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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 Plaintiff,

10 vs.

11 GLEN LUDWIG, et. al.,

12 Defendants.

Case No.: CV 2018 04003

13 **FINAL ORDER**
14 **For Service of Indispensable Parties**

Hon. Judge Nielson

15 **IT IS ORDERED** that the caption of this case shall not be amended until after
16 service is substantially accomplished and the Court can determine whether to join an
17 Indispensable Party as a Movant in the MSJ on abandonment or Non-Movant defending
18 the Declaration's validity and enforceability. Substantial being defined as Knight having
19 expended mailing costs of at least \$2,000 for the first mailing to the Indispensable Parties
20 who own residential lots with Assessor Parcel Numbers (APNs) as listed on the Excel
Spreadsheet provided to the Clerk of the Court and Attorney Oehler.

21 **IT IS ORDERED** that Knight (non-movant on abandonment) shall provide all
22 necessary data and information into an Excel spreadsheet that is required for the issuance
23 by the Court system of the Summonses that will be served upon each of the additional
24 parties. Knight shall provide the Excel Spreadsheet, simultaneously sent by electronic
25 delivery, to the Clerk of the Court and existing Defendant's attorney. The spreadsheet
26 shall specifically include those residential lots that are located in the Assessor's Property
27 Description for Desert Lakes Golf Course and Estates Tract 4076-B, Tract 4076-D and
Tract 4163.

28 The Excel spreadsheet shall list the following data and information as follows:
Assessor's Parcel Numbers in numerical order in column A, the specific lot number in



1 column B (also known as the Property Description by the Assessor), the name(s) of the
2 current owners in column C based on either the information from the Mohave County
3 Assessor's Website or from the Mohave County Recorder's online search for the most
4 recent sale of the said APN, the number and street name of the mailing address of the
5 current owner of each parcel in column D, the City in column E, the State in column F,
6 and the Zip Code in column G.

7 **IT IS ORDERED** Knight shall cause to be served in compliance with Arizona
8 Rules of Civil Procedures, Rule 16, Rule 4(f), Rule 4.1(c)(1)(A)-(G), each and every
9 owner identified in accord with the provisions of the immediately preceding paragraph.

10 **IT IS ORDERED** Knight shall be allowed to file a claim for second mailing
11 costs, costs of a Process Server, and/or costs of Publication in Small Claims Court
12 pursuant to the "Duty to Avoid Unnecessary Costs of Service of Summons".

13 16 A.R.S. Rules of Civil Procedure, Form 2, Page 2, Waiver of Service of
14 Summons DUTY TO AVOID UNNECESSARY COSTS OF SERVICE OF
15 SUMMONS

16 Rule 4.1 and Rule 4.2 of the Arizona Rules of Civil Procedure require
17 certain parties to cooperate in saving unnecessary costs of service of the
18 summons and a pleading where the party's failure to do so will be required
19 to bear the cost of such service unless good cause be shown for its failure to
20 sign and return the waiver.

21 Rule 4(f): There are two ways to accomplish service with the assent of the served
22 party - waiver and acceptance.

23 Since all parties can agree to be served by Waiver, only one of the two ways needs
24 to be provided to the Indispensable Parties by Knight.

25 **IT IS ORDERED** Knight may accomplish service by Waiver. The waiver of
26 service must be in writing, signed by that party or that party's authorized agent or
27 attorney, and be filed in the action. A party who waives service receives additional time
28 to serve a responsive pleading, as provided in Rule 12(a)(1)(A)(ii).

IT IS ORDERED that the contents of the Service Packet shall include: (1) A
Notice to Property Owners, (2) Personal Summons, (3) a copy of the Knight's Complaint
filed with this Court on January 22, 2018, (4) a copy of Ludwig's et.al. Answer filed on
June 19, 2018 (7 pertinent pages excluding 5 pages of Verifications that are unnecessary
for the Indispensable Parties), (5) for all Tract 4076-B, Tract 4076-D and Tract 4163
APNs, a copy of the Declaration of Covenants, Conditions and Restrictions for Desert

1 Lakes Golf Course and Estates Tract 4076-B recorded in Official Records of Mohave
2 County on December 18, 1989 at Book 1641, Pages 895-901. All Tract 4076-D lots shall
3 receive both the Tract 4076-B and Tract 4076-D Declarations. The Tract 4076-D
4 Declaration of Covenants, Conditions and Restrictions was recorded in Official Records
5 of Mohave County on October 19, 1990 at Book 1808, Pages 509-514, (6) Two Waiver
6 of Service forms for each property owner listed for their Assessor Parcel Number(s) and
7 sufficient self-addressed stamped envelopes for return of one copy of each signed waiver
8 to be returned to Knight for filing with the court. One copy of the Waiver of Service
9 Form is for the recipient to keep for their records. Good cause must be shown for anyone
10 who cannot return the signed waiver that will be provided to the court in lieu of the
11 Signed Waiver pursuant to Rule 4 (f).

12 **IT IS ORDERED** the Summons and Waiver of Service shall list the Plaintiffs as
13 Ludwig et. al. for the law suit being filed against the Indispensable Parties. Nancy Knight
14 shall be listed as the Defendant. Ludwig et. al. are the movants (Plaintiffs) who bear the
15 burden of proof in the action on abandonment of the Declaration or abandonment of
16 specific Deed Restrictions.

17 **IT IS ORDERED** Knight may accomplish service in the following manners for
18 parties with a mailing address either in or outside the State of Arizona or outside the
19 United States:

- 20 1. Knight shall first attempt to cause parties to be served by first class mail,
21 Return Receipt requested, to the mailing address of the owners of each and every
22 APN listed on the Excel spreadsheet as provided to the Clerk of the Court and
23 Attorney Oehler as follows:
 - 24 a. The name on the envelope and associated Return Receipt for the first
25 mailing will be the name on the Property Tax Statement.
 - 26 b. For any APN held in a Trust, the name on the envelope and associated
27 Return Receipt for the first mailing will be the name of the member on
28 their Property Tax Statement and will only require the return of one copy
of the Waiver of Service Form from any single member of the Trust.
 - c. For any APN held in joint tenancy, the name on the envelope and
associated Return Receipt of the first mailing will be the name of the
primary property owner.
2. For APNs held in joint tenancy where only one party of multiple parties
returns the Waiver of Service form and fails to respond without good cause, a
second attempt will be mailed to the non-responding party or parties addressed to

1 their specific name with the costs to be borne by the owners of the APN pursuant
2 to Rule 16, A.R.C.P. Rule 4 (f) and form CVC27f-100317 (Waiver of Service - 2
3 sided Form).

4 3. In lieu of any party failing to return the Waiver of Service upon the second
5 mailing, Knight will file the Return Receipt with the Court and the Court will
6 consider the unresponsive parties owning the APN as having been served in
7 accord with Rule 16, Rule 4 (f), Rule 4.1 and Rule 4.2 of the Arizona Rules of
8 Civil Procedure for their Duty to Avoid Unnecessary Cost of Service of Summons.

9 **IT IS ORDERED** that for any owner of an APN that is mailed a Service Packet
10 and if it is returned by the USPS for non-delivery such as for an inability to forward,
11 refused, return to sender unclaimed, etc., the Court may consider Knight's request for
12 other forms of alternative service.

13 **IT IS ORDERED** by _____, 2023, or at the time of filing an initial
14 pleading or motion with the Court by an Indispensable Party, whichever is sooner, all
15 parties and attorneys appearing in this case shall designate and maintain an e-mail
16 address with the Clerk of the Court and the other parties. The e-mail address will be used
17 to electronically distribute any document, including minute entries and other orders,
18 rulings, and notices described in Rule 125, Rules of the Supreme Court, by e-mail or
19 electronic link in lieu of distribution of paper versions by regular mail. The e-mail
20 address shall be designated on each document filed. In the event that a party's e-mail
21 address changes, that change shall immediately be brought to the attention of the Clerk of
22 Superior Court and included on subsequent filings and pleadings.

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

27 **IT IS ORDERED**, after initial service of the Service Packet, all Plaintiffs Pro Per
28 or Defendants Pro Per are authorized to file documents with the Clerk of the Court by
mail or personal delivery to a Mohave County Courthouse and to transmit documents to
all other parties in electronic format and shall attach to the original document filed with
Clerk of the 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. Plaintiffs Pro Per and Defendants Pro Per are not

1 required to register with TurboCourt for electronic filing of documents with the Court.

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

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

8 **IT IS ORDERED** the existing litigants involved in the matter of abandonment of
9 the CC&Rs, shall not have any direct nor indirect contact with the to-be-joined nor joined
10 Pro Se Indispensable Parties. All litigants shall have contact with Indispensable Party's
11 Legal Counsels.

12 Nancy Knight, in her capacity as President of the Desert Lakes Tract 4076
13 Unincorporated Association, shall have the ability to have contact, directly or
14 indirectly, with any property owner in the 300+ acre Subdivision Tract 4076
15 including indispensable or necessary parties in order to perform in the capacity of
16 the Architectural Committee for meetings regarding the Committee rules,
17 variances or exclusions, or for meetings regarding Amendments to the CC&Rs.

18 Pursuant to the Gag Order imposed on Nancy Knight by Hon. Judge Jantzen, no
19 discussion regarding this case shall be allowed at any of the meetings.

20 **IT IS ORDERED** that in the event Knight does not take substantial steps to have
21 fully complied with the specifics of this Order as set forth herein to join all necessary and
22 indispensable parties within one hundred fifty (150) days from receiving the Court's
23 signed Order and approved Notice to Property Owners to complete her mailing of the
24 Service Packet, this matter shall be dismissed. Substantial steps is defined as having
25 certified mail receipts in the sum of at least \$2,000 for the first mailing to the
26 indispensable party owners of APNs on the Excel Spreadsheet.

27
28 DONE IN OPEN COURT this ____ day of _____, 2023.

Judge of the Superior Court