

1 LAW OFFICES
2 DANIEL J. OEHLER
3 2001 Highway 95, Suite 15
4 Bullhead City, Arizona 86442
5 (928) 758-3988
6 (928) 763-3227 (fax)
7 djolaw10@gmail.com
8 Daniel J. Oehler, Arizona State Bar No.: 002739
9 Attorney for Defendants

6 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

7 IN AND FOR THE COUNTY OF MOHAVE

8 NANCY KNIGHT,)

9 Plaintiff,)

10 vs.)

11 GLEN LUDWIG and PEARL LUDWIG, Trustees)
12 of THE LUDWIG FAMILY TRUST; FAIRWAY)
13 CONSTRUCTORS, INC.; MEHDI AZARMI;)
14 JAMES B. ROBERTS and DONNA M.)
15 ROBERTS, husband and wife; JOHN DOES 1-10;)
16 JANE DOES 1-10; ABC CORPORATIONS 1-10;)
17 and XYZ PARTNERSHIPS 1-10.)

18 Defendants.)

NO.: CV-2018-04003

**MOTION TO STRIKE
PLAINTIFF'S MOTION TO
STRIKE DEFENDANTS'
MOTION FOR SUMMARY
JUDGMENT**

17 COME NOW, Defendants LUDWIG FAMILY TRUST, FAIRWAY
18 CONSTRUCTORS, INC., and MEHDI AZARMI, by and through their attorney, the
19 undersigned, hereby request this Court strike the entirety of the Plaintiff's March 1, 2023
20 Motion to Strike the Defendants' Motion for Summary Judgment that was filed on or about
21 December 6, 2019.

22 Plaintiff misinterprets the purpose and affect of a motion for summary judgment
23 which is quite simply that the movant believes there is no issue of law or fact that prevents
24 the Court from granting a judgment on behalf of the movant. United Bank of Arizona v.
25 Allyn, 167 Ariz. 191, 194-195, 805 P.2d 1012, 1015-1016 (App. 1990). Plaintiff appears to
26 believe that the denial of a summary judgment motion results in a finding of fact and law that
27 the non-moving party is therefor entitled to a finding that that opposing party has proven their
28 position or fact or is otherwise entitled to a judgment. Plaintiff's position is without merit.

1 Plaintiff knows Plaintiff's position is without merit and that it represents a position fully
2 unsupported by law or rule.

3 Even if there is in existence some interpretation of an ARCP rule that could arguably
4 permit such a motion under the facts before the Court, the factual basis submitted to the
5 Court by the Plaintiff that a party by the act of filing a motion for summary judgment, in this
6 instance in 2019/2020 and the motion was not granted, somehow morphs into a finding by
7 the Court that the opposing party is therefor entitled to a judgment, ruling or order and that
8 responding party's position is thereby proven.

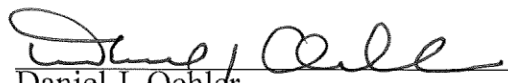
9 There is no known rule that allows the Plaintiff to file Plaintiff's Motion to Strike a
10 pleading that was filed on December 6, 2019, to which Plaintiff filed a Response and
11 Defendants a Reply, and that was argued at length to the Court on or about May 11, 2020,
12 and ruled on by the Court on August 12, 2020.

13 The Defendants request their reasonable attorney fees and costs incurred for this
14 Motion to Strike Plaintiff's Motion to Strike Defendants' Motion for Summary Judgment,
15 and for Defendants' attorney's requirement to read and attempt to comprehend what Plaintiff
16 is requesting in this 14 page and 42nd Motion that Plaintiff has filed herein. These
17 Defendants also reiterate herein the Defendants' request for attorney fees and costs for their
18 previously filed Motion to Strike the Plaintiff's Motion for Summary Judgment that was filed
19 on February 23, 2023, which Plaintiff has admitted on March 6, 2023, fails to comply with
20 mandatory Rule 56 requirements and has withdrawn the subject Motion.

21 Plaintiff should be ordered to pay Defendants' reasonable attorney fees and costs
22 and/or sanctioned for Plaintiff's filing of the subject Motion per ARCP Rules 7.1(h), 12(f),
23 12(g)(2), and 12(j).

24 RESPECTFULLY SUBMITTED this 24 day of March, 2023.

25 LAW OFFICES OF DANIEL J. OEHLER

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27 
28 Daniel J. Oehler,
Attorney for Defendants

1 **COPY** of the foregoing emailed
this 8th day of March, 2023, to:

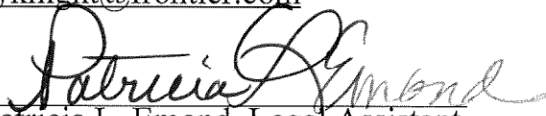
2 Honorable Lee F. Jantzen
3 Mohave County Superior Court
4 Division 4
401 E. Spring Street
Kingman, Arizona 86401
5 (928) 753-0785 Danielle
dlecher@courts.az.gov

6 Honorable Rick Lambert
7 Mohave County Superior Court
8 Division 7
415 Spring Street
Kingman, Arizona 86401
9 Phone: (928)-753-0762 (Stephanie)
division7@mohavecourts.com

10 Plaintiff

11 Nancy Knight
12 1803 E. Lipan Circle
Fort Mohave, Arizona 86426
(928) 768-1537
13 nancyknight@frontier.com

14 By:


15 Patricia L. Emond, Legal Assistant

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