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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,)	NO.: CV-2018-04003
13)	
14	Plaintiff,)	RESPONSE TO MOTION TO
15)	“STAY EXECUTION...”
16	vs.)	
17)	
18	GLEN LUDWIG and PEARL LUDWIG, Trustees)	
19	of THE LUDWIG FAMILY TRUST; FAIRWAY)	
20	CONSTRUCTORS, INC.; MEHDI AZARMI;)	
21	JAMES B. ROBERTS and DONNA M.)	
22	ROBERTS, husband and wife; JOHN DOES 1-10;)	
23	JANE DOES 1-10; ABC CORPORATIONS 1-10;)	
24	and XYZ PARTNERSHIPS 1-10.)	
25)	
26	Defendants.)	

27
28 The Plaintiff has requested this Court to “stay” the execution of the Court’s dismissal of
29 Count 1 of Plaintiff’s Complaint pursuant to Rule 62(b), A.R.C.P.

30 Rule 62(b), A.R.C.P., reads:

31 **“Rule 62. Stay of Proceedings to Enforce a Judgment**

32 * * *

33 **(b) Stay Pending the Disposition of a Motion.** On
34 appropriate terms for the opposing party’s security, the court may stay
35 the execution of a judgment – or any proceedings to enforce it –
36 pending disposition of any of the following motions:

- 37 (1) under Rule 50, for judgment as a matter of law;
- 38 (2) under Rule 52(b), to amend the findings or for
39 additional findings;
- 40 (3) under Rule 59, for a new trial or to alter or
41 amend a judgment;

1 (4) under Rule 60(a) and (b), for relief from a
2 judgment or order; or

3 (5) when justice so requires in other instances until
4 such time as the court may fix.” A.R.C.P., Rule 62(b).

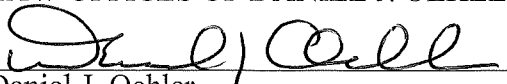
5 First of all, the formal “order” dismissing Count 1 of Plaintiff’s Complaint has not yet been
6 signed by the Court. The subject “order” may constitute and the Defendants firmly support that the
7 proposed form of “Order” submitted simultaneously with this Response should rightfully include
8 an order/judgment for, if not all of Defendants’ fees and costs incurred in preparing and arguing its
9 Motion to Dismiss, or at least a significant portion thereof. Given the ultimate entry by the Court
10 of its April 2, 2018, ruling from the bench dismissing the Plaintiff’s Complaint as to Count 1, and
11 in anticipation of the Court’s positive future ruling regarding Defendants’ entitlement to all, or at a
12 minimum, the majority of their attorney’s fees, a judgment therefore may be forthcoming, however,
13 neither a formal “order” nor judgment existed at the time of filing the Plaintiff’s “stay” motion citing
14 Rule 62. Nor did there exist a formal order dismissing Count 1, nor had there been entered a
15 judgment or order against the Plaintiff awarding Defendants their attorney fees. Plaintiff’s Motion
16 is fully inappropriate, improper and contrary to the rules of pleading. Plaintiff’s Rule 62 Motion is
17 premature and is prohibited as set forth in Rule 7.1(f), A.R.C.P.

18 It should be further noted that even if the order and/or judgment were entered, a Rule 62(b)
19 motion would not be applicable to the facts presented, findings of the Court and order/judgment of
20 the Court in the matter at hand.

21 In arguendo, if Plaintiff’s Motion to Stay under Rule 62 is to be interpreted as some sort of
22 motion under Rule 7.1(e), the undersigned apologizes in advance to this Court and the Plaintiff for
23 this filing and awaits direction from the Court as to the Court’s interpretation of its form. Counsel
24 clearly understands that a Court order allowing Defendants to file a response to a motion for
25 reconsideration is required in advance of any such filing.

26 RESPECTFULLY SUBMITTED this 10 day of April, 2018.

27 LAW OFFICES OF DANIEL J. OEHLER

28 
Daniel J. Oehler,
Attorney for Defendants

1 **COPY** of the foregoing emailed
2 this 11th day of April, 2018, to:

3 Honorable Derek Carlisle
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