

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 djolaw@frontiernet.net

8 Daniel J. Oehler, Arizona State Bar No.: 002739
9 Attorney for Defendants

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

13 NANCY KNIGHT,
14
15 Plaintiff,
16
17 vs.

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.

NO.: CV-2018-04003

**DEFENDANTS' PROPOSED
NOTICE TO PROPERTY
OWNERS AND OPPOSITION
TO PLAINTIFF'S PROPOSED
NOTICE**

27 COME NOW, the Defendants, by and through their attorney, the undersigned, and
28 delivers to this Court the Defendants' proposed form of Notice to Property Owners within
Desert Lakes Golf Course and Estates Tracts 4076-B, 4076-D and 4163.

Previously, Plaintiff has submitted a proposed form of property owner notice that fails
to include multiple required and needed provisions, including but not necessarily limited to
include the Defendants' Answer as well as a general statement as to Defendants' position on
the issues that are before the Court. Defendants believe that given the fact that Plaintiff has
previously and intentionally transmitted to each of the affected property owners multiple
documents that purport to support Plaintiff's position on the litigation issues, including

1 statements that are believed to be inaccurate or grossly inaccurate both from a fact and law
2 standpoint, that it is necessary and equitable for the Court to provide the property owners not
3 only a copy of Plaintiff's Complaint and a complete and accurate set of Declarations
4 (applicable exclusively to Tract 4076-B and Tract 4076-D, as Tract 4163, although created
5 from two parcels located within Tract 4076-B, has no independent nor exclusive additional
6 declarations applicable to it other than those that may be applicable to Tract 4076-B).

7 Plaintiff has poisoned the pool by improperly sending to each of the property owners
8 in a mass mailing Plaintiff's litigation objectives (see Request for Status Conference filed
9 herein by Defendants on or about June 10, 2022, Exhibit A).

10 Plaintiff's Complaint asks for relief that is believed to be not available and may cause
11 significant confusion to the future parties to this litigation, namely, most importantly
12 Plaintiff's request for relief in Plaintiff's Complaint at page 17, paragraph F at line 15, which
13 reads:

14 "F. A declaratory judgment forgiving any CC&R
15 construction violations that were not the fault of the purchaser
16 of the home who unknowingly purchased a home that had been
built, in error or deliberately by any builder, as out of
compliance with the CC&Rs." (Emphasis supplied.)

17 The subject request is squarely in violation of the long standing rule in Arizona as
18 espoused by the Supreme Court of Arizona in O'Malley, et al. v. Central Methodist Church,
19 194 P.2d 444 (1948), that effectively mandates that if the restrictions are not universal, they
20 cannot be reciprocal. If they are not reciprocal and not carrying all of the properties, they are
21 effectively unenforceable. "The burden follows the benefit and, where there is no benefit,
22 there should be no burden." Id., at p. 451.

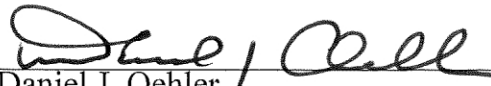
23 It is respectfully requested that Defendants' "Notice to Property Owners" filed
24 herewith be utilized by the Court and to be served upon each property owner with the
25 accompanying documents set forth in Defendants' proposed Notice. It should further be
26 noted that accomplishing this objective will require, as set forth on page 2, lines 14-18 of the
27 "Notice" that the Clerk of the Superior Court, prior to Plaintiff's commencing service of

28 ///

1 process on each property owner, set up electric public access to all pleadings filed in this
2 matter.

3 RESPECTFULLY SUBMITTED this 19th day of August, 2022.

4 LAW OFFICES OF DANIEL J. OEHLER

5
6 
7 Daniel J. Oehler,
Attorney for Defendants

8 **COPY** of the foregoing emailed
9 this 19th day of August, 2022, to:

10 Honorable Lee F. Jantzen
11 Mohave County Superior Court
12 Division 4
13 401 E. Spring Street
14 Kingman, Arizona 86401
15 (928) 753-0785 Danielle
16 dlecher@courts.az.gov

17 Attorney for Plaintiff
18 J. Jeffrey Coughlin
19 J. Jeffrey Coughlin, PLLC
20 1570 Plaza West Drive
21 Prescott, Arizona 86303
22 (928) 445-4400
23 (928) 445-6828 fax
24 jjcpllc@gmail.com

25
26
27
28
By: 
Patricia L. Emond, Legal Assistant