

FILED

BY:

Dy

2020 FEB 28 PM 1:38

VIRGINIA TINNELL
SUPERIOR COURT CLERK

1 NANCY KNIGHT
2 1803 E. Lipan Circle
3 Fort Mohave, AZ 86426
4 (928) 768-1537
5 nancyknight@frontier.com

6 Plaintiff Pro Per

7 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**

8 **IN AND FOR THE COUNTY OF MOHAVE**

9 NANCY KNIGHT,

10 Plaintiff,

11 vs.

12 GLEN LUDWIG AND PEARL LUDWIG,
13 TRUSTEES OF THE LUDWIG FAMILY
14 TRUST; FAIRWAY CONSTRUCTORS, INC.;
15 MEHDI AZARMI; JAMES B. ROBERTS
16 AND DONNA M. ROBERTS, HUSBAND
17 AND WIFE; JOHN DOES 1-10; JANE DOES
18 1-10; ABC CORPORATIONS 1-10; AND XYZ
19 PARTNERSHIPS 1-10.

20 Defendants.

CASE NO.: CV 2018-04003

**MOTION FOR CLARIFICATION OF
PROCEDURE**

(Assigned to Hon. Judge Jantzen)

21 COMES NOW Nancy Knight, Plaintiff Pro Per, pleading for the Court to Clarify
22 what she did wrong in her Response to Defendants' Motion for Summary Judgment.

23 Defendants' have failed to inform the Plaintiff of what part of Rule 56(c)(3) she did not
24 follow - hindering her ability to correct any errors and/or omissions.

MEMORANDUM OF POINTS AND AUTHORITIES

25 Plaintiff seeks an explanation of what part of A.R.C.P. 56 was not followed. The
26 Court's Judicial Assistant was copied on an email to Mr. Oehler, as she has been copied
27



1 in the past for procedural issues. In the past, Ms. Lecher was able to intervene when
2 Plaintiff informed Mr. Oehler by email that his Motion for Summary Judgment was not
3 posted to the online Case History. Ms. Lecher explained to the Plaintiff by email that
4 there is a glitch in the system. In the current dispute of not following Rule 56, Ms. Lecher
5 was not able, or not inclined, to respond to Plaintiff with what part of Rule 56 she had not
6 followed and by Court Order Mr. Oehler did not respond. For this reason, the Plaintiff
7 pleads with the Court for clarification and direction. **Exhibit 1** – Jan 31, 2020 email to
8 Mr. Oehler and copied to the Court’s Judicial Assistant Lecher.
9
10

11 Plaintiff followed A.R.C.P. Rule 56(c)(3) as found online and also as cited in Rule
12 129 as posted by Westlaw at <https://govt.westlaw.com/azrules> as follows: Due to similar
13 but expanded verbiage in the two online Rules, Plaintiff did her best to comply with all
14 cited language. Plaintiff does not understand what was not followed as claimed by the
15 Defendants in their Reply to Plaintiff’s Response.
16
17

18 “Rule 56. Summary Judgment, Arizona Revised Statutes Annotated,
19 Rules of Civil Procedure for the Superior Courts of Arizona”. (2)
20 “*Opposition and Reply*. An opposing party must file its response and any
supporting materials within 30 days after the motion is served.

21 From Rule 129: “Your response must be filed within thirty (30) days
22 from the date this motion was served. [ARCP 56(c)]

23 Rule 56 (c) regarding content of a Response

Your response to the motion must include:

24 (1) A statement of facts, with each of the facts stated separately
25 in numbered paragraphs or numbered sentences. A statement of facts
26 must be supported by affidavits, exhibits, or other material that
27 establishes each fact by admissible evidence. It is not enough for
you to simply deny facts. You must present evidence that shows
a genuine dispute of the facts.

(2) A memorandum of law that summarizes the issues, provides legal

1 authority in support of your position, and describes why the judge
2 should deny the motion.”

3 *56 (c)(3) Supporting and Opposing Statements of Fact.*

4 (B) Opposing Party's Statement. An opposing party must file a
5 statement in the form prescribed by Rule 56(c)(3)(A), specifying:
6 (i) the numbered paragraphs in the moving party's statement that
are disputed; and (ii) those facts that establish a genuine dispute
or otherwise preclude summary judgment in favor of the moving party.

7 Plaintiff complied with supporting materials as Exhibits as cited for Rule 56 under
8 the ARCP for Rule 129 in (1) above and with genuine material facts for trial as supported
9 by Exhibits as evidence. (Emphasis supplied).
10

11 Plaintiff responded to the moving party's numbered paragraphs. Plaintiff
12 established a genuine dispute to preclude summary judgment in favor of the moving
13 party.
14

15 Plaintiff contends that a preponderance of evidence makes it legally impossible to
16 grant the Defendants their dispositive motion in this matter.

17 Regarding Rule 56 and Affidavits:

18 e. Affidavits in support of or opposing a summary judgment motion
19 must be based on personal knowledge and must contain only facts that
20 would be admissible as evidence at trial under the Arizona Rules of
Evidence.

21 If a party opposing a summary judgment motion cannot obtain
22 affidavits or exhibits within the time allowed for filing a response
23 to the motion, the opposing party may ask the court for more time
24 to respond by stating the reasons why additional time is required.
25 The judge may impose a penalty on a party who submits an affidavit
in bad faith, or who files an affidavit only to delay the lawsuit.
[ARCP 56(e)-(g)]

26 Plaintiff follows Rule 11 regarding her signature on pleadings, motions, and other
27 documents in lieu of an affidavit.
28

1 Rule 11 (b) Representations to the Court. By signing a pleading, motion,
2 or other document, the attorney or party certifies that to the best of the
3 person's knowledge, information, and belief formed after reasonable
4 inquiry: (1) it is not being presented for any improper purpose, such as
5 to harass, cause unnecessary delay, or needlessly increase the cost of
6 litigation; (2) the claims, defenses, and other legal contentions are
7 warranted by existing law or by a nonfrivolous argument for extending,
8 modifying, or reversing existing law or for establishing new law. (3)
9 the factual contentions have evidentiary support or, if specifically so
10 identified, will likely have evidentiary support after a reasonable
11 opportunity for further investigation or discovery; and (4) the
12 denials of factual contentions are warranted on the evidence or, if
13 specifically so identified, are reasonably based on belief or a
14 lack of information.

15 **CONCLUSION**

16 Plaintiff pleads with the Court to clarify what part of the rule was not followed
17 and to grant Plaintiff Leave to Amend her Response for Errors and/or Omissions.
18

19 RESPECTFULLY SUBMITTED this 28th day of February, 2020.

20
21 
22 _____
23 NANCY KNIGHT
24 Plaintiff Pro Per
25

26 COPY of the foregoing emailed on this 28th day of February, 2020 to:

27 djolaw@frontiernet.net

28 Attorney for Defendants

Daniel J. Oehler, Esq.

Law Offices of Daniel J. Oehler

2001 Highway 95, Suite 15

Bullhead City, Arizona 86442

Exhibit 1

Email Request to Mr. Oehler for clarification of what was not followed

nancyknight

Exhibit 1
Part. part
circled

From: "nancyknight" <nancyknight@frontier.com>
Date: Friday, January 31, 2020 5:41 AM
To: <djolaw@frontiernet.net>
Cc: "Danielle Lecher" <DLecher@courts.az.gov>
Attach: CC&R_4076D_1990.pdf
Subject: Ludwig 2018 04003 _ Evidence of possible false claims made to the court

Dear Mr. Oehler,

Pursuant to your Reply to my Response to your MSJ, and in regards to your claim that Tract 4076-D is some kind of "legal mirror image of Tract 4163", this statement is in conflict with the evidence. Tract 4076-D has its own Declaration of CC&Rs. See attached. I have not been adjudicated rights to prosecute violations in Tract 4076-D. Please verify your claims before submitting statements to the court for which I am denied a Reply to your Reply or please advise on how you came to make this possible false claim to the Court and revise your Reply accordingly if it was an error on your part.

In accordance with Rule 11

(a) Signature.

(1) *Generally.* Every pleading, written motion, and other document filed with the court or served must be signed by at least one attorney of record in the attorney's name--or by a party personally if the party is unrepresented. The court must strike an unsigned document unless the omission is promptly corrected after being called to the filer's attention.

(b) Representations to the Court. By signing a pleading, motion, or other document, the attorney or party certifies that to the best of the person's knowledge, information, and belief formed after reasonable inquiry:

- (1) it is not being presented for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation;
- (2) the claims, defenses, and other legal contentions are warranted by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law or for establishing new law.
- (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and
- (4) the denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on belief or a lack of information.

Further, I find no violation on my part in following the instructions I was provided for Rule 56 c 3. I numbered the paragraphs in my Responses and I provided evidence in support of the need for a jury trial on multiple levels, any one of which would provide the Court with reason to deny your client's Motion for dismissal. If you have instructions that are not available to me in my search of Court rules, please amend your MSJ to comply with the moving party's instructions to the respondent.

Redacted