

Daniel & Val O'Connell
 P.O. Box 77
 Emigrant, Mt. 59027
 406-577-6339
dko@mac.com

MONTANA SIXTH JUDICIAL DISTRICT COURT, PARK COUNTY

Daniel K. O'Connell & Valery A. O'Connell)
 & on behalf of themselves as members of)
 Glastonbury Landowners Association.)
)
 Plaintiff(s),)
)
 v.)
)
 Glastonbury Landowners Association, Inc.)
 & current GLA Board of Directors)
)
 Defendant(s))

Cause No. DV-11-114

PLAINTIFFS REPLY to MOTION FOR EXTENSION OF TIME &
 MOTION TO STRIKE DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

Comes now the above named Plaintiffs & GLA members-Daniel and Valery O'Connell, and submit this affidavit & "Reply to Motion For Extension of Time" To Answer Defendants Summary Judgement Motion and also file this "Motion to Strike Defendants' Summary Judgement Motion." That motion page 2 asked for "an Order (a) striking or dismissing Defendants' Motion For Summary Judgment (August 4, 2014)."

Defendants "Response" to this motion to strike or dismiss summary motion does not justify imposing numerous scandalous content proven by attached affidavit; which scandalous content pervades the entire motion. For this reason, Plaintiffs ask the court for an order to deny summary motion having same meaning & intent as "dismissing" it.

ARGUMENT

Rule 7(b) says: (b) Motions and Other Papers.

(1) In General. A request for a court order must be made by motion. The motion must:

(A) be in writing unless made during a hearing or trial;

(B) state with particularity the grounds for seeking the order; and

(C) state the relief sought.

(2) Form. The rules governing captions and other matters of form in pleadings apply to motions and other papers.”

Plaintiffs’ motion page 2 states with particularity: “Pursuant to Rule 7[b] of Montana

Rules of Civil Procedure, Plaintiffs respectfully move this Court for an Order (a) striking or

dismissing Defendants' Motion For Summary Judgment (August 4, 2014) (b) directing

Defendants to remove Defendants' Motion For Summary Judgment (August 4, 2014) and any

references to it from their website (www.glamontana.org) and to take all steps necessary to

prevent the further publication of it in any other forum; and (c) admonishing Defendants counsel

to comply with the Montana Bar's Voluntary Standards of Professional Courtesy. Plaintiffs seek

such relief upon the grounds that Plaintiffs' Summary Judgment Motion represents yet another

instance in which Defendants improperly utilize the process of filing [motion] pleadings with this

Court for the purpose of launching scandalous attacks upon its members and detractors, and as

such they are wholly inappropriate in pleadings before this Court. ... Plaintiffs can not restrict its

answers & relief under Rule 12(7)(f) to specific offensive statements or sections within the

summary judgement motion filed by Defendants, since the scandalous content pervades the

entire motion.”

A. Defendants response failed to make arguments against “dismissing” the summary

motion per Rule 7 cited above. Defendants’ response to this motion pleading only

made arguments against “striking” the summary motion under rule 12. This motion for

an order to dismiss or deny the summary motion is thus well taken under rule 7 above.

As is clear in the affidavit, Defendants' disregard for civility in pleadings filed with this Court saturates their entire pleading. Attached affidavit ¶c is proof of this & states "Defendants' rhetorical excesses and abuses are NOT true, unfounded, or else personal attack on Plaintiffs." Defendants motion (page 3) opposes this motion for lacking "competent evidence or authority" regarding the scandalous content. Plaintiffs attached affidavit ¶c provides first hand competent evidence that the GLA summary motion contains scandalous content throughout justifying an order to deny (dismiss) the summary motion.

B. Defendants' response to this motion also failed to make arguments against the motion pleading for an order "(c) admonishing Defendants counsel to comply with the Montana Bar's Voluntary Standards of Professional Courtesy."¹

Defendants' failed to deny the motion pleading that said:

"Summary Judgment Motion runs afoul of Montana Bar's Voluntary Standards of Professional Courtesy (see General Principles for Attorneys "to act in a civil and courteous manner at all times"). ... U.S. Supreme Court has recognized that "Courts of justice are universally acknowledged to be vested, by their very creation, with power to impose silence, respect, and decorum, in their presence, and submission to their lawful mandates." Chambers v. NASCO, Inc., 501 U.S. 32, 43 (1991) (quoting Anderson v. Dunn, 6 Wheat. 204, 227 (U.S. 1821)); see generally Jaen v. Coca-Cola Co., 157 F.R.D. 146, 152-53 (D.P.R. 1994) (discussing role of civility in litigation)."

The need for such an order is apparent in light of the content of Defendants Summary Motion. To permit Defendants to file motion pleadings of this nature, without the Court's admonition, provides the Court's tacit approval of Defendants' abusive practices. Defendants'

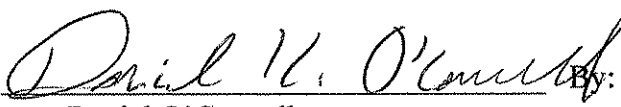
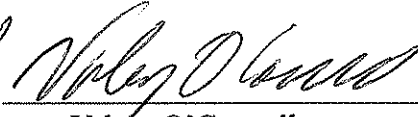
¹ Plaintiffs will file a substantive response to Plaintiffs' Summary Judgement Motion, but in so doing, Plaintiffs do not expressly or implicitly waive their right to seek relief pursuant to Rule 12(7)(f) & Rule 20(b) extension of time.

tactics damage more than the targets of their vicious and groundless rhetoric; they damage the judicial process itself, and this Court should not countenance them.

Conclusion

For the foregoing reasons, Plaintiffs respectfully ask this Court for an Order (a) denying (dismissing) Defendants' Motion for Summary Judgment per rule 7 cited above; (b) directing Defendants to remove Defendants' Motion for Summary Judgment and references to it from their website (www.glamontana.org) and to take all steps necessary to prevent the further publication of it in any other forum; and (c) admonishing Defendants' counsel to comply with Montana Bar's Voluntary Standards of Professional Courtesy.

Respectfully submitted this ^{10th} 5th day of September, 2014,

By:  Daniel O'Connell
By:  Valery O'Connell

Certificate of Service

A true and correct copy of forgoing document(s) were sent to the following parties via first class mail on this same day to:

Sixth Judicial District Clerk of Court
414 E. Callender St.
Livingston, Mt. 59047

Alanah Griffith
26 E. Mendenhall
Bozeman, Mt. 59715

Hon. Judge David Cybulski
573 Shippe Canyon Rd.
Plentywood, Mt. 59254

Brown Law Firm, P.C.
315 N. 24th St. (PO Drawer 849)
Billings, MT. 59103-0849

By: 
Valery O'Connell

Daniel & Val O'Connell
P.O. Box 77
Emigrant, Mt. 59027
406-577-6339

MONTANA SIXTH JUDICIAL DISTRICT COURT, PARK COUNTY

Daniel K. O'Connell & Valery A. O'Connell)
& on behalf of themselves as members of)
Glastonbury Landowners Association.)
)
Plaintiff(s),)
) Cause No. DV-11-114
v.)
)
Glastonbury Landowners Association, Inc.)
& current GLA Board of Directors)
)
Defendant(s))

**PLAINTIFFS' AFFIDAVIT IN SUPPORT OF
MOTION TO DENY ("Dismiss") SUMMARY MOTION**

STATE OF MONTANA)
:SS
County of Park)

Plaintiff(s) Daniel and Valery O'Connell, on our oath depose and state to the best of our knowledge and belief, the information herein is true, correct, and complete, as follows:

- (a) We are both over the age of 18, of sound mind to lawfully file this affidavit having personal knowledge of such matters.
- (b) Plaintiffs first hand competent evidence herein concludes the GLA summary motion contains scandalous content throughout justifying an order to deny (dismiss) the summary motion.
- (c) Defendants' rhetorical excesses and abuses within their scandalous motion are NOT true, unfounded, or else personal attacks refuted herein by Plaintiffs as explained below:

*** Defendants' motion page 2 continues Plaintiffs' multi-year diatribe against O'Connells, in which they, once again, level highly improper and baseless allegations against Dan and Val O'Connell: "Plaintiffs want to run the GLA"**

“Plaintiffs “unable to persuade their fellow GLA members to elect them ... have instead resorted to these lawsuits to attempt to change the GLA...”

***Page 5 & 6 falsely characterizes Plaintiffs as “telling their neighbors what to do” and “anger[y] at being rejected for leadership roles in their community.”**

(Note: On the contrary this case was filed June 2011 while Daniel was on the GLA Board in a position of leadership. “Exhibit 1B” evidence shows after witnessing “20 months ...of wrongdoings” by other Directors breach of fiduciary duties (per §27-2-202, MCA & Articles VIII.), misappropriation of funds, denial of member documents (per §35-2-906 (907) & (911) MCA), and much more, he became a whistleblower also to limit his association liability.)

*** Defendants’ motion page 7 contains the highly charged and groundless accusation of Plaintiffs “seeking to change rights and interests of every GLA member under these [governing] documents.”**

(Note Plaintiffs would include all members but for being PRE SE can not represent other members; which law suits are supported primarily by state law, not governing bylaws.)

*** Defendants motion page 9 and page 10 levels groundless assertions against O’Connells, “continual ... frequent requests for GLA documents” “requested voluminous amounts of documents... incessant requests.” “[&] provide no justification as to why they should receive special treatment.”**

(Note: Defendants Exhibit1 shows GLA repeated denial of member document requests Dec. 2012, June & July 2014 that resulted in just over 100 pages copied out of thousands of possible documents. Plaintiffs never asked for any documents not allowed in state law, nor for special treatment.)

*** Defendants motion page 11, page 12, and page 13 presents more baseless and improper instances alleging Plaintiffs somehow feel “entitled” to “ask the Court to overrule the board” “reinterpret the Bylaws the way they see fit” and “entitled to disparate treatment.”**

*** Defendants motion page 12 contains the childish yet inflammatory assertions against O’Coonnells of “nosiness and intent to harass other GLA members” and ““refuse to follow the Settlement Agreement.”**

(note: GLA denied member requests for any documents until months later. Denial of documents included membership list necessitating repeated requests as proven by exhibit 5 attached. O’Connells attached exhibit 5 requests Dec. 2012, June & July 2014 were the only documents requested allowed by state laws and repeated requests were all due to GLA repeated denial of documents.)

* **Defendants motion page 9, page 13 and page 15 also contains Defendants diatribe in which they again level highly improper and baseless allegations that O'Connells habitually requests documents** "to harass the GLA" "with no intention of paying" and "not acting in good faith."

(note: After repeated document requests, GLA in July 2014 finally gave not all but only limited documents, for which Plaintiffs used their own printer to copy GLA docs. Before this GLA tried to charge \$60 for a few documents received for discovery requests in July 2012 for the 193 lawsuit.)

* **Defendants motion page 10, page 13, and page 14 falsely characterize O'Connells as making** "continual" "incessant" and "ever increasing demands and threats" **for document requests pursuant to motion "Exhibit I."**

(note: This "Exhibit I" shows no threats were made. Asking "the court to intervene" to get documents is also not a threat, This exhibit shows GLA's July 22, 2014 letter denied members "any more document requests except through discovery," and shows all document requests over a few months were made for proper purpose in good faith as member requests. GLA used a church for member document inspection; for which the church kicked out the GLA after making only half requested documents available to members.)

* **Defendants motion page 14 criticizes Plaintiffs characterizing, with no foundation, the alleged website (mygla.org)** "they are simply looking for other avenues to attack the GLA" **and concluding with the highly charged and groundless statement,** "Plaintiffs published a scathing post on their website claiming the document inspections had revealed malfeasance by the GLA, making claims about past and current litigation, and threatening future litigation..."

(note: www.mygla.org website is a website belonging to all members who are invited to publish their opinions and no articles are signed or reported to be by O'Connells.)

* **Defendants motion page 16 provides another example of vile rhetoric that has no place in a judicial pleading: Plaintiffs "request for the court to rewrite GLA's governing documents to how the Plaintiffs want them" and "Plaintiffs want the court to manage the GLA how they see fit ... a breathtaking waste of judicial resources, time, and money of all parties."**

* **Defendants motion page 6 and page 25 refers to** "a long history of frivolous lawsuits and "meritless lawsuits" **in spite of the fact that no lawsuit filed by O'Connells has been properly found as such by any court.**

(Note: Defendants motion is factually refuted by the outcome of these lawsuits: Plaintiffs were granted all claims for relief in their 193 lawsuit & GLA's countersuit evidenced by "Exhibit 4" Settlement Agreement & "Exhibit 4" Axilon/Landers Dec. 2011 letter that

prompted this lawsuit for such things as throwing members out of meetings for recording meetings against state law allowing recordings; & Plaintiffs won one claim for relief in the 220/164 joinder lawsuit that reversed the GLA/Minnick Management contract which gave Minnick agent "exclusive control over all GLA ...parcels in violation of state law, because these parcels are all member owned private properties. Not only did the GLA trample over member private property rights, the GLA hid this illegal contract from its members until lawsuit discovery forced them to hand it over.")

* **Allen's Affidavit (Aug. 4, 2014) at ¶ 5 levels more groundless assertions against O'Connells of "threaten[ing] to continue to sue the GLA ... unless the Board of Directors resigns" and alleging their lawsuits caused "loss of insurance coverage."**

(note: GLA lost claims in every lawsuit against O'Connells.; for which loss of insurance coverage was caused by GLA being deemed a high risk client. O'Connells have repeatedly refuted ever threatening to sue for any such reason. In fact 8 out of 12 Board member Defendants have already resigned from the Board as proof this claim is baseless and mute.)

(d) In light of this scandalous & false content above within Defendants Summary Motion, the need for an order to deny (dismiss) the summary motion is apparent.

FURTHER AFFIANT SAYETH NAUGHT. Dated SEPTEMBER 5th, 2014.

Signed *Daniel K. O'Connell*
Daniel O'Connell

Signed: *Valery O'Connell*
Valery O'Connell

State of Montana)

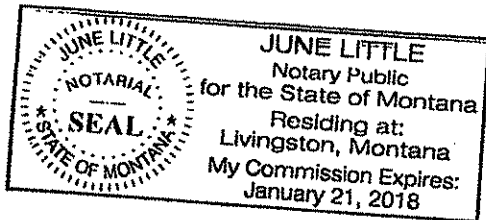
ss.

County of PARK)

Signed and sworn to before me on 9-5-, 2014.

(SEAL)

June Little



Notary Public for the State of Montana
Residing at Livingston MT
My Commission Expires 1-21-2018