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Attorney for Plaintiffs



8 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**
9 **IN AND FOR THE COUNTY OF PIMA**

10 **Cecilia Cruz,**
11
12 Plaintiff,

13 v.

14 **City of Tucson; Jonathan Rothschild**
15 **as Mayor of the City of Tucson;**
16 **Regina Romero, Paul Cunningham,**
17 **Karin Uhlich, Shirley Scott, as**
18 **elected members of the Tucson City**
19 **Council; Richard Miranda as the**
20 **appointed City Manager; Roger**
21 **Randolph as the appointed Tucson**
22 **City Clerk; Michael Rankin as the**
23 **appointed City Attorney and Dennis**
24 **McLaughlin as a Principal City**
25 **Attorney,**
26 Defendants.

NO. **C20164342**
COMPLAINT

Assigned to:
Hon. **SARAH R. SIMMONS**

Plaintiff alleges:

1. Plaintiff is a City of Tucson resident. The City of Tucson is a Charter City body politic that may sue and be sued. All events alleged

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occurred in Pima County.

2. Jonathan Rothschild is the Mayor of the City of Tucson and was the Mayor at all times alleged herein.
3. Regina Romero is an elected member of the Tucson City Council and was such at all times alleged herein.
4. Paul Cunningham is an elected member of the Tucson City Council and was such at all times alleged herein.
5. Karin Uhlich is an elected member of the Tucson City Council and was such at all times alleged herein.
6. Shirley Scott is an elected member of the Tucson City Council and was such at all times alleged herein.
7. Richard Miranda was the appointed City Manager of the City of Tucson and was a defendant in a public record statutory special action, Pima County Cause No. C20132985 filed by plaintiff on May 29, 2013.
8. Roger Randolph is the appointed City Clerk of the City of Tucson and was a defendant in the above-referenced public record lawsuit.
9. Michael Rankin is the appointed City Attorney of the City of Tucson and held that appointment at all times referred to in this lawsuit. As City Attorney he was the attorney of record in the above-mentioned lawsuit.
10. Dennis McLaughlin is and was a Principal Assistant City Attorney of the City of Tucson and the individual attorney who was most involved with Plaintiff's public record lawsuit.
11. On May 13, 2013 Plaintiff hand-delivered to the office of Richard Miranda, Tucson City Manager and at 12:39 p.m. on that same day to the Office of the City Clerk Roger Randolph a written "Request to review Public Records," pursuant to Arizona's Public Record laws.
12. On May 13, 2013, shortly after Cecilia Cruz delivered her public record request to the office of the City Clerk, the Assistant City Tucson City Manager Albert Elias, Tucson City Clerk Roger Randolph, Tucson City Manager Richard Miranda and Tucson Mayor Jonathan Rothschild collaborated to add as late material for the 1:00 p.m. study session scheduled for the next day a statutorily required notice for a special executive session.
13. At the May 14, 2013 Executive Session the Mayor and Council are believed to have discussed Cecilia Cruz's public record request and to have directed the Tucson City Manager and the Tucson City Clerk

1 to not follow their legal responsibilities concerning Cecilia Cruz's
2 public record case.

3 14. The above referenced discussion and direction to the City Manager
4 and City Clerk exceeded the authority of the Mayor and Council, was
5 unlawful, and violated Arizona's Open Meeting laws.

6 15. At the May 14, 2013 Executive Session the Mayor and Council are
7 believed to have directed the Tucson City Attorney to assume the
8 responsibility for the accumulation of all records requested by
9 Cecilia Cruz and to solely, assume the responsibility for their
10 disclosure to Cecilia Cruz.

11 16. Such direction as alleged in paragraphs 13, 14 and 15 violated the
12 city's administrative directives, Arizona's public record laws and
13 regulations and Arizona's Open Meetings and proceeding laws,
14 A.R.S. § 38-431 et. seq and was an unlawful legal action pursuant to
15 A.R.S. § 38-431.03(D).

16 17. Such direction was made with intent to deprive the public and Cecilia
17 Cruz of information to which she had a legal right in violation of
18 A.R.S. § 38-431.07 and A.R.S. § 39-121 et. seq.

19 18. The Executive Session notice was unlawful in that the posted notice
20 did not include a required reference to Cecilia Cruz's public record
21 request, which plaintiffs alleges was the motivation for the session
22 and a prime topic of the session.

23 19. The actions of the defendants were part of a joint scheme or device
24 to circumvent the purposes of the Open Meeting Law.

25 20. As part of their scheme the defendants, with the apparent dissent of
26 Council members Fimbres and Kozachik, formally approved in open
session the motion by defendant Romero "to direct staff to proceed
as discussed in Executive Session."

21 21. Defendant Miranda, at the Open Meeting following the unlawful
22 executive session cynically publicly announced that "staff would
23 work with the Ward I Council Office, as requested, to provide as
24 much communication as possible to the community regarding the
25 information brought forward by Grand Canyon University all while,
26 knowing that defendants had been directed in secret discussion to do
opposite.

27 22. The afore alleged actions of defendants, including the elected Mayor
28 and a majority of the Council of the City of Tucson, in violation of
29 the Open Meeting Laws were done with the intent to deprive the
30 public of information to which the public and Ms. Cruz were entitled
31 by law.

32 23. Plaintiff requests the court to apply the full sanctions against each

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public official as provided by A.R.S. § 38-431.07.

- 24. On or before May 14, 2013 the office of the City Manager and the Tucson City Clerk's Office began the process of accumulating the requested records.
- 25. On or about May 14, 2013 and following the Executive Session, the Tucson City Attorney's office assumed sole staff responsibility for responding to plaintiff's public record request.
- 26. Dennis McLaughlin had been the person at the City of Tucson who had assumed responsibility for a February 10, 2013 request for similar records relating to the City's dealings with Grand Canyon University, Inc., and a possible sale of the El Rio park and golf course, from Josh Brodesky of the Arizona Republic newspaper.
- 27. Dennis McLaughlin had been the person at the City of Tucson who had assumed responsibility for a request for similar public records for the same City and Grand Canyon University Inc., dealings regarding El Rio made by KOLD-TV through its reporter Bud Foster on or about May 18, 2013.
- 28. On May 20, 2013 the plaintiff, and other concerned residents, personally met with the defendant Richard Miranda and members of his staff concerning the City's dealings with GCU, Inc., regarding El Rio Park. At that meeting the defendant Miranda and City staff refused to provide any information to plaintiff and the citizen group based on a knowingly false claim that they were prevented from doing so based on a "confidentiality agreement" that they knew the City had been "released" from three months earlier on February 20, 2013, or based upon the Mayor and Council's direction at the May 14, 2013 session and the unlawful advice of the City Attorney Mike Rankin.
- 29. On May 29, 2013 Plaintiff filed a statutory special action lawsuit in Pima County Superior Court requesting inter alia for the court to order the defendants Richard Miranda and Roger Randolph to disclose to her the public records she had requested in a written request hand-delivered on May 13, 2013.
- 30. On June 18, 2013, the City of Tucson, as a volunteer defendant, and Richard Miranda and Roger Randolph responded in the City's Verified Answer to plaintiff's Complaint.
- 31. Chapter X of the Tucson City Charter in Sec. 4 provides that the Mayor and Council of the City of Tucson shall have control of all litigation of the City. The defense of plaintiff's public record lawsuit was under the control of the Mayor and Council.
- 32. Pursuant to Article VI of the Tucson Code Sec. 2-101 Roger Randolph as the City Clerk, was required to preserve and maintain

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the City's public records through a program that complies with state law.

- 33. Pursuant to Tucson Code Sec. 2-16.1 Richard Miranda as City Manager had the authority to administer the real estate program of the city, subject to the control of the Mayor and Council, and to maintain the records of his office pursuant to the city's record retention rules and procedures, in addition to state law and the requirements of the state librarian.
- 34. The defendants' abuse of process during its defense of Cruz's lawsuit included repeated lies or mis-statements to the court and to plaintiff for an ulterior purpose not proper in the regular conduct of the proceeding. The litigation defense of the defendants as a whole was an abuse of process.
- 35. The defendants' abuse of process included delays in the production of documents in order to claim that those records were no longer available.
- 36. The defendants' abuse of process included the intentional destruction of requested records.
- 37. The defendants' abuse of process included the improper use of an "attorney-client privilege" whereby Dennis McLaughlin, an attorney for the City of Tucson, assumed the staff role of accumulating documents followed by the defendants' wrongful claim that all communications with him were secret based on the attorney-client privilege.
- 38. The defendants knowingly violated other legal processes all as part of their scheme to deny Ms. Cruz of her right to public records and to make her an example to other citizens who might attempt to obtain public records concerning the City of Tucson and Grand Canyon University's desire for "a large piece of land at a below market price."
- 39. The defendants knowingly abused court processes to accomplish their purpose of concealing schemes to fraudulently sell or give away public property for much less than its true value.
- 40. The defendants intentionally structured the release of records in a manner to make them less understandable through several different techniques. Those schemes were designed so that the plaintiff, others assisting her and her lawyers would be required to use an excessive numbers of hours.
- 41. Plaintiff has been damaged both by the tortious abuse of process of defendants and violations of A.R.S. 39-121.02. Plaintiff's damages include emotional distress, inconvenience, lost time, frustration, anxiety, lost income, defamation and attorney fees.

- 1 42. Defendant McLaughlin was supervised at all times by Michael
2 Rankin, Tucson City Attorney. Michael Rankin was aware at all
3 times of the unlawful direction of the Mayor and Council.
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5 43. The defendants were aware of the abuses of process throughout
6 plaintiff's public record lawsuit or ratified the conduct of their
7 attorneys.
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9 44. Defendant City Clerk Roger Randolph was present in the courtroom
10 at the July 23, 2013 trial as his attorney lied to the court and plaintiff.
11 He failed at all times to correct the lies of his lawyer.
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13 45. The Mayor and Council ratified the conduct of their lawyers through
14 promotions or raises in salary after knowing of their abuses.
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16 46. The defendants City of Tucson, Richard Miranda, Roger Randolph
17 and City Council members are liable for their conduct of their
18 lawyers under the rules of agency in addition to their unlawful joint
19 venture.
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21 47. Plaintiff is entitled to interest on all liquidated damages.
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23 48. Plaintiff requests a trial by jury.
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25 49. Plaintiff timely served her Notice of Claim on each defendant on July
26 18, 2016. More than sixty days have passed since the service of that
notice of claim.
50. The Notice of Claim served on or about July 18, 2016 was pursuant
to A.R.S. § 12-821.01(B). This lawsuit has been filed within one
year after her cause of action accrued. This Complaint is based upon
information revealed to plaintiff for the first time on January 26 and
27 of 2016 by defendants Randolph and Miranda.
51. Until January 2016 plaintiff was unaware that the defendants
Jonathan Rothschild, Regina Romero, Paul Cunningham, Karen
Uhlich and Shirley Scott had conspired with each other and with City
Attorney Michael Rankin, City Manager Richard Miranda, City
Clerk Roger Randolph, Assistant City Attorney Dennis McLaughlin
and other unknown persons to jointly violate Arizona's Open
Meeting laws and public record laws.

Wherefore, plaintiff prays for judgment against the defendants and each of
them.

1. For her special and general damages in an amount determined to be reasonable by the jury upon the presentation of evidence.
2. For the removal from office of the public officer defendants who violated the Open Meeting Laws with intent to deprive the public of

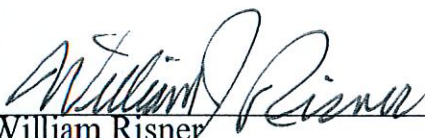
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information.

3. For the Court to assess the public officer defendants who knowingly aided, agreed to aid or attempted to aid the public officers to violate the open meeting laws with all the costs and attorneys fees awarded to plaintiff pursuant to A.R.S. § 38-431.07.
4. For plaintiff's costs, expenses and attorney fees to be paid to her by defendants.
5. For such other and further relief as is just upon the presentation of evidence.

DATED this 19th day of September, 2016.

RISNER & GRAHAM

By: 
William Risner
Attorney for Plaintiff