

ATTACHMENT 44



1 Kip M. Micuda - 011921  
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6 *Pro Se*

7 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA  
8  
9 IN AND FOR THE COUNTY OF MARICOPA

10 KIP M. MICUDA, a married man;  
11 ANN HAUGEN, a married woman,

NO.

12 Plaintiffs,

13 and

14 DAMON BRUNS, a married man;  
15 HOLLY BRUNS, a married woman;  
16 HOLLY K. WAGNER; JOHN DOE  
17 WAGNER; DYNAMITE WATER,  
18 LLC, an Arizona limited liability  
19 company; GRANITE MOUNTAIN  
20 INVESTMENTS, LLC, an Arizona  
21 limited liability company; SCOTT  
22 MUCH, a married man; ANGELA  
23 MUCH, a married woman; JANE and  
24 JOHN DOE; ABC CORPORATION;  
25 123 COMPANY or LLC or  
26 PARTNERSHIP;

Defendants.

AFFIDAVIT OF JOHN HORNEWER

27 STATE OF ARIZONA )  
28 ) ss.  
29 County of Maricopa )

I, JOHN HORNEWER, having first been duly sworn upon oath, depose and say:

1           1. I know the following to be true and correct to the best of my knowledge. To  
2 the extent I lack personal knowledge of the following, I am informed and believe the following to  
3 be true and accurate.  
4

5           2. I am an owner of Rio Verde Foothills Potable Water Hauling, LLC, ("Rio  
6 Verde Water").  
7

8           3. On July 18, 2019, around 11:00 a.m., I entered the Circle K located at 10989  
9 E. Dynamite Blvd, Ste. 101, Scottsdale, Arizona 85262, to make a purchase. During my purchase,  
10 Holly K. Wagner, an employee of Circle K, told me that Damon Bruns, owner of Dynamite  
11 Water, LLC, ("Dynamite Water") was served by Maricopa County the week before for violations  
12 of the Maricopa County Zoning Code. She related that I and all other water vendors in the area  
13 "will get serve" by the County too. She then told me the following about a person I learned later  
14 was Kip M. Micuda:  
15

16           a. Ms. Wagner stated that Mr. Micuda was following all the water  
17 vendors in the area and reporting them to Maricopa County;  
18

19           b. Ms. Wagner stated that Mr. Micuda "turned me in" to the County.  
20

21           c. Ms. Wagner stated that the water vendors need to cooperate in  
22 refusing and denying Mr. Micuda and his wife water.

23 Ms. Wagner also related that the forgoing issues "were going to cost Damon [Mr. Bruns]  
24 "hundreds of thousands of dollars" and cost me "a ton of money."  
25

26           4. I left the Circle K.  
27

          5. About 11:20 a.m. that morning, I received a call from my employee, Gary  
Thaifault, informing me that Ms. Wagner just related the same information/statements to him

1 relative to Mr. and Mrs. Micuda. During the call, at 11:22 a.m., Damon Bruns called me and left  
2 a message to call him. I viewed the call as odd since we rarely talk.

3  
4 6. I called Mr. Bruns at 11:23 a.m. Mr. Bruns first told me that he was able to  
5 get his water trucks certified as "emergency service vehicles." With such designation, he claimed,  
6 he could ignore the Maricopa County zoning restrictions applicable to his property located at  
7 31222 N. 166th Street, Scottsdale, AZ 85262. Mr. Bruns then related the following relative to  
8 Mr. and Mrs. Micuda.

9  
10 a. Mr. Bruns stated that he removed the water meter from Mr. and Mrs.  
11 Micuda's water tank, intending that they exhaust their water supply without  
12 knowing.

13  
14 b. Mr. Bruns stated that Mr. Micuda was following all the water vendors  
15 in the area and reporting them to Maricopa County;

16  
17 b. Mr. Bruns stated that Mr. Micuda "turned me in" to the County.

18  
19 c. Mr. Bruns asked me not to provide Mr. and Mrs. Micuda water.

20  
21 d. Mr. Bruns stated that he was calling the water vendors in the area for  
22 cooperation in refusing and denying Mr. and Mrs. Micuda water. Mr. Bruns stated  
23 we will "make them hurt." I understood Mr. Bruns's intent to cause Mr. and Mrs.  
24 Micuda severe emotional distress.

25  
26 7. Upon the information from Ms. Wagner and Mr. Bruns, I was angry someone  
27 was trying to put me and other water vendors out of business. I told my wife to contact me if Mr.  
or Mrs. Micuda contacted Rio Verde Water for service. However, I have known both Ms. Wagner  
and Mr. Bruns to misrepresent and I have information of Mr. Bruns, in essence, stealing water

1 from the City of Scottsdale. I recognized Mr. and Mrs. Micuda might have a different story. It  
2 also occurred to me that it was very likely more than coincidental that I received all the contacts  
3 above from Ms. Wagner, Mr. Bruns and Mr. Thaifault on July 18, 2019, within about twenty-five  
4 minutes.  
5

6 8. On or about July 28, 2019, Mr. Thaifault gave me a hard copy of an email  
7 string given to him that day by Ms. Wagner. The string is between Ms. Wagner and Kathryn  
8 Garcia, ending July 18, 2019, concerning a meeting between her and Mr. Bruns and Maricopa  
9 County zoning.  
10

11 9. Later that day, Mr. Micuda contacted Rio Verde Water for water service. I  
12 directed Mr. Thaifault to provide water that afternoon since Mr. and Mrs. Micuda exhausted their  
13 water supply unknowingly, as Mr. Bruns intended. I intended to talk to Mr. and Mrs. Micuda  
14 before I decided whether to provide future water service.  
15

16 10. I met with Mr. and Mrs. Micuda at their home on August 2, 2019. I related  
17 to both the above statements to me by Ms. Wagner and Mr. Bruns as to Mr. Micuda. Both were  
18 extremely upset and distressed. Mr. Micuda was adamant that the statements to me by Ms.  
19 Wagner and Mr. Bruns as to his conduct were utterly false; indeed, it made no sense to me that  
20 Mr. Micuda would engage in the conduct described by Ms. Wagner and Mr. Bruns. Mr. and Mrs.  
21 Micuda both acknowledged they would need to sell their home and move if they could not obtain  
22 water services. Potable water delivery is essential for many people in the community. Mr. and  
23 Mrs. Micuda's home depends on water delivery services. Mr. Micuda also related that Mr. Bruns  
24 obtained an Injunction Against Harassment against him based on additional false statements. Mr.  
25 Micuda said he was intent on challenging the injunction and asked if I would testify at the hearing  
26  
27


1 on August 7, 2019. I agreed. I understand the court vacated the injunction on Mr. Micuda's  
2 request for a directed verdict, so there was no need for my testimony.  
3

4 11. Subsequently, Mr. Thaifault was served by Maricopa County with a Notice  
5 and Order to comply relative to his water service truck. I am informed and believe that either Ms.  
6 Wagner, Mr. Bruns or someone at either's direction initiated the complaint.

7 Further, Affiant sayeth naught.  
8

9  
10   
11 JOHN HORNEWER  
12 Petitioner

13 SUBSCRIBED AND SWORN before me this 5<sup>th</sup> day of August, 2019, by JOHN  
14 HORNEWER.

15   
16 Notary Public

17 My Commission Expires:

18 August 30, 2022

