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9 Arizona State Bar Nos. 003735/025100
10 PCC Nos. 40996/66166
11 *Attorneys for Plaintiffs*

12 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**
13 **IN AND FOR THE COUNTY OF PIMA**

<p>14 TERRI BENNETT,</p> <p>15 Plaintiff,</p> <p>16 v.</p> <p>17 PIMA COUNTY COMMUNITY 18 COLLEGE DISTRICT, a political 19 subdivision of the State of Arizona; BOARD 20 OF GOVERNORS OF PIMA COUNTY 21 COMMUNITY COLLEGE DISTRICT; 22 ABC Corporations 1-10; XYZ limited 23 liability companies 1-10; 123 partnerships 1- 24 10; I-X marital communities,</p> <p>25 Defendants.</p>	<p>Case No.:</p> <p>COMPLAINT</p> <ol style="list-style-type: none"> 1. Violation of Art. 28, Ariz. Constit. 2. Violation of Right to Free Speech 3. Unlawful Suspension 4. Defamation 5. Violation Of Right To Privacy: False Light 6. Discrimination 7. Retaliation 8. Harassment 9. Breach of Contract 10. Breach of Duty of Good Faith and Fair Dealing 11. Intentional Infliction Of Emotional Distress <p>Assigned to:</p>
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26 Plaintiff TERRI BENNETT’s claim is based on her suspension by Defendant PIMA
27 COMMUNITY COLLEGE DISTRICT (“PCC”) from her nursing studies at PCC, after she
28 complained to PCC administration that the learning environment was hostile to her as an English-
language speaker. Ms. Bennett as and for her complaint alleges as follows:

1 **PARTIES**

2 1. Plaintiff TERRI BENNETT is a single woman and resident of Tucson, Arizona.

3 2. Defendant PIMA COUNTY COMMUNITY COLLEGE DISTRICT is a political
4 subdivision of the State of Arizona pursuant to A.R.S. §§ 15-1401(4) and (6).

5 3. Defendant BOARD OF GOVERNORS OF PIMA COUNTY COMMUNITY
6 COLLEGE DISTRICT is responsible for the administration of PCC pursuant to A.R.S. §§ 15-
7 1401(7) and 15-1441 *et seq*, and has the power to sue and be sued on behalf of PCC pursuant to
8 A.R.S. § 15-1444(B)(3).

9 4. Defendants were obliged to act in conformity with the United States Constitution
10 and the Arizona Constitution and all applicable federal and state laws.

11 5. Defendants ABC Corporations 1-10, XYZ limited liability companies 1-10, 123
12 partnerships 1-10, and I-X marital communities are fictitious defendants whose acts and
13 omissions did or may have contributed to Plaintiff's loss, and whose identities will be disclosed
14 as and when they become known to Plaintiff.

15 **VENUE AND JURISDICTION**

16 6. Ms. Bennett is a resident of Pima County, Arizona.

17 7. At the time that PCC committed the acts alleged in this complaint, and at the time
18 that Ms. Bennett and PCC entered into the contract that is the basis for this lawsuit, PCC was
19 authorized to do business in Pima County, Arizona.

20 8. The acts complained of herein occurred in Pima County, Arizona.

21 9. On June 24, 2013, Ms. Bennett notified the Arizona attorney general pursuant to
22 A.R.S. Constit. Art. 28, § 6(C) of her complaint against PCC. The attorney general has failed to
23 provide Ms. Bennett appropriate, or any, relief.

24 10. Venue and jurisdiction are proper in this Court.

1 **ALLEGATIONS COMMON TO ALL CLAIMS FOR RELIEF**

2 11. Ms. Bennett incorporates the allegations contained in the preceding paragraphs of
3 this complaint.

4 12. During or about early 2012, Ms. Bennett entered into an agreement with PCC in
5 terms of which she agreed to pay PCC a fee and PCC agreed to provide education and training to
6 Ms. Bennett to obtain a Practical Nurse Certificate (“PNC”) (“Agreement”).
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8 13. On or about May 3, 2012, as part of her PNC, Ms. Bennett studied for and obtained
9 her Certified Nursing Assistant certificate.

10 14. On or about May 23, 2012, as part of her PNC, Ms. Bennett studied for and
11 obtained her Patient Care Technician certificate.

12 15. On June 30, 2012, Ms. Bennett passed her Arizona state exams, certifying her as a
13 Nursing Assistant.
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15 16. For six months, from July 2012 to January 2013, Ms. Bennett worked in the health
16 care field to qualify for further funding from a federal funding program designed to assist low-
17 income individuals for occupations in the health care field, known as HPOG.

18 17. On or about January 15, 2013, as another sub-part to her studies to obtain her PNC,
19 Ms. Bennett started a class in Anatomy and Physiology.
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21 18. During this class, another student in the class moved to sit in the row in front of
22 Ms. Bennett. This other student constantly talked during the class and disrupted the class. She
23 spoke primarily in Spanish.

24 19. Upon information and belief, this student was unable to understand the lectures,
25 which were conducted in English, and a friend of hers translated the lectures from English into
26 Spanish during class.
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1 20. During classes, the students were regularly divided into study groups. During the
2 study groups, Ms. Bennett was the only first-language English speaker, and the other students
3 spoke primarily in Spanish. The same occurred during skills labs, clinicals and other classroom
4 activities.

5 21. Ms. Bennett does not speak or understand Spanish.

6 22. At the end of this class, the students were requested to fill out anonymous
7 evaluation forms giving feedback on the instructor, material and class in general.
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9 23. The students were assured that the evaluation forms were anonymous.

10 24. On her form submitted during or about March 2013, Ms. Bennett noted she would
11 prefer if there were “no Spanish in the classroom.”
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13 25. On or about March 18, 2013, Ms. Bennett started a class in Introduction to Nursing,
14 presented by PCC instructor, Ms. Elizabeth Coleman.

15 26. During this class, the talking, interruptions and distractions, all in Spanish, from her
16 peers increased dramatically, to the point that it impeded Ms. Bennett’s ability to concentrate,
17 focus, listen to the lecture, and participate in group studies, skills labs, clinicals, and other
18 learning activities.

19 27. On or about April 3, 2013, Ms. Bennett participated in an interaction between
20 Spanish speakers and non-Spanish speakers in her class, in which the Spanish speakers were
21 asked not to speak in Spanish in front of the non-Spanish speakers. The Spanish-speaking group
22 of students laughed and mocked Ms. Bennett and the other non-Spanish speakers.
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24 28. At this point, Ms. Bennett was finding that the PCC learning environment was
25 hostile to English speakers who did not speak Spanish. She felt ostracized, excluded, and
26 segregated from the rest of her class, the majority of which all spoke Spanish (including the
27 instructors). She felt that she was unable to participate fully in group studies, skills labs, clinicals,
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1 and other learning activities. The constant translations during class were a distraction, a disruption
2 and prevented her from concentrating and taking full advantage of her studies.

3 29. At this point, Ms. Bennett decided to report the issue of a hostile learning
4 environment to PCC administration.

5 30. On April 3, 2013, Ms. Bennett followed PCC procedures and requested an
6 interview with the Director of the Nursing program, Mr. David Kutzler. Ms. Bennett explained to
7 his assistant, Francine, that she was having difficulty with students speaking Spanish during class
8 and during her group study sessions.

9 31. Francine advised Ms. Bennett that, if Mr. Kutzler did not help her, she should
10 contact Mr. Brian Stewart or Dr. Ann Parker, the Vice-President of the Office for Student
11 Development, and gave her their respective phone numbers.

12 32. On April 3, 2013, Ms. Bennett met with Mr. Kutzler in his office.

13 33. At this interview, Ms. Bennett attempted to report to Mr. Kutzler her complaint that
14 she was having difficulty with students speaking Spanish during class and during her group study
15 sessions, and that she found the learning environment to be hostile to her as an English speaker.

16 34. Mr. Kutzler reacted very badly to Ms. Bennett's complaint. He accused Ms.
17 Bennett of "discriminating against Mexican-Americans" and threatened to "write [her] up for a
18 violation of the code of conduct based on discrimination and harassment."

19 35. He accused Ms. Bennett of being a "bigot and a bitch," and warned her "[y]ou do
20 not want to go down that road."

21 36. Ms. Bennett was completely taken by surprise, and said that she was there to
22 complain about an impediment to her learning in a PCC classroom and yet Mr. Kutzler was
23 accusing *her* of discrimination and harassment (based simply on her complaint to him in the prior
24 few minutes) for requesting English-only in the classroom.
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1 37. Ms. Bennett was so upset and afraid that she ran from Mr. Kutzler's office in tears.

2 38. She was so afraid of Mr. Kutzler's threats that she went to her classroom, packed
3 up things and left the campus. She was in shock and confused about what, if anything, she had
4 done wrong to cause such wrath in Mr. Kutzler.

5 39. On her drive home, Ms. Bennett telephoned the office of Dr. Ann Parker, whose
6 number had been given to her by Mr. Kutzler's assistant, Francine.

7 40. Ms. Bennett was not put through to Dr. Parker, but rather was put through to a
8 woman by the name of Autumn, who was the Student Services Coordinator. Ms. Bennett was
9 crying and could barely speak, but she managed to convey to Autumn that Mr. Kutzler had just
10 called her a "bigot" and a "bitch" for complaining about Spanish in the classroom.

11 41. Autumn advised Ms. Bennett that "David has a lot going on right now and I am
12 sure he didn't mean to say that."

13 42. Autumn agreed to set up a meeting with Ms. Bennett "to talk."

14 43. On April 4, 2013, Ms. Bennett arrived on campus and Francine advised Ms.
15 Bennett to find Autumn during her morning break from classes.

16 44. During Ms. Bennett's skills lab that morning, Mr. Kutzler came into her classroom
17 and told her to come into the hallway. She was terrified to be alone with him. He asked her if she
18 had spoken to Autumn yet. She responded that she had not had her break yet and so she had not.

19 45. During her lunch break, Ms. Bennett went to the nursing office and Francine called
20 Autumn for a meeting. She also called a woman by the name of Amanda, who was the HPOG
21 coordinator.

22 46. The meeting took place on April 4, 2013. Present at the meeting were Ms. Bennett,
23 Mr. Kutzler, Autumn and Amanda.

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1 47. Before Ms. Bennett had the opportunity to talk, the PCC staff present accused her
2 of “being discriminating” and that she would “not get a job,” and they generally attempted to
3 intimidate Ms. Bennett from exercising her right to express her views and her right to insist that
4 the educational process occur in a language that she could understand.

5 48. Ms. Bennett attempted to explain that the language problem in the classroom, study
6 groups, skills labs and clinicals was impeding her learning. She stated that she did not care
7 whether it was Spanish or any other language that was being spoken in the classroom; it was
8 simply disruptive, distracting and exclusive of her as an English speaker.

9 49. At some point during this meeting, Mr. Kutzler slammed on the table the
10 “anonymous” evaluation that Ms. Bennett had submitted earlier in the year in which she had
11 requested “no Spanish in the classroom.” Mr. Kutzler was angry and stated “I’ve been looking to
12 see whose evaluation form this is.”

13 50. At this meeting on April 4, 2013, the PCC staff suggested that Ms. Bennett “seek
14 counseling” and suggested that Ms. Bennett may have a learning disability.

15 51. On or about April 15, 2013, Ms. Bennett received a routine progress report from
16 her PCC instructor, Ms. Elizabeth Coleman.

17 52. For the first time since she had begun receiving her routine progress reports, it was
18 stated on her form that she had “ineffective communication skills” and she “had issues with
19 others but they seem to be resolved.”

20 53. Ms. Bennett had never before received any negative comments on her progress
21 reports.

22 54. Ms. Bennett was so concerned about what she perceived to be a negative review
23 that she met with her instructor, Ms. Coleman. She told Ms. Coleman that she felt she was being
24 bullied because of her complaining about the hostile learning environment. Ms. Bennett left this
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1 meeting very upset because she felt she was being chastised for complaining about something the
2 administration of PCC did not want to hear.

3 55. On April 15, 2013, Ms. Bennett communicated with a friend who was employed
4 by PCC as the coordinator of the Certified Nursing Assistant program. This friend advised Ms.
5 Bennett that the atmosphere was getting “hostile” and suggested Ms. Bennett contact the Dean,
6 Brian Stewart, and request an appointment.
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8 56. Ms. Bennett immediately went to Mr. Stewart’s office and scheduled a meeting
9 with Mr. Stewart for Thursday, April 18, 2013.

10 57. On or about the evening of Wednesday, April 17, 2013, Ms. Bennett’s friend (the
11 coordinator of the the Certified Nursing Assistant program referred to in paragraph 55 above)
12 called Ms. Bennett and advised her that Mr. Stewart had already “made his decision,” that Mr.
13 Stewart had said that Ms. Bennett “was lying” and that “the situation had been handled.”
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15 58. Ms. Bennett advised her friend that she felt scared and threatened. Her friend
16 advised her to contact Dr. Ann Parker, the Vice President of the Office for Student Development.

17 59. The next day, on April 18, 2013, the day of the scheduled meeting with Mr.
18 Stewart, his assistant called Ms. Bennett and advised that Mr. Stewart was cancelling the meeting
19 because he was “at another campus doing interviews.”
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21 60. Ms. Bennett had no further communication with any PCC staff members regarding
22 the issue of her complaint for the rest of that week.

23 61. Then, on Monday morning, April 22, 2013, Ms. Bennett arrived on campus at her
24 usual time, at approximately 7:50am.

25 62. She immediately noticed Mr. Kutzler running from his car into the Nursing Office
26 building. She also noticed there were several law enforcement vehicles in the parking lot. Ms.
27 Bennett felt very uneasy as she approached the building.
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1 63. As Ms. Bennett entered the building, she was approached by a man who identified
2 himself as head of PCC security, and who requested whether she was Terri Bennett and requested
3 her to show her identity card, which Ms. Bennett did.

4 64. At that time, there was a crowd of Ms. Bennett's peers and co-students, who had
5 also just arrived on campus for classes, standing and watching Ms. Bennett being confronted by
6 security.

7 65. Ms. Bennett was given a sealed envelope, informed that she was immediately
8 suspended from PCC, and instructed to leave campus immediately.

9 66. There was a group of about six uniformed and possibly armed law enforcement
10 officers lining the hallway where Ms. Bennett was being confronted.

11 67. Ms. Bennett felt humiliated, shamed and afraid.

12 68. Ms. Bennett immediately left campus in her vehicle.

13 69. Upon information and belief, a police vehicle followed her to the freeway.

14 70. Mr. Kutzler sent an email to PCC staff advising them that they were not allowed to
15 talk to Ms. Bennett.

16 71. Ms. Coleman announced during class to Ms. Bennett's classmates that "they had to
17 let one of our students go." It was obvious that Ms. Coleman was referring to Ms. Bennett and
18 that Ms. Coleman was saying that Ms. Bennett had done something wrong.

19 72. The sealed envelope contained two letters dated April 22, 2013, from Dr. Ann
20 Parker, the Vice President of the Office for Student Development.

21 73. The first letter, entitled "Notice of Immediate Suspension," simply advised Ms.
22 Bennett that she was being placed on immediate suspension because "(1) you may present an
23 unreasonable risk of danger to yourself and/or others or (2) your presence on College property
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1 poses a significant risk of disruption of educational activities.” *No reasons whatsoever were*
2 *given.*

3 74. The second letter, entitled “Notice to Student of Review Meeting,” stated that Ms.
4 Bennett was required to participate in a meeting with Dr. Parker to determine whether she had
5 “violated the College’s Student Code of Conduct.”
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7 75. The second letter alleged that Ms. Bennett had violated three provisions of the
8 Code of Conduct, namely, that she 1) disrupted class, 2) engaged in discriminatory conduct, and
9 3) engaged in “harassing conduct,” including “stalking” and “bullying.”

10 76. The second letter alleged that Ms. Bennett had been 1) “repeatedly stating that
11 students must stop talking Spanish;” 2) “harrassing (sic) Mexican-American students in your
12 class with inappropriate remarks about their heritage;” and 3) “arguing with your instructor over a
13 test answer and over feedback concerning your classroom behavior.”
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15 77. The second letter clearly indicated that Dr. Parker had not yet determined that Ms.
16 Bennett had violated PCC’s Code of Conduct. And yet Dr. Parker simultaneously immediately
17 suspended Ms. Bennett from PCC classes and campus, without giving any reasons.

18 78. Ms. Bennett immediately made an appointment to see Dr. Parker, as instructed by
19 the second April 22, 2013 letter.
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21 79. The meeting was held on Wednesday, April 24, 2013.

22 80. Dr. Parker aggressively questioned Ms. Bennett and accused her of bullying and
23 harassment.

24 81. Ms. Bennett was aware of a pervasive air of fear and intimidation amongst the
25 faculty and administration of PCC at the time.

26 82. At the end of the April 24, 2013 meeting, Dr. Parker advised Ms. Bennett that she
27 felt she was “abrasive,” “racist,” and had “bullied and harassed people.”
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1 83. In a letter dated April 29, 2013, Dr. Parker advised Ms. Bennett that she had made
2 the following “findings and determinations”: 1) “disrupting class by arguing with the instructor
3 over a test answer,” 2) “complaining to several staff members about students speaking Spanish in
4 and out of the classroom,” and 3) “displaying intimidating behavior to students, staff and faculty.”

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6 84. Based on these reasons, Dr. Parker imposed the following disciplinary sanctions
7 against Ms. Bennett: “Suspension through the Fall of 2013 semester.”

8 85. Ms. Bennett admits that she complained to staff members about students speaking
9 Spanish, but the remaining allegations are false and have no basis in fact whatsoever. Ms. Bennett
10 has never caused a disruption in class, and she has never displayed intimidating behavior to
11 students, staff or faculty.

12 86. Following PCC procedures, Ms. Bennett appealed Dr. Parker’s decision to Dr.
13 Johnson Bia, President of PCC’s Desert Vista Campus.

14 87. On May 13, 2013, Ms. Bennett met with Dr. Bia.

15 88. In an email sent on May 17, 2013, Dr. Bia advised Ms. Bennett in writing that he
16 was upholding Dr. Parker’s suspension of Ms. Bennett.

17 89. Dr. Bia gave no reasons at all for upholding Dr. Parker’s decision to suspend Ms.
18 Bennett, other than that he had taken into account written reasons provided by Dr. Parker in a
19 document dated May 13, 2013, his interview with Ms. Bennett and “after ponding (sic) the matter
20 for a few days.”

21 90. In Dr. Parker’s May 13 written reasons provided by Dr. Parker to Dr. Bia justifying
22 her decision to suspend Ms. Bennett, Dr. Parker wrote that “I explained to Ms. Bennett that if I
23 did end up issuing her a suspension that it would be due to her abrasive personality.”

24 91. In Dr. Parker’s May 13 written reasons provided to Dr. Bia justifying her decision
25 to suspend Ms. Bennett, Dr. Parker wrote that “Terri was suspended until she receives counseling
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1 to improve her communication style and to learn to be less abrasive with students and
2 instructors.”

3 92. Dr. Bia ordered that, during her suspension, Ms. Bennett (a) not to be on any PCC
4 campus or property; (b) was excluded from all PCC academic courses and activities; and (c) was
5 prohibited from attending or participating in any PCC event or activity, regardless of location.
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7 93. Ms. Bennett has been damaged by her immediate eviction from campus and her
8 suspension in the following respects:

- 9 a) lost future income and benefits;
- 10 b) mental anguish and emotional distress;
- 11 c) lost social and extracurricular activities;
- 12 d) damage to her reputation and standing in her community;
- 13 e) increased costs associated with her tertiary education;
- 14 f) diminished scholarship opportunities;
- 15 g) diminished college enrollment opportunities;
- 16 h) restricting her right to be taught and learn in the English language;
- 17 i) restricting her right to free speech.

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19 **COUNT ONE – VIOLATION OF ARTICLE 28 OF THE ARIZ. CONSTIT.**

20 94. Plaintiff incorporates the allegations contained in the preceding paragraphs of this
21 complaint.
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23 95. Pursuant to A.R.S. Constit. Art. 28, §§ 2 and 3, the English language is the official
24 language of the state of Arizona, and a representative of government is obliged to preserve,
25 protect and enhance the role of the English language, as well as not discriminate against any
26 person or in any way penalize any person because the person uses or attempts to use or wishes to
27 use the English language.
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1 96. PCC, as a state-owned educational facility, is obliged to provide teaching in the
2 English language to Ms. Bennett.

3 97. PCC, as a state-owned educational facility, is obliged to preserve, protect and
4 enhance the role of the English language in its classrooms.

5 98. PCC, as a state-owned educational facility, may not discriminate against any person
6 or in any way penalize any person because the person uses or attempts to use or wishes to use
7 English in a PCC classroom.

8 99. PCC, as a state-owned educational facility, is obliged to provide and foster a
9 learning environment that is not hostile to English language speakers.

10 100. PCC, as a state-owned educational facility, is obliged to provide and foster a
11 learning environment that does not ignore, harm or diminish Ms. Bennett's right and ability to
12 receive PCC training in the English language.

13 101. By providing teaching to Ms. Bennett in an environment that is hostile to English-
14 speakers, PCC is in violation of A.R.S. Constit. Art. 28, §§ 2 and 3.

15 102. By placing Ms. Bennett in study groups, skills labs, clinicals and classrooms in
16 which English was not the primary language spoken, PCC is in violation of A.R.S. Constit. Art.
17 28, §§ 2 and 3.

18 103. By failing to take action on Ms. Bennett's complaint that she only understood the
19 English language, PCC is in violation of A.R.S. Constit. Art. 28, §§ 2 and 3.

20 104. By suspending Ms. Bennett from her studies at PCC for complaining that she only
21 understood the English language, PCC is in violation of A.R.S. Constit. Art. 28, §§ 2 and 3.

22 105. By evicting Ms. Bennett immediately from campus under police escort in front of
23 her peers because Ms. Bennett complained that she only understood the English language, PCC is
24 in violation of A.R.S. Constit. Art. 28, §§ 2 and 3.

1 106. By providing and fostering a learning environment that ignores, harms and
2 diminishes the role of the English language in its class rooms, PCC is in violation of A.R.S.
3 Constit. Art. 28, §§ 2 and 3.

4 107. By failing to preserve, protect and enhance the role of the English language in its
5 class rooms, PCC is in violation of A.R.S. Constit. Art. 28, §§ 2 and 3.

6 108. Ms. Bennett has been damaged by PCC's violation of A.R.S. Constit. Art. 28, §§ 2
7 and 3 because she has been impeded in her ability to complete her studies at PCC, in her ability to
8 obtain a Practical Nurse certificate, in her ability to complete her education within her original
9 time frame, which impedes her ability to obtain gainful employment and earn a reasonable
10 livelihood, and in her ability to obtain funding for her further education, amongst other reasons.

11 109. Ms. Bennett seeks a declaratory judgment that PCC's conduct violates A.R.S.
12 Constit. Art. 28, §§ 2 and 3.

13 110. On June 24, 2013, Ms. Bennett notified the Arizona attorney general of her claims
14 herein pursuant to A.R.S. Constit. Art. 28, § 6(C).

15 111. A reasonable time has passed since June 24, 2013, and the attorney general has
16 failed to provide Ms. Bennett appropriate relief.

17 112. In any event, no appropriate relief can be provided by the attorney general within a
18 reasonable time because Ms. Bennett is currently suspended and the attorney general is not
19 empowered to reverse her suspension. She is therefore not on campus and not present during
20 classes, and thus she cannot benefit from any instruction the attorney general may give to PCC as
21 a result of her notification.

22 113. As a result of PCC's violation of her rights, Ms. Bennett has been damaged.
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1 **COUNT TWO – VIOLATION OF RIGHT TO FREEDOM OF SPEECH**

2 114. Plaintiff incorporates the allegations contained in the preceding paragraphs of this
3 complaint.

4 115. PCC has violated Ms. Bennett’s constitutional rights as established by the First
5 Amendment to the United States Constitution, the Fourteenth Amendment to the United States
6 Constitution, and A.R.S. Constit. Art. 2, §6.

7 116. Ms. Bennett’s complaining to PCC administration about the amount of Spanish
8 spoken in her PCC classes and during study groups, skills labs and clinicals, and expressing her
9 opinion that this interfered with her ability to study and learn, is a constitutionally protected
10 activity under the First Amendment of the United States Constitution and under A.R.S. Constit.
11 Art. 2, §6.

12 117. PCC took extreme disciplinary measures against Ms. Bennett because she
13 expressed her opinion about English being spoken in PCC classrooms.

14 118. When Ms. Bennett followed PCC’s own procedures to lodge a complaint with PCC
15 administration that the amount of Spanish being spoken in her classes and during study groups was
16 impeding her ability to study, PCC immediately suspended Ms. Bennett from her studies at PCC.

17 119. As a result of Ms. Bennett’s exercise of her right to freedom of speech under both
18 the United States and Arizona constitutions, PCC evicted Ms. Bennett from campus with
19 immediate effect under threat of force and imposed a suspension of her studies.

20 120. She was instructed that she could not attend any classes nor be physically present
21 on campus for the period of her suspension.

22 121. PCC employees advised other PCC staff and PCC students to refrain from any
23 contact with Ms. Bennett.

24 122. As a result of this suspension, Ms. Bennett suffers ongoing and irreparable harm.
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1 123. The eviction from campus and suspension of Ms. Bennett unequivocally violates
2 her right to freedom of speech under both the United States and Arizona constitutions.

3 124. PCC's suspension of Ms. Bennett places Ms. Bennett's entire academic and
4 working future in jeopardy.

5 125. If PCC does not expunge Ms. Bennett's eviction from campus and suspension from
6 her records, Ms Bennett's ability to continue her studies elsewhere, to obtain student loans, and to
7 obtain gainful employment upon graduation will be severely jeopardized.

8 126. Failure to expunge Ms. Bennett's eviction and suspension will also negatively
9 impact Ms. Bennett's eligibility for financial aid.

10 127. Ms. Bennett seeks a declaratory judgment that PCC's conduct violates the First and
11 Fourteenth Amendments of the United States Constitution, as well as A.R.S. Constit. Art. 2, §6.

12 128. Ms. Bennett seeks injunctive relief ordering PCC to expunge Ms. Bennett's
13 eviction from campus and suspension from her PCC records.

14 129. Failure to award persons in Ms. Bennett's position this relief, and permitting PCC
15 to suspend Ms. Bennett in these circumstances, will result in an impermissible chilling effect on
16 freedom of speech.

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19 **COUNT THREE - UNLAWFUL SUSPENSION**

20 130. Plaintiff incorporates the allegations contained in the preceding paragraphs of this
21 complaint.

22 131. A student may not be subject to disciplinary action except pursuant to law and
23 PCC's policies.

24 132. PCC subjected Ms. Bennett to disciplinary action when it evicted Ms. Bennett from
25 campus and when it imposed a suspension on her.
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1 133. PCC had no grounds under law or PCC’s policies to discipline Ms. Bennett in these
2 circumstances.

3 134. In Dr. Parker’s May 13 written reasons for suspending Ms. Bennett, Dr. Parker
4 stated that “if I did end up issuing [Ms. Bennett] a suspension that it would be due to her abrasive
5 personality.” She concluded that Ms. Bennett “was suspended until she receives counseling to
6 improve her communication style and to learn to be less abrasive with students and instructors.”
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8 135. Dr. Bia gave no reasons at all for upholding Dr. Parker’s decision to suspend Ms.
9 Bennett, other than he had taken into account Dr. Parker’s May 13 written reasons and his
10 meeting with Ms. Bennett.

11 136. Dr. Bia therefore either had no reasons to discipline Ms. Bennett, or he adopted Dr.
12 Parker’s reasons. In any case, he had no valid reasons to discipline Ms. Bennett.

13 137. Nowhere in law or in PCC’s policies is PCC authorized to impose the disciplinary
14 sanction of suspension for an “abrasive personality” or as an opportunity to improve
15 “communication style” or “to learn to be less abrasive.”
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17 138. In fact, PCC suspended Ms. Bennett because she complained that PCC was
18 providing a learning environment to her that was hostile to English speakers.

19 139. Nowhere in law or in PCC’s policies is PCC authorized to impose the disciplinary
20 sanction of suspension, or any other kind of sanction, for lodging a complaint, let alone a
21 complaint regarding a hostile learning environment, let alone a hostile learning environment for a
22 consitutionally protected language.
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24 140. PCC had no substantial evidence to suspend Ms. Bennett on the other two grounds
25 provided in Dr. Parker’s April 29, 2013 letter, namely, disrupting class over “a test answer,” and
26 being harassing and intimidating to staff and students.
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1 141. Ms. Bennett has never disrupted class, nor has she ever harassed or intimidated
2 staff or students.

3 142. PCC breached the law and its own policies when it evicted and suspended Ms.
4 Bennett under these circumstances.

5 143. As a result of PCC's violation of her rights, Ms. Bennett has been damaged.

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7 **COUNT FOUR – DEFAMATION**

8 144. Plaintiff incorporates the allegations contained in the preceding paragraphs of this
9 complaint.

10 145. Dr. Ann Parker, David Kutzler, Brian Stewart, Elizabeth Coleman, and other PCC
11 employees defamed Ms. Bennett when they accused her of being a "racist," a "bigot," of
12 harassing other students and staff, of intimidating students and staff, of being "volatile," of being
13 "erratic," and questioned her "mental state," and when they implied to her fellow students that she
14 was all of the above and as further alleged herein.

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16 146. In Dr. Parker's May 13 written reasons provided to Dr. Bia justifying her decision
17 to suspend Ms. Bennett, Dr. Parker wrote that Mr. Kutzler had stated to her that Ms. Bennett had
18 been harassing, intimidating, and discriminating against other students.

19 147. In Dr. Parker's May 13 written reasons provided to Dr. Bia justifying her decision
20 to suspend Ms. Bennett, Dr. Parker wrote that Ms. Coleman had stated to her that Ms. Bennett
21 was volatile and erratic, and was concerned about Ms. Bennett's "mental state."

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23 148. In Dr. Parker's May 13 written reasons provided to Dr. Bia justifying her decision
24 to suspend Ms. Bennett, Dr. Parker stated that Ms. Bennett had exhibited "inappropriate
25 behavior," that there were "problems with her funding," that she was "rude," "disrespectful to
26 CTD staff," and that Ms. Bennett "began complaining about students speaking Spanish as early as
27 March 14, 2012."
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1 149. In Dr. Parker’s May 13 written reasons provided to Dr. Bia justifying her decision
2 to suspend Ms. Bennett, Dr. Parker wrote that Ms. Bennett “refuses to work as a team with
3 Mexican-American students.”

4 150. In Dr. Parker’s May 13 written reasons provided to Dr. Bia justifying her decision
5 to suspend Ms. Bennett, Dr. Parker wrote that Ms. Bennett “exhibits paranoid behavior and that
6 [staff] feel threatened by her volatility.”

7 151. Mr. Brian Stewart told Ms. Bennett’s friend that Ms. Bennett “was lying.”

8 152. All of the above statements made by PCC staff were concerning Ms. Bennett.

9 153. All of the above statements were defamatory and damaged Ms. Bennett’s
10 reputation.

11 154. All of the above statements were published to others.

12 155. All of the above statements were false.

13 156. As a result of PCC’s violation of her rights, Ms. Bennett has been damaged.

14 **COUNT FIVE – VIOLATION OF RIGHT TO PRIVACY: FALSE LIGHT**

15 157. Plaintiff incorporates the allegations contained in the preceding paragraphs of this
16 complaint.

17 158. All of the above statements made by PCC staff concerning Ms. Bennett placed Ms.
18 Bennett in a false light in the public eye.

19 159. PCC staff made statements that Ms. Bennett objected to Spanish in the classroom
20 because she was a racist and a bigot.

21 160. Ms. Bennett is neither a racist nor a bigot.

22 161. This false light is objectionable to a reasonable person.

23 162. PCC knowingly or recklessly published this false information or innuendo.

1 163. Being labeled a racist and bigot, particularly to the extent that required a
2 suspension from campus, is highly offensive to a reasonable person.

3 164. As a result of PCC's violation of her rights, Ms. Bennett has been damaged.
4

5 **COUNT SIX – DISCRIMINATION**

6 165. Plaintiff incorporates the allegations contained in the preceding paragraphs of this
7 complaint.

8 166. PCC's Board Policy 1501 and Standard Practice Guide 1501AA incorporate Title
9 VI & VII of the 1964 Civil Rights Act; Title IX of the Education Amendments of 1972;
10 Executive Order 11246; Age Discrimination in Employment Act of 1975; Rehabilitation Act of
11 1973, Sections 503 & 504; Uniformed Services Employment and Re-employment Rights Act of
12 1994 (USERRA); Americans with Disabilities Act of 1990 as amended; Equal Pay Act of 1963;
13 Arizona Civil Rights Act of 1965, and protects students from discrimination, harassment and
14 retaliation.
15

16 167. PCC unlawfully discriminated against Ms. Bennett by failing to provide a learning
17 environment that was conducive to learning in the English language and by suspending her when
18 she complained about it.

19 168. PCC discriminated against Ms. Bennett by sanctioning her when she complained
20 about the fact that PCC did not provide a learning environment that was conducive to learning in
21 the English language.
22

23 169. PCC's failure to provide a learning environment that was conducive to English-
24 language speakers limits, segregates or classifies Ms. Bennett in a way which deprives or tends to
25 deprive Ms. Bennett of learning opportunities, employment opportunities and otherwise adversely
26 affects Ms. Bennett's status as a student and future employee, because of her preference for, and
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1 right to, being taught in the English language and her inability to understand the Spanish
2 language.

3 170. PCC's suspension of Ms. Bennett for complaining about PCC's conduct also limits,
4 segregates or classifies Ms. Bennett in a way which deprives or tends to deprive Ms. Bennett of
5 learning opportunities, employment opportunities and otherwise adversely affects Ms. Bennett's
6 status as a student and future employee, because of her preference for, and right to, being taught
7 in the English language and her inability to understand the Spanish language.
8

9 171. By failing to provide a learning environment that is conducive to English-language
10 speakers, PCC has discriminated against Ms. Bennett as an English-language speaker by treating
11 Ms. Bennett adversely based on her language.
12

13 172. By disciplining and sanctioning Ms. Bennett because she complained about the
14 hostile learning environment, PCC has discriminated against Ms. Bennett as an English-language
15 speaker by treating Ms. Bennett adversely based on her language.
16

17 173. As a result of PCC's violation of her rights, Ms. Bennett has been damaged.

18 **COUNT SEVEN – RETALIATION**

19 174. Plaintiff incorporates the allegations contained in the preceding paragraphs of this
20 complaint.
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22 175. PCC's Board Policy 1501 and Standard Practice Guide 1501AA incorporate Title
23 VI & VII of the 1964 Civil Rights Act; Title IX of the Education Amendments of 1972;
24 Executive Order 11246; Age Discrimination in Employment Act of 1975; Rehabilitation Act of
25 1973, Sections 503 & 504; Uniformed Services Employment and Re-employment Rights Act of
26 1994 (USERRA); Americans with Disabilities Act of 1990 as amended; Equal Pay Act of 1963;
27 Arizona Civil Rights Act of 1965, and protects students from discrimination, harassment and
28 retaliation.

1 176. PCC's act of disciplining, evicting and suspending Ms. Bennett for complaining
2 about PCC's hostile learning environment constitutes unlawful retaliation.

3 177. Ms. Bennett complained to PCC staff that the learning environment in her classes
4 was hostile to her as an English speaker, that it impeded her ability to learn and that she was
5 discriminated against because of her inability to speak the Spanish language.
6

7 178. Ms. Bennett complained about an activity or practice by PCC that constituted
8 discrimination against her as an English speaker.

9 179. PCC took adverse action against Ms. Bennett by disciplining her and suspending
10 her as a result of her good faith participation in a protected activity, namely, complaining that she
11 was being discriminated against on the basis of language.
12

13 180. The adverse action taken by PCC against Ms. Bennett, including immediately
14 evicting her from campus and suspending her, materially affects Ms. Bennett's academic status,
15 and is reasonably likely to deter Ms. Bennett and others from engaging in a protected activity,
16 namely, reporting discrimination, harassment and/or retaliation, and/or participating in a review
17 or investigation of such a claim.

18 181. PCC's immediate eviction from campus and suspension of Ms. Bennett because of
19 her complaint constitutes unlawful retaliation for her complaint.
20

21 182. As a result of PCC's violation of her rights, Ms. Bennett has been damaged.

22 **COUNT EIGHT – HARASSMENT**

23 183. Plaintiff incorporates the allegations contained in the preceding paragraphs of this
24 complaint.

25 184. PCC's Board Policy 1501 and Standard Practice Guide 1501AA incorporate Title
26 VI & VII of the 1964 Civil Rights Act; Title IX of the Education Amendments of 1972;
27 Executive Order 11246; Age Discrimination in Employment Act of 1975; Rehabilitation Act of
28

1 1973, Sections 503 & 504; Uniformed Services Employment and Re-employment Rights Act of
2 1994 (USERRA); Americans with Disabilities Act of 1990 as amended; Equal Pay Act of 1963;
3 Arizona Civil Rights Act of 1965, and protects students from discrimination, harassment and
4 retaliation.

5
6 185. PCC staff harassed Ms. Bennett when she complained about PCC's learning
7 environment being hostile to English-language speakers.

8 186. In response to Ms. Bennett's complaint, David Kutzler accused Ms. Bennett of
9 "discriminating against Mexican-Americans," of discriminating and harassing other students
10 based on national origin, of being a "bigot and a bitch," and threatened her with "[y]ou do not
11 want to go down that road."

12
13 187. In response to Ms. Bennett's complaint, Brian Stewart accused Ms. Bennett of
14 lying.

15 188. In response to Ms. Bennett's complaint, Dr. Ann Parker accused Plaintiff of
16 bullying and harassment, called Ms. Bennett "abrasive," and "racist," and stated that Ms. Bennett
17 had "bullied and harassed people."

18 189. In response to Ms. Bennett's complaint, PCC administrative staff advised Ms.
19 Bennett that she may have a learning disability and should seek counseling.

20
21 190. In response to Ms. Bennett's complaint, PCC evicted Ms. Bennett without notice
22 under threat of force in front of her peers.

23 191. In response to Ms. Bennett's complaint, PCC disciplined Ms. Bennett by
24 suspending her from her studies.

25 192. The above accusations and acts of PCC staff constitute unwelcome behavior that
26 had the purpose or effect of creating an intimidating, hostile or offensive educational environment
27 for Ms. Bennett.
28

1 193. PCC's accusations and acts did create an intimidating, hostile and offensive
2 educational environment for Ms. Bennett.

3 194. The above accusations and acts of PCC staff constitute unwelcome behavior that
4 had the purpose or effect of unreasonably interfering with Ms. Bennett's academic performance
5 and opportunities, and/or her ability to receive the benefits of a PCC program or activity.

6 195. PCC's accusations and acts did interfere with Ms. Bennett's academic performance
7 and opportunities, and/or her ability to receive the benefits of a PCC program or activity.

8 196. PCC's policy expressly provides that prohibited harassment includes offensive
9 slurs, and other offensive or abusive conduct that is aimed at, or adversely impacts, a student
10 because of inclusion in a protected classification, and includes negative stereotyping, including
11 negative references about a person's language or accent.

12 197. All of the accusations and acts described above constitute a series of acts that
13 harassed Ms. Bennett.

14 198. A reasonable person facing similar circumstances would have felt seriously
15 harassed when faced with the above accusations and acts of PCC staff, and would have felt that
16 PCC's conduct created a hostile or offensive environment.

17 199. Ms. Bennett was seriously harassed by the above accusations and acts of PCC
18 staff, and did feel that PCC's conduct created an environment that was hostile and offensive to
19 her.

20 200. None of PCC staff's accusations and acts served any legitimate purpose.

21 201. As a result of PCC's violation of her rights, Ms. Bennett has been damaged.

22
23 **COUNT NINE – BREACH OF CONTRACT**

24 202. Ms. Bennett incorporates the allegations contained in the preceding paragraphs of
25 this complaint.
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1 203. Ms. Bennett has performed all of her obligations under her Agreement with PCC.

2 204. PCC, despite demand, did not perform its obligations under the Agreement.

3 205. PCC, amongst other things, failed to provide training and education to Ms. Bennett
4 as promised, failed to provide an environment that was conducive to learning in the English
5 language, and imposed disciplinary measures on Ms. Bennett that were not authorized by PCC's
6 policies.
7

8 206. PCC does not anywhere advertise itself as a bilingual institution providing
9 instruction in two languages, nor did it advise Ms. Bennett that it provided instruction in two
10 languages.
11

12 207. As a result of PCC's violation of her contractual rights, Ms. Bennett has been
13 damaged.
14

15 208. PCC is liable to Ms. Bennett for damages resulting from its breach of contract in an
16 amount to be determined at trial.

17 **COUNT TEN – BREACH OF THE DUTY OF GOOD FAITH AND FAIR DEALING**

18 209. Ms. Bennett incorporates the allegations contained in the preceding paragraphs of
19 this complaint.
20

21 210. A covenant of good faith and fair dealing is implied in all contracts.

22 211. PCC, amongst other things, failed to provide training and education to Ms. Bennett
23 as promised, failed to provide an environment that was conducive to learning in the English
24 language, and imposed disciplinary measures on Ms. Bennett that were not authorized by PCC's
25 policies.
26

27 212. PCC knew or should have known that that the learning atmosphere in the classroom
28 inhibited Ms. Bennett, who only speaks the English language, from receiving the training and
education that PCC promised to provide.

1 213. PCC failed to act in good faith when it did not act on Ms. Bennett's complaints
2 regarding the English language, when it placed Ms. Bennett in study groups, skills labs and
3 clinicals in which English was not spoken, when it reprimanded Ms. Bennett for lodging a
4 complaint about it, when it evicted her from campus for complaining about it, and when it
5 suspended her for complaining about it.
6

7 214. PCC, through its actions and/or omissions, has breached its duty to deal with Ms.
8 Bennett fairly and in good faith.

9 215. As a result of PCC's violation of her rights, Ms. Bennett has been damaged.

10 **COUNT ELEVEN – INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

11 216. Plaintiff incorporates the allegations contained in the preceding paragraphs of this
12 complaint.
13

14 217. By suspending Ms. Bennett without good reason, by spreading lies about Ms.
15 Bennett that she is a racist and bigot, by evicting her from campus without notice and under threat
16 of force and in full view of her peers and colleagues, and by delaying Ms. Bennett's ability to
17 complete her education and ability to obtain gainful employment, and by undertaking the other
18 wrongful acts alleged in this complaint, PCC caused Ms. Bennett severe emotional distress.

19 218. PCC's conduct was extreme and outrageous.
20

21 219. PCC intended to cause Ms. Bennett severe emotional distress, or was reckless as to
22 the effect of its conduct by evicting her from campus under threat of force in view of her peers,
23 by calling her a racist and a bigot, and by suspending her, when she simply complained about
24 wishing to have a learning environment that is not hostile to English speakers.

25 220. The conduct of PCC, particularly in the manner in which it evicted Ms. Bennett
26 from campus, goes beyond the bounds of decency and is utterly intolerable in a civilized
27 community.
28

1 221. As a result of PCC's violation of her rights, Ms. Bennett has been damaged.

2 WHEREFORE, Ms. Bennett requests that the Court enter judgment as follows:

3 A. Declaring that PCC's conduct constitutes a violation of Article 28 of the Arizona
4 Constitution;

5 B. Declaring that PCC's conduct constitutes a violation of Ms. Bennett's right to
6 freedom of speech under the First Amendment and A.R.S. Constit. Art. 2, §6;

7 C. Declaring that PCC's conduct constitutes unlawful suspension;

8 D. Declaring that PCC's conduct constitutes defamation;

9 E. Declaring that PCC's conduct constitutes a violation of Ms. Bennett's right to
10 privacy;

11 F. Declaring that PCC's conduct constitutes discrimination;

12 G. Declaring that PCC's conduct constitutes harassment;

13 H. Declaring that PCC's conduct constitutes retaliation;

14 I. Declaring that PCC's conduct constitutes breach of contract;

15 J. Declaring that PCC's conduct constitutes breach of the covenant of good faith and
16 fair dealing;

17 K. Declaring that PCC's conduct constitutes intentional infliction of emotional
18 distress;

19 L. Enjoining PCC from maintaining any records relating to the immediate eviction
20 from campus and suspension of Ms. Bennett in Ms. Bennett's PCC records; and
21 revoking, *nunc pro tunc*, the suspension;

22 M. That this court retains jurisdiction over this matter for the purposes of enforcing
23 this court's order;

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- N. Awarding Ms. Bennett her attorneys' fees and costs in pursuing this matter pursuant to A.R.S. § 12-2030, A.R.S. Constit. Art. 28, § 6(D), A.R.S. § 12-341.01, and any other relevant statutes; and
- O. Awarding Plaintiff such other and further relief as the Court may deem just and proper.

RESPECTFULLY SUBMITTED this 15th day of July, 2013.

MUNGER CHADWICK, P.L.C.

John F. Munger
Adriane J. Parsons
Attorneys for Plaintiff

1 **VERIFICATION**

2 TERRI BENNETT states as follows:

3 That I am the Plaintiff in the foregoing Complaint and am authorized to make this
4 Verification. I have read the foregoing Complaint and, to the best of my knowledge and belief,
5 the allegations contained therein are true and correct in substance and in fact. That, pursuant to
6 Rule 80(i) of the Arizona Rules of Civil Procedure, this statement is made under penalty of
7 perjury, and is true and correct to the best of my information and belief.
8

9 Dated this _____ day of July, 2013.

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12 _____
13 Terri Bennett
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