

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF MOHAVE

HONORABLE LEE F. JANTZEN

DIVISION 4

DATE: OCTOBER 30, 2019

***DL**

COURT ORDER/NOTICE/RULING

NANCY KNIGHT,
Plaintiff,

vs.

CV-2018-04003

GLEN LUDWIG, et al., et ux.,
Defendants.

This matter comes before the Court on Plaintiff's Fifth Motion for Leave to Amend the Complaint filed July 2, 2019. The Court has reviewed the motion, the Defendants' response in objection to the motion and the Plaintiff's reply to the objections.

The Court has also had to do a complete review of this file. As the parties know prior to being assigned to this Court, this file belonged to different judges in the Superior Court who had made multiple rulings. While this current ruling on the motion for leave to amend has been under advisement, the Plaintiff has filed two different Motions for Reconsideration (and one amended) of the previous rulings. This included a Motion for Reconsideration of Dismissal of Count One filed on August 27, 2019, a Motion for Reconsideration of Declaratory Judgment on Signage filed September 27, 2019, and, most recently, on October 18, 2019, a 65-page Amended Motion for Reconsideration of Count One.

The Court finds these pleadings are all intertwined, and the Court could not proceed with ruling on the original Fifth Motion for Leave to Amend the Complaint filed July 2, 2019 until reviewing all of the documents. The Court has reviewed those pleadings. The Court has reviewed all of the prior rulings in this matter. The Court has also reviewed the applicable case law, rules, statutes and argument of counsel. Defense argues in the objection to the motion for leave to amend that it is simply an attempt to have the Court reconsider the Court's previous rulings. This Court agrees and finds the same logic applies to the current motion for leave to amend as applied to the previous motions for leave to amend and to the motions for reconsideration that have already been denied.

IT IS ORDERED denying Plaintiff's Fifth Motion for Leave to Amend the Complaint.

The Court specifically finds the previous rulings in this case to be appropriate and on point with regard to the ability of the Plaintiff to enforce the CC&R's. Plaintiff has the right under the terms of the CC&R's to sue the homeowners in Tract 4076B and nothing more. The Plaintiff has the right to move forward with the lawsuit as it affects Tract 4076B. Attempting to include additional subdivisions is inappropriate, and nothing in the new pleadings changes the Court's opinion on the previous rulings.

The Court declines to order attorney's fees at this time.

Furthermore, based on the same logic above and considering all of the new arguments and allegations in Plaintiff's pleadings,

IT IS ORDERED denying Plaintiff's Motion for Reconsideration of Dismissal of Count One filed on August 27, 2019 and Plaintiff's Amended Motion for Reconsideration of Count One filed on October 18, 2019.

IT IS FURTHER ORDERED denying Plaintiff's Motion for Reconsideration of Declaratory Judgment on Signage filed September 27, 2019. Nothing in Plaintiff's motion changes the logic of the original finding by Judge Gordon on June 13, 2019. These are a question of law and fact and should not and will not be ruled on in a Declaratory Judgment.

This case needs to move forward.

IT IS ORDERED setting this matter for **Status Conference to discuss scheduling a trial on Wednesday, December 4, 2019 at 3:30 p.m.** Parties may appear by phone by calling (928)753-0785 at the time of the hearing.

cc:

Nancy Knight*
Plaintiff

Daniel J Oehler*
Attorney for Defendants

Honorable Lee F Jantzen
Division 4