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IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF MARICOPA

JIE CAO; HAINING XIA; STONE XIA,

Plaintiffs,

v.

LORNE POLGER; MATT QUINN;
MICHAEL A. SCHERN,

Defendants.

No. CV2019-055353

MOTION FOR MORE DEFINITE
STATEMENT

Defendants Lorne Polger, Matt Quinn, and Michael A. Schern (“Defendants”), by and through undersigned counsel, and pursuant to Ariz. R. Civ. P. 12(e), hereby respectfully requests the Court enter an order requiring Plaintiffs to furnish a more definite statement concerning the nature and scope of each of their claims including the identity of each intended defendant in each claim. The Complaint in its present form is so vague and ambiguous that Defendants cannot reasonably frame a responsive pleading. This Motion is supported by the Memorandum of Points and Authorities attached hereto and incorporated herein by this reference.

MEMORANDUM OF POINTS AND AUTHORITIES

I. Defendants are unable to respond to Plaintiffs’ vague and ambiguous Complaint.

Rule 12(e) provides in relevant part:

1 If a pleading to which a responsive pleading is permitted is so vague or ambiguous
2 that a party cannot reasonably be required to frame a responsive pleading, the party
3 may move for a more definite statement before filing a responsive pleading. The
4 motion must point out the defects complained of and the details desired. If the court
5 orders a more definite statement and the order is not obeyed within 10 days after
notice of the order or within the time the court sets, the court may strike the pleading
or issue any other appropriate order.

6 Defendants recognize that Arizona is a notice pleading state, but Plaintiffs' Complaint in its
7 present form is so vague and ambiguous that the Defendants cannot reasonably frame a responsive
8 pleading. Defendants are unable to determine the nature and scope of the claims asserted, and
9 also which Defendants are being pursued in each such claim.

10 Defendants are uncertain as to the party defendants in this action. In the Complaint,
11 Plaintiffs identify the Defendants as "Lorne Polger, Matt Quinn, and Michael A. Schern."
12 However, Plaintiffs have not served any of the individuals above. Instead, as clearly stated in
13 Plaintiffs' Declarations of Service, Plaintiffs' Complaint was mailed to three corporate entities
14 identified in the Declarations only as defendants.¹ Because it is not clear from Plaintiffs' filings
15 who are the intended defendants, it is impossible to make determinations regarding whether
16 personal jurisdiction can be exercised.

17 The Plaintiffs' Complaint alleges other parties not listed or included as parties in the
18 caption. The Court should require Plaintiffs to identify the defendants the Plaintiffs are seeking to

19
20 ¹ Defendants dispute proper service. The Declarations of Service filed by Plaintiffs clearly
21 illustrate that none of the individuals mentioned in the Complaint (Lorne Polger, Matt Quinn, and
22 Michael A. Schern) have been served personally in accordance with Rule 4.1(d) Ariz.R.Civ.P.
23 Nor have any of the foregoing non-resident individuals been served in accordance with 4.2(c)
Ariz.R.Civ.P.

24 None of the corporate entities mentioned in the Complaint or Declarations of Service have
25 been served personally in accordance with Rules 4.1(i) or (j) Ariz.R.Civ.P. Nor have any of the
26 said corporate entities been served as non-resident entities in accordance with 4.2(h) Ariz.R.Civ.P.
if applicable.

1 name in this action, and plead each separate claim with enough particularity to enable each
2 defendant to determine whether a claim is being asserted against it so that each such defendant
3 can reasonably respond to the allegations as they apply to such defendants.

4 Not only is the identity of the parties Plaintiffs are suing unclear, the Plaintiffs' form
5 complaint is vague as to what cause of actions they are pleading for each Defendant and the
6 alleged "Injuries" caused by each Defendant.

7 In their Complaint, the Plaintiffs also fail to identify any applicable law [which would
8 greatly assist Defendants and the Court in determining the nature of the Plaintiffs' claims], nor
9 did the Plaintiffs cite recognizable specific injuries as required under Arizona law. The
10 Defendants are entitled to a Complaint that sets forth in sufficient detail the specific claims the
11 Plaintiffs are asserting against each Defendant.

12 **II. Pro Per Plaintiffs must comply with the Rules of Civil Procedure**

13 Courts have held that unrepresented litigants in Arizona to the same standards as attorneys;
14 therefore, in applying the rules of procedure, courts may not afford special leniency to pro se
15 litigants. *See Flynn v. Campbell*, 243 Ariz. 76, 402 P.3d 434 (2017). Ariz. R. Civ. P. 5.2 (b)
16 Document Format provides in relevant part:

17
18 (1) *Generally*. Unless the court orders otherwise, all filed documents--other than a
19 document submitted as an exhibit or attachment to a filing--must be prepared as
follows:

20 (A) Text and Background. The text of every document must be black on a plain
21 white background. All documents filed must be single-sided and should have line
22 numbers at double-spaced intervals along the left side of the page.

23 (B) Type Size and Font. Notwithstanding any local rule, every typed document must
24 use at least a 13-point type size. The court prefers proportionally spaced serif fonts,
25 such as Times New Roman, Bookman, Century, Garamond, or Book Antiqua, and
26 discourages monospaced or sans serif fonts such as Arial, Helvetica, Courier, or
Calibri. Footnotes must be in at least a 13-point type size and must not appear in the
space required for the bottom margin.

...

1 (F) Line Spacing. Text must be double-spaced and may not exceed 28 lines per page,
2 but headings, quotations, and footnotes may be single-spaced. A single-spaced
3 quotation must be indented on the left and right sides.

4 Further, Ariz. R. Civ. P. 10 provides that: "A party must state its claims or defenses in numbered
5 paragraphs, each limited as far as practicable to a single set of circumstances. Plaintiffs'
6 Complaint fails to comply with the cited Rules of Civil Procedure.

7 For the reasons cited above, the Defendants respectfully request this Court to enter an Order
8 requiring Plaintiffs to provide a more definite statement that complies with the Arizona Rules of
9 Civil Procedure, and for such additional relief as this Court deems just and proper.

10 DATED this 18th day of December 2019.

11 SCHERN RICHARDSON FINTER, PLC

12
13
14 By 

15 Michael A. Schern
16 Aaron M. Finter
17 Aaron R. Clouse
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19 Mesa, AZ 85204
20 Attorneys for Defendants

21 ORIGINAL of the foregoing electronically filed
22 this 18th day of December 2019.

23 COPY of the foregoing mailed
24 this 18th day of December 2019, to:

25 Jie Cao, Haining Xia, Stone Xia
26 15742 E. Eagle Crest Road
Fountain Hills, AZ 85268
Plaintiffs

Ann Bernzen