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

22 Defendants.

NO.: CV-2018-04003

**RESPONSE TO MOTION FOR
DEFENDANTS TO JOIN
RULE 19 PARTIES**

23 On October 14, 2023, Plaintiff penned Plaintiff’s Motion for Defendants to Join Rule
24 19 Parties.” This latest effort of the Plaintiff to find some sort of supporting rule of law or
25 in this instance rule of procedure has resulted in Plaintiff’s enlisting Rule 104 of the Justice
26 Court as support of Plaintiff’s position and is exemplary of the length to which the Plaintiff
27 will go to once again push for a horizontal appeal of former Judge Jantzen’s orders that
28 Plaintiff serve the Rule 19 parties. Plaintiff’s current Motion on this issue clearly reflects the
fact that Plaintiff refuses to accept and abide by the Orders of this Court even subsequent to
this Court going to extraordinary lengths to explain to Plaintiff that this Court would not
process nor rule favorably on horizontal appeal issues. This was explicitly and clearly
explained to the Plaintiff at the very first appearance of the parties before this Court in July
2023.

1 The Rules of the Justice Court are not applicable and have no place as authority before
2 this Court but even if they were “useable authority,” Rule 104 of the Justice Court does not
3 in any manner support Plaintiff’s position, just as Plaintiff’s multitude of reconsideration
4 motions and other motions that have previously been filed by Plaintiff have been uniformly
5 unsuccessful. Plaintiff’s accusations of “malicious conduct” by the Defendants and the Court
6 itself are contemptuous and should result in sanctions as are Plaintiff’s accusations of
7 “entrapment” by the Court.

8 Plaintiff in virtually every filing with this Court reflects an intent to ignore this and
9 literally all Court orders that in Plaintiff’s opinion are erroneous, violate the law or that the
10 Courts (Mohave, Yavapai, or Your Honor’s Court) simply “don’t know the law.”

11 Plaintiff “demands” that the Court effectively rule in Plaintiff’s favor just as Plaintiff
12 “demands” that the Court enter an order that Defendants reimburse Plaintiff for the apparent
13 attorney fees paid to Plaintiff’s discharged attorney.

14 Plaintiff states in Plaintiff’s dismissed Yavapai Superior Court case on October 7,
15 2023, regarding the ARCP Rule 19 issue:

16 “... but for the recused former court’s abuse of discretion for
17 Rule 19(a)(2), Attorney Oehler’s clients would have been
18 ordered to mail the service packet. By law it is the party who
19 seeks abrogation of a declaration who MUST join indispensable
parties.” See, p. 5, lines 19-22, Plaintiff’s Motion for Relief
from Errors dated October 7, 2023, Knight v. Hogue, et al.,
Yavapai Superior Court Case No. CV-2022-00177.

20 Plaintiff states to this Court: “Plaintiff has no need to stall this case to protect herself
21 from a Void Order that is unlawful and signed by this Court with a November 2, 2023
22 deadline.” See, Plaintiff’s Reply to Objection for Leave to Amend Complaint, p. 2, lines
23 15.5 to 16.5.

24 At this Court’s first hearing in July 2023, the Court expressly and specifically
25 discussed with Plaintiff the basis and effect of “the law of the case” or horizontal appeal
26 concept and its application to existing and prior Court orders whether issued by any one of
27 the three or four prior judges in this matter, including Judge Jantzen. This Court addressed
28 the applicability of this legal concept regarding ARCP Rule 19 issues and that this Court was

1 not going to “overrule” an order issued by a prior judge.

2 The concept and application of “the law of the case” was succinctly described by the
3 Arizona Court of Appeals in Powell-Cerkoney v. TCR-Montana Ranch Joint Venture II, 176
4 Ariz. 275, 860 P. 2d 1328 (Ariz. App. 1993):

5 “A party seeks a ‘horizontal appeal’ when it requests a second trial
6 judge to reconsider the decision of the first trial judge in the same
7 matter, even though no new circumstances have arisen in the interim
8 and no other reason justified reconsideration. Hibbs v. Calcot, Ltd.,
9 166 Ariz. 210, 214, 8091 P.2d 445, 449 (App. 1990).”

10 Plaintiff has ignored this Court’s articulated position on this issue from day one
11 through Plaintiff’s by filings over the past three months continuing to argue the same issue
12 dealing with ARCP Rule 19 in various motions in August, September and now Plaintiff’s
13 October 5, 2023, captioned “Motion for Correction of Errors of Law”; Plaintiff’s Reply to
14 Response filed October 11, 2023, and the pending Motion for Defendants to Join Rule 19
15 Parties filed October 14, 2023.

16 Each and every one of these motions fly directly in the face of the doctrine of “the law
17 of the case.” See, Powell-Cerkoney v. TCR-Montana Ranch Joint Venture II, 176 Ariz. 275,
18 860 P. 2d 1328 (Ariz. App. 1993):

19 “When, as in this case, we apply the doctrine to decisions of the
20 same court, we treat law of the case as a procedural doctrine rather than
21 as a substantive limitation on the court’s power. See North Star Dev.
22 Corp. V. Wolfswinkel, 146 Ariz. 406, 410, 706 P.2d 732, 736 (App.
23 1985); Love v. Farmers Ins. Group, 121 Ariz. 71, 73, 588 P.2d 364, 366
24 (App. 1978). Powell, supra, at p. 1331.

25 Plaintiff’s conduct in this matter and Plaintiff’s waste of time of both this Court and
26 counsel for the Defendants in Plaintiff’s hundreds of duplicate pleadings warrant an award
27 of attorney fees and costs in direct accord with the holding in Powell, supra, calling for and
28 requiring:

“...an orderly process leading to an end to litigation. State v.
Maxwell, 19 Ariz. App. 431, 435, 508 P.2d 96, 100 (1973).”
Powell, supra, at p. 1331.

The Powell, supra, court went on to state:

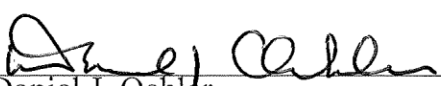
“Hibbs v. Calcot, Ltd., 166 Ariz. 210, 214, 8091 P.2d 445, 449

1 (App. 1990). We criticize horizontal appeals because they waste
2 judicial resources by asking two judges to consider identical
3 motions and because they encourage 'judge shopping.' *Id.*; see
4 *Chanay v. Chittenden*, 115 Ariz. 32, 34, 563 P.2d 287, 289
(1977); *Mozes v. Daru*, 4 Ariz. App. 385, 389, 420 P.2d 957,
961 (1967)."

5 Defendants respectfully request that the Court deny Plaintiff's October 14, 2023,
6 Motion and award Defendants their attorney fees and costs to be supplied to this Court via
7 an application, affidavit and statement.

8 RESPECTFULLY SUBMITTED this 25th day of October, 2023.

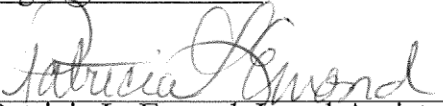
9 LAW OFFICES OF DANIEL J. OEHLER

10 
11 Daniel J. Oehler,
12 Attorney for Defendants

12 **COPY** of the foregoing emailed
13 this 25th day of October, 2023, to:

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