

Filed this 22 day of

Feb A.D. 20 13

at 4:50 o'clock P.M.

Jane Lusk  
Clerk of District Court  
Park County, Montana

By \_\_\_\_\_  
Deputy

HON. BRENDA R. GILBERT  
District Judge  
Sixth Judicial District  
414 East Callender  
Livingston, Montana 59047  
(406) 222-4130

MONTANA SIXTH JUDICIAL DISTRICT COURT, PARK COUNTY

DANIEL K. O'CONNELL and VALERY A. )  
O'CONNELL (for and on behalf of GLA )  
Landowners, )  
 )  
Plaintiffs, )  
 )  
vs. )  
 )  
GLASTONBURY LANDOWNERS )  
ASSOCIATION, INC. Board of Directors, )  
 )  
Defendants. )

Cause No. DV- 12-220

**ORDER RULING ON  
PENDING MOTIONS**

THE COURT, having reviewed the file in this cause, inclusive of the pending Motions herein and the responses filed thereto, and the Court having been fully advised, now enters the following Orders:

IT IS HEREBY ORDERED AS FOLLOWS:

- The Appeal of Order Re Declaratory Motion and Joiner filed by the Plaintiffs is hereby DENIED. The Order is not appealable in that it did not address the merits of the claims, but determined that the Plaintiffs needed to amend their Complaint before filing that type of Motion. Even if the Order had addressed the merits of the claims, it would not be appealable until this entire case is concluded by a final order of this Court. Finally, to the extent the document requested relief pursuant to Rule 60, Mont. R.Civ.P., such relief is not warranted in light of the underlying problem of Plaintiffs' needing to amend their Complaint. Having filed their Motion to Dismiss, Plaintiffs were not entitled to pick and choose which claims Defendants needed to respond to. Rather, the time for response to the Complaint in its entirety was stayed pending resolution of the Motion to Dismiss.
- With regard to the Plaintiffs' Reply to Defendants' Answer and Motion to Strike, the

1 Motion to Strike is hereby DENIED. Such denial is based upon the same principles  
2 set forth in Paragraph 1, above.

3 3. The Plaintiffs' Motion for Sanctions against Defendants' legal counsel is hereby  
4 DENIED. There is no basis, under the principles of notice pleading, and no  
5 provision under the Montana Rules of Civil Procedure that allows the Plaintiffs to  
6 weigh in on how the Defendants should respond to the Complaint. The Plaintiffs'  
7 assertions to the Court about what the Defendants' Counsel knows or does not know  
8 about the facts of this case does not form the basis for a viable Motion for Sanctions.  
9 This is particularly true where it does not appear that discovery of any significance  
10 has commenced in this case.

11 4. The Court reserves ruling concerning the parties' cross-motions for summary  
12 judgment pending completion of briefing thereon.

13 DATED this 22<sup>nd</sup> day of February, 2013.

14   
15 \_\_\_\_\_  
16 Brenda R. Gilbert, District Judge

17 cc: Valery A. and Daniel K. O'Connell  
18 Michael P. Heringer/ Seth M. Cunningham

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