 2013 WL 1045484 (D. Ariz. 2013) (noting that substantial compliance is  
9 insufficient to satisfy the requirements of A.R.S. § 12-821.01).

10  
11 The resolution of the issues, under the facts of this case, is found in *Simon*. In *Simon*,  
12 the plaintiff sued the City of Phoenix and seven individual police officers. Relying on an  
13 informational packet provided by the City of Phoenix to the superior court, the plaintiff  
14 served the clerk of the City of Phoenix, but did not personally serve the individual officers  
15 with his notice of claim. 225 Ariz. at 60. The individual officers moved to dismiss the  
16 complaint on the grounds that they were not properly served with a notice of claim as  
17 required by A.R.S. § 12-821.01. *Id.* at 58. The plaintiff asserted that his claims should not  
18 be dismissed because he substantially complied with the notice of claim statute by serving  
19 the City of Phoenix and because the officers had actual notice of his claims. The Court of  
20 Appeals held the plaintiff’s substantial compliance with the statute was insufficient in light  
21 of the 1994 amendment to the statute, which required strict compliance. Based upon the  
22 fact that the plaintiff admittedly did not execute service of process on the individual officers,  
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25 <sup>2</sup> The notice of claim defense should ordinarily be raised early in the litigation and before  
26 engaging in extensive discovery. *See, e.g., City of Phoenix v. Fields*, 219 Ariz. 568, 574,  
27 (2009); *Jones v. Cochise County*, 218 Ariz. 372, 380–81 (App. 2008). Here, the individual  
28 Defendants bring notice of claim issues before the Court at the earliest possible moment  
through this motion to dismiss.

1 the court of appeals affirmed summary judgment in favor of the individual officers. *Id.* at  
2 62.

3 Here, Plaintiff merely provided his November 13, 2024 Notice of Claim to the front  
4 counter of the police station. (Exhibit C hereto). Plaintiff did not serve the individual  
5 Defendants directly, or at their homes. (*Id.*). Plaintiff does not allege, and there is nothing  
6 to suggest, that any individual Defendant authorized proper service of process to include  
7 simply dropping off a document at the department’s front desk. Plaintiff’s service of the  
8 Notice of Claim to a “front desk” is insufficient to show compliant service on the Individual  
9 Defendants. Filing notices of claim at an individual defendant’s place of work does not  
10 comply with Rule 4, Ariz. R. Civ. P. *See* Rule 4.1(d), Ariz. R. Civ. P. (requiring service on  
11 an individual “to that individual personally” or “at that individual’s dwelling house or usual  
12 place of abode”); *Simon v. Maricopa Med. Ctr.*, 225 Ariz. 55, 61, (App. 2010) (In order to  
13 “perfect ... claims against an individual officer, [plaintiff] had to deliver a notice of claim  
14 to the officer personally, an individual of suitable age and discretion residing with the  
15 officer, or the officer’s appointed agent.”); *Peck v. Hinchey*, 2014 WL 10987731, at \*15 (D.  
16 Ariz. 2014) (holding that filing notice of claim at individual defendant’s place of work does  
17 not satisfy Arizona’s notice of claim statute); *see, Strickler v. Arpaio*, 2012 WL 3596514 at  
18 \*3 (D.Ariz. 2012) (holding service of a notice of claim upon the individual deputy was  
19 ineffective where the process server provided the notice to an MCSO receptionist, even  
20 where the receptionist claimed authority to accept service. Without facts that the receptionist  
21 was authorized by the individual to act as his agent, the receptionist’s agreement to accept  
22 service of process on the individual employee’s behalf was not sufficient to constitute  
23 service).

24 It is well-established that strict compliance with Rule 4, Ariz. R. Civ. P., is required  
25 and mandatory, or the state law claims cannot be sustained. *See Slaughter v. Maricopa*  
26  
27  
28

1 County, 227 Ariz. 323, 325–26, 258 P.3d 141, 143–44 (App. 2011); *Young v. City of*  
2 *Scottsdale*, 193 Ariz. 110, 114, 970 P.2d 942, 946 (App. 1998), *disapproved of on other*  
3 *grounds by Deer Valley Unified Sch. Dist. No. 91 v. Houser*, 214 Ariz. 293, 152 P.3d 490  
4 (2007). Accordingly, the mere fact of service at the department’s front desk is not, as a  
5 matter of law, effective service on the Individual Defendants. As in the *Simon* case, reliance  
6 on such service does not strictly comply with the statute by personally serving an individual  
7 public official, and the Individual Defendants are entitled to be dismissed from any claim  
8 for money damages.

9  
10 If this Court denies dismissal as to any of the individual Defendants on this basis,  
11 they respectfully request this Court promptly schedule an A.R.S. § 12-821.01(G) hearing.

12 **B. The Complaint Fails to State a Claim for Damages Under the Arizona**  
13 **Constitution.**

14 Plaintiff asserts violations of numerous Arizona constitutional provisions, but fails  
15 to identify specific enforcement mechanisms. Plaintiff’s claims for damages under the  
16 Arizona Constitution fail as a matter of law because Arizona does not recognize a private  
17 right of action for damages, absent specific statutory authorization. Plaintiff invokes  
18 multiple state constitutional articles, including Article 2, §§ 4, 5, 6, 8, 10, and 13, but does  
19 not cite any statute that creates a cause of action or authorizes monetary relief under these  
20 provisions [Compl. ¶¶ 66-75, 104-134]. Arizona courts have consistently declined to imply  
21 private damage remedies for constitutional violations. *See Howell v. Hodap*, 221 Ariz. 543,  
22 548, ¶ 20 (App. 2009) (“Arizona courts have not recognized a private right of action for  
23 damages based on alleged violations of the Arizona Constitution.”); *Ruble v. State*, 2023  
24 WL 3046887, at \*5 (Ariz. App. Apr. 21, 2023) (unpublished) (affirming dismissal of  
25 Arizona constitutional claims where no statute authorized private enforcement). Because  
26 there is no private right of action for damages under the Arizona Constitution, Plaintiff’s  
27 state constitutional claims, to the extent they seek monetary damages, must be dismissed.  
28

1           **C. Punitive Damages Are Not Authorized.**

2           Arizona law does not allow for punitive damages against public entities or public  
3 employees and any claim for punitive damages must be dismissed. A.R.S. § 12-820.04.

4           **D. The City is the Only Defendant That is Proper, or Necessary, for  
5 Injunctive, Equitable, or Declaratory Relief.**

6           The Individual Defendants are aware that the notice of claim statute does not bar  
7 pursuit of equitable relief in the event strict compliance is not observed, or even if there is  
8 not a notice of claim at all. *See, e.g., Martineau v. Maricopa Cnty.*, 207 Ariz. 332, 335-36  
9 (App. 2004). Generally speaking, declaratory judgment relief is an appropriate vehicle for  
10 resolving controversies as to the legality of acts of public officials. *Riley v. County of*  
11 *Cochise*, 10 Ariz.App. 55 (1969). However, in order to be entitled to relief, a plaintiff must  
12 have a protectible interest such as a legal relation, status or right and an assertion of the  
13 denial of it by the other party. *Riley v. County of Cochise, supra*. When a complaint fails  
14 to allege facts showing that a public official committed an act subject to being enjoined,  
15 there is no legal basis for injunctive relief. *Dowling v. Stapley*, 218 Ariz. 80, 88 (Ct. App.  
16 2008). Here, Plaintiff alleges, in conclusory fashion only, that Sergeant Gerlach gave  
17 unlawful orders to Officer Caron and that Lieutenant Novak, Officer Brambila, and Chief  
18 Bonney failed to train subordinate officers on constitutional and statutory limits on  
19 municipal authority. [Complt., ¶¶ 12, 25]. Except for Caron, Plaintiff's Complaint does  
20 not cite any individual public official with whom Plaintiff had a substantive interaction.  
21 Even as to Officer Caron, Plaintiff does not allege an arrest, citation, or incarceration. [*See,*  
22 *Complt.*]. Instead, the allegation is that Officer Caron talked to Plaintiff, in a public place,  
23 about the risks of trespassing, or violating City Code by peddling or soliciting without  
24 obtaining the required permission under the City Code. [*See, Complt.*].  
25  
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27  
28

1           This Court may take judicial notice of the City Code. *See Roseland v. City of*  
2 *Phoenix*, 14 Ariz. App. 117, 122 (1971). The Prescott City Code, Section 4-4-1 defines a  
3 “peddler” as “[a]ny person, whether a resident of the City of Prescott or not, who goes from  
4 house to house, from place to place, or from street to street, conveying or transporting goods,  
5 wares or merchandise or offering or exposing the same for sale, or making sales and  
6 delivering articles to purchasers.” The same Section defines a “solicitor” as “[a]ny person,  
7 whether a resident of the City of Prescott or not, who goes from house to house, from place  
8 to place, or from street to street, soliciting or taking or attempting to take orders for sale of  
9 goods, wares or merchandise, including magazines, books, periodicals, or personal property  
10 of any nature whatsoever for future delivery, or for services to be performed in the future,  
11 whether or not such individual has, carries or exposes for sale a sample of the subject of  
12 such order or whether or not he is collecting advance payments on such orders.” Section 4-  
13 4-2 requires peddlers and solicitors to have a license pursuant to the Code, Section 4-4-4,  
14 4-4-6, 4-4-7, 4-4-8. Section 4-4-3 contains exemptions, none of which apply under the  
15 facts alleged in Plaintiff’s Complaint. Section 4-4-6 provides that the license and  
16 identification card are issued dependent only on the correct completion of the application  
17 and the application and identification card fees.<sup>3</sup> Section 4-4-16 provides that peddling or  
18 soliciting without a license is a crime in Prescott, and Section 4-4-10 gives law enforcement  
19 the authority to request a copy of the identification card of a licensed peddler or solicitor  
20 not otherwise known by the officer to be licensed, and to enforce the provisions of Sections  
21 4-4-1, *et.seq.*  
22  
23

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24           <sup>3</sup> The Code provides for the following fee: “At the time of filing the application, a  
25 nonrefundable fee of fifty dollars (\$50.00) shall be paid by the applicant to cover the cost  
26 of processing. Upon approval of the application by the City, the applicant shall pay a fee  
27 of ten dollars (\$10.00) for an identification card. . . .” (Ord. 4977-1515, 5-3-2016, eff. 1-1-  
28 2017; Ord. 2019-1689, 9-24-2019; Ord. 2020-1709, 2-11-2020).

1 Here, there is nothing for this Court to enjoin as to any of the Individual Defendants,  
2 including Officer Caron. The only allegation against them is advising Plaintiff of the  
3 consequences of violating the City Code, which the Code, itself, allows for. If Plaintiff  
4 intends to seek injunction, equitable relief, or declaratory relief challenging the  
5 constitutionality of the Code, that relief comes from the City, not any of the Individual  
6 Defendants. Because no Individual Defendant committed an act subject to being enjoined,  
7 the equitable relief sought against them is simply unavailable under the facts alleged in the  
8 Complaint. *See, Dowling*, 218 Ariz. at 88.

9 **V. CONCLUSION**

10 Plaintiff's failure to properly serve a Notice of Claim on any of the Individual  
11 Defendants bars all claims for money damages against them. Even so, there is also no  
12 private right of action for damages under the Arizona Constitution, and punitive damages  
13 are barred pursuant to A.R.S. § 12-820.04. Finally, even though equitable, injunctive, or  
14 declaratory relief is allowed for an alleged constitutional violation, as to the Individual  
15 Defendants, there is no act subject to any of them being enjoined, and they are not proper  
16 parties for such relief. For these reasons, the Complaint should be dismissed in its entirety  
17 as to the Individual Defendants, with prejudice, under Rule 12(b)(6).

18  
19 RESPECTFULLY SUBMITTED this 4<sup>th</sup> day of August, 2025.

20  
21 JELLISON LAW OFFICES, PLLC

22 /s/ James M. Jellison

23 James M. Jellison, Esq.  
24 Counsel for the City of Prescott and the  
25 Individual Defendants  
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**CERTIFICATE OF FILING & SERVICE**

I hereby certify that on August 4, 2025. I electronically transmitted the attached document to the Clerk’s Office using the TurboCourt System for filing with e-service and mail on the following:

Eli Dalton-Webb  
5009 E. Ironwood Circle  
Sierra Vista, Arizona 85650  
E: [dw4az@proton.me](mailto:dw4az@proton.me)  
*Plaintiff pro se*

By: /s/ Rebecca L. Craft