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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 vs.)
17 GLEN LUDWIG and PEARL LUDWIG, Trustees)
18 of THE LUDWIG FAMILY TRUST; FAIRWAY)
19 CONSTRUCTORS, INC.; MEHDI AZARMI;)
20 JAMES B. ROBERTS and DONNA M.)
21 ROBERTS, husband and wife; JOHN DOES 1-10;)
22 JANE DOES 1-10; ABC CORPORATIONS 1-10;)
23 and XYZ PARTNERSHIPS 1-10.)
24 Defendants.)

NO.: CV-2018-04003

**RESPONSE TO PLAINTIFF’S
MOTION FOR
RECONSIDERATION
REGARDING PRE-SERVICE
OF PROCESS CONTACT
NECESSARY AND
INDISPENSABLE PARTIES**

25 COME NOW, the Defendants, by and through their attorney, the undersigned,
26 pursuant to this Court’s Order entered October 26, 2022, that reads “IT IS ORDERED
27 directing Counsel Oehler to respond within the next 20 days to the Motion for
28 Reconsideration to Set Aside Plaintiff’s Gag Order.” More specifically, this Court at a Status
Conference hearing conducted on September 16, 2022, entered the following Order on this
issue:

“IT IS ORDERED that Ms. Knight shall not be involved in the service of the Parties needing joined, nor shall the Plaintiff, Ms. Knight, directly or indirectly have contact with the Parties involved.” See, this Court’s hearing minutes, 9/16/2022, p. 2, ¶2.

1 Subsequent to the entry of that Order, the Plaintiff has described the same as a “gag
2 order” and the Court on October 26, 2022 ordered Defendants to file a response to Plaintiff’s
3 pro per Motion on the “gag order” portion of Plaintiff’s filing.

4 Specifically, Plaintiff’s Pro Per October 3, 2022, “gag order” portion of Plaintiff’s
5 Motion for Reconsideration, in pertinent part, reads as follows:

6 “COMES NOW Plaintiff Pro Per, Nancy Knight,
7 requesting the Court set aside his Order demanding that Plaintiff
8 Knight is to have no contact, directly or indirectly, with any of
9 her over 400 neighbors in Tract 4076-B, Tract 4076-D and Tract
10 4163. Plaintiff did nothing wrong to be punished from
11 discovery in this case or for her ability to convey options for
12 remedy of existing violations as President of the Desert Lakes
13 Subdivision Tract 4076 Unincorporated Association. Plaintiff’s
14 Constitutional First Amendment right to free speech is being
15 violated by this Gag Order favoring the Defendants.” See,
16 Plaintiff’s 10/03/2022 Motion for Reconsideration, p. 1, lines
17 24.5-28.5 through p. 2, lines 1-4.

18 The subject “gag order” came about as a result of Plaintiff’s earlier conduct in
19 transmitting what appears to be mass mailing to some if not all of the lot owners which are
20 the subject matter of Plaintiff’s current litigation and that have been determined by the Court
21 in previous orders to be “necessary and indispensable” parties in the subject litigation.
22 Plaintiff requested in Plaintiff’s mass mailing that the “necessary and indispensable” parties
23 join the Plaintiff and become members of Plaintiff’s Unincorporated Association. (The
24 subject Association will be legally treated as a partnership.) The alleged purpose of
25 Plaintiff’s Unincorporated Association is to amend, delete and change the original covenants,
26 review future exceptions, variances, and effectuate new covenants. All of these actions are
27 the subject matter of the underlying litigation in this matter. It appears that Plaintiff believes
28 that Plaintiff’s Unincorporated Association’s proposed amendments and changes that might
be acted upon in 2022 or 2023 would diffuse or eliminate the Defendants’ defense of
abandonment, such is not, of course, the case. If the covenants were abandoned over the past
30+ years, there is nothing to amend, change nor enforce.

In oral argument, the Court agreed that such conduct was inappropriate and improper
and therefore ordered that the Plaintiff not make further contact with the parties that were

1 ordered to be joined.

2 Plaintiff further, beginning on p. 7, lines 21-27, of Plaintiff's October 3, 2022 Motion
3 regarding Plaintiff's gag order and other issues, makes the statement "Plaintiff pleads for the
4 Court to lift the gag order, rule that the 'Plaintiff' to join indispensable parties is LFA"
5 (referring to Defendants Ludwig, Fairway and Azarmi). The Plaintiff is now attempting to
6 convert the Defendants into the Plaintiffs.

7 In effect, the basis for the elimination of the "gag order" as stated by the Plaintiff is
8 that the Plaintiff's feels that it is a violation of her right to free speech, and that it should be
9 eliminated as a result of an alleged violation of Plaintiff's constitutional rights, however,
10 Plaintiff provides no legal basis for her argument.

11 It is the belief of the Defendants that Plaintiff's contact with most if not all of the
12 "necessary and indispensable" parties was an effort to reach out to those individuals, sway
13 their opinion to the position of the Plaintiff and obtain, via the acquiescence, signatures of
14 the lot owners consenting or assenting to joining Plaintiff's Unincorporated Association
15 without simultaneously advising each of the lot owners that in so doing, each joining lot
16 owner would be agreeing to be fully and totally responsible, jointly and severally, to pay for
17 any adverse judgments that might accrue from the conduct and partnership participation with
18 the Plaintiff on behalf of and through Plaintiff's Unincorporated Association.

19 Beyond Plaintiff's October 3, 2022, filing, Plaintiff further discussed the issue of the
20 "gag order" and is currently proffering to the Court an amendment that Plaintiff asks the
21 Court to include in the formal order issued by the Court per Plaintiff's October 28, 2022
22 pleading that reads:

23 "IT IS ORDERED the Plaintiff, Defendants and Defendant's
24 attorney, who are involved in litigating complete abandonment
25 of the CC&Rs, shall not have any direct nor indirect personal or
26 written contact with the to-be-joined nor joined indispensable or
27 necessary parties regarding this case. However, Plaintiff, in her
28 capacity as President of the Desert Lakes Tract 4076
Unincorporated Association shall have the ability to have
contact, directly or indirectly, with any property owner in Tract
4076 including indispensable or necessary parties in order to
perform in the capacity of the Architectural Committee for
meetings regarding the Committee rules, variances or

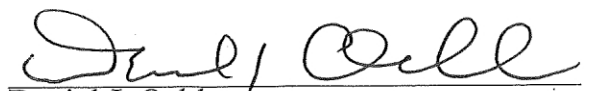
1 exclusions, or for meetings regarding Amendments to the
2 CC&Rs. No discussion regarding this case will be allowed
3 among the Committee members at any designated meeting
4 where the Plaintiff is in attendance. With the exception of
5 President Nancy Knight, other committee members may, from
6 time to time, discuss this case with anyone.” See, 10/28/2022
7 Plaintiff’s Proposed Orders for Service on Indispensable
8 Parties, p. 6, lines 8-22.

9 Plaintiff effectively agreed on October 28, 2022, that Plaintiff should not contact the
10 “necessary and indispensable parties” regarding this litigation, however, now seeks a Court
11 order affirmatively permitting the Plaintiff in her capacity as self-appointed president of her
12 Desert Lakes Tract 4076 Unincorporated Association (which refers to a non-existent tract
13 or effectively multiple tracts in excess of the three tracts that are currently the subject of the
14 pending litigation) that Plaintiff has Court purported authorized authority to conduct
15 architectural committee meetings, committee rules, grant variances, exclusions or
16 amendments to the existing CC&Rs, all of which are at the very heart and core of the subject
17 litigation before this Court. Such contact and conduct is inappropriate under the totality of
18 circumstances that are before this Court and should not be allowed until at least such point
19 in time when all of the “necessary and indispensable” lot owners have actually been joined
20 and are represented either on a pro per basis or by legal counsel, then, of course, Plaintiff and
21 Defendants or Defendants’ attorney would be free to contact the parties through their
22 respective legal counsel or if self represented, directly with the “pro per” defendants.

23 One cannot separate the issues that Plaintiff has raised either in the litigation that is
24 before this Court that squarely deals with abandonment of the covenants versus
25 contemporaneous efforts by the Plaintiff to establish an organization to allegedly enforce,
26 modify or amend the same covenants which are the subject of this abandonment litigation.

27 RESPECTFULLY SUBMITTED this 11 day of November, 2022.

28 LAW OFFICES OF DANIEL J. OEHLER


Daniel J. Oehler,
Attorney for Defendants

1 **COPY** of the foregoing emailed
2 this 11th day of November, 2022, to:

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16 By: 
17 Patricia L. Emond, Legal Assistant

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