

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

10 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**
11 **IN AND FOR THE COUNTY OF MOHAVE**

12 NANCY KNIGHT,
13)
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Plaintiff,
vs.

NO.: CV-2018-04003
**RESPONSE TO MOTION
FOR CHANGE OF VENUE**

GLEN LUDWIG and PEARL LUDWIG, Trustees
of THE LUDWIG FAMILY TRUST; FAIRWAY
CONSTRUCTORS, INC.; MEHDI AZARMI;
JAMES B. ROBERTS and DONNA M.
ROBERTS, husband and wife; JOHN DOES 1-10;
JANE DOES 1-10; ABC CORPORATIONS 1-10;
and XYZ PARTNERSHIPS 1-10.
Defendants.

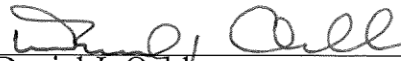
COME NOW, Defendants LUDWIG FAMILY TRUST, FAIRWAY
CONSTRUCTORS, INC., and MEHDI AZARMI, (hereinafter the "LFA Defendants") by
and through their attorney, the undersigned, and respectfully request this Court to deny
Plaintiff's Motion for Change of Venue dated March 22, 2023.

Plaintiff's request is untimely. This litigation is approaching its sixth year before the
Courts and deals with ±225 individual single family residential lots located in Mohave
County, Arizona, and an approximate 500+ individual lot owners that the Plaintiff has been
ordered by the Court to bring into this lawsuit as necessary and indispensable parties. Legal
counsel for both the Plaintiff and Defendants agreed that Rule 19, Arizona Rules of Civil
Procedure, is applicable in this case. The LFA Defendants' opposition to Plaintiff's Motion

1 for Change of Venue is further supported by the following Memorandum of Points and
2 Authorities.

3 RESPECTFULLY SUBMITTED this 28~~th~~ day of April, 2023.

4 LAW OFFICES OF DANIEL J. OEHLER

5 
6 Daniel J. Oehler,
7 Attorney for Defendants

8 **MEMORANDUM OF POINTS AND AUTHORITIES**

9 The Plaintiff has presented the matter to this Court as being supported by multiple
10 alleged fact conditions that are hereinafter more thoroughly discussed. The provisions of
11 A.R.S. §12-401 are the controlling law on this issue. In pertinent part, the venue language
12 of A.R.S. §12-401 reads:

13 “No person shall be sued out of the county in which such person
14 resides, except:

15 12. Actions for the recovery of real property, for damages thereto,
16 for rents, profits, use and occupation thereof, for partition thereof, to
17 quiet title thereto, to remove a cloud or incumbrance on the title thereto,
18 to foreclose mortgages and other liens thereon, to prevent or stay waste
19 or injuries thereto, and all other actions concerning real property,
20 SHALL BE BROUGHT IN THE COUNTY IN WHICH THE REAL
21 PROPERTY OR A PART THEREOF IS LOCATED.” (Emphasis
22 supplied.)

23 For the record, and in compliance with A.R.S. §12-405, the LFA Defendants do not
24 consent to a change of venue to any new county.

25 For the purpose of brevity, we assume that Plaintiff’s current Motion is “for cause.”
26 Plaintiff has failed to comply with the provisions of A.R.S. §12-406(B) which reads:

27 “B. Grounds which may be alleged as provided in subsection A for change
28 of venue are:

1. That there exists in the county where the action is pending so
great a prejudice against the party requesting a change of venue
that he cannot obtain a fair and impartial trial.
2. That the convenience of witnesses and the ends of justice would
be promoted by the change.

1 3. That there is other good and sufficient cause, to be determined
2 by the court.”

3 A.R.S. §12-406(B)(1) above would appear to represent Plaintiff’s purpose in this
4 untimely request, however, the facts presented in Plaintiff’s pending Motion show only the
5 subjective beliefs of the Plaintiff that Plaintiff’s neighbors are opposed to Plaintiff’s litigation
6 and have reacted negatively to Plaintiff’s proposals and legal positions. A venue change will
7 not alter the opinions of Plaintiff’s neighbors in favor or against Plaintiff other than perhaps
8 making it even more costly and burdensome for the additional necessary and indispensable
9 parties who are being brought into the litigation, requiring their potential to have to travel and
10 appear at a distant location in some neighboring county which is directly contrary to A.R.S.
11 §12-406(B)(2).

12 Plaintiff alleges or suggests in Plaintiff’s current pleading that one or more of the
13 named Defendants have good reputations within the community and suggests therefore that
14 an opposing party’s good reputation warrants an A.R.S. §12-406(B)(1) removal from the
15 County where the matter has been pending for years. Plaintiff has berated and belittled the
16 character and reputation of the Defendants in Plaintiff’s pleading continuously over the past
17 five (5) years, including accusations of alleged civil and criminal conspiracies, fraud and
18 endless wrongdoing. Today, Plaintiff alleges that this matter should be moved to an alternate
19 venue because one or more of the Defendants have an apparent unfair advantage over the
20 Plaintiff because they have a good reputation. If Plaintiff can get the venue changed,
21 Plaintiff believes that Plaintiff will gain a procedural advantage by the assignment of a new
22 judge, a new venue and a possible “new ruling” on previously decided issues that Plaintiff
23 doesn’t like. For the purpose of this Motion, Plaintiff claims Defendants’ good reputation
24 is a basis to seek an alternate venue. There is no legitimacy nor case law support under the
25 facts before us that warrants a change of venue regardless of Plaintiff’s motivations.

26 A.R.S. §12-406(B)(2) emphasizes that the case should not be removed to some
27 neighboring county as a result of the significant inconvenience this would cause the
28 witnesses and the tremendous burden that would be incurred by the 500 or so additional

1 parties that must be served with process and will enter this litigation as additional Plaintiffs
2 or Defendants. Indeed, the “ends of justice” would be fully shredded should the hundreds
3 of new necessary and indispensable parties be required to travel hundreds of miles away from
4 their property and homes to facilitate the Plaintiff’s desire to have the matter transferred to
5 a neighboring county.

6 With regard to A.R.S. §12-406(B)(3), there simply is no good or sufficient cause to
7 consider Plaintiff’s venue change request factually nor procedurally.

8 A.R.S. §12-406(C) reads:

9 “C. The party applying for the change of venue shall at the time of
10 application file a bond to be approved by the judge of the court
11 conditioned that he will pay all costs that may be adjudged against him
12 in the action if the application is granted. The truth and sufficiency of
the grounds shall be determined by the court, but a decision thereon
refusing the change may be assigned as error on appeal.”

13 This mandatory section requires Plaintiff to file a preauthorized bond approved and
14 set by the Court at the time of application for a venue transfer. Plaintiff has fully failed to
15 comply with this required statutory provision that requires a bond filing to cover “... all costs
16 that may be adjudged against plaintiff in the action if the application is granted.” Given the
17 nature of the current litigation and the number of approximate litigants, it would appear that
18 a cost bond could well exceed \$200 per litigant, and when multiplied by the approximate
19 500+ parties that will be participating, the bond will be significant. It appears that the Plaintiff
20 decided to simply ignore this mandatory step when Plaintiff’s untimely venue motion was
21 filed; however, should Plaintiff initiate any reconsideration motion on this topic, a bond
22 determination would be sought and ruled upon by the Court and complied with by the
23 Plaintiff as a condition precedent to any reconsideration effort by the Plaintiff.

24 On page 1, lines 25-26, Plaintiff references that “... a new judge needs to make a
25 decision on who is to join indispensable parties.” This statement/admission clearly indicates
26 the Plaintiff’s actual purpose in seeking a change of venue. This venue Motion is simply a
27 deceptive means of seeking a change of judge in hopes that Plaintiff’s “new trial judge”
28 would consent to or have the jurisdictional ability to overturn this Court’s prior orders on the

1 issue of which party must bring in the necessary and indispensable parties or any of the other
2 multiple orders from multiple judges between 2018 and 2023. The Plaintiff is the party
3 responsible to bring before this Court the Plaintiff's neighbors. Plaintiff's responsibility
4 under Rule 19 was decided by the Court more than a year ago after oral argument on January
5 10, 2022, and memorialized by the Order entered by the Court February 2, 2022. During the
6 February 17, 2023, Status Conference, this Court once again reiterated its 2022 ruling and
7 made it clear that the Plaintiff must and has been ordered to complete service on the
8 indispensable parties. On April 27, 2023, this Court again reiterated its February 2, 2022
9 Order. Plaintiff disagrees with this Court's ruling on this issue (as well as many other Court
10 rulings) and having recently been unsuccessful with Plaintiff's Change of Judge demand,
11 Plaintiff, at least at the time of filing this Motion for Change of Venue, believed that if
12 Plaintiff can secure a change of venue, Plaintiff will simultaneously receive a new judge and
13 Plaintiff would thereafter be able to re-litigate orders previously decided. There is no basis
14 in fact for this 2018 case that has been the subject of 40 to 50 motions initiated by Plaintiff
15 to be moved to a new and neighboring county which will be highly inconvenient for the
16 current Defendants as well as the hundreds of new necessary and indispensable parties the
17 Plaintiff has been ordered to join.

18 Plaintiff continues in this purported "venue" motion to argue Plaintiff's unsupported
19 premise/theory that the Defendants have been transformed into Plaintiffs as a result of filing
20 a Motion for Summary Judgment in 2019. No legal basis for this false premise has been
21 provided and it is believed that none exists. This argument is irrelevant to the change of
22 venue and should be fully ignored in the context of this Motion.

23 Plaintiff falsely alleges that Mohave County, a body politic, has been or is a party to
24 this litigation (see p. 1, line 28 and p. 2, line 1). Perhaps the Plaintiff is planning to attempt
25 yet another motion to amend Plaintiff's Complaint to add Mohave County thereby
26 accomplishing Plaintiff's strategy to obtain a new judge once the file is transferred – no such
27 motion is before this Court and if it were, on the fact basis presented by Plaintiff, it would
28 be unsuccessful, denied and likely lead to yet another order requiring the Plaintiff to pay for

1 all attorney fees and costs that result from Plaintiff's ad nauseam motion practice. Mohave
2 County is not a defendant in this litigation! Plaintiff's statement regarding Mohave County
3 is disingenuous and totally inappropriate.

4 Plaintiff's next written basis for the change of venue can be encapsulated in Plaintiff's
5 argument that in 2018 the then assigned Judge Carlisle signed an Order that was not actually
6 the Judge's intended Order but rather a fabricated Order composed and prepared by
7 Defendants' attorney and never reviewed nor read by the Court prior to the Court's signature
8 being applied thereto. Plaintiff alleges that the 2018 Order was potentially negligently
9 signed by the Court without review. Plaintiff provides us with a second alternative if the first
10 Plaintiff theory of Court negligence is found to be false. Plaintiff states that perhaps Judge
11 Carlisle did not sign the Order at all and that the signature of the Judge is a forgery by some
12 unknown Court employee. Two alternate theories of judicial misconduct are not enough in
13 the eyes of the Plaintiff who provides yet a third alternative that Judge Carlisle directed an
14 assistant to forge the Judge's name on an Order that the Judge apparently never read (see p.
15 2, lines 10-17). Plaintiff's arguments are irrational and have nothing to do with Plaintiff's
16 "venue" issue. Plaintiff's argument is indicative of Plaintiff's subjective fantasies that
17 permeate Plaintiff's pleadings.

18 Plaintiff espouses support to remove this matter from Mohave County to some new
19 venue as an alleged result of the resistance or animosity against the Plaintiff within Plaintiff's
20 community in general. The issue of how Plaintiff's community has allegedly reacted to
21 Plaintiff's litigation is not a legal nor legitimate factual basis to award Plaintiff a change of
22 venue. Plaintiff's actions have brought Plaintiff's neighbors and much of Plaintiff's
23 community before this Court. If Plaintiff's case is tried, Plaintiff's neighbors who will be
24 party litigants will not be the triers of fact/jury members. This allegation is not a reasonable
25 nor appropriate basis for a change of venue almost five (5) years after commencement of the
26 case.

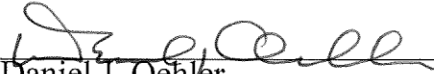
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1 Plaintiff's Motion should be denied. Plaintiff's venue Motion cannot be considered
2 a good faith motion. Defendants should be awarded their attorney fees and costs incurred
3 in preparation of this Response.

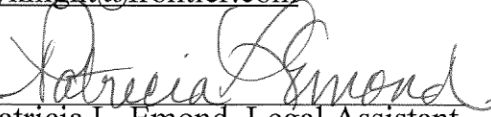
4 RESPECTFULLY SUBMITTED this 28th day of April, 2023.

5 LAW OFFICES OF DANIEL J. OEHLER

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7 
8 Daniel J. Oehler,
Attorney for Defendants

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10 **COPY** of the foregoing emailed
11 this 28th day of April, 2023, to:

12 Plaintiff
13 Nancy Knight
14 1803 E. Lipan Circle
15 Fort Mohave, Arizona 86426
16 (928) 768-1537
17 nancyknight@frontier.com

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27
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By: 
Patricia L. Emond, Legal Assistant