

1 **LAW OFFICES**
2 **DANIEL J. OEHLER**
3 **2001 Highway 95, Suite 15**
4 **Bullhead City, Arizona 86442**
5 **(928) 758-3988**
6 **(928) 763-3227 (fax)**
7 **djolaw10@gmail.com**

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, 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 PLAINTIFF'S
MOTION TO COMPEL
FILED 02/10/2024**

23 Plaintiff has filed a "Motion to Compel Defendant's Notice of Transcript Order Dated
24 on or about April 3, 2018" requesting that this Court "Compel the Defendants to file a Notice
25 of Transcript Order for reference in a Supplement to the Index of Record." See, Plaintiff's
26 02/10/2024 Motion, p. 1, lines 19.5 - 21.

27 First of all, this matter is the subject matter of an appeal to the Arizona Court of
28 Appeals, Division One, Plaintiff's Notice of Appeal having been filed on January 16, 2024.
As such, this Court is without jurisdiction to compel the Defendants to take the requested
action. Further, under and pursuant to Rule 11 of the Rules of Civil Appellate Procedure, the
Appellant is the responsible party to order transcripts of the Superior Court proceedings not
already in the official record. More specifically, Rules of Civil Appellate Procedure, Rule
11(c), in pertinent part, reads as follows:

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“c) Appellant's Duty to Order Transcripts and Other Parties' Transcript Designations.

(1) What to Order.

(A) The appellant must order transcripts of superior court proceedings not already in the official record that the appellant deems necessary for proper consideration of the issues on appeal.

(B) If the appellant will contend on appeal that a judgment, finding or conclusion, is unsupported by the evidence or is contrary to the evidence, the appellant must include in the record transcripts of all proceedings containing evidence relevant to that judgment, finding or conclusion.

(C) ...”

Plaintiff’s request is also untimely and therefore void pursuant to Arizona Rules of Civil Appellate Procedure, Rule 11(c)(2) which reads as follows:

“The appellant must order transcripts directly from a certified reporter or an authorized transcriber within 10 days after filing the notice of appeal...”


The subject 10 days has long since expired.

Similarly, pursuant to Arizona Rules of Civil Appellate Procedure Rule 11(c)(3), if in fact Plaintiff intended the subject Motion to be a Rule 11(c)(3) “Notice” motion, once again, the subject Motion or Notice dated February 10, 2024, is delinquent and well beyond the Rule 11(c)(3) fifteen (15) days after filing the Notice of Appeal.

Plaintiff’s Motion simply cannot be addressed by this Court as it is outside the Court’s jurisdiction.

RESPECTFULLY SUBMITTED this 12 day of February, 2024.

LAW OFFICES OF DANIEL J. OEHLER


Daniel J. Oehler,
Attorney for Defendants

1 **COPY** of the foregoing emailed
2 this 13th day of February, 2024, to:

3 Honorable Dale P. Nielson
4 Navajo County Superior Court
5 Post Office Box 668
6 Holbrook, Arizona 86025
7 (928) 524-4220
8 Katelin Lerma, Judicial Assistant
9 kalerma@courts.az.gov

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

16 By: 
17 Patricia L. Emond, Legal Assistant

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