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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

**DEFENDANTS' REQUEST FOR
COURT DIRECTION RE:
APPLICABLE RULE(S) OF
ARCP TO PLAINTIFF'S
OCTOBER 22, 2018 PLEADING**

23 COME NOW, the Defendants, by and through their attorney, the undersigned, and
24 respectfully request that this Court advise the Defendants how the Court wishes the Defendants to
25 address the Plaintiff's October 22, 2018, Motion. As the Court is aware and as the Plaintiff's
26 pleading sets forth, Plaintiff's Motion on its face states that it is a "Motion for Leave to Amend
27 Complaint" and refers the Court to Rule 15, Arizona Rules of Civil Procedure ("ARCP"). The
28 subcaption inserted by the Plaintiff does, however, suggest that the Plaintiff intends the pleading to
represent a Motion to Reconsider pursuant to ARCP, Rule 7.1(e) and moves the Court to reconsider
the prior orders of this Court entered June 11, 2018 and/or August 24, 2018.

Should the October 22, 2018, pleading be considered by the Court as captioned, i.e., a motion
to amend the complaint thereby reconsidering the Court's prior rulings, then and in that event,
Defendants would timely file an objection. In the alternative, if the subcaption of Plaintiff's pleading

1 is the correct description of the relief sought, namely, to “alter or amend” thereby “reconsidering”
2 this Court’s judgment/orders entered June 11, 2018 and/or August 24, 2018, Rule 7.1(e), ARCP,
3 would govern the filing of this Motion as a “motion for reconsideration.” Rule 7.1(e), ARCP,
4 prohibits the Defendants from filing a response to such a request without specifically having a court
5 order authorizing such a filing.

6 On June 11, 2018, this Court, in pertinent part, entered the following order regarding an
7 amendment to the Plaintiff’s pleading: “Denying the motion for leave to amend the complaint.”
8 Further, the Court, on June 11, 2018, entered the following additional pertinent orders:

9 “1. The Plaintiff lacks standing to bring this action under
10 Count 1 of Plaintiff’s Complaint as Plaintiff is not a lot owner nor
does Plaintiff own any property within Tract 4076-A;

11 2. That James A. Roberts and Donna M. Roberts are
12 owners of their home located in Tract 4076-A and are therefore
dismissed with prejudice from this action;

13 3. That Plaintiff’s claim against Defendants Glen Ludwig
14 and Pearl Ludwig, Trustees of the Ludwig Family Trust, Mehdi
15 Azarmi, Vice President of Fairway Constructors, Inc., and Fairway
Constructors, Inc., under Count 1 of Plaintiff’s Complaint are
dismissed with prejudice; ...”

16 On June 26, 2018, Plaintiff filed a “Motion to Alter or Amend Orders 3 and 4 Dated June 11,
17 2018.” This Court thereafter ruled on June 29, 2018, that Plaintiff’s June 26, 2018, pleading would
18 be treated as a motion to amend, not a motion to reconsider,” and thereafter this Court ruled on
19 August 24, 2018, “denying the motion to alter or amend orders.”

20 Plaintiff’s current Motion requests relief from the Court’s prior orders above set forth by
21 “setting aside the prior rulings” of this Court entered June 11, 2018, dismissing Count 1 of Plaintiff’s
22 Complaint with prejudice including the Roberts Defendants, as well as the Plaintiff’s failed prior
23 “Motion to Alter or Amend Orders” filed June 11, 2018, and denied by order of this Court on August
24 24, 2018. Rule 59(d), ARCP, appears clearly applicable despite Plaintiff’s partial styling of her
25 October 22, 2018, pleading as a third motion to amend.

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1 Defendants respectfully request direction from the Court on the pending issue as to which
2 ARCP Rule(s) are applicable.

3 RESPECTFULLY SUBMITTED this 5 day of November, 2018.

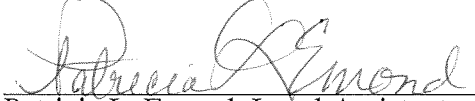
4 LAW OFFICES OF DANIEL J. OEHLER

5 
6 Daniel J. Oehler,
7 Attorney for Defendants

8 **COPY** of the foregoing emailed
9 this 5th day of November, 2018, to:

10 Honorable Derek Carlisle
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