

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](mailto:djolaw@frontiernet.net)

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 )  
14 Plaintiff, )  
15 )  
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. )


NO.: CV-2018-04003

**OBJECTION TO PLAINTIFF'S  
PROPOSED ORDER  
ATTACHED AS EXHIBIT 2  
TO PLAINTIFF'S OBJECTION  
TO MOTION TO DISMISS**

27 COME NOW, the Defendants and object to Plaintiff's "Proposed Order" submitted  
28 to this Court on or about August 29, 2022, all in accord with the attached Memorandum of  
Points and Authorities. Defendants further request an award of attorney's fees and costs  
incurred in preparing this pleading.

RESPECTFULLY SUBMITTED this 6<sup>th</sup> day of September, 2022.

LAW OFFICES OF DANIEL J. OEHLER

  
Daniel J. Oehler,  
Attorney for Defendants

///  
///

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**MEMORANDUM OF POINTS AND AUTHORITIES**

As a result of the length of the proposed Order, and to minimize to the extent possible those portions to which the Defendants have no objection, these Defendants will categorize each of Plaintiff’s individual “Proposed Orders,” identifying the page and paragraph in question, advising the extent, if any, of the Defendants objections thereto.

1. Page 1, §1, line 20. These Defendants have no objection.

2. Page 1, §2, line 23. These Defendants have no objection.

3. Page 2, §1, line 3. These Defendants object thereto and request that the Court include in this paragraph that the Plaintiff, as proposed by the Plaintiff, include in the proposed Excel spreadsheet the Assessor parcel number for each and every lot which is the subject matter of this litigation, specifically including those lots that are located in Desert Lakes Golf Course and Estates Tract 4076-B, Tract 4076-D and Tract 4163, identifying the specific lot in the column next to the Assessor parcel number and, as the Plaintiff proposes, next including the name and/or names of the owners thereof in accord with the current Mohave County Assessor’s office information on file, reflecting the owners’ respective mailing address and/or addresses.

4. Page 2, §2, lines 10-16 in their entirety. This proposed order should read:

“Further, the Court shall require Plaintiff to include a full set of the Declaration of Codes, Covenants and Restrictions for Desert Lakes Golf Course & Estates Tract 4076-D that overlays the included full set of the Declaration of Codes, Covenants and Restrictions for Tract 4076-B. The Notice must also include a statement that Tract 4163 has no separate Declaration of Codes, Covenants and Restrictions other than the imposed restrictions in Tract 4076-B that included the lands constituting Tract 4163.

IT IS ORDERED Plaintiff shall cause to be served in compliance with Arizona Rules of Civil Procedure, Rule 4.1(c)(1)(A)-(G), each and every owner identified in accord with the provisions of the immediate preceding paragraph, i.e., p. 2, §1, commencing on line 3 as amended.”

It should be specifically noted that service of process under and pursuant to Rule 4, Arizona Rules of Civil Procedure, specifically prohibits the Plaintiff personally, as well as Plaintiff’s attorney, from their personally serving any necessary and any indispensable party. Refer to

1 Arizona Rules of Civil Procedure, Rule 4(d)(1), which reads:

2 “(d) Who May Service Process.

3 (1) *Generally.* Service of process must be made by a sheriff,  
4 a sheriff’s deputy, a constable, a constable’s deputy, a  
5 private process server certified under the Arizona Code  
6 of Judicial Administration §7-204 and Rule 4(e), or any  
7 other person specially appointed by the court. Service of  
8 process may also be made by a party or that party’s  
9 attorney if expressly authorized by these rules.

7 (2) *Special Appointment.*

8 (A) *Qualifications.* A specially appointed person  
9 must be at least 21 years of age and **MUST NOT**  
10 **BE A PARTY, AN ATTORNEY OR AN**  
11 **EMPLOYEE OF AN ATTORNEY IN THE**  
12 **ACTION IN WHICH PROCESS IS TO BE**  
13 **SERVED.”** (Emphasis supplied.)

12 In this instance, Plaintiff has already made and/or attempted to make personal contact  
13 allegedly with each and every lot owner soliciting the necessary and indispensable parties to  
14 this action seeking their respective approval of Plaintiff’s Complaint and actions, which  
15 conduct is and was fully a violation of the spirit and intent of this Court’s ruling requiring  
16 those parties to be brought into this action.

17 These Defendants have no objection and join with the Plaintiff with the request that  
18 the “Notice” of this action to the necessary and indispensable parties that is approved by the  
19 Court shall accompany the documentation required under ARCP Rule 4.1(c)(1)(A)-(G).

20 5. Page 2, commencing at line 21. These Defendants object to the form of Order  
21 proposed by Plaintiff regarding acceptance of service.

22 While acceptance of service is permitted under ARCP Rule 4.1 and Rule 4.2, in this  
23 instance, it is necessary for the Court to approve the method of service of process insuring  
24 the delivery to each person to whom a request for “acceptance of service” is transmitted so  
25 that that transmittal complies with Rule 4.1 and/or Rule 4.2, including all documentation  
26 specifically therein required, as well as advising each individual in the “acceptance of service  
27 document” the specific implications of accepting service under ARCP Rule 12(a)(1)(A)(ii).

28 Once again, ARCP Rules 4, 4.1 and 4.2, specifically prohibit the Plaintiff to directly

1 and personally contact the “necessary and indispensable parties” with miscellaneous  
2 prejudicial documentation within the summons and notification packet. Only the documents  
3 specifically authorized by the Court should be allowed and, in each instance, service must  
4 be, at a minimum, “sent by first class mail or other reliable means.” See, ARCP Rule  
5 4.1(c)(1)(G). In this instance, the only potential reliable means is, in fact, first class mail.

6 6. Page 3, line 1, designated as paragraph 2. These Defendants have no objection  
7 to the utilization of the requirements of ARCP Rule 4.2(c).

8 7. Page 3, line 6, designated as paragraph 3. This paragraph should read:

9 “For those lot owners who have not signed a return  
10 receipt, the Plaintiff shall cause to be completed in conjunction  
11 with ARCP Rules 4, 4.1 and 4.2 personal service upon the  
subject lot owner/s.”

12 8. Page 3, line 8, designated as paragraph 4. These Defendants have no objection  
13 to this paragraph.

14 9. Page 3, line 11. These Defendants request the date be advanced to January 31,  
15 2023. These Defendants have no other objection to p. 3, lines 11-23.

16 10. Page 3, line 25.5. These Defendants request this line be amended to read in  
17 pertinent part:

18 “...electronically distribute all pleadings and documents,  
19 including minute entries and other...”

20 11. Page 4, line 6. These Defendants have no objection to this paragraph.

21 12. Page 4, line 15. These Defendants have no objection to this paragraph.

22 13. Page 4, line 19. This paragraph should read:

23 “IT IS ORDERED the Clerk of the Mohave County  
24 Superior Court shall provide public access to all pleadings  
25 previously filed and to be filed in this litigation through its  
“High Profile Cases” link on its website.”

26 ///

27 ///

28 ///

