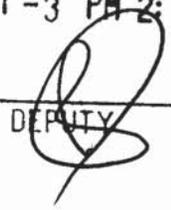


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9 **SUPERIOR COURT OF ARIZONA**

10 **COUNTY OF PINAL**

11 JOHNSON UTILITIES, LLC, an Arizona  
12 limited liability company and GEORGE H.  
13 JOHNSON, an individual,

14 Plaintiffs,

15 v.

16 EMILY HUGHES and JOHN DOE  
17 HUGHES, married individuals, JOHN  
18 DOES AND JANE DOES I-X, ABC  
19 PARTNERSHIPS I-X, ABC LIMITED  
20 LIABILITY COMPANIES I-X; XYZ  
21 CORPORATIONS I-X,

22 Defendants.

CASE NO. CV 201302426

**COMPLAINT**

GILBERTO V. FIGUEROA

23 Plaintiffs JOHNSON UTILITIES, LLC and GEORGE H. JOHNSON (hereinafter  
24 collectively "Plaintiffs"), by and through their undersigned counsel, for their Complaint  
25 against Defendants EMILY HUGHES and JOHN DOE HUGHES (collectively herein  
26 named "Defendants"), hereby allege and state as follows:

27 **PARTIES, JURISDICTION AND VENUE**

- 28 1. Plaintiff Johnson Utilities, LLC is an Arizona limited liability company with

1 its principal place of business in Maricopa County, Arizona.

2 2. Plaintiff George H. Johnson is an individual living in Maricopa County,  
3 Arizona, and is the owner of Johnson Utilities, LLC.  
4

5 3. Defendant Emily Hughes is an individual residing in Pinal County, Arizona.  
6 Upon information and belief, Defendant is married.

7 4. All actions taken by Defendant as alleged in this Complaint were taken for  
8 the benefit of her marital community.  
9

10 5. John Does and Jane Does I-X, ABC Partnerships I-X, ABC limited liability  
11 companies I-X; XYZ Corporations I-X are fictitious names designating an individual or  
12 individuals, masculine or feminine, or legal entities not yet identified who have acted in  
13 concert with the named Defendant either as principals or agents or co-participants whose  
14 true names Plaintiff will insert when identified as if correctly named originally.  
15

16 6. Jurisdiction and venue are proper in this Court.  
17

18 **GENERAL ALLEGATIONS**

19 7. Plaintiff Johnson Utilities, LLC is a utility company regulated by the Arizona  
20 Corporation Commission, which services numerous water and wastewater users  
21 throughout Northern Pinal County, Arizona.  
22

23 8. Defendant is a water and wastewater customer of Plaintiff Johnson Utilities,  
24 LLC and resides at 29366 N. Yellow Bee Drive, San Tan Valley, Arizona, which address  
25 is located within the service territory of Plaintiff.  
26

27 9. Since early 2013, Defendant has repeatedly expressed extreme hostility  
28

1 towards Plaintiffs.

2 10. Defendant has repeatedly harassed Plaintiffs as a result of such hostility.

3 11. At some point in late 2012 or early 2013, Defendant participated in forming  
4 and/or joined a group called "Citizens Against Johnson Utilities."  
5

6 12. This group was renamed the "San Tan Valley Safe Water Advocates" in or  
7 about August of 2013. Both Citizens Against Johnson Utilities and the San Tan Valley  
8 Safe Water Advocates are hereinafter referred to as the "Group."  
9

10 13. During her involvement with the Group, Defendant has repeatedly issued  
11 disparaging statements concerning Plaintiffs.  
12

13 14. Indeed, Defendant has taken every opportunity to disparage and harm  
14 Plaintiffs' interests, and has engaged in a ceaseless vendetta against Plaintiffs.

15 15. The Group has hosted a Facebook page which has been accessible to an  
16 undetermined number of individuals.  
17

18 16. Defendant has made numerous disparaging postings on this Facebook page  
19 concerning Plaintiffs.  
20

21 17. In June of 2013, Plaintiff Johnson Utilities, LLC was going to be appearing  
22 before the Arizona Corporation Commission regarding the rates to be authorized for its  
23 water and wastewater services.

24 18. Due to the costs associated with operating the utility (specifically including  
25 the costs associated with income tax expenses), Plaintiff Johnson Utilities, LLC intended  
26 to request permission from the Arizona Corporation Commission to increase the rates to be  
27

28

1 charged for such services to take into account those expenses.

2 19. Defendant had the intent to oppose any rate changes that could be beneficial  
3 to Plaintiff Johnson Utilities, LLC.  
4

5 20. Plaintiff Johnson Utilities, LLC was scheduled to appear before the Arizona  
6 Corporation Commission on June 11, 2013 at 12:00 P.M. to request the increase in rates.  
7

8 21. Throughout the spring and summer of 2013, Defendant had complained of  
9 low water pressure at her residence.

10 22. In a bid to derail Plaintiff Johnson Utilities, LLC's request for a rate  
11 increase, Defendant formulated a scheme to defame and disparage Plaintiff to influence the  
12 Arizona Corporation Commission to deny the request.  
13

14 23. At some point on or prior to June 10, 2013, with the intent to hurt, harm, and  
15 disparage Plaintiffs, Defendant contacted CBS 5 News, and indicated that she was  
16 experiencing low water pressure that she wished to demonstrate.  
17

18 24. CBS 5 News agreed to come to her residence to hear her complaint and view  
19 the water pressure in her residence.  
20

21 25. On June 10, 2013, Defendant posted the following written statement on the  
22 Group's Facebook page: "Channel 5 news is on their way to my house right now. I need  
23 people who can comment on bad water pressure to my house in 30-40 minutes."  
24

25 26. Nowhere in this communication did Defendant mention yellow or  
26 discolored water, and the sole complaint mentioned was low water pressure.

27 27. When CBS 5 News arrived, no water pressure issues were observed, as  
28

1 documented in their story.

2 28. In the event her complaint about low water pressure did not materialize,  
3 Defendant had formulated an alternative scheme to portray Plaintiffs in a disparaging light.  
4

5 29. While CBS 5 News was at her residence, Defendant claimed that she was  
6 receiving water that was discolored bright yellow.

7 30. She performed a demonstration that was filmed, which appeared to show  
8 bright yellow water coming out of her faucet.  
9

10 31. Prior to this date, Plaintiffs received no related complaints of discolored  
11 water in her area, or anywhere else that would match the color in Defendant's  
12 demonstration.  
13

14 32. Prior to contacting CBS 5 news, Defendant never contacted Plaintiffs with  
15 any complaints of discolored water.  
16

17 33. During her interview with CBS 5 News, Defendant was asked whether or not  
18 she had ever contacted Plaintiffs with complaints about discolored water. Upon  
19 information and belief, she indicated that she had not.  
20

21 34. In a June 21, 2013 posting on the Group's Facebook page, Defendant stated  
22 as follows: "JU said, 'you never called, so how were we supposed to know you had a  
23 problem?' When we all get it, that JU know exactly what's going on and what the issues  
24 are. When we people attempt to contact, JU is notorious for 'no comment' or being  
25 completely unavailable."  
26

27 35. Defendant indicated and/or implied that the water coming out of the faucet  
28

1 was discolored as a result of Plaintiffs' actions and/or omissions.

2 36. After meeting with Defendant and filming the story, CBS 5 News departed.

3 37. After CBS 5 news departed, Defendant posted the following written  
4 statement on the Group's Facebook page: "I think we just saved ourselves a trip to Phoenix  
5 tomorrow! Woohoo!"

6 38. In this posting, Defendant indicated that it had been her intent to travel to  
7 Phoenix to oppose Plaintiff Johnson Utilities, LLC at the Arizona Corporation  
8 Commission, but that such a trip would be unnecessary because of the damage she  
9 inflicted on Plaintiffs through the CBS 5 News story.

10 39. CBS 5 News televised the story and published the interview and  
11 demonstrations on June 10, 2013.

12 40. The CBS 5 News story was widely published and appeared on public  
13 television throughout the State of Arizona.

14 41. The CBS 5 story resulted in extreme damage to Plaintiffs' reputations.

15 42. Upon information and belief, as a result of the CBS 5 News story, the ACC  
16 delayed hearing Plaintiff Johnson Utilities, LLC's rate request, which hearing did not take  
17 place as scheduled on June 11, 2013.

18 43. Defendant's statements and implications were false and entirely fabricated  
19 by Defendant.

20 44. The yellow water demonstrated by Defendant to CBS 5 News was not  
21 caused by Plaintiffs.

1           45.   Immediately after the CBS 5 news story ran, and on June 11, 2013 (the  
2 following day), Plaintiff Johnson Utilities, LLC checked the water of the surrounding  
3 neighbors.  
4

5           46.   Specifically, Plaintiff Johnson Utilities, LLC checked the water delivered at  
6 the following addresses: 29350, 29361, 29362, 29373, 29374, and 29382 N. Yellow Bee  
7 Drive, Queen Creek, Arizona.  
8

9           47.   All of these residences draw water from the same water main that supplies  
10 water to Defendant's residence.

11           48.   The water supplied to these residences is the same water supplied to  
12 Defendant's residence.  
13

14           49.   No portion of infrastructure that Plaintiff Johnson Utilities, LLC is  
15 responsible for supplies water independently to Defendant's residence that does not also  
16 serve the neighboring residences.  
17

18           50.   In addition to testing the water at those addresses, Plaintiff Johnson Utilities,  
19 LLC interviewed residents on Defendant's street.  
20

21           51.   None of the residents indicated that they had received discolored water.

22           52.   Plaintiff Johnson Utilities, LLC performed tests of the water delivered to the  
23 neighboring residences, and all test showed water that was acceptable in all respects.  
24

25           53.   No samples showed any discolored water.

26           54.   No discolored water was provided to any of Defendant's neighbors at or  
27 around the time of the CBS 5 news story.  
28

1           55.     Based upon the applicable infrastructure, it would have been impossible for  
2 Defendant to receive discolored water from Plaintiffs while the neighboring residents not  
3 receive discolored water.  
4

5           56.     Plaintiff Johnson Utilities, LLC also tested samples of water from  
6 Defendant's residence, and likewise no discolored water was observed.  
7

8           57.     No discolored water was delivered by Plaintiffs to Defendant at or around  
9 the time of the CBS 5 news story.

10          58.     No customers serviced by the water plant that services Defendant  
11 complained to Plaintiffs of discolored water at or about the time of the CBS 5 news story.  
12

13          59.     To the extent that any discolored water was present in Defendant's residence,  
14 such discolored water was either caused by Defendant's own pipes or appliances, or the  
15 demonstration was deliberately staged in order to harm Plaintiffs' reputation.  
16

17          60.     In the evening of June 10, 2013, Defendant posted the following on the  
18 Group's Facebook page: "She [the CBS 5 news interviewer] said to save your discolored  
19 water and she would have people test it. She and I both wish I had saved some of that  
20 yellow water."  
21

22          61.     Despite claiming to have received yellow and discolored water, Defendant  
23 conveniently chose not to save any of that water.  
24

25          62.     Defendant chose not to save that water because she knew that testing of the  
26 water would show that it was discolored either due to Defendant's own pipes or appliances  
27 or that it was discolored due to Defendant's own actions to deliberately stage the  
28

1 demonstration.

2 63. No samples of yellow and discolored water have been produced to Plaintiffs  
3 for testing to date.  
4

5 64. Defendant has made numerous other false and disparaging statements  
6 concerning Plaintiffs on the Group's Facebook page.  
7

8 65. On June 13, 2013, Defendant falsely stated on the Group's Facebook page  
9 that "George Johnson does not run an honest business."

10 66. On June 17, 2013, Defendant falsely suggested that maintenance on a fire  
11 hydrant was caused by "yellow water."  
12

13 67. On June 20, 2013, Defendant surreptitiously recorded a conversation with a  
14 representative of Plaintiffs' and then falsely stated on the Group's Facebook page that  
15 Plaintiff Johnson Utilities, LLC "isn't exactly forthright with us."  
16

17 68. On June 20, 2013, Defendant posted a written statement on the Group's  
18 Facebook page and falsely implied that Plaintiffs hide information from the Environmental  
19 Protection Agency, by stating "if you've got nothing to hide, why not report to the EPA?"  
20

21 69. Plaintiff Johnson Utilities, LLC is not required to report to the EPA, and it is  
22 not "common practice" for utilities in Plaintiff's position to do so.

23 70. On June 23, 2013, Defendant posted the following written statement on the  
24 Group's Facebook page: "I just learned about someone last night, who had 7 miscarriages  
25 while living in Johnson Ranch. She moved to Tucson a few years ago and has been able to  
26 have 2 healthy kids, no more miscarriages."  
27  
28

1           71. In so writing, Defendant falsely implied that the water supplied by Plaintiffs  
2 is poisonous and causes miscarriages.

3           72. Plaintiff Johnson Utilities, LLC does not supply water that causes  
4 miscarriages.  
5

6           73. On June 29, 2013, Defendant falsely wrote on the Group's Facebook page  
7 the following: "George Johnson has used bribery and intimidation to shut down groups  
8 and individuals opposed to his business."  
9

10          74. In so writing, Defendant falsely accused Plaintiffs of engaging in criminal  
11 actions.  
12

13          75. On June 30, 2013, Defendant falsely stated on the Group's Facebook page  
14 that Plaintiff Johnson Utilities, LLC's water was "smelly yesterday."  
15

16          76. On July 1, 2013, Defendant falsely wrote on the Group's Facebook page that  
17 Plaintiff Johnson Utilities, LLC supplies "stinky water," and falsely wrote the following:  
18 "Flattery, bribery, and intimidation is what we have been warned about by those with GJ  
19 [George Johnson] experience."  
20

21          77. In so writing, Defendant falsely accused Plaintiffs of engaging in criminal  
22 actions.  
23

24          78. Throughout these activities, Defendant has claimed to be motivated solely to  
25 ensure that clean and potable water be provided.  
26

27          79. However, Defendant has vocally supported an *in situ* copper mining project  
28 in Pinal County proposed by Curis Resources that has great potential to negatively impact

1 the water resources of Pinal County through the accidental release of pollutants into the  
2 groundwater.

3  
4 80. On July 11, 2013, in response to a posting mentioning the Curis mine in the  
5 context of fracking, Defendant wrote the following on the Group's Facebook page: "I just  
6 finished up a tour with the Florence Copper Mine. SO interesting and educational! I want  
7 to clarify that my issues solely are with getting consistent water quality. That being said,  
8 my opinion is there's a correlation, whether some say its big or some say its small, to the  
9 safety of our water and to certain businesses who oppose said mine."  
10

11 81. It is well known that Plaintiffs are leading opponents of the mining project,  
12 and the context makes it clear that Defendant is referring to Plaintiffs in this posting.  
13

14 82. Defendant's support of the Curis mining project that could negatively impact  
15 the water resources of Pinal County demonstrates that her motivations in making the  
16 above-referenced false statements was not to protect water resources, but was rather  
17 motivated by malice towards Plaintiffs.  
18

19 83. Upon information and belief, Defendant has issued verbal and written  
20 disparaging false statements about Plaintiffs other than those listed above, which may be  
21 revealed upon further investigation and discovery.  
22

23 84. The above-referenced statements were made by Defendant who knew them  
24 to be false or was reckless in disregarding their truth or falsity.  
25

26 85. The above-referenced statements were made with malice and with intent to  
27 harm Plaintiffs.  
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101. The statements resulted in damage to Plaintiffs' reputation.

102. Plaintiffs are entitled to actual and/or nominal damages in an amount to be proven at trial.

103. The publication of the statements was made with reckless disregard of the lawful rights of Plaintiffs, were intentional and willful and were of such an outrageous nature as to give rise to punitive damages.

**COUNT II  
(Injurious Falsehood)**

104. All prior allegations are re-alleged as if fully set forth herein.

105. As set forth more fully above, Defendant has false statements harmful to Plaintiff Johnson Utilities, LLC.

106. The statements were published to third parties.

107. The contents of these published statements were widely distributed, and/or were distributed individuals and entities with no legitimate need to review the information.

108. The statements were intended to harm Plaintiff Johnson Utilities, LLC's interests and to falsely disparage Plaintiff Johnson Utilities, LLC's products and services.

109. Defendant either recognized or should have recognized that the statements would harm Plaintiff Johnson Utilities, LLC.

110. The statements are reasonably likely to discourage others from dealing with Plaintiff Johnson Utilities, LLC and/or otherwise interfere with its relationships with others.

111. Defendant either knew that the statements were false or acted in reckless

1 disregard to their truth or falsity.

2 112. Plaintiff Johnson Utilities, LLC has been monetarily damaged as a direct and  
3 proximate result of the statements of Defendant.  
4

5 113. As a result of Defendant's actions, the Coolidge School District did not  
6 accept water for 1-2 days, which resulted in diminished water and wastewater service  
7 sales.  
8

9 114. As a result of Defendant's actions, Plaintiff Johnson Utilities, LLC was  
10 required to perform additional, unnecessary and expensive water quality testing.

11 115. Upon information and belief, as a contributing result of Defendant's actions,  
12 the Arizona Corporation Commission postponed Plaintiff Johnson Utilities, LLC's rate  
13 hearing and delayed the implementation of the requested rate increase.  
14

15 116. Plaintiff Johnson Utilities, LLC also incurred additional legal and  
16 administrative costs to address Defendant's false claims.  
17

18 117. Based upon Plaintiff Johnson Utilities, LLC's preliminary review, the direct  
19 out-of-pocket costs resulting from Defendant's actions (not including the damage to  
20 Plaintiff's reputation) exceed \$100,000.00.  
21

22 118. As a result of Defendant's actions, Plaintiff Johnson Utilities, LLC has been  
23 damaged in an amount to be proven at trial.

24 119. Defendant's actions were motivated by malice.

25 120. The publication of the statements was made with reckless disregard of the  
26 lawful rights of Plaintiff Johnson Utilities, LLC, were intentional and willful and were of  
27  
28

1 such an outrageous nature as to give rise to punitive damages.

2 WHEREFORE, Plaintiffs Johnson Utilities, LLC and George H. Johnson pray for  
3 Judgment against Defendant as follows:  
4

5 A. For compensatory out-of-pocket damages in an amount to be determined at  
6 trial, which amount Plaintiff Johnson Utilities, LLC presently estimates will exceed  
7 \$100,000.00.  
8

9 B. For compensatory damages to Plaintiffs' reputations in an amount to be  
10 proven at trial;

11 C. For nominal damages in an amount to be proven at trial;

12 D. For punitive damages in an amount to be proven at trial;

13 E. For the reasonable attorneys' fees incurred in bringing this action to the  
14 maximum extent permitted by law;  
15

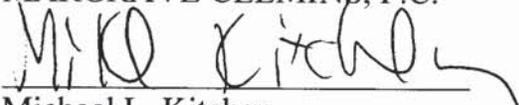
16 F. For the costs and expenses incurred in bringing this action;

17 G. For pre-judgment and post-judgment interest at the statutory rate; and

18 H. For such further relief as this Court may deem just and proper.  
19

20 Dated this \_\_\_\_ day of October, 2013.  
21

22 MARGRAVE CELMINS, P.C.

23   
24 Michael L. Kitchen

25 *Attorneys for Plaintiffs*

26 N:\WP50\JOHNSON\HUGHES\Complaint in WORD.doc  
27  
28