

MICHAEL K. JEANES  
Clerk of the Superior Court  
By Mickie Guinoward, Deputy  
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Description	Amount
CASE# TX2014-000213	
TAX CASE FEE	304.00
TOTAL AMOUNT	304.00

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11 THE SUPERIOR COURT OF THE STATE OF ARIZONA

12 IN THE ARIZONA TAX COURT

13 MANUEL B. AND GLORIA M.  
14 VALENZUELA, husband and wife; LIBRADA  
15 NUNEZ DE HIGUERA, an individual;  
16 ERNESTINA PEDROZA, an individual;  
17 JULIETA URIBE, an individual; JOY E.  
18 WARTH, an individual; and JORGE A. AND  
19 MANUELA MONREAL, husband and wife, on  
20 behalf of themselves and the class of all real  
21 property owners and taxpayers in the taxing  
22 jurisdiction of the City of South Tucson,  
23 Arizona, who paid real property taxes for the  
24 2013 tax year,

25 Plaintiffs,

26 vs.

PIMA COUNTY, a political subdivision of the  
State of Arizona; and THE ARIZONA  
DEPARTMENT OF REVENUE, an agency of  
the State of Arizona,

Defendants.

No. TX 2014-000213  
COMPLAINT

(Property Tax Class Action –  
Illegal Tax)

Pursuant to A.R.S. §42-11005 and Rule 23, Ariz. R. Civ. P., MANUEL B. AND  
GLORIA M. VALENZUELA, husband and wife; LIBRADA NUNEZ DE HIGUERA, an  
individual; ERNESTINA PEDROZA, an individual; JULIETA URIBE, an individual;

1 JOY E. WARTH, an individual; and JORGE A. AND MANUELA MONREAL, husband  
2 and wife, (hereinafter "Class Representatives"), bring this action on behalf of themselves  
3 and all similarly-situated real property owners and taxpayers ("Class Members") in the  
4 taxing jurisdiction of the City of South Tucson, Arizona, (collectively the Class  
5 Representatives and Class Members are referred to as "Plaintiffs") to recover illegally  
6 imposed and collected real property taxes for the 2013 tax year and seek a refund of such  
7 taxes. In support of this Complaint, Plaintiffs allege:

8 I.

9 At all relevant times to this appeal, Class Representatives owned, and continue to  
10 own, legal and/or equitable title to real property located in the taxing jurisdiction of the  
11 City of South Tucson, Pima County, Arizona, identified by Pima County tax parcel  
12 identification numbers: 119-03-0880, 119-03-0380, 118-25-0480, 118-25-0500, 119-03-  
13 0870, 118-22-1760, 118-22-1770; and Class Members owned legal and/or equitable title  
14 to all other real property located in the taxing jurisdiction of the City of South Tucson,  
15 Pima County, Arizona, that was assessed real property taxes by Pima County on behalf of  
16 the City of South Tucson, collectively referred to hereinafter as "the Subject Property."

17 II.

18 Defendant, The Arizona Department of Revenue ("ADOR") is an agency of the  
19 government of the State of Arizona, created and organized pursuant to A.R.S. § 42-1001, *et*  
20 *seq.* ADOR is made a Defendant to this action pursuant to A.R.S. § 42-11005(C).  
21 Defendant, Pima County is a political subdivision of the State of Arizona and is charged with  
22 the responsibility of valuing, classifying, levying and collecting property taxes on real  
23 property within Pima County, including the Subject Property.

24 III.

25 Pursuant to Arizona law, Defendant Pima County assessed, levied and collected  
26 property tax on the Subject Property from Plaintiffs for tax year 2013 and Plaintiffs timely

1 paid such tax, including illegally collected tax on behalf of the City of South Tucson that  
2 was assessed, levied and collected with no legal authority. See A.R.S. § 42-11001(15)  
3 and A.R.S. § 35-451, *et seq.*

4 IV.

5 This Court has jurisdiction over this action pursuant to A.R.S. § 42-11005, and  
6 Rule 23, Ariz. R. Civ. P.

7 V.

8 This Court should certify this action as a class action pursuant to Rule 23(a), Ariz.  
9 R. Civ. P., because: (1) the class of all similarly-situated real property owners and  
10 taxpayers in the taxing jurisdiction of the City of South Tucson is so numerous that  
11 joinder of all members is impractical; (2) there are questions of law and fact common to  
12 the class that predominate over questions only affecting individual members; (3) the  
13 claims of the representative parties are typical of the class; (4) the representative parties  
14 will fairly and adequately protect the interests of the class; (5) the prosecution of separate  
15 actions by individual members of the class would create a risk of inconsistent or varying  
16 adjudications; (6) the adjudication of the appeal with respect to individual members of the  
17 class will be dispositive of the interests of other members of the class; and (7) a class  
18 action is superior to other methods available for the fair and efficient adjudication of the  
19 controversy.

20 VI.

21 For tax year 2013, Defendant Pima County intentionally and illegally assessed,  
22 levied, and collected secondary property taxes on behalf of the City of South Tucson,  
23 Arizona, from the Plaintiffs in the amount of approximately \$603,000. In particular,  
24 among other things, when assessing the Subject Property, Defendant Pima County  
25 collected secondary property taxes without the approval of the electors in violation of  
26 A.R.S. § 35-451, *et seq.* Defendant's actions thereby caused Plaintiffs to pay more

1 property taxes for the 2013 tax year than they would have otherwise been required to pay.

2 VII.

3 Defendants' conduct has resulted in the collection of illegal taxes, which Plaintiffs are  
4 entitled to recover, pursuant to A.R.S. §42-11005.

5 WHEREFORE, Plaintiffs request that this Court:

6 1. Order that the Class Representatives may maintain this action as class  
7 representatives for all Plaintiffs as a class action, pursuant to Rule 23, Ariz. R. Civ. P.;

8 2. Grant Plaintiffs a refund of all illegally-collected property taxes for the 2013  
9 tax year pursuant to A.R.S. §42-11005, plus interest at the legal rate until paid;

10 3. Award Plaintiffs their attorneys' fees and expert witness expenses pursuant to  
11 A.R.S. §12-348, the "common fund doctrine" and the "substantial benefit" doctrine, as well  
12 as their taxable costs of suit; and

13 4. Grant such further relief as the Court deems proper.

14 DATED: October 3, 2014.

15 MOONEY, WRIGHT & MOORE, PLLC

16 By Paul Moore

17 Paul Moore  
18 Attorneys for Plaintiffs

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