

Date 4-29-13
Time of Service 4:05
Name of Process Server Lois Jacott
Process Server's License Number PS-20000001
Your Name Laurie Kline

1 **LANG BAKER & KLAIN, PLC**
2 8767 E. VIA DE COMMERCIO, SUITE 102
3 SCOTTSDALE, ARIZONA 85258
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6 KENT A. LANG, #010041
7 MICHAEL W. THAL, #023843
8 *Attorneys for Plaintiff*

9 **SUPERIOR COURT OF ARIZONA**
10 **GILA COUNTY**

11 AJP ELECTRIC, INC., an Arizona
12 corporation,
13 Plaintiff,
14 v.
15 GILA COUNTY, a political subdivision of
16 the State of Arizona,
17 Defendant.

Case No. CV 201300086
SUMMONS

18 THE STATE OF ARIZONA TO THE DEFENDANT:

19 **GILA COUNTY, a political subdivision of the State of Arizona**

20 YOU ARE HEREBY SUMMONED and required to appear and defend, within the
21 time applicable, in this action in this Court. If served within Arizona, you shall appear and
22 defend within 20 days after the service of the Summons and Complaint upon you, exclusive
23 of the day of service. If served out of the State of Arizona - whether by direct service, by
24 registered or certified mail, or by publication - you shall appear and defend within 30 days
25 after the service of the Summons and Complaint upon you is complete, exclusive of the day
26 of service. Where process is served upon the Arizona Director of Insurance as an insurer's
27 attorney to receive service of legal process against it in this state, the insurer shall not be
28 required to appear, answer or plead until expiration of 40 days after date of such service
upon the Director. Service by registered or certified mail without the State of Arizona is
complete 30 days after the date of filing the receipt and affidavit of service with the Court.
Service by publication is complete 30 days after the date of first publication. Direct service
is complete when made. Service upon the Arizona Motor Vehicle Superintendent is
complete 30 days after filing the Affidavit of Compliance and return receipt or Officer's
Return. **RCP 4, A.R.S. §§20-222, 28-502, 28-503.**

YOU ARE HEREBY NOTIFIED that in case of your failure to appear and defend
within the time applicable, judgment by default may be rendered against you for the relief

1 demanded in the Complaint.

2 YOU ARE CAUTIONED that in order to appear and defend, you must file an Answer
3 or proper response in writing with the Clerk of this Court, accompanied by the necessary
4 filing fee, within the time required, and you are required to serve a copy of any Answer or
5 response upon the Plaintiffs' attorney. RCP 10(d); A.R.S. §12-311; RCP 5.

6 Requests for reasonable accommodation for persons with disabilities must be made to
7 the Court by parties at least three working days in advance of a scheduled court proceeding.

8 The name and address of Plaintiff's attorneys are:

9 Kent A. Lang
10 Michael W. Thal
11 Lang Baker & Klain, P.L.C.
12 8767 Via De Commercio, Suite 102
13 Scottsdale, Arizona 85258
14 (480) 947-1911

15 SIGNED AND SEALED this date: 4/22/13



16 ANITA ESCOBEDO, Clerk

17 By *Patricia Rudman*
18 Deputy Clerk

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KENT A. LANG, #010041
MICHAEL W. THAL, #023843
Attorneys for Plaintiff

Copy of Original Filed
In Gila County Superior Court

APR 22 2013

ANITA ESCOBEDO, Clerk

SUPERIOR COURT OF ARIZONA
GILA COUNTY

AJP ELECTRIC, INC., an Arizona
corporation,

Plaintiff,

v.

GILA COUNTY, a political subdivision of
the State of Arizona,

Defendant.

Case No. *CV201300086*
COMPLAINT
**(Breach of Contract, Unjust Enrichment,
Violation of A.R.S. § 34-221, et seq.)**

Plaintiff AJP Electric, Inc., for its Complaint against Defendant Gila County, states and
alleges as follows:

PARTIES, VENUE, AND JURISDICTION

1. Plaintiff AJP Electric, Inc. ("AJP") is, and was at all times relevant hereto, an Arizona corporation with its principal place of business in Maricopa County, Arizona.
2. AJP is, and was at all times relevant hereto, a duly licensed contractor holding the following Arizona contractor's licenses: Class A-17 Electrical and Transmission Lines License No. 101195, Class L-11 Electrical License No. 101196 and Class A General Engineering License No. 146006.
3. Upon information and belief, Defendant Gila County ("Gila County") was, at all times relevant hereto, a political subdivision of the State of Arizona, and existed as such under the laws of the State of Arizona.
4. The amount in controversy exceeds this Court's minimum jurisdictional

1 requirement.

2 5. This Court has jurisdiction over this matter on the basis that the activities
3 complained of herein occurred in Gila County, Arizona.

4 6. Venue is proper in this Court pursuant to A.R.S. § 12-401.

5 **GENERAL ALLEGATIONS**

6 7. AJP incorporates by reference all previous allegations.

7 8. In or around Fall 2011, Gila County entered into a contract (the "Contract") with
8 AJP to procure and place asphalt at the project called "PWD Complex – Roadyard Shop
9 Paving Phase" (the "Project") located at approximately 1001 W. Besich Blvd. in Globe,
10 Arizona.

11 9. Pursuant to the Project Specifications, Gila County was responsible for quality
12 control on the Project, and the County hired ATL, Inc. ("ATL") to fulfill that role.

13 10. On or about February 7, 2012, AJP placed the asphalt with representatives from
14 Gila County and ATL present.

15 11. Shortly after AJP placed the asphalt at the Project, ATL purported to test it and
16 indicated that it was within standards at that time.

17 12. Based on ATL's indication that the asphalt was within standards, AJP allowed the
18 asphalt to cure.

19 13. On June 28, 2012, AJP was contacted by Gila County's consultant, C.L. Williams
20 Consulting, Inc., who claimed that the asphalt was deficient.

21 14. Gila County withheld payment to AJP based on the alleged deficiency of the
22 asphalt.

23 15. AJP provided the County with evidence that the deficiency was due to ATL's
24 faulty and incomplete testing of the asphalt and failure to take core samples at or near the
25 time the asphalt was placed, as is standard in the industry.

26 16. AJP invoiced Gila County on October 8, 2012 (the "Invoice") in the amount of
27 \$30,691.25.

28 17. Despite AJP's repeated demands, Gila County has failed and refused to pay the

1 invoice without excuse.

2 **COUNT ONE**

3 **(Breach of Contract)**

4 18. AJP incorporates by reference all previous allegations.

5 19. AJP fully performed its work under the Contract, and all conditions precedent to
6 AJP's right to receive payment have occurred or otherwise been satisfied.

7 20. Despite repeated demand therefor, Gila County has failed and refused to pay AJP
8 for its work on the Project.

9 21. Gila County's failure and refusal to pay AJP the sums due and owing constitutes a
10 material breach of the Contract.

11 22. Gila County is indebted to AJP in the principal amount stated in the Invoice,
12 \$30,691.25.

13 23. This matter arises out of contract within the meaning of A.R.S. § 12-341.01.

14 WHEREFORE, AJP requests that this Court enter judgment in its favor and against Gila
15 County as follows:

16 A. For damages in the amount of \$30,691.25;

17 B. For pre-judgment and post-judgment interest thereon at the rate of 12 percent
18 (12%) per annum from the due date until paid in full pursuant to A.R.S. § 34-221(C), or,
19 alternatively, at the highest rate allowed by law;

20 C. For AJP's reasonable attorneys' fees incurred herein pursuant to A.R.S. § 12-
21 341.01;

22 D. For AJP's costs incurred herein and hereafter accruing pursuant to A.R.S. § 12-
23 341;

24 E. For interest on all attorneys' fees and costs awarded at the rate of ten percent
25 (10%) per annum from the date of the judgment until paid in full; and

26 F. For such other and further relief as this Court may deem just under the
27 circumstances.

28

1 (10%) per annum from the date of the judgment until paid in full; and

2 F. For such other and further relief as this Court may deem just under the
3 circumstances.

4 **COUNT THREE**

5 **(Violation of A.R.S. § 34-221, et seq.)**

6 31. AJP incorporates by reference all previous allegations.

7 32. Pursuant to A.R.S. § 34-221, et seq., AJP is entitled to payment from Gila County
8 for the work it performed under the Contract.

9 33. AJP provided Gila County with a billing for the work that AJP performed on the
10 Project on October 8, 2012 by submitting the Invoice.

11 34. Pursuant to A.R.S. § 34-221(C)(2), a billing for a progress payment shall be deemed
12 certified and approved seven days after its receipt by the owner, unless before that time, the
13 owner provides a written statement explaining why the billing is not certified or approved.

14 35. Gila County did not make a written objection to the Invoice within seven days of its
15 receipt of same.

16 36. By failing to pay the Invoice within 14 days of its certification and approval, Gila
17 County violated A.R.S. § 34-221, et seq.

18 WHEREFORE, AJP requests that this Court enter judgment in its favor and against Gila
19 County as follows:

20 A. For damages in the amount of \$30,691.25;

21 B. For pre-judgment and post-judgment interest thereon at the rate of 12 percent
22 (12%) per annum from the due date until paid in full pursuant to A.R.S. § 34-221(C), or,
23 alternatively, at the highest rate allowed by law;

24 C. For AJP's reasonable attorneys' fees incurred herein pursuant to A.R.S. § 12-
25 341.01;

26 D. For AJP's costs incurred herein and hereafter accruing pursuant to A.R.S. § 12-
27 341;

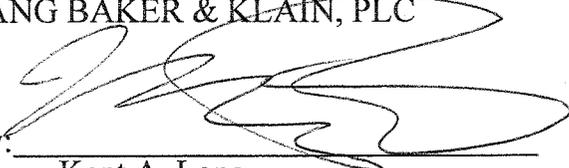
28 E. For interest on all attorneys' fees and costs awarded at the rate of ten percent

1 (10%) per annum from the date of the judgment until paid in full; and

2 F. For such other and further relief as this Court may deem just under the
3 circumstances.

4 DATED this 19th day of April, 2013.

5 LANG BAKER & KLAIN, PLC

6
7
8 By: 

9 Kent A. Lang
10 Michael W. Thal
11 *Attorneys for Plaintiff*
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APR 22 2013

ANITA ESCOBEDO, Clerk

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6 KENT A. LANG, #010041
7 MICHAEL W. THAL, #023843

8 *Attorneys for Plaintiff*

9 **SUPERIOR COURT OF ARIZONA**

10 **GILA COUNTY**

11 AJP ELECTRIC, INC., an Arizona
12 corporation,

13 Plaintiff,

14 v.

15 GILA COUNTY, a political subdivision of
16 the State of Arizona,

17 Defendant.

Case No. *CN 201300096*

**CERTIFICATE OF COMPULSORY
ARBITRATION**

18 Plaintiffs AJP Electric, Inc., an Arizona corporation, through counsel, certifies that it
19 knows the dollar limits and any other limitations set forth by the local rules of practice for the
20 applicable Superior Court, and further certifies that this case *is* subject to compulsory
21 arbitration, as provided by Rules 72 through 76 of the Arizona Rules of Civil Procedure.

22 DATED this 19th day of April, 2013.

23 LANG BAKER & KLAIN, PLC

24 By: 

25 Kent A. Lang
26 Michael W. Thal
27 *Attorneys for Plaintiffs*
28

In the Superior Court of the State of Arizona
In and For the County of Gila

Case Number CV20130008/p

CIVIL COVER SHEET- NEW FILING ONLY
(Please Type or Print)

Plaintiff's Attorney: (1) **Kent A. Lang**
(2) **Michael W. Thal**
Attorney Bar Number: (1) **023843**
(2) **010041**

Plaintiff's Name(s): (List all)

AJP Electric, Inc.

Plaintiff's Address:

c/o Lang Baker & Klain, PLC
8767 East Via de Commercio, Ste. 102
Scottsdale, AZ 85258

(List additional plaintiffs on page two and/or attach a separate sheet).

Defendant's Name(s): (List All)

Gila County

(List additional defendants on page two and/or attach a separate sheet)

EMERGENCY ORDER SOUGHT: Temporary Restraining Order Provisional Remedy OSC
 Election Challenge Employer Sanction Other _____
(Specify)

RULE 8(i) COMPLEX LITIGATION DOES NOT APPLY. (Mark appropriate box under Nature of Action)

RULE 8(i) COMPLEX LITIGATION APPLIES. Rule 8(i) of the Rules of Civil Procedure defines a "Complex Case" as civil actions that require continuous judicial management. A typical case involves a large number of witnesses, a substantial amount of documentary evidence, and a large number of separately represented parties.
(Mark appropriate box on page two as to complexity, **in addition** to the Nature of Action case category).

NATURE OF ACTION

(Place an "X" next to the **one** case category that most accurately describes your primary case.)

TORT MOTOR VEHICLE:

- Non-Death/Personal Injury
- Property Damage
- Wrongful Death

TORT NON-MOTOR VEHICLE:

- Negligence
- Product Liability - Asbestos
- Product Liability - Tobacco
- Product Liability - Toxic/Other
- Intentional Tort
- Property Damage
- Legal Malpractice
- Malpractice - Other professional
- Premises Liability
- Slander/Libel/Defamation
- Other (Specify) _____

MEDICAL MALPRACTICE:

- Physician M.D. Hospital
- Physician D.O. Other

CONTRACTS:

- Account (Open or Stated)
- Promissory Note
- Foreclosure
- Buyer-Plaintiff
- Fraud
- Other Contract (i.e. Breach of Contract)
- Excess Proceeds-Sale
- Construction Defects (Residential/Commercial)
 - Six to Nineteen Structures
 - Twenty or More Structures

OTHER CIVIL CASE TYPES:

- Eminent Domain/Condemnation

- Eviction Actions (Forcible and Special Detainers)
- Change of Name

OTHER CIVIL CASE TYPES : (Continued)

- Transcript of Judgment
- Foreign Judgment
- Quiet Title
- Forfeiture
- Election Challenge
- NCC- Employer Sanction Action (A.R.S. §23-212)
- Injunction against Workplace Harassment
- Injunction against Harassment
- Civil Penalty
- Water Rights(Not General Stream Adjudication)
- Real Property
- Sexually Violent Person (A.R.S. §36-3704)
(Except Maricopa County)
- Minor Abortion (See Juvenile in Maricopa County)
- Special Action Against Lower Courts
(See lower court appeal cover sheet in Maricopa)
- Immigration Enforcement Challenge (§§1-501, 1-502,
11-1051)

UNCLASSIFIED CIVIL:

- Administrative Review
(See lower court appeal cover sheet in Maricopa)
- Tax Appeal
(All other tax matters must be filed in the AZ Tax Court)

- Declaratory Judgment
- Habeas Corpus
- Landlord Tenant Dispute- Other
- Restoration of Civil Rights (Federal)
- Clearance of Records (A.R.S. §13-4051)
- Declaration of Factual Innocence (A.R.S. §12-771)
- Declaration of Factual Improper Party Status
- Vulnerable Adult (A.R.S. §46-451)
- Tribal Judgment
- Structured Settlement (A.R.S. §12-2901)
- Attorney Conservatorships (State Bar)
- Unauthorized Practice of Law (State Bar)
- Out-of-State Deposition for Foreign Jurisdiction
- Secure Attendance of Prisoner
- Assurance of Discontinuance
- In-State Deposition for Foreign Jurisdiction
- Eminent Domain– Light Rail Only
- Interpleader– Automobile Only
- Delayed Birth Certificate (A.R.S. §36-333.03)
- Employment Dispute- Discrimination
- Employment Dispute-Other
- Other _____
(Specify)

COMPLEXITY OF THE CASE

If you marked the box on page one indicating that Complex Litigation applies, place an “X” in the box of no less than one of the following:

- Antitrust/Trade Regulation
- Construction Defect with many parties or structures
- Mass Tort
- Securities Litigation with many parties
- Environmental Toxic Tort with many parties
- Class Action Claims
- Insurance Coverage Claims arising from the above-listed case types
- A Complex Case as defined by Rule 8(i) ARCP

Additional Plaintiff(s)

Additional Defendant(s)
