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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 Plaintiff,

14 vs.

15 GLEN LUDWIG and PEARL LUDWIG, et al.,
16 Defendants.

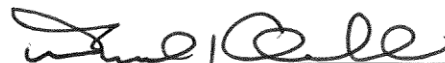
NO.: CV-2018-04003

**REQUEST TO COURT TO
TAKE JUDICIAL NOTICE**

17 COME NOW, the Defendants, by and through their attorney, the undersigned, and
18 request that this Court take Judicial Notice of the Plaintiff's filing with the Arizona Court of
19 Appeals Division Two in the matter Knight v. Hogue, et al., Case No. 2 CA-CV 2023-0004,
20 the attached document titled "Notice of Pending Affidavit & Potential for Consolidation into
21 Appeal" on or about February 27, 2023, copied to the Yavapai County Superior Court for the
22 matter Knight v. Hogue, et al., Case No. P 1300 CV 2022-00177. This filing is believed to
23 be germane regarding Plaintiff's recent filings in the above captioned cause in Mohave
24 County Superior Court regarding Plaintiff's claim of "bias."

25 RESPECTFULLY SUBMITTED this 1st day of March, 2023.

LAW OFFICES OF DANIEL J. OEHLER

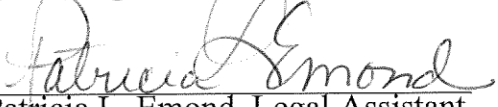
26 
27 Daniel J. Oehler,
28 Attorney for Defendants

1 **COPY** of the foregoing emailed
this 2nd day of March, 2023, to:

2
3 Honorable Lee F. Jantzen
4 Mohave County Superior Court
5 Division 4
6 401 E. Spring Street
7 Kingman, Arizona 86401
8 (928) 753-0785 Danielle
9 dlecher@courts.az.gov

6
7 Honorable Rick Lambert
8 Mohave County Superior Court
9 Division 7
10 415 Spring Street
11 Kingman, Arizona 86401
12 Phone: (928)-753-0762 (Stephanie)
13 division7@mohavecourts.com

10
11 Plaintiff
12 Nancy Knight
13 1803 E. Lipan Circle
14 Fort Mohave, Arizona 86426
15 (928) 768-1537
16 nancyknight@frontier.com

14 By: 
15 Patricia L. Emond, Legal Assistant

16
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25
26
27
28

Knight v. Ludwig, et al.
Mohave County Superior Court
Docket No. CV-2018-04003

EXHIBIT A

1 Nancy Knight
2 1803 E. Lipan Cir.
3 Fort Mohave, AZ 86426
4 Telephone: (928) 768-1537
nancyknight@frontier.com

5 Appellant Pro Per

6 **ARIZONA COURT OF APPEALS – DIVISION TWO**

7
8 NANCY KNIGHT,

9 Appellant/Plaintiff,

10 V.

11 LARRY AND JUANICE HOGUE,
12 husband and wife; et. al.

13 Appellees/Defendants.

} 2 CA- CV 2023-0004

} Yavapai Superior court case No.:
} **P 1300 CV 2022 00177**

} **NOTICE OF PENDING AFFIDAVIT
} & POTENTIAL FOR
} CONSOLIDATION INTO APPEAL**

14
15
16
17
18
19 COMES NOW, Appellant/Plaintiff Pro Per, Nancy Knight, pursuant to Rule
20 9, of when the Appeal may be taken or delayed. Pursuant to Rule 9(e)(2) Div. Two
21 was Noticed that all pending motions in Yavapai Superior Court had been decided
22 and Appellant stated there was no reason for delay in two defendants not being
23 dismissed in this case. However, this case is complex and is interrelated to CV
24 2018 04003 where the Hon. Judge Napper believes twelve of his dismissed
25 defendant's matters could be resolved in the said 2018 case.
26
27
28

1 New developments arose on February 17 during a Status Conference with
2 the Hon. Judge Jantzen in Mohave County Superior Court that led
3 Appellant/Plaintiff Knight to file an Affidavit of a Claim of Court Bias on
4 February 21, 2023. The Appellant has ordered the recorded Status Conference for
5 Transcribing.
6

7
8 Knight requested that the 2018 case be consolidated immediately into the
9 Hon. Judge Napper's Case. Two of the three Defendants in the 2018 case are
10 defendants in his case and his Findings are interrelated to the 2018 case.
11

12 In the interest of judicial economy, the 2018 case was requested to be
13 consolidated into the Hon. Judge Napper's case. It is believed that consolidation
14 will alleviate much of the Hon. Judge Napper's confusion in this case.
15

16 For this reason, and due to a potential need for this Hon. High Court to delay
17 this Appeal until consolidation is decided, this is a Notice of the pending effect the
18 Affidavit of Court Bias will have on this Appeal.
19

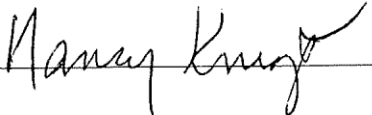
20 Appellant found no specific Rule for Notice of Affidavits that could affect
21 the timing of Appeals.
22

23 As of February 24, 2023, the 2018 case was temporarily assigned to the
24 Hon. Judge Lambert for resolution of the issue of appointing a new judge. Plaintiff
25 did not file a Motion for Change of Judge again as she did on January 28, 2022.
26

27 The issues of Court Bias have become overwhelming in the past year and
28

1 Plaintiff believes she cannot get a fair trial in the 2018 case with the Hon. Judge
2 Jantzen nor from any of the closely tied judges in Mohave County.
3

4 **RESPECTFULLY SUBMITTED** this 27th day of February, 2023

5 
6 _____
7 Nancy Knight, Appellant Pro Per

8 **Original of the Foregoing Mailed on February 27, 2023 to:**

9 Court of Appeals - Division Two
10 400 W. Congress
11 Tucson, AZ 85701

12 **Copies delivered by Electronic Service on said day to:**

13 Deputy Attorney Jeff Haws for Mohave County
14 CAOCivil.Court@mohave.gov

15 Law Office of T'Shura Elias for
16 Defendants Hogue, Miller, Garcia, Rovno, Choate, Hanson/Dube, Frey and Kukreja.
17 tshura@lundberg-elias.com

18 Law Office of Daniel J. Oehler for
19 Defendants Azarmi, Ludwig Engineering and Fairway Constructors
20 djolaw10@gmail.com

21 Yavapai Court - Judicial Assistant - Div. 2
22 flslaton@courts.azgov

23 **Attachments:**

- 24 1. Feb. 17, 2023 scribbled upon Order for Knight's "Service of non-Dispensable Parties"
25 2. Feb. 21, 2023 Affidavit of a Claim of Court Bias
26 3. Feb. 24, 2023 Order for Judge Lambert to decide the issue
27
28

THREE ATTACHMENTS

1

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Daniel J. Chilier, Arizona State Bar No. 002739
Attorney for Defendants

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MOHAVE

NANCY KNIGHT

Plaintiff,

v.

GLEN LUDWIG and PEARL LUDWIG, Trustees
of THE LUDWIG FAMILY TRUST, FAIRWAY
CONSTRUCTORS, INC., METHUEN ARM
JAMES D. ROBERTS and DONNA M.
ROBERTS, husband and wife, JOEY DOES I-10,
JANE DOES I-10, ABC CORPORATIONS I-10,
and XYZ PARTNERSHIPS I-10

Defendants

No. CV-2018-04003

~~PROPOSED~~ ORDER

For service on
non-responsive parties

*The Court has considered the positions of
both Plaintiff and Defendant and adopted the following order for Plaintiff's filing in case-responsive parties*

IT IS ORDERED the caption of this case shall not be amended until after service is substantially accomplished and the Court can determine whether to join a nonowner who files a responsive pleading as a Plaintiff or Defendant

IT IS ORDERED the Plaintiff shall provide and input all necessary data and information for the issuance by the Court system of the Summonses that will be served upon each of the additional parties. The Plaintiff shall simultaneously file with the clerk of the Court and serve on the existing Defendants an Excel spreadsheet in electronic form that lists the Assessor's Parcel Number in numerical order in column A, the specific lot and tract number in column B, as well as numeric and mailing address of the current owner of each parcel in column C, in the row number corresponding to the Assessor's Parcel Number, in accordance with the current Mohave County Assessor's office information on file, reflecting the owners' respective mailing address and/or addresses. The spreadsheet

shall specifically include those lots that are located in Desert Lakes Golf Course and Estates Tract 4076-B, Tract 4076-D and Tract 4163.

IT IS ORDERED Plaintiff shall cause to be served in compliance with Arizona Rules of Civil Procedure Rule 4 (Ariz. R. Civ. P.), each and every owner identified in accord with the provisions of the immediately preceding paragraph.

IT IS ORDERED Plaintiff shall cause to be served upon each necessary and indispensable party a set of documents hereinafter referred to as the "Service Packet" that shall include: (1) either its personal summons; (2) a copy of Plaintiff's Complaint filed with this Court on January 22, 2018; (3) a copy of the Declaration of Covenants, Conditions and Restrictions For Desert Lakes Golf Course and Estates Tract 4076-B (recorded in Official Records of Mohave County on December 18, 1998 at Book 189-1, Pages 897-901); (4) a copy of the Declaration of Covenants, Conditions and Restrictions for Desert Lakes Golf Course and Estates Tract 4076-D (recorded in Official Records of Mohave County on October 19, 1990 at Book 1898, Pages 509-514); (5) Waiver of Service and Acceptance of Service forms; and (6) a Notice approved and finally prepared by the Court. **IT IS ORDERED** the Plaintiff may accomplish service in the following manner:

1. The Plaintiff may attempt to obtain an Acceptance of Service from all property owners. Plaintiff shall comply fully with the provisions of Rule 4.1 and Rule 4.2, Ariz. R. Civ. P., regarding transmittal of a proposed "Acceptance of Service" and the legal effects of "waiving service" per Rule 84 Forms 1-2 (Ariz. R. Civ. P.) and "accepting service" per Rule 4.2(a) (Ariz. R. Civ. P.). The Service Packet including the "Acceptance of Service" documentation shall be sent via United States Postal Service (USPS) first class mail to the parties. Only the Court approved documentation shall be transmitted.

2. For those property owners who do not sign an Acceptance of Service, the Court authorizes alternative service by mail as provided in Rule 4.2(c) (Ariz. R. Civ. P.) whether the property owners are located within Arizona or outside the State.

3. For those lot owners who do not sign a return receipt, the Plaintiff shall cause to be completed, in full accord with ARCP Rules 4.11 and 4.2, personal service upon the subject lot owners.

4. For those property owners who are not served in the ways set forth above, the Court may consider Plaintiff's request for other forms of alternative service.

IT IS ORDERED by ³ ~~January 21~~ ^{my 3c} ~~2023~~ or at the time of filing an initial pleading or motion with the Court, whichever is sooner, all parties and attorneys appearing in this case shall designate and maintain an e-mail address with the Clerk of the Court and the other parties. The e-mail address will be used to electronically distribute any document.

including minute entries and other orders, rulings, and notices described in Rule 125 Rules of the Supreme Court by e-mail or electronic link, or act of distribution of paper versions by regular mail. The e-mail address shall be designated on each document filed. In the event that a party's e-mail address changes, that change shall immediately be brought to the attention of the Clerk of Superior Court and included on subsequent filings and pleadings.

IT IS ORDERED that the Clerk of the Superior Court shall electronically distribute all pleadings and documents, including minute entries and other orders, rulings, and notices described in Rule 125 Rules of the Supreme Court by e-mail or electronic link, in lieu of distribution of paper versions by regular mail.

IT IS ORDERED, after initial service of the "Service Packet" and with the exception that originals of all documents must be filed with the Clerk of the Court in electronic format, all parties are authorized to transmit documents to all other parties in electronic format and shall attach to the original document filed with Clerk of Court a notice that the document was transmitted electronically to the other parties, along with a list of the names of the parties and e-mail addresses to which electronic transmission was sent.

IT IS ORDERED any party who declines to provide the Clerk of the Court and the other parties with an e-mail address shall be assessed the actual cost of mailing.

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

IT IS ORDERED Plaintiff shall have no direct nor indirect personal or written contact with the to-be-joined indispensable or necessary parties.

IT IS ORDERED that in the event the Plaintiff does not take substantial steps to have fully complied with the specifics of this Order as set forth herein, to join all necessary and indispensable parties within the next one hundred fifty (150) days, this matter shall be dismissed.

The Notice approved and finally prepared by the Court to be included in the "Service Packet" shall state, at a minimum, the following:

1. The Declaration of Covenants, Conditions and Restrictions for Desert Cakes Golf Course & Estates Tract 4076-13 and Tract 4076-10 covers the full set of the Declaration of Covenants, Conditions and Restrictions for Tract 4076-13.

2 Tract 4193 has no separate Declaration of Covenants, Conditions, and Restrictions other than the restrictions for Tract 4076-B that included the lands constituting Tract 4193.

3 The legal effects of "waring service" per Rule 84, Forms 1-2, Ariz. R. Civ. P., and "accepting service" per Rule 12(a)(1)(A)(ii), Ariz. R. Civ. P.

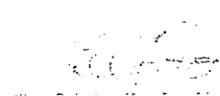
The Court has prepared and attaches to this Ruling a draft of the Notice to be included in the "Service Packet" and served upon all landowners.

IT IS ORDERED counsel shall be given an opportunity for input into the form of Notice for a period of twenty (20) days after the Court's proposed form is electronically delivered to Plaintiff's and Defendants' counsel.

DONE IN OPEN COURT this 17th day of February

2023

~~2022~~


Judge of the Superior Court

1 Nancy Knight
2 1803 E. Lipan Cir.
3 Fort Mohave, AZ 86426
4 Telephone: (928) 768-1537
nancyknight@frontier.com

FILED 0229 FEB 21 AM 01:14 BY
Christina Spurbuck SupCrtClerk

5 Plaintiff Pro Per

6 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**
7 **IN AND FOR THE COUNTY OF MOHAVE**

8 NANCY KNIGHT
9
10 Plaintiff,
11
12 v.
13 GLEN LUDWIG and PEARL LUDWIG,
14 Trustees of THE LUDWIG FAMILY TRUST;
15 FAIRWAY CONSTRUCTORS, INC.;
16 MEHDI AZARMI; JAMES B. ROBERTS and
17 DONNA M. ROBERTS, husband and wife;
18 JOHN DOES 1-10; JANE DOES 1-10; ABC
CORPORATIONS 1-10; and XYZ
PARTNERSHIPS 1-10.
19
20 Defendants.

Case No.: B8015 CV 2018 04003

**AFFIDAVIT OF A
CLAIM OF COURT BIAS**
Honorable Judge Jantzen

21 COMES NOW Plaintiff Pro Per, Nancy Knight, pursuant to Statute §12-409 (5), is
22 claiming she has cause to believe, and does believe, that on account of bias or prejudice
23 against women or prejudice against self-represented parties, she cannot get a fair and
24 impartial trial.

25 This case should at once be transferred to Yavapai County Superior Court where
26 two of the defendants in this case are defendants in that case. The Yavapai Court has
27 denied voluntary consolidation of this case into his case. The Hon. Judge Napper has
28 claimed eleven of the defendants in his case can be resolved in this case. He will now

1 have complete information to understand his many errors of assumption that has caused
2 his dismissals of defendants to be Appealed.

3
4 Knight is in the midst of writing her Appellant's Opening Brief for Division Two
5 of the Arizona Appeal Court. The case number is: 2 CA-CV 2023-0004

6 The Hon. Judge Napper has confused Defendant Ludwig Engineering Associates
7 with Glen Ludwig in this case. Consolidation will alleviate confusion and will provide
8 opportunity for Reconsideration of this Court's biased or prejudiced abuse of discretion
9 in claiming Knight is the Plaintiff (movant) on the issue of Summary Judgment for a
10 claim of abandonment and therefore, in this court's opinion, she must serve over 400
11 Indispensable Parties.
12

13
14 This Court has erred in his opinion and abused his discretion by not following the
15 legal definition of a movant in a Summary Judgment action as the Plaintiff who must join
16 parties. This Court has erred in his opinion and abused his discretion in not following
17 case law that is clear that the party who seeks to abrogate a restriction is the party who
18 must join parties. That movant (Plaintiff) is Azarmi, and Glen Ludwig who speak for the
19 personal and corporate pecuniary interests of Fairway Constructors, Inc.
20

21
22 This Court has denied Injunctive Relief when it is clear in case law that Injunctive
23 Relief should not have been stalled at all by the Fraud Upon the Court that the
24 defendant's "build to suit" advertising signs were "for sale" signs. My Motion for
25 Injunctive Relief was filed on October 24, 2022 and it took until February 17, 2023 to
26 orally deny my motion.
27

28 This Court has effectively caused dilapidated signs to impair the enjoyment of the

1 subdivision for four years with a risk of harm from high winds and rusted structures
2 supporting loosened and rusty “build to suit” sheet metal signs. This Court has effectively
3 allowed the defendants to continue to violate the CC&Rs that are still valid and in effect.
4

5 There exists no evidence of “complete abandonment”. Their Motion for Summary
6 Judgment should have been denied years ago.

7
8 The precedent case in law that this court defied among the many that cite *Sheets v.*
9 *Dillon* is *National City Bank v. Harbin Electric Joint-Stock Co.*, at 472. “The party who
10 seeks to invalidate restrictions must bring in the interested parties and give them a day in
11 court.”
12

13 Knight does not seek to invalidate any restriction. She is seeking to enforce the
14 Declaration that is an implied duty that she has been so doing for over six years. In fact,
15 she does not seek to abrogate her own setback violations and seeks remedy from those
16 who caused it in the 2021 case that she had to take from this Court with a Motion for a
17 Change of Judge. And then had to take the case from Mohave County when it was
18 confirmed that there existed only three judges in the County for civil cases and Hon.
19 Judges Moss and Gregory had to recuse themselves, for good cause.
20
21

22 Knight did not seek to invalidate the fence restrictions on her property in the 2016
23 case. Those restrictions proved valuable because when they were violated by her adjacent
24 neighbor with full support of Mohave County, her patio became very dark and the
25 workmanship was unsightly that was a taking of enjoyment of her home and the
26 modification that the County allowed without a permit was now a leaning block wall
27 fence that was a serious hazard.
28

1 A binding mediated settlement was reached for remedy in that 2016 case that led
2 to this Court declaring me a Vexatious Litigant when former attorney, now Judge
3 Gregory, attempted to change the agreed upon binding mediated settlement from my
4 paying to restore "a portion" of his client's rear yard violation to me having to pay to
5 remedy his clients' "entire" rear yard fence violation. And this Court claimed I was
6 harassing their (Elias, Oehler and Gregory) clients!
7
8

9 In the case of *Vernon v. R.J. Reynolds Realty Co.*, 226 N.C. 58, 61, 36 S.E.2d 710,
10 712 (1946)), The Court explained that the right to enforce the restriction was a property
11 right with value.
12

13 Our CC&Rs have value as a part of the value of our real property. This Court had
14 an opportunity to protect our value by granting my Motion to dismiss the abandonment
15 claim for Unclean Hands. Instead, this Court has denied my Motion and has effectively
16 allowed Affidavit Fraud to support the defendant's claim of abandonment. That motion
17 was filed on November 2, 2022 and it took until February 17, 2023 for this Court to
18 orally deny the motion during a Status Conference.
19
20

21 This Court's Gag Order against me is yet another abuse of discretion where I, as
22 President of the Unincorporated Association for Desert Lakes, did nothing wrong in
23 mailing a packet for a Ballot to amend the Tract 4076-B CC&Rs.
24

25 Given that legal counsel, including Mr. Oehler, have raised the issue of a Class
26 Action suit, and that Mr. Oehler's clients have claimed 116 lots have setback violations,
27 there was nothing wrong in serving my duty as President of the Unincorporated
28 Association in offering information to those who may need to become a part of a Class

1 Action. The Unincorporated Association has no resolution setting forth authority to file
2 law suits on behalf of property owners. As the volunteer President with over six years of
3 personal experience in litigating CC&R enforcement, I have the ability to offer free
4 consult service with documentation in three cases to those in need. There is nothing
5 wrong in offering to help those in need. The Gag Order is an abuse of this Court's power.
6

7
8 The most recent Status Conference held on February 17, 2023 revealed that this
9 Court is having Mr. Oehler file an Affidavit for Attorney fees for every Motion I have
10 filed since September 2022. This is yet another cause of action in this matter. I have not
11 filed any motion that was not necessary in seeking fairness and justice in the matters at
12 hand.
13

14 This Court has delayed my September 29, 2022 Motion for so long that I have lost
15 my ability to prosecute the Affidavit Fraud defendants in a civil matter which is what the
16 police department who investigated the evidence advised me to do. The three year statute
17 of limitations from when Mr. Oehler filed those Affidavits in this case has now expired.
18

19 It is my understanding that Courts have 60 days to rule on Motions. This Court
20 does not follow Rules of Procedure for my Motions. This Court did not rule on my
21 September 29, 2022 motion until February 17, 2023 and then this Court informed me that
22 Affidavit Fraud was a criminal matter. It should not have taken over four months for this
23 Court to make that determination.
24

25
26 I have written to Ashley Ramirez for the cost of the Transcript of the Status
27 Conference. When ordered, I will provide a Notice of Transcript Order to whatever court
28 is responsible for this case at that time.

1 As this Court is aware, I opened my May 2020 Oral Argument hearing on the
2 issue of abandonment with the following statement, "With all due respect for your
3 honor's high position, there exists a peremptory challenge under A.R.S. §12-409 that the
4 Plaintiff bring allegations of bias to the forefront before a lower Court enters a final
5 judgment. There exists a real possibility that bias is affecting court rulings. I understand
6 the Court's close ties to attorneys and Mohave County Judges."
7
8

9 In nearly three years, your behavior toward me has not changed since you declared
10 me a Vexatious Litigant for attempting to defend myself from what I call extortion in the
11 2016 case and a judgment against me for attorney fees in that defense.
12

13 This Court's ruling that the Plaintiff in a Complaint for Injunctive Relief must
14 serve Indispensable Parties is a Public Policy error. It must be challenged. Rule 19 (a)
15 should not allow a court to abuse his discretion and thereby allow a court to not follow
16 law or precedents or the definition of a movant in a Summary Judgment action. Mr.
17 Oehler's clients are the Plaintiffs in that action and should be the parties who *must* serve
18 the indispensable parties.
19
20

21 Thirty-seven (37) precedent cases citing *Sheets v. Dillon* 221 N.C. 426, 20 S.E.2d
22 344 (1942) on joining indispensable parties for abrogation of contracts was available to
23 this court in 2020. The Court failed its duty to either dismiss Mr. Oehler's MSJ in 2020
24 for failure to join parties or Order them to join the indispensable parties pursuant to Rule
25 19 and *Sheets v. Dillon*.
26
27

28 **37 cases citing *Sheets v. Dillon*:**

1) *Karner v. Roy White Flowers, Inc.* 2) *Runyon v. Paley* 3) *Lamica v. Gerdes* 4) *Tull v. Doctors Building, Inc.* 5) *Karner v. Roy White Flowers, Inc.* (appeal) 6) *Chappell v. Winslow* 7) *Sherer v. Steel Creek Prop. Owners Ass'n* 8) *Wise v. Harrington Grove Cmty. Ass'n* 9) *Smith v. Butler Mtn. Estates Property Owners Assoc.* 10) *Hawthorn v. Realty Syndicate, Inc.* 11) *Stegall v. Housing Authority* 12) *Realty Co. v. Hobbs* 13) *Reed v. Elmore* 14) *Schoenith v. Realty Co.* 15) *Muilenburg v. Blevins* 16) *Hege v. Sellers* 17) *Malamphy v. Potamac Edison Co.* 18) *Story v. Walcott* 19) *Sedberry v. Parsons* 20) *Higdon v. Jaffa* 21) *Vernon v. Realty Co.* 22) *Warrender v. Gull Harbor Yacht Club, Inc.* 23) *Fairfield Harbour Prop. Owners Ass'n v. Midsouth Golf Llc* 24) *Fairfield Harbour Prop. Owners Ass'n v. Midsouth Golf Llc* (appeal) 25) *Bodine v. Harris Village Property Owners* 26) *Harrison v. Lands End of Emerald Isle Assoc* 27) *Wein II, LLC v. Porter* 28) *Wein II, LLC v. Porter* (appeal) 29) *Dep't of Transp. v. Fernwood Hill Townhome* 30) *Page v. Bald Head Ass'n* 31) *Mills v. Enterprises, Inc.* 32) *Srickland v. Overman* 33) *Quadro Stations v. Gilley* 34) *Building Co. v. Peacock* 35) *Land Corp. v. Styron.* 36) *Hale v. Moore* 37) *Church v. Berry.*

15 In *Sheets v. Dillon* 221 N.C. at 432, 20 S.E.2d at 348, it is specifically stated,
16 "If plaintiff desires to have this covenant invalidated and stricken from the deed of the
17 original grantee, he **must** bring in the interested parties and give them a day in court."
18 (Emphasis added).
19

20 Knight does not desire to have any of the covenants invalidated. In other words, it
21 is the party who seeks abrogation of the CC&Rs who **must** join indispensable parties. In
22 turn, the Court to whom this case is reassigned **must** instruct Mr. Oehler's clients to join
23 the necessary parties.
24

25 This Court has attempted to redefine what a movant is in a summary judgment
26 action. The legal definition of a movant is the party with the burden of proof. The movant
27 in a motion for Summary Judgment has the burden of proof of "complete abandonment"
28

1 in this case. He is the Plaintiff. Plaintiff's bear the burden of proof. Azarmi is the Plaintiff
2 (movant) in the Summary Judgment action on abandonment.

3
4 Futility of a ruling of "complete abandonment" is demonstrated in the case of
5 *Burke v. Voicestream Wireless Corp.*, 87 P.3d 81 (Ariz. Ct. App. 2004) that specifically
6 sets forth terminology and circumstances that are similar to those before this Court.

7
8 The Burke's purchased a home in a subdivision in Scottsdale, AZ. The Declarant
9 chose not to form a homeowner association. The CC&Rs included a non-waiver
10 provision. Other violations had occurred in the subdivision and Voicestream claimed
11 abandonment of the Covenants.

12
13 Pursuant to case study, "Voicestream's evidence failed to establish that the prior
14 violations of the restrictive covenants had 'destroyed the fundamental character of the
15 neighborhood.'"

16
17 Knight claims Mr. Oehler's client's evidence fails to establish that prior violations
18 have destroyed the fundamental character of the combined Subdivision Tracts 4076-B,
19 Tract 4076-D and Tract 4163 that are subject to the Tract 4076-B CC&Rs in this case.

20
21 Quotes from the case: "Even though Voicestream presented evidence that the
22 homeowners acquiesced in prior violations, the Court said 'we have not been presented
23 any persuasive reason why the non-waiver provision of the Restrictions should not be
24 enforced in this instance.'. No evidence was presented, that Burkes' subdivision is no
25 longer a "choice residential district." The violations described by Voicestream have not
26 destroyed the fundamental character of the neighborhood. We conclude, as a matter of
27 law on the record before us, that the non-waiver provision of the Restrictions remains
28

1 enforceable and the subdivision property owners have not waived or abandoned
2 enforcement even though they or their predecessors have acquiesced in several prior
3 violations of its provisions.”
4

5 Knight points out that she nor her predecessors have acquiesced in prior
6 violations. Frank Passantino of Desert Lakes Development LP did not keep quiet on
7 Parcel VV being zoned multifamily. At CEO Passantino’s request on or about 1991, the
8 Board of Supervisors approved abandonment of a County’s perceived multifamily zoning
9 designation on Parcel VV. It had to be abandoned from the record because multifamily
10 housing is a violation of the Tract 4076-B CC&Rs.
11
12

13 Thomas and Mary Coury of T&M Mohave Properties did not keep quiet on the
14 1998 proposal that Parcel VV lots be annexed to an existing HOA. That condition of
15 approval for Tract 4163 was omitted by the Board of Supervisors in 2002. There has
16 never been an HOA for any parcel in Desert Lakes Golf Course and Estates. Who do you
17 suppose was the party who wanted over \$400 per year in HOA fees from 32 lots carved
18 out of Parcel VV?
19
20

21 Nancy Knight did not keep quiet when Mohave County gave a permit to her
22 adjacent neighbor to trespass on her real property and extended the height of her
23 boundary fence to over six feet that was a violation of the CC&Rs.
24

25 Even after Knight paid \$1400 for a Survey and it was found that her boundary
26 fences were inside her property line and not shared by the adjacent neighbors, the County
27 refused to revoke the permit. Plaintiff’s law suit cost over \$37,000 for enforcement and
28 remedy when Knight’s attorney claimed Mr. Oehler said his clients had no money and

1 there was an urgent need to remedy the leaning fence before it fell and injured persons or
2 property.

3
4 The remedy was to cut away the extended height of 30 lineal feet of cement block
5 wall. The remedy was to cut away filled in cement blocks and restore wrought iron rails
6 on both her own fence return and on "a portion" of her neighbor's rear yard fence.

7
8 Voicestream's remedy was to remove their tower at a reported cost of \$300,000.

9 Self-serving defendants and many of their affiants either claim they caused
10 setback violations or listed violations on their Affidavits that are fraudulent and now want
11 to use those violations to assist Mr. Oehler's clients with a claim of abandonment.
12

13 For several years, Plaintiff Knight has sought to hold those responsible for
14 violations to be prosecuted and this court has denied every Motion for Leave to Amend
15 her Complaint for additional Breach of Contract claims. This Court exclaimed during a
16 Status Conference, "When will it end?"
17

18 It ends when Mr. Oehler's clients stop stalling prosecution of their misdeeds and
19 stop violating the CC&Rs. It ends with a vivid display of demolition for remedy of
20 violations and proves to the community that taking self-serving risks has consequences.
21

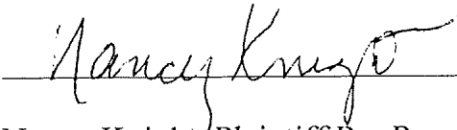
22 The Court in the *Burke v. Voicestream* case also agreed that Voicestream was not
23 entitled to claim hardship because they proceeded with construction knowing of the
24 Restrictions. Similarly, Mr. Oehler's clients and any defendant that knowingly builds in
25 violation of the restrictions are not entitled to claim hardship.
26

27 Plaintiff has not acquiesced on her own setback violations either. In the case that
28 was transferred to Yavapai County, she alleges that her rear yard setback violation is the

1 result of multiple levels of fraud that included a fraudulent scheme. The scheme began
2 with an Application for a zoning change from Agricultural to RO. In 1998, no parcel nor
3 lot in Desert Lakes was zoned Agricultural and the County knew it. The 300+ acre
4 Subdivision was approved for Special Development Residential zoning since 1989. Due
5 to Mohave County involvement in the fraudulent zoning change, a Motion for a Change
6 of Venue was filed and approved. The matter was transferred to Yavapai County as
7 P1300 CV 2022 00177.
8

9
10 Mr. Oehler has claimed that Knight has filed this case because of his perception
11 that she dislikes developers. Knight's husband worked in the home construction industry
12 for the majority of his working years. Knight respects those developers who work hard to
13 provide beautiful, well built homes. Knight respected CEO Passantino so much that she
14 created a website in honor of his "Amazing Vision" that created the beautiful Desert
15 Lakes Golf Course & Estates Subdivision Tract 4076. And she admires the excellent
16 Declaration of CC&Rs that he provided the community for protections of their
17 investment in their homes. See desertlakes.net
18
19
20

21 RESPECTFULLY SUBMITTED this 21st day of February, 2023.

22 
23 Nancy Knight, Plaintiff Pro Per
24

25 Copy sent electronically on this day to:
26 djolaw10@gmail.com
27 Daniel Oehler, Attorney for LFA Defendants

28 Courtesy copy to Yavapai Superior Court
flslaton@courts.az.gov

3

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MOHAVE

HONORABLE STEVEN C. MOSS
DIVISION III

DATE: FEBRUARY 24, 2023

cjv

ORDER

NANCY KNIGHT,

Plaintiff(s),

vs.

GLEN LUDWIG, et al.,

Defendant(s).

CASE NO. CV-2018-04003

The Court has received and reviewed the Honorable Lee F. Jantzen's minute order of February 24, 2023, and the Plaintiff's Affidavit of a Claim of Court Bias filed February 21, 2023.

The Court is familiar with multiple parties. In order to avoid the appearance of impropriety,

IT IS ORDERED temporarily assigning this case to the attention of the Honorable Rick Lambert, Associate Presiding Judge, for resolution of the issue of whether to appoint a new judge.

cc:

Nancy Knight*
nknight@frontier.com
Plaintiff

Daniel J. Oehler*
DJOehler@gmail.com
Counsel for Defendant(s)

Honorable Rick Lambert*
Division VII

Honorable Lee F. Jantzen*
Division IV