

1 Eli Dalton-Webb  
2 5009 E. Ironwood Circle  
3 Sierra Vista, Arizona 85650  
4 email: dw4az@proton.me  
5 *Plaintiff*  
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7 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**

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

12 Eli Dalton-Webb, 13 14 Plaintiff 15 16 v. 17 18 CITY OF PRESCOTT, a municipal 19 corporation in Arizona, OFFICER 20 CARON (#517), OFFICER TRUJILLO, 21 SGT. GERLACH, LT. NOVAK, 22 OFFICER BRAMBILA, CHIEF 23 BONNEY, peace officers of the Prescott 24 Police Department, et al., 25 26 Defendants	Case No. S-1300-CV-202500445  Divion: A, Hon. Kristyne Schaaf-Olson  Civil Rights Violations; Article 2 § 6 of the Arizona Constitution; A.R.S. § 32- 1101.01; etc.  RE: Reply to Rule 4.1(k) Motion for Alternative Means of Service
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29 **PROCEDURAL HISTORY**

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31 1. Plaintiff served Defendants on 7 May 2025 with the complaint and  
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33 summons (and other documents) via appointed process server.  
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35 2. Defendants had until 27 May 2025 to respond to the complaint and failed to  
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37 do so.  
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39 3. Plaintiff filed an Application for Entry of Default on 28 May 2025.  
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41 4. Defendant City (not Defendant Officers) answered Complaint on 5 June  
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43 2025.  
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1 5. Defendant Officers, on 5 June 2025, essentially objected to the Application  
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3 for Entry of Default.  
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5 6. On 5 June 2025, Plaintiff sent a private e-mail to Defense Counsel. (Exhibit  
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7 A)  
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9 7. On 11 June 2025, Plaintiff essentially replied to Defendant Officers' 5 June  
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11 2025 objection and with that filing did a Rule 4.1(k) motion for alternative means of  
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13 service.  
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15 8. On 17 June 2025, Defendant Officers filed a waiver of service, alleging that  
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17 Plaintiff had presented a request for waiver on 5 June 2025.  
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19 9. On 18 June 2025, Defendant Officers responded to the Rule 4.1(k) motion  
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21 for alternative means of service, alleging that Plaintiff's application for entry of  
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23 default is moot because Plaintiff had presented a waiver request to Defendant  
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25 Officers.  
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### 28 **REBUTTAL OF ALLEGED FACTS**

29 10. Plaintiff hereby rebuts the allegation from Defense Counsel that Plaintiff  
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31 presented Defendants with a request for a waiver of service of process. Plaintiff, on 5  
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33 June 2025 sent a private e-mail to Defense Counsel stating "I will need to review my  
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35 legal strategy for the case regarding service of process. However, for negotiation  
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37 purposes, and ***I AM NOT MAKING AN OFFER YET OR AGREEING TO***  
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39 ***ANYTHING YET***, but would your clients be ***OPEN*** to voluntarily accepting service  
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41 of process?" (emphasis added). Plaintiff did not present to Defendant a request for  
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43 waiver of service of process. (see Exhibit A)  
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1 11. Defendant relies on Plaintiff allegedly requesting a waiver of service of  
2 process to then argue to this Court that Plaintiff somehow is waiving default against  
3 Defendant Officers, which is false.  
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7 **PREJUDICE TO PLAINTIFF**  
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9 11. There is no specific procedure on a defendant objecting to an application  
10 for entry of default. Typically, there is a motion, a response, and a reply in procedures  
11 before this Court. There appears to be no clear procedure regarding this issue.  
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14 12. Plaintiff has been prejudiced by this false statement presented to this Court  
15 in what Plaintiff asserts is a reply, as the Defendant Officers are presenting to this  
16 Court in their 18 June 2025 filing that the Plaintiff is waiving default against  
17 Defendant Officers because allegedly the Plaintiff presented to Defendant Officers a  
18 request for waiver of service of process, which Plaintiff did not present such request.  
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27 13. There are basically two issues being briefed before this Court:  
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29 **1. Application for Entry of Default:**  
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Application for Entry of Default	28 May 2025	Plaintiff
Objection t. App. f. Entry o. Default	5 June 2025	Defendant Officers
Response to Obj. t. App. f. Ent. o. Def.	11 June 2025	Plaintiff
Simultaneous reply to App. f. Ent. o. Def and response to Rule 4.1(k) motion	18 June 2025	Defendant Officers
Simultaneous sur-reply and reply to Rule 4.1(k) alternative service	THIS FILING TODAY	Plaintiff

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45 **2. Rule 4.1(k) Motion for Alternative Means of Service**  
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Rule 4.1(k) Motion Alt. Service	11 June 2025	Plaintiff
Simultaneous response to Rule 4.1(k) motion and reply to App. f. Ent. o. Def	18 June 2025	Defendant Officers
Simultaneous response to Rule 4.1(k) motion and sur-reply to Application for Entry of Default	THIS FILING TODAY	Plaintiff

14. The additional prejudice to Plaintiff is that Defendant Officers were non-germane in their 18 June 2025 response to Rule 4.1(k) motion, and so Plaintiff must either make non-germane arguments in his reply to the Rule 4.1(k) motion or ask this Court to give Plaintiff leave to file a sur-reply to the Application for Entry of Default.

15. Additional remedies Plaintiff could ask this Court is to strike non-true and/or non-germane statements from Defendant Officers' filings, or to sanction Defendants (sanctions such as allowing this filing). Plaintiff asks this Court to construe this filing in whatever way will be in the interest of justice. If this Court orders Plaintiff to provide more briefing, he will.

**REQUESTED RELIEF**

16. Plaintiff primarily requests that this Court:

17. review the filings from Parties regarding service of process—the Application for Entry of Default (filed 28 May 2025), the Defendant Officers' objection to the Application for Entry of Default (filed 5 June 2025), the Plaintiff's reply to the Defendant Officers' objection to the Application for Entry of Default (filed 11 June 2025); AND

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18. Disregard the Defense Counsel’s allegation that Plaintiff has waived default by allegedly presenting a request that Defendant Officers waive service of process; AND

19. After reviewing filings from Parties, enter a default against Defendant Officers.

20. Plaintiff secondarily requests, if the above is not granted, this Court:

21. Take judicial notice that Plaintiff did NOT present a request for the Defendant Officers to waive service of process; AND

22. Take judicial notice that Plaintiff did NOT waive default against Defendant Officers; AND

23. To accept Defendant Officers’ Waiver of Service, and proceed with the lawsuit, with the Defendant Officers’ self-imposed deadline of 4 August 2025 to file a responsive pleading to the Plaintiff’s Complaint (as volunteered and stated on their 17 June 2025 filing).

**A COPY OF THIS WILL BE SENT TO:**

rebecca@jellisonlaw.com  
jim@jellisonlaw.com

Submitted respectfully this day, 23 June 2025,

/s/Eli Dalton-Webb

*Plaintiff*

**Exhibit**

**A**

## Negotiation Items CV202500445

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From dw4az@proton.me <dw4az@proton.me>

To Jim Jellison<jim@jellisonlaw.com>, Rebecca Craft<rebecca@jellisonlaw.com>

Date Thursday, June 5th, 2025 at 11:02 AM

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In regards to CV202500445 (Dalton-Webb v. City of Prescott)

Hello,

I will need to review my legal strategy for the case regarding service of process. However, for negotiation purposes, and I am not making an offer yet or agreeing to anything yet, but would your clients be open to voluntarily accepting service of process?

I also wanted to ask if you guys would extend the courtesy of allowing me to serve pleadings and other court documents to you via e-mail (instead of physical mail), pursuant to ARCP 5(c)(2)(E). My car is inoperable and making the trips to the post office is a hardship at this time.

Thank you,  
Eli Dalton-Webb

Sent with [Proton Mail](#) secure email.