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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
14 Plaintiff,
15
16 vs.

NO.: CV-2018-04003

**RESPONSE TO MOTION FOR
RELIEF FROM THE COURT
ORDER DATED 10/17/2023**

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.

25
26 COME NOW, the Defendants, GLEN LUDWIG and PEARL LUDWIG, Trustees of
27 THE LUDWIG FAMILY TRUST, FAIRWAY CONSTRUCTORS, INC., and MEHDI
28 AZARMI, by and through their attorney, the undersigned, and in response to Plaintiff's Rule
60(b) Motion for Relief from this Court's October 17, 2023, order/Judgment alleged by
Plaintiff to be as a result of "... failure of this Court's due process for new claims by the
Defendants for Plaintiff's valid motions." See, Plaintiff's 10/23/2023 Motion, p. 1, lines
16-19.

Specifically, Plaintiff alleges to this Court that Plaintiff's Motion is authorized under
the provisions of Rule 60(b), Arizona Rules of Civil Procedure. With specificity, Rule 60(b)
ARCP, in pertinent part, reads as follows:

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1 **“(b) Grounds for Relief from a Final Judgment, Order, or**
2 **Proceeding.** On motion and just terms, the court may relieve a party or
3 its legal representative from a final judgment, order, or proceeding for
4 the following reasons:

- 5 (1) mistake, inadvertence, surprise, or excusable neglect;
- 6 (2) newly discovered evidence that, with reasonable diligence,
7 could not have been discovered in time to move for a new trial
8 under Rule 59(b)(1);
- 9 (3) fraud (whether previously called intrinsic or extrinsic),
10 misrepresentation, or other misconduct of an opposing party;
- 11 (4) the judgment is void;
- 12 (5) the judgment has been satisfied, released, or discharged; it is
13 based on an earlier judgment that has been reversed or vacated;
14 or applying it prospectively is no longer equitable; or
- 15 (6) any other reason justifying relief.” ARCP Rule 60(b).

16 Plaintiff’s Motion fails to specify which specific portion or what specific reason she
17 has filed her current application, i.e., items (1) through (6) of subparagraph (b). Plaintiff
18 simply alleges that what Plaintiff calls “gag order” deprives the Plaintiff of liberty and the
19 freedom to speak. See, Plaintiff’s 10/23/2023 Motion, p. 2, lines 11-20. Clearly ARCP
20 Rule 60(b)(1), (2), (3), (5) or (6) do not apply. As to ARCP Rule 60(b)(4), no Court has
21 issued any decision that even suggests that the Order is void. The only statements and self-
22 serving opinions of the Plaintiff who has declared the Order void exists. The issue has been
23 raised multiple times and Plaintiff’s position has uniformly been unsuccessful.

24 Plaintiff next discusses Plaintiff’s failed Motion to Strike the Defendants’ 2019
25 Motion for Summary Judgment. Here, Plaintiff once again provides no specific provision
26 of ARCP Rule 60 that purportedly applies, rather Plaintiff simply argues that the Declaration
27 of Covenants which are the underlying subject matter of the litigation, and which Defendants
28 claim are “abandoned” should mandatorily require the Defendants to join the necessary and
 indispensable Rule 19 parties. This is an issue that has been researched over the past several
 years and has been the subject matter of multiple previously filed Motions, Responses and
 Replies and each of which have been ruled upon by this Court, ultimately ordering Plaintiff

1 to join the Rule 19 parties.

2 Next, Plaintiff's Rule 60 Motion addresses Plaintiff's Rule 12 ARCP claim or
3 argument, again, dealing with the issue of Covenants having been claimed abandoned by the
4 Defendants. This, like the issues above, is an issue that has been addressed by not only the
5 assigned Judge in this Court but by each of the previous Judges who have been assigned to
6 this particular matter.

7 The particular Judgment in question was entered by this Court on or about October
8 17, 2023, and dealt specifically with three of Plaintiff's Motions, each of which had
9 previously been filed, briefed and argued to this Court and as are specified in the Judgment,
10 those Motions consist of the following: (1) Plaintiff's Motion to Strike Defendants' 2019
11 Motion for Summary Judgment filed March 1, 2023; (2) Plaintiff's Motion for Gag Order
12 on Oehler and Defendants filed June 9, 2023; and finally, (3) Plaintiff's Motion for Oehler
13 (the Defendants) to State a Rule 12 Claim filed by the Plaintiff on June 12, 2023. See,
14 Judgment 10/17/2023, p. 2.

15 The subject Judgment is derivative from the Defendants' Application for Attorney
16 Fees and Costs that were supported by Defendants' Affidavit of Attorney Fees and Statement
17 of Costs filed with the Court on September 19, 2023. The Judgment itself calls out that
18 specific reference and further that this Court, after having reviewed Plaintiff's general
19 objections and responsive pleadings, and finding that the Plaintiff established no reasonable
20 basis in favor of Plaintiff's arguments, the Court specifically found:

21 "...it is this Court's finding that Plaintiff unreasonably expanded or
22 delayed the proceedings in this matter, and further that the provisions
of A.R.S. §12-349(A)(3) are applicable, and good cause appearing,

23 This Court grants judgment for the Defendants for their reasonable
24 attorney fees and costs incurred in responding to the following motions
and pleadings filed by the Plaintiff, with regard to the three specific
25 motions filed by Plaintiff: ..." See, Judgment 10/17/2023, p. 1.

26 Generally speaking, it appears that the Plaintiff has personally decided that the Court's
27 order is void apparently in an effort to find some category of ARCP Rule 60(b) into which
28 Plaintiff can fit Plaintiff's argument, i.e., ARCP Rule 60(b)(4) that "the judgment is void."

1 Apparently, Plaintiff believes the Plaintiff, and not the Court, can simply decide that the gag
2 order is void and thereby reverse this Court's Judgment of October 17, 2023. Plaintiff is not
3 the decision maker in this matter nor is Plaintiff an Appellate Court judge. Plaintiff's
4 rendition that a judgment is void is meaningless until or if Plaintiff's position is supported
5 by a judge acting within the scope of his office.

6 The second Motion referred to in the October 17, 2023 Judgment is Plaintiff's
7 unsuccessful March 1, 2023 Motion to Strike a Defendants' December 6, 2019 Motion for
8 Summary Judgment which was fully briefed and responded to by the Plaintiff and argued
9 before the Court on August 7, 2023, claiming it should be stricken from the record.
10 Plaintiff's initial attempt to take post decision action on Defendants' Motion for Summary
11 Judgment was in a Motion to Dismiss the then moot Motion for Summary Judgment filed by
12 Plaintiff May 20, 2020, and denied by the Court on August 3, 2020. Thereafter, Plaintiff
13 again attempted to delete the Defendants' Motion for Summary Judgment on March 1, 2023,
14 captioned as a Motion to Strike which was denied August 7, 2023. Plaintiff appears to now
15 argue that Plaintiff is entitled to and the Court is obligated to enter a finding that the
16 Declaration of CC&Rs have not been abandoned (see, Plaintiff's 10/23/2023 Motion, p. 3,
17 line 6) since the Court denied Defendants' Motion for Summary Judgment. The Plaintiff
18 appears to claim that the denied summary judgment is proof the Covenants are enforceable
19 and the Defendants are not entitled to further litigate the matter. If one argues against
20 Plaintiff's position, such argument is "malicious" and is a harassment of the Plaintiff. See,
21 Plaintiff's 10/23/2023 Motion, p. 3.

22 There is absolutely no subsection of ARCP Rule 60(b) into which Plaintiff's
23 arguments can reasonably be applied. Clearly, there is no mistake, no inadvertence, no
24 surprise, nor any excuseable neglect that brought about the Court's rulings that were briefed
25 and argued that resulted in the subject Judgments (ARCP Rule 60(b)(1)). There is no newly
26 discovered evidence that has been presented and that has been offered by the Plaintiff to
27 reverse the subject Judgment (ARCP Rule 60(b)(2)).

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1 There have been multiple failed motions submitted by Plaintiff and never a finding
2 or decision by the Court of fraud, misrepresentation or other misconduct no matter how many
3 times Plaintiff has alleged such to be the case, including Plaintiff’s previously filed and
4 uniformly failed motions alleging fraudulent conduct which have consistently been
5 unsuccessful and denied by the Court after briefing and argument (ARCP Rule 60(b)(3)).

6 Plaintiff’s self declaration in this pending Motion that the Judgment is “void” does not
7 make the Judgment void. The Plaintiff is not the Judge. The Plaintiff is the Plaintiff and has
8 failed in each of Plaintiff’s attempts of which there have been somewhere between 150 and
9 200 pleadings filed in this matter by the Plaintiff (ARCP Rule 60(b)(4)).

10 Certainly, the subject Judgment has not been satisfied, released or discharged (ARCP
11 Rule 60(b)(5)).

12 Finally, no legitimate reason has been presented to this Court in Plaintiff’s 10-page
13 Memorandum of Points and Authorities that support Plaintiff’s conclusion reading:

14 “Plaintiff pleads for reversal of the attorney fees. Plaintiff pleads for
15 this Court to void all orders issued by the now recused Court.”
16 Plaintiff’s 10/23/2023 Motion, p. 10, lines 20.5 and 21.5.)

17 Effectively, ARCP Rule 60 simply does not apply.

18 Plaintiff’s Motion is without merit, without legitimate fact, abusive, substitutes the
19 position of the Plaintiff with the position of the Judge. Plaintiff’s Motion should be denied,
20 and after denial stricken from the record in accordance with the provisions of Rule 12(f)
21 which in pertinent part reads:

22 “(f) Motion to Strike. The court may strike from a pleading an
23 insufficient defense or any redundant, immaterial, impertinent, or
24 scandalous matter. The court may act:

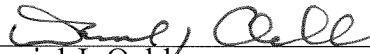
- 25 (1) on its own; or
- 26 (2) on motion made by a party either before responding to
27 the pleading or, if a response is not allowed, within 20 days after
28 the pleading is served.”

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28 ///

1 In the instance before this Court, Defendants should be awarded their attorney fees
2 and costs incurred in preparing and filing this Response.

3 RESPECTFULLY SUBMITTED this 3 day of November, 2023.

4 LAW OFFICES OF DANIEL J. OEHLER

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6 
7 Daniel J. Oehler,
Attorney for Defendants

8 **COPY** of the foregoing emailed
9 this 3rd day of November, 2023, to:

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