

1 LAW OFFICES  
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6 (928) 763-3227 (fax)  
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8 Daniel J. Oehler, Arizona State Bar No.: 002739  
9 Attorney for Defendants

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

NO.: CV-2018-04003

**MOTION TO DISMISS  
WITH PREJUDICE  
AND FOR AWARD OF  
DEFENDANTS' LEGAL  
FEES AND COSTS  
INCURRED**

17 COME NOW, the Defendants, GLEN LUDWIG and PEARL LUDWIG, Trustees of  
18 THE LUDWIG FAMILY TRUST; FAIRWAY CONSTRUCTORS, INC.; and MEHDI  
19 AZARMI (hereinafter referred to collectively as the "Defendants"), by and through their  
20 attorney, the undersigned, and respectfully request that this Court dismiss this cause of action  
21 with prejudice and award the Defendants their reasonable attorney fees and costs in the  
22 amounts to be determined.

23 This Motion is supported by the attached Memorandum of Points and Authorities.

24 RESPECTFULLY SUBMITTED this 29~~th~~ day of November, 2023.

25 LAW OFFICES OF DANIEL J. OEHLER

26 

27 Daniel J. Oehler,  
28 Attorney for Defendants

1 MEMORANDUM OF POINTS AND AUTHORITIES

2 This Court issued a direct Order to the Plaintiff, Nancy Knight, on September 13,  
3 2023, directing the Plaintiff as follows and stating specifically:

4 “**IT IS ORDERED** Plaintiff shall cause to be served in  
5 compliance with Arizona Rules of Civil Procedure, Rule  
6 4.1(c)(1)(A)-(G), each and every indispensable party who is the  
7 owner of any lot or lots located in Desert Lakes Golf Course and  
8 Estates Tract 4076-B, Tract 4076-D and Tract 4163...” Order  
9 9/13/2023, p. 2.

10 The Order to the Plaintiff included the specific documentation that the Plaintiff was  
11 mandated to include in Plaintiff’s first of several service attempts to bring in the necessary  
12 and indispensable ARCP Rule 19 parties.

13 The Court then went on to further specifically and clearly notify the Plaintiff as  
14 follows:

15 “The Plaintiff shall have up to and including November  
16 2, 2023, to send the First Service Attempt Packet.” Order  
17 9/13/2023, p. 2.

18 The Court concluded the September 13, 2023, Order with the following definitive  
19 statement to the Plaintiff:

20 “**IT IS ORDERED** that in the event the Plaintiff does  
21 not take substantial steps, as determined by this Court, to have  
22 fully complied with the specifics of this Order as set forth herein  
23 to join all necessary and indispensable parties within the next  
24 one hundred fifty (150) days, this matter shall be dismissed.”  
25 Order 9/13/2023, p. 4.

26 Subsequent to November 2, 2023, the undersigned had not received a copy of the final  
27 packet that was to be transmitted by the Plaintiff to the Rule 19 parties by not later than  
28 November 2, 2023, nor had the undersigned received word from any of the approximate 225  
Rule 19 parties or their legal counsel that any of the Rule 19 parties had received the service  
packets from the Plaintiff. On November 20, 2023, the undersigned transmitted to the  
Plaintiff a letter (a copy of which is attached hereto as **Exhibit A**) requesting a copy of the  
Plaintiff’s packet ordered to be transmitted by no later than November 2, 2023. In response  
to the undersigned’s letter to the Plaintiff, the Plaintiff responded on the same day, November

1 20, 2023, at 5:03 p.m., with **Exhibit B**, generally stating that Plaintiff had not complied with  
2 the Court’s specific Order and that in the opinion of the Plaintiff the Court’s Order was not  
3 an enforceable Order, alleged constitutional issues and that “it could not be sent...” Simply  
4 said – the Plaintiff wilfully and deliberately refused and refuses to comply with this Court’s  
5 specific and definitive Orders.

6 The undersigned is unaware of any motion that has been filed requesting an extension  
7 of the November 2, 2023 deadline and believes that no such motion has ever been filed.

8 Arizona Rules of Civil Procedure, Rule 70, in pertinent part reads:

9 “Rule 70. Enforcing a Judgment for a Specific Act

10 (a) A Party's Failure to Act; Ordering Another to Act.  
11 If a judgment requires a party to convey land, to deliver a deed  
12 or other document, or to perform any other specific act and the  
13 party fails to comply within the time specified, the court may  
order the act to be done--at the disobedient party's expense--by  
another person appointed by the court. When done, the act has  
the same effect as if done by the party.

14 \* \* \*

15 (e) Contempt. The court also may hold the  
16 disobedient party in contempt.”

17 Plaintiff has wilfully and deliberately refused to comply with this Court’s specific  
18 Orders knowing and being fully aware of the result - that is the Court’s specific statement in  
19 writing to the Plaintiff of what the consequence would be if Plaintiff failed to comply,  
20 namely the “dismissal” of Plaintiff’s case.

21 Plaintiff’s refusal to abide by this Court’s Orders represents open and direct  
22 contemptuous conduct for which the Plaintiff should be held in contempt resulting in the  
23 imposition of the previously announced contempt sanction, dismissal. Plaintiff’s violation  
24 of the Court’s Orders has been explicitly admitted and acknowledged by the Plaintiff per  
25 **Exhibit B**. The prescribed sanction for contempt should be imposed and this matter should  
26 be summarily dismissed with prejudice.

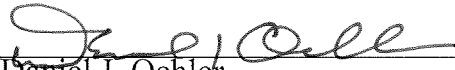
27 ///

28 ///

1 Defendants are entitled to an award of Defendants' reasonable attorney fees and costs  
2 in the amounts to be determined for the defense of this matter.

3 RESPECTFULLY SUBMITTED this 29 day of November, 2023.

4 LAW OFFICES OF DANIEL J. OEHLER

5   
6 Daniel J. Oehler,  
7 Attorney for Defendants

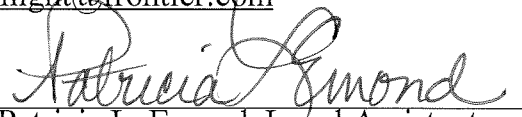
8 **COPY** of the foregoing emailed  
9 this 29<sup>th</sup> day of November, 2023, to:

10 Honorable Dale P. Nielson  
11 Navajo County Superior Court  
12 Post Office Box 668  
13 Holbrook, Arizona 86025  
14 (928) 524-4220  
15 Katelin Lerma, Judicial Assistant  
16 [kalerma@courts.az.gov](mailto:kalerma@courts.az.gov)

17 Plaintiff

18 Nancy Knight  
19 1803 E. Lipan Circle  
20 Fort Mohave, Arizona 86426  
21 (928) 768-1537  
22 [nancyknight@frontier.com](mailto:nancyknight@frontier.com)

23 By:

24   
25 Patricia L. Emond, Legal Assistant  
26  
27  
28

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

**Motion to Dismiss with Prejudice**

**EXHIBIT A**

**LAW OFFICES OF DANIEL J. OEHLER**

Daniel J. Oehler, Attorney at Law  
2001 Highway 95, Suite 15  
Bullhead City, Arizona 86442  
(928) 758-3988  
(928) 763-3227 fax  
[djolaw10@gmail.com](mailto:djolaw10@gmail.com)

November 20, 2023

Via Email: [nancyknight@frontier.com](mailto:nancyknight@frontier.com)

Nancy Knight  
1803 E. Lipan Circle  
Fort Mohave, Arizona 86426

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

Dear Mrs. Knight:

Our office just received the multiple minute entries from the Court including continuing the Status Conference that was previously discussed and anticipated to take place this week. As a result of that anticipated Status Conference, I decided to not write to you earlier regarding the order requiring notification to the property owners that was to be sent by you by November 2, 2023. To date, I have received nothing that indicates a mailing actually took place. Please confirm that it did and please be kind enough to forward to me either via US Mail or electronically a complete packet that was sent out in accordance with Judge Nielson's orders.

Be advised that I have also briefly spoken with Attorney Elias who indicates she is not aware of any of her clients and your Defendants in the Yavapai case having received anything from you. I can only assume that perhaps you anticipated preparing some sort of acceptance of service for Attorney Elias' clients to transmit directly to Attorney Elias and perhaps that is why you apparently have not sent the individual packets to those individuals?

In any event, I would appreciate your confirming your compliance with the Court's specific order via return email and providing our office with a complete and accurate copy of the packet.

Very truly yours,

LAW OFFICES OF DANIEL J. OEHLER



Daniel J. Oehler, Esq.  
DJO/pe



Daniel Oehler <djolaw10@gmail.com>

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**Knight v. Ludwig, et al. CV-2018-04003**

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Daniel Oehler <djolaw10@gmail.com>  
To: nancyknight <nancyknight@frontier.com>

Mon, Nov 20, 2023 at 4:47 PM

Please see the attached.

Thanks.



Virus-free.www.avg.com



**Knight 1120 letter.pdf**

55K

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

**Motion to Dismiss with Prejudice**

**EXHIBIT B**





Daniel Oehler <djolaw10@gmail.com>

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## **Knight v. Ludwig, et al. CV-2018-04003**

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**Nancy Knight** <nancyknight@frontier.com>

Mon, Nov 20, 2023 at 5:03 PM

To: Daniel Oehler <djolaw10@gmail.com>

Cc: "tshura@lundberg-elias.com" <tshura@lundberg-elias.com>

You were correct that due to the controversy in the Notice to Property Owners as signed by Judge Nielson that awaits a decision on my Motion regarding the Unconstitutional Gag Order and a decision on the fact that Plaintiff is not suing the Rule 19 parties, the Service Packet could not be sent with the Notice to Property Owners as written.

I await a revised Notice to Property Owners from the Judge so an accurate Service Packet can be mailed to the Parties or some rationale on what I am suing those parties for and what I did to be punished with the Gag Order

Nancy

Sent from Mail for Windows

[Quoted text hidden]