

1 certain actions on bonds, contains a statutory jury trial right). Plaintiff does not sue under
2 that statute.

3 In this circumstance, the Court has discretion to resolve Plaintiff's motion through
4 declarations and attached documents, a live hearing without a jury, or a live hearing with
5 a jury. 10 James Wm. Moore et al., *Moore's Federal Practice* § 55.32[2][c]–[e] (3d ed.
6 2010). In this circumstance, a live hearing without a jury regarding damages would be
7 the most effective. In addition, Plaintiff will be required to submit a trial brief regarding
8 the legal sufficiency of certain of her claims. *See id.* § 55.32[1][b] (legal sufficiency of
9 claims not established by default).

10 IT IS THEREFORE ORDERED that, by May 10, 2012, Plaintiff shall submit a
11 trial brief of no more than fifteen pages on the following issues:

- 12 • Regarding Count 3 (Defamation *Per Se*), whether this counts states a claim
13 upon which relief can be granted in light of the failure to allege any
14 statements or their falsity.
- 15 • Regarding Count 4 (Intentional Infliction of Emotional Distress), whether
16 this count states a claim upon which relief can be granted.
- 17 • Regarding Count 5 (Arizona Employment Protection Act), whether this
18 count states a claim upon which relief can be granted in light of A.R.S.
19 § 23-1501(3)(b).

20 IT IS FURTHER ORDERED that Plaintiff and her counsel shall appear on May
21 17, 2012 at 2:30 p.m., at 401 W. Washington St., Phoenix, Arizona, Courtroom 504, for
22 an evidentiary hearing and oral argument regarding Plaintiff's "Application for Entry of
23 Default Judgment Against Defendants" (Doc. 11).

24 Dated this 16th day of April, 2012.

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26 
27 _____
28 Neil V. Wake
United States District Judge