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SUPERIOR COURT OF THE STATE OF ARIZONA

COUNTY OF MARICOPA

No. CV 2013-009179

17 GEESEY BROS. AUTOMOTIVE, INC.
18 dba TOYOMOTORS AUTO CARE, an
19 Arizona Corporation; NEIL GEESEY and
20 THERESA GEESEY, a married couple,

Plaintiffs,

vs.

21 JENNIFER CHOI and JOHN DOE CHOI,
22 husband and wife; JOHN DOES I-X;
23 JANE DOES I-X; fictitious individuals;
24 ABC CORPORATIONS I-X, XYZ
25 PARTNERSHIPS, SOLE
26 PROPRIETORSHIPS and/or JOINT
VENTURES I-X, fictitious entities,

Defendants.

VERIFIED COMPLAINT

(Tort-Non-Motor Vehicle)

Plaintiffs GEESEY BROS. AUTOMOTIVE, INC. dba TOYOMOTORS AUTO CARE, NEIL GEESEY and THERESA GEESEY ("Plaintiffs"), for their Complaint, allege as

1 follows:
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3 **PARTIES, JURISDICTION AND VENUE**

4 1. Plaintiffs NEIL GEESEY and THERESA GEESEY, husband and wife, are
5 residents of Maricopa County, Arizona.

6 2. Plaintiff GEESEY BROS. AUTOMOTIVE, INC. dba TOYOMOTORS AUTO
7 CARE is an Arizona corporation, authorized to do business and is doing business, in the State
8 of Arizona.

9 3. Upon information and belief, Defendants JENNIFER CHOI and JOHN DOE
10 CHOI were husband and wife at all times relevant herein and residents of Maricopa County,
11 Arizona. The true identity of John Doe Choi is presently unknown to Plaintiffs, and Plaintiffs
12 will seek leave to amend their Complaint when his true identity is ascertained. Upon
13 information and belief, at all times alleged herein, Defendant Jennifer Choi was acting
14 individually and on behalf of and in furtherance of his marital community with John Doe Choi.

15 4. Defendants JOHN and JANE DOES I-X, ABC CORPORATIONS I-X, XYZ
16 PARTNERSHIPS, SOLE PROPRIETORSHIPS and/or JOINT VENTURES I-X, are
17 corporations, business entities, persons, agents, servants or employees whose true names are
18 not now known to Plaintiffs that may have caused events to occur in which Plaintiffs' cause of
19 action arose. JOHN and JANE DOES I-X, ABC CORPORATIONS I-X, XYZ
20 PARTNERSHIPS, SOLE PROPRIETORSHIPS and/or JOINT VENTURES I-X are residents
21 of and/or entities doing business in the County of Maricopa, State of Arizona, and they caused
22 events to occur in the State of Arizona out of which Plaintiffs' cause of action arose.

23 5. Plaintiffs will seek leave of Court to amend the Complaint to allege the true
24 names and capacities of the defendants sued herein as JOHN and JANE DOES I-X, ABC
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1 CORPORATIONS I-X, XYZ PARTNERSHIPS, SOLE PROPRIETORSHIPS and/or JOINT
2 VENTURES I-X once the true identities of these defendants become known to Plaintiffs.
3 Plaintiffs are informed and believe, and thereon allege, that each JOHN and JANE DOES I-X,
4 ABC CORPORATIONS I-X, XYZ PARTNERSHIPS, SOLE PROPRIETORSHIPS and/or
5 JOINT VENTURES I-X (hereinafter collectively referred to as the "Doe Defendants") posted
6 or assisted to post defamatory statements on various websites.

7
8 6. Plaintiffs allege upon information and belief that, at all material times herein,
9 each defendant, both named and fictitious, were acting individually and on behalf of and in
10 furtherance of their marital community.

11 7. Plaintiffs allege upon information and belief that, at all material times herein,
12 each defendant, both named and fictitious, acted within the course and scope of its authority as
13 the agent, servant, employee and/or joint venture of each of the other defendants.

14 8. The Defendants have caused certain acts and events to occur in Maricopa
15 County, Arizona, giving rise to this cause of action.

16 9. Jurisdiction and venue are proper in the Superior Court of the State of Arizona,
17 Maricopa County and the amount in controversy exceeds the jurisdictional limits.

18 GENERAL ALLEGATIONS

19 10. Plaintiffs incorporate by reference each and every one of their allegations
20 previously set forth in this Complaint.

21 11. Plaintiff Neil Geesey and Theresa Geesey are the the President/CEO and Vice-
22 President respectively of Geesey Bros. Automotive, Inc. dba ToyoMotors Auto Care
23 (hereinafter "ToyoMotors"), an Arizona corporation organized under the laws of and
24 registered in the State of Arizona, with its principal office located in Phoenix, Maricopa
25 County, Arizona.
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1 12. ToyoMotors provides professional auto repair services and at all times material
2 hereto is located at 2818 East Bell Road in Phoenix, Arizona.

3 **Yelp.com Defamatory Posts**

4 13. On or about September 17, 2009, Defendant Jennifer Choi through user name
5 "Jen C." posted a statement on a website called "Yelp.com" that accused Plaintiff ToyoMotors
6 of being "a total scam" and that Plaintiffs "will tell you things that are wrong with your vehicle
7 that are not" and that Plaintiffs are "extremely unethical." Ms. Choi further stated, "Theowner
8 Neil Geesey has been harassing me since I placed a negative but honest review about shop
9 [sic] for several months." This defamatory posting has been republished online every day up
10 until as recently as July 12, 2013. In an earlier version of this posting, Ms. Choi also stated,
11 "In addition had [sic] to forward his emails [sic] to my attorney. Do yourself a favor and stay
12 away from this shop[.]" The posting appears at these two URLs:
13 <http://www.yelp.com/biz/toyomotors-auto-care-phoenix-2>
14 and http://www.yelp.com/user_details?userid=v3bmd5A8JlrZtufTus75Q.

15 14. On or about February 20, 2013, one or more Defendants and/or Doe Defendants
16 posted a second statement on Yelp.com that accused Plaintiffs ToyoMotors and Neil Geesey
17 of "telling you that you need all this work done on your car" for the sole purpose of the shop
18 being "severely in debt . . . and he will do anything to try to keep it alive" and that Plaintiffs
19 "scammed" customers. The posting appears at this URL:
20 <http://www.yelp.com/biz/toyomotors-auto-care-phoenix-2>
21 and http://www.yelp.com/user_details?userid=h2lnBer9a3k3TFqG3iGvbw.

22 15. The statements made in the second Yelp.com defamatory post purport to be
23 made by a person identifying himself or herself as "Steven B." Plaintiffs do not know who
24 this person is but have reason to believe it is an alias of Defendant Jennifer Choi.
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1 **YellowPages.com Defamatory Post**

2 16. Also on or about February 20, 2013, one or more Defendants and/or Doe
3 Defendants posted a statement on a website called "YellowPages.com" that accused Plaintiffs
4 ToyoMotors and Neil Geesey of being "extremely unethical" and that he "continue[s] to scam
5 people like he has." The posting was published online at this URL:
6 www.yellowpages.com/phoenix-az/mip/toyo-motors-automotive-repair-51621.

7 17. The statements made in the YellowPages.com defamatory post purport to be
8 made by a person identifying himself or herself as "Julie Skingly." Plaintiffs do not know who
9 this person is but have reason to believe it is an alias of Defendant Jennifer Choi.

10 **DemandForce.com Defamatory Post**

11 18. Also on or about February 20, 2013, one or more Defendants and/or Doe
12 Defendants posted a statement on a website called "DemandForce.com" that accused Plaintiffs
13 ToyoMotors and Neil Geesey of being "extremely unethical" and recommended to take your
14 car in "for a second opinion and you will realize how dishonest he is." This defamatory
15 posting has been republished online every day up until as recently as July 12, 2013. The
16 posting appears at this URL: <http://www.demandforce.com/b/toyomotors>.

17 19. The statements made in the DemandForce.com defamatory post purport to be
18 made by a person identifying himself or herself as "Tom Bradford." Plaintiffs do not know
19 who this person is but have reason to believe it is an alias of Defendant Jennifer Choi.

20 **Tempe.com Defamatory Post**

21 22. On or about February 21, 2013, one or more Defendants and/or Doe Defendants
22 re-posted the Yellow Pages defamatory post as a statement on a website called "Tempe.com"
23 that accused Plaintiffs ToyoMotors and Neil Geesey of being "extremely unethical" and that
24 he "continue[s] to scam people like he has." The posting was published online at this URL:
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26

1 www.tempe.com/yplisting/Toyomotors-Automotive-Repair/51621.

2 21. The statements made in the Tempe.com defamatory post purport to be made by
3 a person identifying himself or herself as "Julie Skingly." Plaintiffs do not know who this
4 person is but have reason to believe it is an alias of Defendant Jennifer Choi.

5 **Kudzu.com Defamatory Post**

6 22. On or about November 22, 2010, one or more Defendants and/or Doe
7 Defendants posted a statement on a website called "Kudzu.com" that accused Plaintiff Neil
8 Geesey of being "extremely dishonest, please read the reviews about his shop on Yelp!Stay
9 [sic] away from this shop!" This defamatory posting has been republished online every day up
10 until as recently as July 12, 2013. The posting appears at these two URLs:

11 http://www.kudzu.com/profileReviews.do?A=964525&pageNumber2

12 and http://www.kudzu.com/consumerReviewsHistory.do?userId=428129.

13 23. The statements made in the Kudzu.com defamatory post purport to be made by
14 a person identifying himself or herself as "waldof." Plaintiffs do not know who this person is
15 but have reason to believe it is an alias of Defendant Jennifer Choi.

16 24. On or about February 21, 2013, one or more Defendants and/or Doc Defendants
17 posted a second statement on Kudzu.com that accused Plaintiffs ToyoMotors and Neil Geesey
18 of being:

19 "extremely unethical, he will tell you that you need work done on your car and
20 you don't. Take it in elsewhere and you will realize he is dishonest . . . He acts
21 honest to manipulate you. And he spends most nights at a strip club, this guy is
22 sleezy . . . Check him out on other sites and you will see that I am telling you the
23 truth. This guy is a sleazebag."

24 The posting was published online at this URL: www.kudzu.com/m/Toyomotors-Automotive-
Repair-964525/reviews/?src=GoogleLocal.

25 25. The statements made in the Kudzu.com defamatory post purport to be made by a
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1 person identifying himself or herself as "tombradford." Plaintiffs do not know who this person
2 is but have reason to believe it is an alias of Defendant Jennifer Choi.

3 **Citysearch.com Defamatory Post**

4 26. On or about April 11, 2013, one or more Defendants and/or Doe Defendants
5 posted a statement on a website called "Citysearch.com" that accused Plaintiff Neil Geesey of
6 being "not only unprofessional, but sleezy" and recommended to "Google his shop and you
7 will know he his [sic] shop known for taking advantage of people." This defamatory posting
8 has been republished online every day up until as recently as July 12, 2013. The posting
9 appears at these two URLs:

10 http://phoenix.citysearch.com/profile/1651745/phoenix_az/toyo_motors_automotive_repair.ht
11 [ml](http://www.citysearch.com/members/public/profile/stevenb1077173877)

12 and <http://www.citysearch.com/members/public/profile/stevenb1077173877>.

13 27. The statements made in the Citysearch.com defamatory post purport to be made
14 by a person identifying himself or herself as "Steven B." Plaintiffs do not know who this
15 person is but have reason to believe it is an alias of Defendant Jennifer Choi.

16 28. On or about April 11, 2013, the Citysearch.com defamatory post, published by
17 one or more Defendants and/or Doe Defendants, was re-posted on a website called
18 "JudysBook.com." This defamatory re-posting has been republished online every day up until
19 as recently as July 12, 2013. The posting appears at this URL:

20 <http://www.judysbook.com/members/116477/posts/2013/4/24603045>.

21 29. The postings on the above websites have caused harm to Plaintiffs. Among
22 other things, it has caused customers to approach ToyoMotors and Neil Geesey about the
23 honesty of the repair shop.

24 30. Plaintiff is informed and believes, and based thereon alleges, that in addition to
25 the practices enumerated above, the Defendants and/or Doe Defendants may have engaged in
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1 other defamatory acts against them which are not yet fully known. At such time as such
2 defamatory acts become known, Plaintiffs request leave of Court to amend this Complaint
3 after Plaintiffs have conducted sufficient discovery to determine the extent to which all
4 Defendants and/or Doe Defendants assisted or participated in the acts or omissions of which
5 Plaintiffs complain.

6 31. On information and belief, some or all of the online defamatory postings have
7 been circulated and republished on numerous occasions on other websites not yet known to
8 Plaintiffs.
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10 **COUNT I**
11 **(DEFAMATION)**

12 32. Plaintiffs incorporate by reference each and every one of their allegations
13 previously set forth in this Complaint.

14 33. Defendants have defamed Plaintiffs by publishing false and defamatory
15 communication concerning Plaintiffs to various third-parties that bring Plaintiffs into
16 disrepute, contempt, ridicule, impeach their honesty, integrity, virtue and reputation.
17 Defendants knew the statements were false and defaming to Plaintiffs, acted in a reckless
18 disregard of the truth of these statements, and negligently failed to ascertain the truth of their
19 communications.

20 34. As a direct and proximate result of Defendants' false defamatory statements
21 concerning Plaintiffs online, Plaintiffs have incurred, and will continue to incur, significant
22 harm to their reputation and economic damages in an amount to be proven at trial.
23

24 **COUNT II**
25 **(DEFAMATION PER SE)**

26 35. Plaintiffs incorporate by reference each and every one of their allegations

1 previously set forth in this Complaint.

2 36. The defamatory statements by Defendants constitute libel and/or defamation *per*
3 *se* insofar as they impugn Plaintiffs' business character, integrity, reputation, and accuse
4 Plaintiffs of commercial dishonesty, and therefore Plaintiffs' actual damages are presumed at
5 law in an amount to be determined at trial.

6 37. The publicity of the false and defamatory statements by Defendants concerning
7 Plaintiffs and their business have injured and continue to injure Plaintiffs' character and
8 reputation.

9 38. ToyoMotors is a corporation for profit, and the defamatory statements tend to
10 prejudice and discredit it in the conduct of its business or to deter others from dealing with it
11 and causes loss to it in the conduct of its business.

12 39. The defamatory statements made about Plaintiff Neil Geesey not only defame
13 his character and reputation, but also is defamatory to ToyoMotors as its officer, agent, or
14 stockholder as the defamatory statements also reflect discredit upon the method by which the
15 corporation conducts its business.

16 40. Similarly, the defamatory statements made about Plaintiff ToyoMotors not only
17 defame its character and reputation, but also is defamatory to Neil Geesey and Theresa Geesey
18 as the defamatory statements also reflect discredit upon these Plaintiffs as officers, agents, or
19 stockholders.

20 41. Upon information and belief, the actions of Defendants were motivated by ill-
21 will, actual malice and an evil mind, and were made with a total and conscious disregard for
22 the facts, with the express purpose of impugning Plaintiffs' integrity and character and
23 harming Plaintiffs' business.

24 42. As a direct and proximate result of Defendants' statements, Plaintiffs are
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1 presumed, as a matter of law, to have sustained general damages in an amount to be
2 determined by a jury for injury to Plaintiffs and their business.
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4 **COUNT III**
5 **(FALSE LIGHT INVASION OF PRIVACY)**

6 43. Plaintiffs incorporate by reference each and every one of their allegations
7 previously set forth in this Complaint.

8 44. Defendants, through false online postings, placed Plaintiffs before the public in a
9 false light.

10 45. The false light in which Plaintiffs were placed would be highly offensive to a
11 reasonable person.

12 46. Defendants had knowledge of or acted in a reckless disregard as to the falsity of
13 the publicized matter and the false light in which Plaintiffs were placed.

14 47. As a direct and proximate result of Defendants' acts, Plaintiffs have sustained
15 damages.
16

17 **COUNT IV**
18 **(NEGLIGENCE)**

19 48. Plaintiffs incorporate by reference each and every one of their allegations
20 previously set forth in this Complaint.

21 49. Defendants drafted false complaints on various internet websites mentioning
22 Plaintiffs, which contained defamatory statements. Defendants acted in negligent and reckless
23 disregard of the substantial probability of harm from such conduct.

24 50. Defendants failed to use reasonable care, both through their actions and
25 inactions, that reasonably prudent people would do under the circumstances.

26 51. As a direct and proximate result of Defendants' conduct set forth herein,

1 Plaintiffs have sustained damages.
2

3 **COUNT V**
4 **(INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS)**

5 52. Plaintiffs incorporate by reference each and every one of their allegations
6 previously set forth in this Complaint.

7 53. Defendants engaged in multiple instances of extreme and outrageous conduct
8 directed towards Plaintiffs.

9 54. Defendants' extreme and outrageous conduct was intentional and reckless,
10 causing Plaintiffs to suffer severe emotional distress.

11 55. As a direct and proximate result of the Defendants' conduct as alleged, Plaintiffs
12 have sustained physical and mental pain and suffering, some of which continue to date.

13 **COUNT VI**
14 **(PUNITIVE DAMAGES)**

15 56. Plaintiffs incorporate by reference each and every one of their allegations
16 previously set forth in this Complaint.

17 57. Defendants' actions were intentional, reckless, willful, and wanton.

18 58. Defendants' acted to serve their own interests, consciously pursuing a course of
19 conduct having reason to know and consciously disregarding a substantial risk that such
20 conduct might significantly injure the rights of others.

21 59. Defendants engaged in aggravated and outrageous conduct with an evil mind,
22 thereby also entitling Plaintiffs an award of punitive damages.
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**COUNT VII
(INJUNCTIVE RELIEF)**

60. Plaintiffs incorporate by reference each and every one of their allegations previously set forth in this Complaint.

61. Defendants defamatory statements which portray Plaintiffs in a false light has and will continue to cause irreparable harm for which there is no adequate remedy at law.

62. Monetary damages cannot fully compensate Plaintiffs for the damage to their reputation. Therefore, the defendants responsible for making the Defamatory Posts should further be enjoined to remove the Defamatory Posts and all other defamatory statements they may have posted about any and all Plaintiffs and shall be prevented from publishing any further statements concerning any and all Plaintiffs in the future.

63. Plaintiffs will likely succeed on the merits; Plaintiffs will suffer irreparable harm if this injunction is not enforced; a balance of hardships favors Plaintiffs; and it is in the public interest to enjoin defendants. As such, Plaintiffs are entitled to the injunctive relief requested.

PRAYER FOR RELIEF


WHEREFORE, Plaintiffs pray for judgment against Defendants as follows:

- A. For general damages for Plaintiffs in an amount to be proven at trial;
- B. For injunctive relief requiring each of Defendants, both named and fictitious, once fully identified, to remove the Defamatory Posts and all other defamatory statements concerning Plaintiffs and shall be prevented from publishing any further statements concerning any and all Plaintiffs in the future;
- C. For compensatory and punitive damages in amounts to be proven at trial;
- D. For all costs incurred herein; and
- E. For such other and further relief as the Court may deem just and proper.

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DATED this 18 day July, 2013.

LEWIS LAW FIRM, PLC



By
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