

ORIGINAL



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BEFORE THE ARIZONA CORPORATION COMMISSION

RECEIVED

COMMISSIONERS

Arizona Corporation Commission

DOCKETED

KRISTIN K. MAYES, Chairman 2009 FEB 17 A 11: 54  
GARY PIERCE  
PAUL NEWMAN  
SANDRA D. KENNEDY  
BOB STUMP

FEB 17 2009

AZ CORP COMMISSION  
DOCKET CONTROL

DOCKETED BY *MA*

IN THE MATTER OF THE APPLICATION OF  
JOHNSON UTILITIES, L.L.C., DBA JOHNSON  
UTILITIES COMPANY FOR AN INCREASE IN  
ITS WATER AND WASTEWATER RATES FOR  
CUSTOMERS WITHIN PINAL COUNTY,  
ARIZONA.

DOCKET NO. WS-02987A-08-0180

**MOTION FOR LEAVE TO FILE SUPPLEMENTAL DIRECT TESTIMONY**

Swing First Golf LLC ("Swing First") moves for leave to file the attached Supplemental Direct Testimony of David Ashton. The proffered testimony concerns yet another incident of Johnson Utilities and George Johnson harassing Mr. Ashton, other Swing First members, and possibly customers. Specifically, acting through Mr. Johnson, Utility sent a letter to Utility's members that:

- a. Threatens to sue the member for defamation if the member fails to proactively oppose Swing First's activities at the Corporation Commission;
- b. Attacks Mr. Ashton's character by attaching information concerning an irrelevant legal matter involving Mr. Ashton;
- c. Disparages without basis Mr. Ashton's management of Swing First;
- d. Libels Mr. Ashton by insinuating financial impropriety; and
- e. Seeks to damage Mr. Ashton's business relationship with Swing First's members and investors.

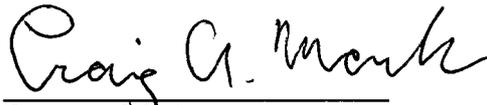
Mr. Ashton's Supplemental Direct Testimony discusses this letter and another recent incident involving Mr. Johnson.

Because Utility's most recent attacks on Swing First and Mr. Ashton occurred after the filing deadline for direct testimony, Mr. Ashton could not have discussed them in his Direct

1 Testimony. The Supplemental Direct Testimony provides further evidence of Utility's disregard  
2 for the law, civility, and its public service obligations. The Supplemental Direct Testimony is  
3 quite brief and the record will benefit from allowing Utility the opportunity to explain its  
4 behavior as part of its Rebuttal Testimony, due March 6, 2009.

5 WHEREFORE, Swing First asks the Commission to accept the attached Supplemental  
6 Direct Testimony of David Ashton.

7 RESPECTFULLY SUBMITTED on February 17, 2009.

8  
9  
10 

11  
12 Craig A. Marks  
13 Craig A. Marks, PLC  
14 10645 N. Tatum Blvd.  
15 Suite 200-676  
16 Phoenix, AZ 85028  
17 Craig.Marks@azbar.org  
18 Attorney for Swing First Golf LLC  
19

20 **Original and 13 copies filed**  
21 on February 17, 2009, to:

22  
23 Docket Control  
24 Arizona Corporation Commission  
25 1200 West Washington  
26 Phoenix, Arizona 85007  
27

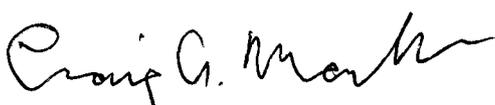
28 **Copy of the foregoing mailed and e-mailed**  
29 on February 17, 2009, to:

30  
31 Ernest G. Johnson, Director  
32 Utilities Division  
33 Arizona Corporation Commission  
34 1200 West Washington Street  
35 Phoenix, AZ 85007  
36

37 Ayesha Vohra  
38 Legal Division  
39 Arizona Corporation Commission  
40 1200 West Washington Street  
41 Phoenix, AZ 85007  
42  
43

1 Jeffrey W. Crockett, Esq.  
2 Bradley S. Carroll, Esq.  
3 Kristoffer P. Kiefer, Esq.  
4 Snell & Wilmer LLP  
5 One Arizona Center  
6 400 East Van Buren Street  
7 Phoenix, AZ 85004-2202  
8 Attorneys for Johnson Utilities, LLC  
9

10 James E. Mannato  
11 Florence Town Attorney  
12 775 N. Main Street  
13 P.O. Box 2670  
14 Florence, AZ 85232  
15

16  
17 By:   
18 Craig A. Marks  
19

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

KRISTIN K. MAYES, Chairman  
GARY PIERCE  
PAUL NEWMAN  
SANDRA D. KENNEDY  
BOB STUMP

IN THE MATTER OF THE APPLICATION OF  
JOHNSON UTILITIES, L.L.C., DBA JOHNSON  
UTILITIES COMPANY FOR AN INCREASE IN  
ITS WATER AND WASTEWATER RATES FOR  
CUSTOMERS WITHIN PINAL COUNTY,  
ARIZONA.

DOCKET NO. WS-02987A-08-0180

**SUPPLEMENTAL DIRECT TESTIMONY  
OF  
DAVID ASHTON  
ON BEHALF OF  
SWING FIRST GOLF LLC  
FEBRUARY 17, 2009**

**SUPPLEMENTAL DIRECT TESTIMONY  
OF  
DAVID ASHTON  
ON BEHALF OF  
SWING FIRST GOLF LLC  
FEBRUARY 17, 2009**

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1 **EXECUTIVE SUMMARY**

2 Mr. Ashton testifies as follows:

3 Acting on behalf of Utility, George Johnson sent a letter to Swing First's investors and members  
4 threatening to sue the members for defamation if they do not proactively oppose Swing First's  
5 cases at the Commission. Based on Mr. Johnson's behavioral history, a reasonable person would  
6 take this threat seriously. Mr. Johnson and his companies have already filed defamation lawsuits  
7 against Attorney General Terry Goddard and his wife, against me and my wife, and against  
8 several of Utility's customers.

9 Acting on behalf of Utility, George Johnson attached copies of several legal pleadings  
10 concerning an unfortunate incident involving Mr. Ashton in 2005. This incident is irrelevant to  
11 Mr. Ashton's business ability, to this case, and in any way to his integrity. Nevertheless, Mr.  
12 Ashton discusses the incidents and the lessons he has learned.

13 Utility suggests without any reason that there is some basis for the Swing First members to  
14 require outside management and financial audits. But Mr. Ashton already provided audited  
15 financials to Swing First's investors.

16 Utility also suggests that Mr. Ashton's personal tax returns should be audited. Again, there is no  
17 basis for Utility's "suggestion," except to hurt Mr. Ashton.

18 Mr. Johnson is also calling customers and/or Swing First members and demanding to take their  
19 depositions. He threatens that if they do not give in to his demand, he will get an order forcing  
20 them to provide testimony. These individuals have little to no experience with legal matters, are  
21 not represented by counsel, do not understand the law related to this issue, and are afraid to  
22 respond negatively to Mr. Johnson's demands due to fear of reprisal.

1 **I INTRODUCTION AND QUALIFICATIONS**

2 **Q. PLEASE STATE YOUR NAME AND ADDRESS?**

3 A. My name is David Ashton. My business address is 7131 W Avenida Del Sol, Peoria,  
4 Arizona 85383. I currently reside in Europe.

5 **Q. ARE YOU THE SAME DAVID ASHTON WHO PREVIOUSLY SUBMITTED**  
6 **DIRECT TESTIMONY IN THIS CASE?**

7 A. Yes.

8 **Q. WHY ARE YOU PROVIDING SUPPLEMENTAL DIRECT TESTIMONY?**

9 A. In my direct testimony I discussed, among other things, how Utility and George Johnson  
10 retaliated after Swing First broke off a business relationship with Mr. Johnson and then  
11 challenged Utility's bills and practices. At the time I prepared my direct testimony, I  
12 believed that I had described the full extent of their retaliation. However, since my  
13 testimony was filed, Mr. Johnson and Utility have escalated their campaign against me  
14 and Swing First. To provide the Commission a complete record, I am supplementing my  
15 direct testimony to discuss these activities.

16 **II UTILITY THREATENED AND ABUSED SWING FIRST, ITS MEMBERS, AND**  
17 **DAVID ASHTON**

18 **Q. WHAT DID UTILITY AND MR. JOHNSON DO TO SWING FIRST, ITS**  
19 **MEMBERS, AND TO YOU PERSONALLY?**

20 A. Exhibit DA-S1 is a copy of a February 9, 2009, letter from Utility, signed by George  
21 Johnson. The letter was sent to multiple members of Swing First Golf. The letter is  
22 clearly intended to intimidate Swing First members from supporting Swing First's  
23 participation in this case and in Docket No. WS-02987A-08-0049 (Swing First's  
24 complaint case against Utility). It also attacks me personally, and attempts to destroy my  
25 business relationship with the other Swing First Members.

1 **Q. HOW DOES UTILITY TRY TO INTIMIDATE SWING FIRST'S MEMBERS?**

2 A. Acting on behalf of Utility, George Johnson threatens to sue the members for defamation  
3 if they do not proactively oppose Swing First's cases at the Commission. Based on Mr.  
4 Johnson's behavioral history, a reasonable person would take this threat seriously. Mr.  
5 Johnson and his companies have already filed defamation lawsuits against Attorney  
6 General Terry Goddard and his wife, against me and my wife, and against several of  
7 Utility's customers.

8 **Q. HOW DID UTILITY ATTACK YOU PERSONALLY?**

9 A. Acting on behalf of Utility, George Johnson attached copies of several legal pleadings  
10 concerning an unfortunate incident that I was involved with in 2005. This incident is  
11 irrelevant to my business ability, to this case, and in any way to my integrity.  
12 Nevertheless, I will briefly discuss the incident, as Mr. Johnson has made an issue of it. I  
13 hope this will put the issue to rest as it relates to this case.

14 **Q. WHAT HAPPENED IN 2005?**

15 A. In February 2005, some teen-age boys verbally assaulted my pregnant wife in our  
16 neighborhood, in front of our other children. I did not see the assault. As you can  
17 imagine, my wife was very upset. When I learned about the attacks, I was furious.

18 I drove with my wife to look for the boys, and when she pointed out (from afar) the one  
19 that she said had assaulted her, I approached him while my wife waited in the car, and  
20 physically forced him to come to where she was and apologize to her. While I never hit  
21 the teen-ager, I was rough with him and he was very frightened.

22 However, when my wife saw the boy, she immediately told me that she had misidentified  
23 him and that this boy was in fact not the person that had verbally assaulted her. It's not  
24 easy to describe how I felt at that moment, but is sufficient to say I felt horrible and knew

1 that I had wronged the boy. However, rather than try to run from this terrible mistake, I  
2 sat and waited for the police to arrive. My concern at that time was solely for the boy that  
3 I had frightened.

4 I was arrested and ultimately plead guilty to a charge of misdemeanor assault. The boy's  
5 parents then sued both my wife and I. The case went to trial in April 2007. Plaintiffs  
6 were ultimately provided a small award, but, given the size of the award, the court  
7 ordered them to pay double our costs for the trial.

8 **Q. WERE THERE ANY POSITIVE LESSONS FROM THE 2005 INCIDENT?**

9 A. This incident was a test of my character and I failed it. It is the worst mistake I have ever  
10 made. Immediately after my mistake, however, I recognized what I had done wrong. I  
11 did not lie, try to run, or make excuses for my actions. I took responsibility for what I'd  
12 done because it was the right thing to do. And I will not let anger cloud my judgment  
13 again. While I will always regret the choice I made in the moment, I learned from this  
14 experience that even when one makes a mistake, the right thing to do is to be honest  
15 about it, accept the consequences, and try to move on. There is less shame in that, and  
16 people tend to be more forgiving.

17 **Q. HOW DID UTILITY ATTEMPT TO DESTROY YOUR BUSINESS**  
18 **RELATIONSHIP WITH THE OTHER SWING FIRST MEMBERS?**

19 A. Utility suggests without any reason that there is some basis for the Swing First members  
20 to require outside management and financial audits. But I already provide audited  
21 financials to my investors. Utility also suggests that my personal tax returns should be  
22 audited. Again, there is no basis for Utility's "suggestion," except to hurt me.

23 **Q. WHAT ELSE DID UTILITY DO TO THREATEN AND INTIMIDATE SWING**  
24 **FIRST'S MEMBERS?**

1 A. I have been told and I believe that Mr. Johnson is calling customers and/or Swing First  
2 members and demanding to take their depositions. He threatens that if they do not give  
3 in to his demand, he will get an order forcing them to provide testimony. These  
4 individuals have little to no experience with legal matters, are not represented by counsel,  
5 do not understand the law related to this issue, and are afraid to respond negatively to Mr.  
6 Johnson's demands due to fear of reprisal.

7 **Q. DOES THIS CONCLUDE YOUR SUPPLEMENTAL DIRECT TESTIMONY?**

8 A. Yes.

## ***JOHNSON UTILITIES, L.L.C***

5230 East Shea Boulevard \* Scottsdale, Arizona 85254  
PH: (480) 998-3300; FAX: (480) 483-7908

February 9, 2009

Mr. Nick Enthoven  
227 Monroe Dr.  
Mountain View, CA. 94040

Re: Johnson Utilities, L.L.C.  
David Ashton as Managing Member of Swing First Golf, L.L.C.

Dear Swing First Golf Member:

As you may or may not know, David Ashton, as the managing member of Swing First Golf, L.L.C., ("SFG") has filed a libelous complaint against Johnson Utilities, L.L.C. with the Arizona Corporation Commission, ("ACC"). Before Mr. Ashton filed his libelous complaint with the ACC, Johnson Utilities filed a lawsuit against SFG and David Ashton in the Superior Court of Arizona. The case number for that complaint is CV2008-000141. The complaint includes claims of Tortious Interference and Defamation among other things.

I am writing to you now for two reasons. First, Mr. Ashton, purportedly acting on behalf of SFG, continues to make libelous remarks and unsubstantiated filings with the ACC in effort to slander me personally and damage Johnson Utilities. I do not know whether you are aware of Mr. Ashton's actions on your behalf or whether you support those actions. However, because Mr. Ashton claims to be acting for SFG, and therefore on your behalf, we are considering adding all members of SFG personally as defendants in the pending Superior Court case. If you do not support Mr. Ashton's actions, please let me know as soon as possible. If I do not hear from you, we will assume that you support Mr. Ashton's actions, and will proceed accordingly.

The second reason for this letter is to make you aware of the nature of the character of Mr. Ashton who is your appointed representative of SFG. Attached you will find copies of complaints filed against Mr. Ashton in the Superior Court of Arizona. These complaints are unrelated to Johnson Utilities but, in my humble opinion, show "the nature of the beast" we are all dealing with in Mr. Ashton.

A cursory review of the financials that we understand have been provided to you would strongly suggest that an outside independent management and financial audit be performed on SFG since Mr. Ashton has been managing member. We would also suggest the independent financial audit should not be limited to SFG, but in light of the other superior court complaints, be extended to Mr. Ashton's personal tax returns.

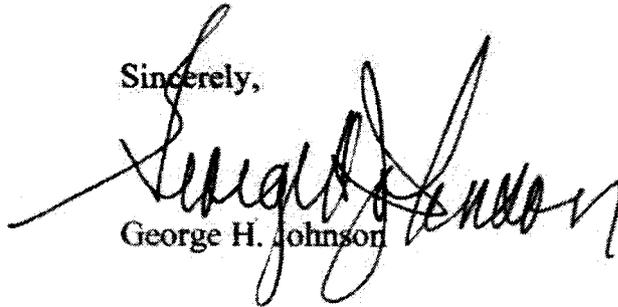
Swing First Golf, L.L.C.

February 9, 2009

Page 2 of 2

If we can provide additional information or answer any questions, please do not hesitate to call.

Sincerely,

A handwritten signature in black ink, appearing to read "George H. Johnson", written over the printed name below it.

George H. Johnson

Enclosure: Superior Court Complaint NO. CV2005-013279  
Superior Court Judgment NO. CV2005-013279  
Superior Court Complaint NO CR2005-110896-001

1 Curry, Pearson & Wooten, PLC  
2 814 W. Roosevelt Street  
3 Phoenix, Arizona 85007  
4 Tel. (602)258-1000  
5 Fax (602)523-9000  
6 e-mail: [kcurry@azlaw.com](mailto:kcurry@azlaw.com)

7 Kristen Curry #015017  
8 Attorney for Plaintiffs

MICHAEL K. JEANES  
Clerk of the Superior Court

By ALAYNA HUFF, Deputy  
Date 08/19/2005 Time 03:36 PM  
Description Qty Amount  
CASE# CV2005-013279  
CIVIL NEW COMPLAINT 001 245.00

TOTAL AMOUNT 245.00  
Receipt# 00007263336

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

11 CURTIS LAYTON, by and through  
12 his parents and guardians,  
13 BRIAN LAYTON and CYNTHIA  
14 LAYTON,

15 Plaintiff,

16 vs.

17 DAVID ASHTON and STASHA  
18 ASHTON, husband and wife; JOHN  
19 DOES I-V and JANE DOES I-V,

20 Defendants.

NO. CV2005-013279

COMPLAINT

(TORT-NON MOTOR VEHICLE)

21 Plaintiff, by and through undersigned counsel, hereby alleges as follows:

22 GENERAL ALLEGATIONS

- 23 1. Plaintiff, Curtis Layton, by and through his parents, Brian Layton and Cynthia Layton,  
24 were residents of Maricopa County, Arizona, at the time the events alleged herein  
25 occurred.
- 26 2. On information and belief, Defendants David Ashton and Stasha Ashton are husband  
27 and wife and reside in Maricopa County Arizona. All actions against Defendants  
28 complained of herein were undertaken jointly or on behalf of and for the benefit of  
the marital community of David Ashton and Stasha Ashton.
3. The remaining Defendants are fictitiously-named individuals who, along with the

1 Defendants are liable for the Plaintiff's damages, as alleged herein. The Plaintiff will  
2 seek leave to amend this Complaint to add proper names when the identities of the  
3 fictitiously-named Defendants are ascertained.

4 4. The incident and all matters alleged herein occurred in Maricopa County in the State  
5 of Arizona.

6 5. Jurisdiction and venue are appropriate for this Court. The amount in controversy  
7 exceeds the minimal jurisdictional limits of this court.

8 6. On or about April 11, 2005, Defendants David Ashton and Stasha Ashton sought out  
9 some unknown juvenile males who had allegedly yelled profanities at Stasha Ashton  
10 earlier in the day.

11 7. Defendants David Ashton and Stasha Ashton were together in their vehicle searching  
12 for the juveniles when they saw Plaintiff Curtis Layton riding his bicycle near 67<sup>th</sup>  
13 Avenue and Happy Valley Road in Phoenix, Arizona.

14 8. Defendant Stasha Ashton identified Plaintiff and then Defendant David Ashton exited  
15 his vehicle and attacked Curtis Layton both physically and verbally by pushing Curtis  
16 off of his bicycle, throwing him against a pillar and shopping cart and yelling at him.

17 9. After already attacking Plaintiff, Defendant David Ashton then forcibly took Curtis  
18 towards the car where Defendant Stasha Ashton was sitting and asked her if Plaintiff  
19 was one of the juveniles involved. Defendant Stasha Ashton told her husband that  
20 Plaintiff was not.

21 **COUNT ONE**  
22 **(Assault)**

23 10. Plaintiff hereby realleges the allegations in paragraphs 1-9.

24 11. Defendant David Ashton intended to cause a harmful or offensive contact with Curtis  
25 Layton or place Curtis Layton in imminent apprehension of such contact without  
26 cause or justification.

27 12. Defendant Stasha Ashton intended to cause a harmful or offensive contact with Curtis  
28

- 1 Layton or place Curtis Layton in imminent apprehension of such contact without  
2 cause or justification when she went with her husband to find Plaintiff and assist him.  
3 13. Defendants actions caused Curtis Layton to fear imminent offensive and harmful  
4 contact.  
5 14. Curtis Layton suffered physical injuries, mental anguish, pain and suffering as a direct  
6 and proximate result of Defendants' intentional acts.

7 **COUNT TWO**  
8 **(Battery)**

- 9 15. Plaintiffs hereby re-allege the allegations in paragraphs 1-14.  
10 16. Defendant David Ashton intended to cause a harmful or offensive contact when he  
11 attacked Curtis Layton without cause or justification.  
12 17. Defendant Stasha Ashton intended to cause a harmful or offensive contact with Curtis  
13 Layton when she went with her husband to find Plaintiff and assist him.  
14 18. Defendants' actions caused Curtis Layton to suffer harmful and offensive contact.  
15 19. Curtis Layton suffered physical injuries, mental anguish, pain and suffering as a direct  
16 and proximate result of Defendant's intentional acts.

17 **COUNT THREE**

18 **(Intentional Infliction of Emotional Distress)**

- 19 20. Plaintiffs hereby re-allege the allegations in paragraphs 1-19.  
20 21. Defendants actions in attacking Curtis Layton without cause or justification was  
21 extreme and outrageous conduct.  
22 22. Defendants actions either intended to cause severe emotional distress or recklessly  
23 disregarded the near certainty that such distress would result from their actions and  
24 conduct.  
25 23. Curtis Layton suffered severe emotional distress as a result of Defendant's  
26 conduct.

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WHEREFORE, Plaintiff prays for judgment against the Defendants as follows:

- A. Compensatory damages;
- B. Punitive Damages;
- C. Costs and expenses incurred herein; and
- D. For such other and further relief as the Court deems just and appropriate under the circumstances.

DATED this 19<sup>th</sup> day of August, 2005.

CURRY, PEARSON & WOOTEN, PLC

  
\_\_\_\_\_  
Kristen M. Curry  
Attorney for Plaintiff

FILED  
6-20-07 8:25am  
MICHAEL K. JEANES, Clerk  
By *W. Bobrowski*  
W. Bobrowski, Deputy

1 William D. Holm, Bar #007412  
2 JONES, SKELTON & HOCHULI, P.L.C.  
3 2901 North Central Avenue, Suite 800  
4 Phoenix, Arizona 85012  
5 Telephone: (602) 263-1749  
6 Fax: (602) 200-7804  
7 minuteentries@jshfirm.com

8 *Attorneys for Defendants Ashton*

9 SUPERIOR COURT OF THE STATE OF ARIZONA  
10 COUNTY OF MARICOPA

11 CURTIS LAYTON, by and through his  
12 parents and guardians, BRIAN LAYTON and  
13 CYNTHIA LAYTON,

14 Plaintiff,

15 v.

16 DAVID ASHTON and STASHA ASHTON,  
17 husband and wife, et al.,

18 Defendants.

NO. CV2005-013279

JUDGMENT

(Assigned to the Hon. Paul A. Katz)

19 The above-entitled and numbered cause having come on regularly for a jury  
20 trial before the Honorable Paul A. Katz on May 29, 2007; the Plaintiff, Curtis Layton,  
21 being present in person and with his parents Brian Layton and Cynthia Layton and his  
22 attorney, Kristin Curry, Defendants David Ashton and Stasha Ashton, being present in  
23 person and with their attorney, William D. Holm, and the parties having announced ready;  
24 Plaintiff having introduced evidence in support of his complaint and Defendants having  
25 introduced evidence in opposition thereto; and the matter having been submitted to the  
26 jury for its determination; and the jury having returned a verdict for Plaintiff:

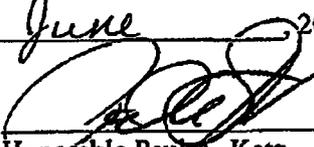
NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED  
that Judgment be entered, in Plaintiff's favor, and against Defendants David Ashton and  
Stasha Ashton in the amount of \$9,625.00.

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IT IS FURTHER ORDERED, ADJUDGED AND DECREED that, as the prevailing party in this action, Plaintiff is entitled to recover his taxable costs from Defendants in the amount of \$ 901.70.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that, pursuant to Arizona Rules of Civil Procedure Rule 68(d), since Plaintiff failed to obtain a Judgment greater than Defendants' June 26, 2006 Offer of Judgment in the amount of \$10,000, Defendants Ashton are entitled to recover double their taxable costs incurred after the date of the Offer of Judgment in the amount of \$901.70.

DATED this 20th day of June, 2007.

  
\_\_\_\_\_  
Honorable Paul A. Katz

**THE STATE OF ARIZONA V. DAVID BRUCE ASHTON**

**CR2005-110896-001**

**AGGRAVATED ASSAULT, A CLASS 6 FELONY**

MICHAEL K. JEANES, CLERK  
BY *cmachebe* DEP  
FILED

4/28

ANDREW P THOMAS  
MARICOPA COUNTY ATTORNEY

2005 APR 13 PM 4:02

Scott Wolfram  
Deputy County Attorney  
Bar Id #: 014100  
100 West Washington, Suite 2000  
Phoenix, AZ 85003  
Telephone: (602) 372-7350  
MCAO Firm #: 00032000  
Attorney for Plaintiff

DR 200550679472 - Phoenix Police Department  
NORTH VALLEY JUSTICE COURT

CA2005012841

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

COUNTY OF MARICOPA, RCC - GLENDALE

THE STATE OF ARIZONA,

Plaintiff,

vs.

DAVID BRUCE ASHTON (001),

Defendant.

CR2005-110896-001 *DA*

DIRECT COMPLAINT

COUNT 1: AGGRAVATED ASSAULT, A CLASS 6  
FELONY

IN CUSTODY

The complainant herein personally appears and, being duly sworn, complains on information and belief against DAVID BRUCE ASHTON, charging that in Maricopa County, Arizona:

**COUNT 1:**

DAVID BRUCE ASHTON, on or about the 11<sup>th</sup> day of April, 2005, being eighteen years of age or more, intentionally, knowingly or recklessly caused physical injury to CURTIS LAYTON, a child of 15 years of age or under, in violation of A.R.S. §§ 13-1203, 13-1204, 13-701, 13-702, 13-702.01, and 13-801.

*Scott Wolfram*  
\_\_\_\_\_  
Scott Wolfram  
Deputy County Attorney

IN CUSTODY

*Curtis Layton*  
\_\_\_\_\_  
Complainant

Agency: Phoenix Police Department

Subscribed and sworn upon information and belief this 13 day of April, 2005.

SW:es/AO

DCO

**COURT INFORMATION SHEET (CIS)**

County Attorney Case Number: CA2005012841

Filing ID Number: CA2005012841-1-1

**STATE v. DAVID BRUCE ASHTON**  
**Defendant Sequence: 1**

Defendant's **IN CUSTODY**  
Address: 7131 WEST AVENIDA DEL SOL  
PEORIA, AZ 85383

Defendant's **UNKNOWN**  
Employer:

Defendant's **PUBLIC DEFENDER**  
Attorney:

**DEFENDANT'S DESCRIPTION:**

Race: W Sex: M Hair: BRO Eyes: GRN Hgt: 510  
Wgt: 165 DOB: 11/22/1970 Soc Sec #: 281606489

SID #: Unknown FBI #: Unknown Old LEJIS #: Unknown  
JMS Booking #: P063574 JMS LEJIS #: Unknown

**FILING STATUS:**

Direct Complaint CR #: CR2005110896001 Date Filed: \_\_\_\_\_  
Court Designation: RCC - GLENDALE  
Justice Court Precinct: NORTH VALLEY JUSTICE

**ATTORNEY: SCOTT WOLFRAM Bar ID: 014100 Location: Downtown**

**PRELIMINARY HEARING/GRAND JURY CHARGES:**

**COUNT 1: AGGRAVATED ASSAULT, A CLASS 6 FELONY**

<u>Count</u>	<u>ARS</u>	<u>Date of Crime</u>
<u>1</u>	<u>13-1204A4</u>	<u>4/11/2005</u>

**DEPARTMENTAL REPORTS:**

DR 200550679472 - Phoenix Police Department

**EXTRADITE: AO**

**DWL**

IN THE NORTH VALLEY COURT  
STATE OF ARIZONA, COUNTY OF MARICOPA

RELEASE QUESTIONNAIRE

Information to be supplied by a prosecutor or law enforcement officer.

STATE OF ARIZONA vs. DAVID ASHTON

DOB 11-22-70

CASE / BK. NO. \_\_\_\_\_

**A. GENERAL INFORMATION**

1. Charge and Class: 13-1204 A4
2. Offense Location: 6640 W. HAPPY VALLEY RD  
Date: 4-11-05 Time: 1641
3. Arrest Location: 6640 W. HAPPY VALLEY RD  
Date: 4-11-05 Time: 1700

**B. CIRCUMSTANCES OF THE OFFENSE**

1. Was a firearm or other weapon used?  
 YES  NO  
Type of weapon: \_\_\_\_\_  
Was anyone injured by the defendant?  
 YES  NO  
Was medical attention necessary?  
 YES  NO  
Nature of injuries: HIT HEAD ON STUCCO WALL, SCRATCHED ARM, SCRATCHES ON BACK
2. Was anyone threatened by the defendant?  
 YES  NO  
Nature and extent of threats: ATTACKED BY R 60 KFD
3. If property offense, value of property taken or damaged:  
\_\_\_\_\_

Was the property recovered?  
 YES  NO

**C. CIRCUMSTANCES OF THE ARREST**

1. Did the defendant attempt to:  
Avoid arrest?  YES  NO  
Resist arrest?  YES  NO  
Explain: \_\_\_\_\_
2. Was the defendant armed when arrested?  
 YES  NO  
Type of weapon: \_\_\_\_\_
3. Was evidence of the offense found in the defendant's possession?  
 YES  NO  
Explain: \_\_\_\_\_
4. Was the defendant under the influence of alcohol or drugs at the time of the offense?  
 YES  NO  UNK

**D. CRIMES OF VIOLENCE**

1. Relationship of defendant to victim:  
NONE  
Do the victim and defendant reside together?  
 YES  NO
2. How was the situation brought to the attention of police?  
 Victim  
 Third party  
 Officer observed
3. Have there been any previous incidents involving these same parties?  
 YES  NO  
Explain: \_\_\_\_\_
4. Is defendant currently the subject of:  
 An order of protection  
 Injunction against harassment  
 Any other court order  
Explain: \_\_\_\_\_

**E. OTHER INFORMATION**

1. Is the defendant presently on probation, parole or any other form of release involving other charges or convictions?  
 YES  NO  
Explain: \_\_\_\_\_
2. List any prior arrests, convictions, and/or F.T.A.'s:  
SUBPENDING, WRTS (10 yrs ago)
3. Is there any indication the defendant is:  
 An alcoholic?  An addict?  
 Mentally disturbed?  Physically ill?
4. Is the defendant currently employed?  
 YES  NO  
With whom REACTIVITY INC  
How long 4 MONTHS  
Nature of employment BUSINESS DEVELOPMENT
5. Where does the defendant currently reside?  
7131 W. Avenida Del Sol  
With whom Wife, Kids  
How long 2 1/2 yrs
6. What facts indicate the defendant will flee if released?  
Explain: NONE
7. What facts does the State have to oppose an unsecured release?  
Explain: \_\_\_\_\_

**E. DRUG OFFENSES**

**SECTION-III: Probable Cause Statement**

1. If the defendant is considered a major drug dealer, please state the supporting facts:

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

2. What quantities and types of illegal drugs are directly involved in this offense?

\_\_\_\_\_  
 \_\_\_\_\_

Approximate monetary value:

\_\_\_\_\_

3. Was any money seized?

YES  NO

Amount: \_\_\_\_\_

4. Were any automatic weapons in the possession of the defendant at the time of the arrest?

YES  NO

Quantity and type: \_\_\_\_\_

\_\_\_\_\_  
 \_\_\_\_\_

1. Please summarize and include the information which establishes probable cause for the arrest:

ON 4-11-05 AT APPROX 1641 HRS API EXAMINED  
 ABUSEMENT AT 640 W. HAPPY VALLEY RD BY  
 MIS TAKENLY THROWING A VI CURTIS LAYTON (13yrs)  
 off his bike, throwing him up against a street  
 pillar in front of Walgreens, API then picked  
 Curtis up off the ground, dragged him  
 over to his wife, who was waiting in her  
 car & was going to make Curtis apologize  
 to his wife for cursing at her. API  
 asked his wife if Curtis was the correct  
 kid & she said "No, that's not him." API  
 let Curtis go & apologized & then  
 waited for P.D. to arrive.

**\*\* If a fugitive arrest, a form IVA must also be completed \*\***

**MARICOPA COUNTY JUSTICE COURT PRECINCTS**

- |                         |                        |
|-------------------------|------------------------|
| 1. Buckeye              | 13. Northwest Phoenix  |
| 2. Central Phoenix      | 14. Peoria             |
| 3. Chandler             | 15. Scottsdale         |
| 4. East Mesa            | 16. South Mesa/Gilbert |
| 5. East Phoenix #1      | 17. South Phoenix      |
| 6. East Phoenix #2      | 18. Tempe East         |
| 7. Gila Bend            | 19. Tempe West         |
| 8. Glendale             | 20. Tolleson           |
| 9. Maryvale             | 21. West Mesa          |
| 10. North Mesa          | 22. West Phoenix       |
| 11. <u>North Valley</u> | 23. Wickenburg         |
| 12. Northeast Phoenix   |                        |

*Equivalent to AO 2003-046, the oath has been administered pursuant to the law and required procedure.*

(PLEASE REFER TO PRECINCT MAP)

**JUDICIAL OFFICER REVIEW OF PROBABLE CAUSE STATEMENT AND COMPLAINT ON OATH OR AFFIRMATION**

I certify that the information presented is true to the best of my knowledge.

ARNETT 7762  
 ARRESTING OFFICER / SERIAL NUMBER

PHX P.D. 602 495 5009  
 AGENCY / DUTY PHONE NUMBER

4-11-05  
 DATE

- Complaint review  
 Witness sworn  
 Reviewed Form IV  
 Other sources: \_\_\_\_\_

PC determined

Judicial Office