

HARTMAN TITUS PLC

1 Bradley P. Hartman (#017263)
John D. Titus (#012912)
2 **HARTMAN TITUS** PLC
7114 E. Stetson Drive, Suite 205
3 Scottsdale, AZ 85251-3250
Phone: (480) 659-0019
4 Fax: (480) 659-3304
5 Email: bhartman@hartmantitus.com
jtitus@hartmantitus.com
6 Attorneys for Defendant

7 **IN THE UNITED STATES DISTRICT COURT**
8 **FOR THE DISTRICT OF ARIZONA**

9 James Oliver Romine Jr.,

No. 2:16-cv-00604-JJT

10 Plaintiff,

11 vs.

**DEFENDANT’S RESPONSE IN
OPPOSITION TO PLAINTIFF’S MOTION
FOR LEAVE TO AMEND COMPLAINT**

12 James Nicholas Stanton,

13 Defendant.
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16 Defendant James Nicholas Stanton responds in opposition to Plaintiff’s *Motion for*
17 *Leave to File First Amended Complaint* [Doc. 11].

18 Defendant recognizes that amendments to the complaint “shall be freely given when
19 justice so requires.” *Foman v. Davis*, 371 U.S. 78, 182 (1962). However, the district court
20 “may deny leave to amend due to ‘undue delay, bad faith or dilatory motive on the part of the
21 movant, repeated failure to cure deficiencies by amendments previously allowed, undue
22 prejudice to the opposing party by virtue of allowance of the amendment, [and] futility of
23 amendment.’” *Leadsinger, Inc. v. BMG Music Pub.*, 512 F.3d 522, 532 (9th Cir. 2008),
24 quoting *Foman*.

25 Here, the *Motion for Leave to Amend* should be denied because granting leave to amend
26 is futile given the issues raised in Defendant’s *Motion to Dismiss* [Doc. 12]. Plaintiff does not
27 have standing to sue in his individual capacity for harm suffered by the Arizona limited
28 liability company of which he is a manager and that is the subject of the alleged defamation.

1 The proposed amendments do not change this and are therefore futile. Additionally, Mr.
2 Stanton is not subject to personal jurisdiction in Arizona and the proposed amendments do not
3 change this or add new support for personal jurisdiction in Arizona. Therefore, the
4 amendments are futile. Finally, none of the alleged statements identified in the complaint or
5 the proposed amended complaint can be considered libel under applicable law. Thus, the
6 proposed amendments are futile.

7 Plaintiff does not set forth any proposed amendments that would not be futile for the
8 reasons stated in Defendant's *Motion to Dismiss*. Defendant respectfully requests that the
9 Court grant Defendant's *Motion to Dismiss* and deny Plaintiff's *Motion for Leave to Amend*.

10 RESPECTFULLY SUBMITTED this 4th day of May, 2016.

11 **HARTMAN TITUS PLC**

12 By: /s/Bradley P. Hartman

13 Bradley P. Hartman

14 John D. Titus

15 7114 E. Stetson Drive, Suite 205

16 Scottsdale, Arizona 85251-3250

17 Attorneys for Defendant

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on May 4, 2016, I caused the
3 foregoing document to be filed electronically with the
4 Clerk of Court through CM/ECF System for filing and
transmittal of Notice to the following CM/ECF registrant:

5 James Oliver Romine Jr.
6 12494 Ironwood Dr.
7 Yuma, AZ 85367
8 jromine2445@gmail.com
Plaintiff

9
10 /s/ Bradley P. Hartman
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