

1 AARON C. SCHEPLER, SB #019985
Aaron.Schepler@lewisbrisbois.com
2 **LEWIS BRISBOIS BISGAARD & SMITH LLP**
Phoenix Plaza Tower II
2929 North Central Avenue, Suite 1700
3 Phoenix, Arizona 85012-2761
Telephone: 602.385.1040
4 Facsimile: 602.385.1051
Firm email: azdocketing@lewisbrisbois.com
5 *Attorneys for Plaintiffs*

6 SUPERIOR COURT OF THE STATE OF ARIZONA
7 COUNTY OF COCONINO

8 SCOTT JABLOW, an individual; SANDY
MORIARTY, an individual; KATHY
9 KINSELLA, an individual; TOM
LAMKIN, an individual; HOLLI PLOOG,
10 an individual; JON THOMPSON, an
individual; JESSICA WILLIAMSON, an
11 individual; PAUL SCHLEGEL, an
individual; KURT CHRISTIANSON, an
12 individual; and BRIAN ARMSTRONG, an
individual,

13 Plaintiffs,

14 vs.

15 SHELLEY EVANS and JOHN DOE
16 EVANS, wife and husband; DONNA JOY
VARNEY and JOHN DOE VARNEY,
17 wife and husband; ALISSA TYLER and
JOHN DOE TYLER, wife and husband;
18 CHARLES TYLER and JANE DOE
TYLER, husband and wife; GAYLE
19 BAINGO and JOHN DOE BAINGO, wife
and husband; THERESA VOS and JOHN
20 DOE VOS, wife and husband; and PATTY
HANSEN, in her official capacity as the
21 Coconino County Recorder,

22 Defendants.

Case No.

COMPLAINT

23
24 For their Complaint against Defendants, Plaintiffs Scott Jablow, Sandy Moriarty,
25 Kathy Kinsella, Tom Lamkin, Holli Ploog, Jon Thompson, Jessica Williamson, Paul
26 Schlegel, Kurt Christianson, and Brian Armstrong (sometimes referred to collectively as
27 "Plaintiffs") allege as follows:

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1 **NATURE OF THE ACTION**

2 1. In the summer of 2022, Defendants Shelley Evans, Donna Joy Varney, Alissa
3 Tyler, Charles Tyler, Gayle Baingo, and Theresa Vos recorded bogus liens against various
4 officials of the City of Sedona, including the Mayor, City Councilors, the City Magistrate
5 Judge, the City Attorney, and the Senior Code Enforcement Officer. These baseless filings
6 demanded that these officials pay Defendants *millions of dollars* based on non-existent
7 “Constitution and Bill of Rights violations.” These filings were nothing more than an attempt
8 to bully, harass, and intimidate these public officials. The purpose of this action is to publicly
9 expose Defendants’ paper terrorism, to obtain redress for Defendants’ unlawful acts, and to
10 expunge these baseless filings from the public record.

11 **PARTIES, JURISDICTION, AND VENUE**

12 2. Plaintiff Scott Jablow is the Mayor of the City of Sedona (“City”). At certain
13 times relevant to this Complaint, he was the Vice Mayor of the City.

14 3. Plaintiff Sandy Moriarty is the former Mayor of the City, and held that position
15 at all times relevant to this Complaint.

16 4. Plaintiff Kathy Kinsella is a member of the City Council, and held that position
17 at all times relevant to this Complaint.

18 5. Plaintiff Tom Lamkin is a former member of the City Council, and held that
19 position at all times relevant to this Complaint.

20 6. Plaintiff Holli Ploog is a member of the City Council, and held that position
21 at all times relevant to this Complaint.

22 7. Plaintiff Jon Thompson is a former member of the City Council, and held that
23 position at all times relevant to this Complaint.

24 8. Plaintiff Jessica Williamson is a member of the City Council, and held that
25 position at all times relevant to this Complaint.

26 9. Plaintiff Paul Schlegel is the City Magistrate Judge, and held that position at
27 all times relevant to this Complaint.

1 10. Plaintiff Kurt Christianson is the City Attorney, and held that position at all
2 times relevant to this Complaint.

3 11. Plaintiff Brian Armstrong is the Senior Code Enforcement Officer for the City,
4 and held that position at all times relevant to this Complaint.

5 12. Defendants Shelley Evans and John Doe Evans are wife and husband and,
6 upon information and belief, reside in Yavapai County.

7 13. All acts alleged to have been performed by Defendant Shelley Evans were
8 done for and on her own behalf and on behalf of the marital community.

9 14. Defendants Donna Joe Varney and John Doe Varney are wife and husband
10 and, upon information and belief, reside in Yavapai County.

11 15. All acts alleged to have been performed by Defendant Donna Joe Varney were
12 done for and on her own behalf and on behalf of the marital community.

13 16. Defendants Alissa Tyler and John Doe Tyler are wife and husband and, upon
14 information and belief, reside in Yavapai County.

15 17. All acts alleged to have been performed by Defendant Alissa Tyler were done
16 for and on her own behalf and on behalf of the marital community.

17 18. Defendants Charles Tyler and Jane Doe Tyler are wife and husband and, upon
18 information and belief, reside in Yavapai County.

19 19. All acts alleged to have been performed by Defendant Charles Tyler were done
20 for and on his own behalf and on behalf of the marital community.

21 20. Defendants Gayle Baingo and John Doe Baingo are wife and husband and,
22 upon information and belief, reside in Yavapai County.

23 21. All acts alleged to have been performed by Defendant Gayle Baingo were done
24 for and on her own behalf and on behalf of the marital community.

25 22. Defendants Theresa Vos and John Doe Vos are wife and husband and, upon
26 information and belief, reside in Yavapai County.

27 23. All acts alleged to have been performed by Defendant Theresa Vos were done
28 for and on her own behalf and on behalf of the marital community.

1 24. Defendant Patty Hansen is the Coconino County Recorder, and is named here
2 in her official capacity only.

3 25. This Court has subject-matter jurisdiction over the action and personal
4 jurisdiction over the parties.

5 26. Venue is proper in Coconino County.

6 **FACTUAL BACKGROUND**

7 **The “Sovereign Citizen” Movement**

8 27. Defendants are members of a so-called “sovereign citizen” group.

9 28. According to one source:

10 Sovereign citizens ... claim that they are not subject to most taxes, are not
11 citizens of the United States (but instead are ‘non-resident aliens’), cannot be
12 tried for crimes in which there is no complaining victim (zoning and
13 professional licensing violations, for instance), and are only subject to
14 “common law courts,” a sort of people’s tribunal with no lawyers. Most refuse
15 to obtain Social Security cards, register their vehicles, carry driver’s licenses
16 or use zip codes; many refer to UCC-107, a part of the Uniform Commercial
17 Code, to justify their bizarre claims; and some use weird forms of punctuation
18 between their middle and last names in all kinds of documents.¹

19 29. The FBI “has designated sovereign citizens as a domestic terrorist movement
20 and a growing threat to law enforcement,” according to a report from the National
21 Association of Secretaries of State. By some estimates, there are as many as 300,000 so-
22 called sovereign citizens in the U.S.²

23 30. In what some experts have called “paper terrorism,” these so-called sovereign
24 citizens are also known for filing baseless liens against public officials in an effort to harass
25 and intimidate them. “Despite dozens of laws passed in different states in the 1990s and
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27 ¹ <https://www.splcenter.org/fighting-hate/intelligence-report/2015/what-sovereign-citizen>,
28 accessed on April 5, 2023.

² <https://archive.knoxnews.com/news/crime-courts/experts-bogus-liens-common-tactic-of-sovereign-citizens-3461859d-11dc-520d-e053-0100007f938e-381826211.html/>, accessed on April 5, 2023.

1 2000s to deal with the problem, it still is a very effective tactic, and commonly used by
2 sovereign citizens.”³

3 31. In Arizona, harassing public officials through the filing of baseless
4 nonconsensual liens is a criminal offense. Specifically, A.R.S. § 13-2921(B) provides as
5 follows:

6 A person commits harassment against a public officer or employee if the
7 person, with intent to harass, files a nonconsensual lien against any public
8 officer or employee that is not accompanied by an order or a judgment from a
9 court of competent jurisdiction authorizing the filing of the lien or is not issued
10 by a governmental entity or political subdivision or agency pursuant to its
11 statutory authority, a validly licensed utility or water delivery company, a
mechanics’ lien claimant or an entity created under covenants, conditions,
restrictions or declarations affecting real property [emphasis added].

12 32. A violation of the above-quoted statute is a Class 5 felony. A.R.S. § 13-
13 2921(C).

14 33. Despite A.R.S. § 13-2921 and civil statutes prohibiting the filing of bogus
15 liens, Defendants filed two baseless nonconsensual liens against Plaintiffs.

16 **Defendants’ Baseless Lien Filings**

17 ***The First “Notice of Distress”***

18 34. On June 3, 2022, Defendant Shelley Evans caused to be recorded with the
19 Coconino County Recorder’s Office a “Notice of Distress of Bond” (“First Notice of
20 Distress”), Document Number 3952110. A true and correct copy of the First Notice of
21 Distress is attached as **Exhibit 1**.

22 35. In the First Notice of Distress, Defendant Evans listed her name as “Shelley
23 Evans® 2020.”

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27 ³ [https://www.adl.org/sites/default/files/documents/assets/pdf/combating-hate/Lawless-Ones-](https://www.adl.org/sites/default/files/documents/assets/pdf/combating-hate/Lawless-Ones-2012-Edition-WEB-final.pdf)
28 [2012-Edition-WEB-final.pdf](https://www.adl.org/sites/default/files/documents/assets/pdf/combating-hate/Lawless-Ones-2012-Edition-WEB-final.pdf), accessed on April 5, 2023.

1 36. On the date the First Notice of Distress was filed, Plaintiffs Jablow, Moriarty,
2 Kinsella, Lamkin, Ploog, Thompson, and Williamson were the Mayor and Councilors of the
3 City, and Plaintiff Christianson was the City Attorney (collectively, the “Officials”).

4 37. The First Notice of Distress referred to the Officials as “lien debtor[s]/tort
5 feisor[s]” and stated that the Officials have violated the constitutional rights of Defendants
6 Varney, Alissa Tyler, Charles Tyler, Baingo, and Vos.

7 38. In the First Notice of Distress, Defendant Alissa Tyler’s name was listed as
8 “Alissa Tyler[®] 2020”; Defendant Charles Tyler’s name was listed as “Charles Tyler[®] 2020”;
9 and Defendant Gayle Baingo’s name was listed as “Gayle Baingo[®] 2020.”

10 39. In the First Notice of Distress, Defendants Varney, Alissa Tyler, Charles
11 Tyler, Baingo, and Vos claimed that the Officials had committed 280 “Constitution and Bill
12 of Rights violations valued at \$5,000 per violation times eight (8) Lien Debtors for a total
13 value” of \$11,200,000.

14 40. The First Notice of Distress purports to create a “commercial lien” against the
15 “operational/commercial bonds of each of the [Officials],” but goes on to state that, if the
16 “bond(s) of the [Officials] is/are insufficient,” then Defendants assert liens against “all the
17 real and movable property and bank and savings accounts” of the Officials.

18 41. The First Notice of Distress also contained a section titled “Invoice,” which
19 stated that “DEMAND IS NOW MADE UPON Sandy Moriarty, Kurt Christianson, Scott
20 Jablow, Kathy Kinsella, Tom Lamkin, Holli Ploog, Jon Thompson, and Jessica Williamson
21 individually or severally for the sum of Eleven Million Two Hundred Thousand DOLS and
22 Zero CTS [sic].”

23 ***The Second “Notice of Distress”***

24 42. On July 15, 2022, Defendant Shelley Evans caused to be recorded with the
25 Coconino County Recorder’s Office a “Notice of Distress of Bond” (“Second Notice of
26 Distress”), Document Number 3955183. A true and correct copy of the Second Notice of
27 Distress is attached as **Exhibit 2**.

1 43. In the Second Notice of Distress, Defendant Evans listed her name as “Shelley
2 Evans[®] 2020.”

3 44. On the date the Second Notice of Distress was filed, Plaintiff Paul Schlegel
4 was the City’s Magistrate Judge and Plaintiff Brian Armstrong was the Senior Code
5 Enforcement Officer for the City.

6 45. The Second Notice of Distress referred to the Plaintiffs Schlegel and
7 Armstrong as “lien debtor[s]/tort feasor[s]” and stated that they had violated the
8 constitutional rights of Defendant Evans.

9 46. In the Second Notice of Distress, Defendant Evans claimed that Plaintiffs
10 Schlegel and Armstrong had committed 111 “Constitution and Bill of Rights violations
11 valued at \$5,000 per violation times two (2) Lien Debtors for a total value” of \$1,110,000.

12 47. The Second Notice of Distress purports to create a “commercial lien” against
13 the “operational/commercial bonds of [Plaintiffs Schlegel and Armstrong],” but goes on to
14 state that, if the “bond(s) of [Schlegel and Armstrong] is/are insufficient,” then Defendant
15 Evans asserts liens against “all the real and movable property and bank and savings
16 accounts” of Schlegel and Armstrong.

17 48. The Second Notice of Distress also contained a section titled “Invoice,” which
18 stated that “DEMAND IS NOW MADE UPON Paul Schlegel and Brian Armstrong
19 individually or severally for the sum of one million one hundred ten thousand DOLS and
20 Zero CTS [sic].”

21 49. The City does not post “operational bonds” on behalf of individual public
22 officials. Instead, the City pays for Faithful Performance of Duty Coverage through the
23 Arizona Municipal Risk Retention Pool, the coverage for which is limited to \$500,000.

24 50. Therefore, because there are no “operational bonds” to which a lien could
25 attach, the Notices of Distress necessarily asserted a lien against the real and personal
26 property of Plaintiffs.

27 51. Defendants’ attempt to assert a “lien” against the “operational bonds” of
28 Plaintiffs was per se unlawful. Even if the “bonds” existed, there is no legal basis for

1 Defendants to simply assert a lien against them—much less liens totaling millions of
2 dollars—absent a judicial determination of wrongdoing by the Officials.

3 52. If Defendants believed that Plaintiffs have violated their constitutional rights,
4 then the appropriate course of action would have been to file a lawsuit and seek appropriate
5 relief in court—not to file a “lien” against the “bonds” (which, again, do not exist). A.R.S.
6 § 9-302(A).

7 53. Defendants could not reasonably have believed that asserting a “lien” against
8 the “operational bonds” of Plaintiffs was lawful or appropriate. Indeed, Defendants knew
9 that the “liens” were groundless and not authorized by any legal authority. Their sole aim in
10 recording them was to harass Plaintiffs.

11 **Defendants’ Unlawful Refusal to Release the Liens**

12 54. On or about June 15, 2022, Plaintiff Christianson—who is a licensed attorney
13 and the City Attorney for the City of Sedona—wrote a letter to Defendant Alissa Tyler on
14 behalf of himself and Plaintiffs Jablow, Moriarty, Kinsella, Lamkin, Ploog, Thompson, and
15 Williamson demanding that she release the lien purportedly created by the First Notice of
16 Distress. A true and correct copy of Plaintiff Christianson’s letter is attached as **Exhibit 3**.

17 55. On or about June 21, 2022, Defendant Alissa Tyler responded to Plaintiff
18 Christianson’s letter saying that “[a] Notice was recorded and cannot be withdrawn, nor do
19 I wish to do so. The statute your correspondence references refers to liens and is not pertinent
20 in this case.” A true and correct copy of Defendant Alissa Tyler’s letter to Plaintiff
21 Christianson is attached as **Exhibit 4**.

22 56. Defendant Alissa Tyler’s June 21, 2022, letter was signed by Defendant Alissa
23 Tyler and by Defendant Evans.

24 57. On or about June 15, 2022, Plaintiff Christianson wrote a letter to Defendant
25 Baingo on behalf of himself and Plaintiffs Jablow, Moriarty, Kinsella, Lamkin, Ploog,
26 Thompson, and Williamson demanding that she release the lien purportedly created by the
27 First Notice of Distress. A true and correct copy of Plaintiff Christianson’s letter is attached
28 as **Exhibit 5**.

1 58. On or about June 21, 2022, Defendant Baingo responded to Plaintiff
2 Christianson’s letter saying that “I cannot retract a notice. Furthermore, the statute you are
3 quoting does not pertain to the document recorded.” A true and correct copy of Defendant
4 Baingo’s letter to Plaintiff Christianson is attached as **Exhibit 6**.

5 59. Defendant Baingo’s June 21, 2022, letter was signed by Defendant Baingo and
6 by Defendant Evans.

7 60. On or about June 15, 2022, Plaintiff Christianson wrote a letter to Defendant
8 Charles Tyler on behalf of himself and Plaintiffs Jablow, Moriarty, Kinsella, Lamkin, Ploog,
9 Thompson, and Williamson demanding that he release the lien purportedly created by the
10 First Notice of Distress. A true and correct copy of Plaintiff Christianson’s letter is attached
11 as **Exhibit 7**.

12 61. On or about June 21, 2022, Defendant Charles Tyler responded to Plaintiff
13 Christianson’s letter saying that “[a] Notice was recorded and cannot be withdrawn, nor do
14 I wish to do so. The statute your correspondence references refers to liens, and is not
15 pertinent to this case.” A true and correct copy of Defendant Charles Tyler’s letter to Plaintiff
16 Christianson is attached as **Exhibit 8**.

17 62. Defendant Charles Tyler’s June 21, 2022, letter was signed by Defendant
18 Charles Tyler and by Defendant Evans.

19 63. On or about June 15, 2022, Plaintiff Christianson wrote a letter to Defendant
20 Varney on behalf of himself and Plaintiffs Jablow, Moriarty, Kinsella, Lamkin, Ploog,
21 Thompson, and Williamson demanding that she release the lien purportedly created by the
22 First Notice of Distress. A true and correct copy of Plaintiff Christianson’s letter is attached
23 as **Exhibit 9**.

24 64. On or about June 21, 2022, Defendant Varney responded to Plaintiff
25 Christianson’s letter saying that “[a] Notice of Distress was recorded. We cannot retract a
26 notice. Additionally, the statute you referenced applies to liens, and is not pertinent.” A true
27 and correct copy of Defendant Varney’s letter to Plaintiff Christianson is attached as **Exhibit**
28 **10**.

1 65. Defendant Varney’s June 21, 2022, letter was signed by Defendant Varney
2 and by Defendant Evans.

3 66. On or about June 15, 2022, Plaintiff Christianson wrote a letter to Defendant
4 Vos on behalf of himself and Plaintiffs Jablow, Moriarty, Kinsella, Lamkin, Ploog,
5 Thompson, and Williamson demanding that she release the lien purportedly created by the
6 First Notice of Distress. A true and correct copy of Plaintiff Christianson’s letter is attached
7 as **Exhibit 11**.

8 67. On or about June 21, 2022, Defendant Vos responded to Plaintiff
9 Christianson’s letter saying that “[y]our correspondence does not apply to a Notice of
10 Distress, which is what was recorded, and neither does the statute provided.” A true and
11 correct copy of Defendant Vos’s letter to Plaintiff Christianson is attached as **Exhibit 12**.

12 68. Defendant Vos’s June 21, 2022, letter was signed by Defendant Vos and by
13 Defendant Evans.

14 69. On or about July 21, 2022, Plaintiff Christianson wrote a letter to Defendant
15 Evans on behalf of Plaintiffs Schlegel and Armstrong demanding that she release the lien
16 purportedly created by the Second Notice of Distress. A true and correct copy of Plaintiff
17 Christianson’s letter is attached as **Exhibit 13**.

18 70. On or about July 27, 2022, Defendant Evans responded to Plaintiff
19 Christianson’s letter. Despite receiving Plaintiff Christianson’s letter, Defendant Evans
20 refused to release the lien purportedly created by the Second Notice of Distress. A true and
21 correct copy of Defendant Evans’ July 27, 2022, letter is attached as **Exhibit 14**.

22 71. On September 21, 2022, the Coconino County Attorney’s Office filed a Notice
23 of Invalid Lien relating to the First Notice of Distress, Document No. 3960295. A true and
24 correct copy of the notice is attached as **Exhibit 15**.

25 72. Also on September 21, 2022, the Coconino County Attorney’s Office filed a
26 Notice of Invalid Lien relating to the Second Notice of Distress, Document No. 3960296. A
27 true and correct copy of the notice is attached as **Exhibit 16**.

28

1 73. Despite the County Attorney’s invalid-lien notices, Defendants still failed and
2 refused to release the liens purportedly created by the First and Second Notices of Distress.

3 74. On October 5, 2022, Defendant Evans caused two documents to be filed in the
4 Coconino County Recorder’s Office, each titled a “Notice of Difficiency” [sic]. These
5 documents, Document Nos. 3961670 and 3961671, respectively, are attached as **Exhibits**
6 **17 and 18.**

7 75. In each of the “Notices of Difficiency” [sic], Defendant Evans—speaking on
8 her own behalf and as the agent for Defendants Varney, Alissa Tyler, Charles Tyler, Baingo,
9 and Vos—declared that “[t]he Notice of Distress stands.” In other words, Defendants once
10 again affirmed their refusal to withdraw the liens purportedly created by the First and Second
11 Notices of Distress.

12 **CLAIMS FOR RELIEF**

13 **Count One (Recording False Documents – A.R.S. § 33-420(A))**
14 **First Notice of Distress**
15 **Against Defendant Evans**

16 76. Plaintiffs repeat and reallege the preceding paragraphs of this Complaint.

17 77. A.R.S. § 33-420(A) provides that:

18 A person purporting to claim an interest in, or a lien or encumbrance against,
19 real property, who causes a document asserting such claim to be recorded in
20 the office of the county recorder, knowing or having reason to know that the
21 document is forged, groundless, contains a material misstatement or false
22 claim or is otherwise invalid is liable to the owner or beneficial title holder of
the real property for the sum of not less than five thousand dollars, or for treble
the actual damages caused by the recording, whichever is greater, and
reasonable attorney fees and costs of the action.

23 78. The statute also provides that a purported lien against real property that is “not
24 authorized by statute, judgment or other specific legal authority *is presumed to be groundless*
25 *and invalid.*” *Id.* § 33-420(D) (emphasis added).

26 79. Defendant Evans caused the First Notice of Distress to be recorded with the
27 Coconino County Recorder’s Office.

1 80. The First Notice of Distress purported to create a lien or encumbrance against
2 the real property of Plaintiffs Jablow, Moriarty, Kinsella, Lamkin, Ploog, Thompson,
3 Williamson, and Christianson.

4 81. The First Notice of Distress purported to claim an interest in the real property
5 of Plaintiffs Jablow, Moriarty, Kinsella, Lamkin, Ploog, Thompson, Williamson, and
6 Christianson by Defendants Varney, Alissa Tyler, Charles Tyler, Baingo, and Vos.

7 82. The First Notice of Distress was groundless and invalid because it was not
8 authorized by statute, judgment, or other specific legal authority.

9 83. Defendant Shelley Evans knew or had reason to know that the First Notice of
10 Distress is groundless, contains a material misstatement or false claim, or is otherwise
11 invalid.

12 84. Pursuant to A.R.S. § 33-420(A), Defendant Shelley Evans is therefore liable
13 to Plaintiffs Jablow, Moriarty, Kinsella, Lamkin, Ploog, Thompson, Williamson, and
14 Christianson for the sum of not less than \$5,000, or for treble the actual damages caused by
15 the recording, whichever is greater.

16 85. Defendant Evans is also liable to Plaintiffs Jablow, Moriarty, Kinsella,
17 Lamkin, Ploog, Thompson, Williamson, and Christianson for their attorneys' fees and costs
18 incurred herein pursuant to A.R.S. § 33-420(A).

19 **Count Two (Recording False Documents – A.R.S. § 33-420(C))**
20 **First Notice of Distress**
21 **Against Defendants Varney, Alissa Tyler, Charles Tyler, Baingo, and Vos**

22 86. Plaintiffs repeat and reallege the preceding paragraphs of this Complaint.

23 87. A.R.S. § 33-420(C) provides that:

24 A person who is named in a document which purports to create an interest in,
25 or a lien or encumbrance against, real property and who knows that the
26 document is forged, groundless, contains a material misstatement or false
27 claim or is otherwise invalid shall be liable to the owner or title holder for the
28 sum of not less than one thousand dollars, or for treble actual damages,
whichever is greater, and reasonable attorney fees and costs as provided in this
section, if he wilfully refuses to release or correct such document of record

1 within twenty days from the date of a written request from the owner or
2 beneficial title holder of the real property.

3 88. The First Notice of Distress purported to create a lien or encumbrance against
4 the real property of Plaintiffs Jablow, Moriarty, Kinsella, Lamkin, Ploog, Thompson,
5 Williamson, and Christianson.

6 89. Defendants Varney, Alissa Tyler, Charles Tyler, Baingo, and Vos were named
7 in the First Notice of Distress as claiming an interest in the real property of Plaintiffs Jablow,
8 Moriarty, Kinsella, Lamkin, Ploog, Thompson, Williamson, and Christianson.

9 90. The First Notice of Distress is groundless, contains a material misstatement or
10 false claim, or is otherwise invalid.

11 91. Defendants Varney, Alissa Tyler, Charles Tyler, Baingo, and Vos knew that
12 the First Notice of Distress was groundless, contains a material misstatement or false claim,
13 or is otherwise invalid.

14 92. Defendants Varney, Alissa Tyler, Charles Tyler, Baingo, and Vos willfully
15 refused to release or correct the First Notice of Distress within twenty days of a written
16 request from the owner or beneficial title holder of the real property.

17 93. Pursuant to A.R.S. § 33-420(C), Defendants Varney, Alissa Tyler, Charles
18 Tyler, Baingo, and Vos are liable to Plaintiffs Jablow, Moriarty, Kinsella, Lamkin, Ploog,
19 Thompson, Williamson, and Christianson for the sum of not less than \$1,000, or for treble
20 actual damages, whichever is greater.

21 94. Pursuant to A.R.S. § 33-420(C), Defendants Varney, Alissa Tyler, Charles
22 Tyler, Baingo, and Vos are liable to Plaintiffs Jablow, Moriarty, Kinsella, Lamkin, Ploog,
23 Thompson, Williamson, and Christianson for their reasonable attorneys' fees and costs
24 incurred herein.

25 **Count Three (Recording False Documents – A.R.S. § 33-420(A))**
26 **Second Notice of Distress**
Against Defendant Evans

27 95. Plaintiffs repeat and reallege the preceding paragraphs of this Complaint.

28 96. A.R.S. § 33-420(A) provides that:

1 A person purporting to claim an interest in, or a lien or encumbrance against,
2 real property, who causes a document asserting such claim to be recorded in
3 the office of the county recorder, knowing or having reason to know that the
4 document is forged, groundless, contains a material misstatement or false
5 claim or is otherwise invalid is liable to the owner or beneficial title holder of
6 the real property for the sum of not less than five thousand dollars, or for treble
7 the actual damages caused by the recording, whichever is greater, and
8 reasonable attorney fees and costs of the action.

9 97. The statute also provides that a purported lien against real property that is “not
10 authorized by statute, judgment or other specific legal authority *is presumed to be groundless*
11 *and invalid.” Id. § 33-420(D) (emphasis added).*

12 98. Defendant Evans caused the Second Notice of Distress to be recorded with the
13 Coconino County Recorder’s Office.

14 99. The Second Notice of Distress purported to create a lien or encumbrance
15 against the real property of Plaintiffs Schlegel and Armstrong.

16 100. The Second Notice of Distress purported to claim an interest in the real
17 property of Plaintiffs Schlegel and Armstrong by Defendant Evans.

18 101. The Second Notice of Distress was groundless and invalid because it was not
19 authorized by statute, judgment, or other specific legal authority.

20 102. Pursuant to A.R.S. § 33-420(A), Defendant Shelley Evans is therefore liable
21 to Plaintiffs Schlegel and Armstrong for the sum of not less than \$5,000, or for treble the
22 actual damages caused by the recording, whichever is greater.

23 103. Defendant Evans is also liable to Plaintiffs Schlegel and Armstrong for their
24 attorneys’ fees and costs incurred herein pursuant to A.R.S. § 33-420(A).

25 **Count Four (Recording False Documents – A.R.S. § 33-420(C))**
26 **Second Notice of Distress**
27 **Against Defendant Evans**

28 104. Plaintiffs repeat and reallege the preceding paragraphs of this Complaint.

105. A.R.S. § 33-420(C) provides that:

A person who is named in a document which purports to create an interest in,
or a lien or encumbrance against, real property and who knows that the
document is forged, groundless, contains a material misstatement or false

1 claim or is otherwise invalid shall be liable to the owner or title holder for the
2 sum of not less than one thousand dollars, or for treble actual damages,
3 whichever is greater, and reasonable attorney fees and costs as provided in this
4 section, if he wilfully refuses to release or correct such document of record
within twenty days from the date of a written request from the owner or
beneficial title holder of the real property.

5 106. The Second Notice of Distress purported to create a lien or encumbrance
6 against the real property of Plaintiffs Schlegel and Armstrong.

7 107. Defendants Evans was named in the Second Notice of Distress as claiming an
8 interest in the real property of Plaintiffs Schlegel and Armstrong.

9 108. The Second Notice of Distress is groundless, contains a material misstatement
10 or false claim or is otherwise invalid.

11 109. Defendant Evans knew that the Second Notice of Distress was groundless,
12 contains a material misstatement or false claim, or is otherwise invalid.

13 110. Defendant Evans willfully refused to release or correct the Second Notice of
14 Distress within twenty days of a written request from the owner or beneficial title holder of
15 the real property.

16 111. Pursuant to A.R.S. § 33-420(C), Defendant Evans is liable to Plaintiffs
17 Schlegel and Armstrong for the sum of not less than \$1,000, or for treble actual damages,
18 whichever is greater.

19 112. Pursuant to A.R.S. § 33-420(C), Defendant Evans is liable to Plaintiffs
20 Schlegel and Armstrong for their reasonable attorneys' fees and costs incurred herein.

21 **Count Five (Invalid Recorded Document – A.R.S. § 33-421)**

22 **First Notice of Distress**
23 **Against All Defendants**

24 113. Plaintiffs repeat and reallege the preceding paragraphs of this Complaint.

25 114. A.R.S. § 33-421(A), provides that:

26 A nonconsensual lien, other than a lien recorded by a governmental entity or
27 political subdivision or agency, a validly licensed utility or water delivery
28 company, a mechanics' lien claimant or an entity created under covenants,
conditions, restrictions or declarations affecting real property, shall not be

1 recorded unless the lien is accompanied by an order or judgment from a court
2 of competent jurisdiction authorizing the filing of the lien.

3 115. Section 33-421(C) further provides that “[t]he county recorder shall not record
4 any lien except as prescribed in subsection A or otherwise authorized by law unless the lien
5 is accompanied by the notarized signature of the debtor on a document acknowledging the
6 filing and recording of the lien.”

7 116. The First Notice of Distress was a nonconsensual lien.

8 117. The First Notice of Distress was not recorded by a government entity or any
9 of the other exempt entities under A.R.S. § 33-421, was not accompanied by a court order
10 or judgment, and was not accompanied by the Officials’ notarized signatures acknowledging
11 the filing and recording of the notices.

12 118. Accordingly, the First Notice of Distress was improperly recorded pursuant to
13 A.R.S. § 33-421.

14 119. The Officials are entitled to (1) a judicial declaration that the First Notice of
15 Distress is invalid pursuant to § 33-421, and (2) an order directing the County Recorder,
16 Defendant Hansen, to expunge the First Notice of Distress.

17 120. In the alternative, the Officials are entitled to an order directing the County
18 Recorder, Defendant Hansen, to expunge the First Notice of Distress pursuant to the Court’s
19 inherent powers.

20 **Count Six (Invalid Recorded Document – A.R.S. § 33-421)**
21 **Second Notice of Distress**
22 **Against Defendant Evans and Hansen**

23 121. Plaintiffs repeat and reallege the preceding paragraphs of this Complaint.

24 122. A.R.S. § 33-421(A), provides that:

25 A nonconsensual lien, other than a lien recorded by a governmental entity or
26 political subdivision or agency, a validly licensed utility or water delivery
27 company, a mechanics' lien claimant or an entity created under covenants,
28 conditions, restrictions or declarations affecting real property, shall not be
recorded unless the lien is accompanied by an order or judgment from a court
of competent jurisdiction authorizing the filing of the lien.

1 123. Section 33-421(C) further provides that “[t]he county recorder shall not record
2 any lien except as prescribed in subsection A or otherwise authorized by law unless the lien
3 is accompanied by the notarized signature of the debtor on a document acknowledging the
4 filing and recording of the lien.”

5 124. The Second Notice of Distress was a nonconsensual lien.

6 125. The Second Notice of Distress was not recorded by a government entity or any
7 of the other exempt entities under A.R.S. § 33-421, was not accompanied by a court order
8 or judgment, and was not accompanied by the Officials’ notarized signatures acknowledging
9 the filing and recording of the notices.

10 126. Accordingly, the Second Notice of Distress was improperly recorded pursuant
11 to A.R.S. § 33-421.

12 127. Plaintiffs Schlegel and Armstrong are entitled to (1) a judicial declaration that
13 the Second Notice of Distress is invalid pursuant to § 33-421, and (2) an order directing the
14 County Recorder, Defendant Hansen, to expunge the Second Notice of Distress.

15 128. In the alternative, Plaintiffs Schlegel and Armstrong are entitled to an order
16 directing the County Recorder, Defendant Hansen, to expunge the Second Notice of Distress
17 pursuant to the Court’s inherent powers.

18 **Count Seven (Declaratory Relief)**
19 **Against All Defendants**

20 129. Plaintiffs repeat and reallege the preceding paragraphs of this Complaint.

21 130. Pursuant to the Uniform Declaratory Judgments Act, A.R.S. § 12-1831, *et*
22 *seq.*, this Court has the power to declare rights, status, and other legal relations whether or
23 not further relief is or could be claimed.

24 131. There is an actual controversy between Plaintiffs on the one hand, and
25 Defendants on the other, with regard to the effect and validity of the First and Second Notices
26 of Distress.

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28 ///

1 132. Plaintiffs are entitled to a judicial declaration that the First Notice of Distress
2 and the Second Notice of Distress (1) are nonconsensual liens, and (2) are groundless,
3 contain a material misstatement or false claim, or are otherwise invalid.

4 WHEREFORE, Plaintiffs pray for relief as follows:

- 5 A. For an award of statutory damages pursuant to A.R.S. § 33-421, as set forth
6 above;
- 7 B. For a judicial declaration that the Notices of Distress are invalid pursuant to
8 A.R.S. § 33-421;
- 9 C. For an order directing the Coconino County Recorder, Defendant Hansen, to
10 expunge the Notices of Distress pursuant to A.R.S. § 33-421 and/or the Court’s
11 inherent powers;
- 12 D. For a judicial declaration under the Uniform Declaratory Judgments Act,
13 A.R.S. § 12-1831, *et seq.*, that the Notices of Distress (1) are nonconsensual
14 liens, and (2) are groundless, contain a material misstatement or false claim,
15 or are otherwise invalid;
- 16 E. For an award of attorneys’ fees and costs pursuant to A.R.S. § 33-420(A);
- 17 F. For an award of costs under A.R.S. § 12-341; and
- 18 G. For such other and further relief the Court deems appropriate under the
19 circumstances.

20 RESPECTFULLY SUBMITTED this 20th day of April, 2023.

21 LEWIS BRISBOIS BISGAARD & SMITH LLP

22
23 By: /s/ Aaron C. Schepler
24 Aaron C. Schepler
25 Attorneys for Plaintiffs
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