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PARK COUNTY CLERK
OF DISTRICT COURT
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MONTANA SIXTH JUDICIAL DISTRICT COURT, PARK COUNTY DEPUTY

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

LOCAL RULE 10 MOTION TO STRIKE DEFENDANTS'
SUMMARY JUDGMENT MOTION & MOTION FOR RULE 11 SANCTIONS & MOTION
FOR EXTENSION OF TIME TO ANSWER THE SUMMARY JUDGEMENT BRIEF

COMES NOW the above named Plaintiffs,' as GLA Director & member(s) of the
GLA Landowners Association, & pursuant to MT. Sixth Judicial District Court Rule
10(H.& E.), submit this "Local Rule 10 Motion To Strike Defendants' Brief In Support Of
Its Motion For Summary Judgment & Motion For Rule 11 Sanctions & Motion For
Extension Of Time To Answer The Summary Judgement Brief."

PROCEDURAL POSTURE

The Court will recall that currently pending are Defendants Motion Brief for
Summary Judgement, & Plaintiffs' Motion for Indemnification, & Plaintiffs' Motion to

Strike Defendants Summary Motion Brief, & Plaintiffs' Motion For Extension of Time to Answer Defendants' Summary Motion Brief, & Plaintiffs' Rule 60 Motion for Relief from Orders (granting defendants motion attorney fees).

Defendants Summary Judgement Motion and Defendant's Reply to Plaintiffs Rule 60 Motion both seek to dismiss this case before the merits of this case are fully adjudicated, yet within Defendants Rule 60 Motion Reply it complains that Plaintiffs motions are "delay tactics" "taking the courts time and requiring further time and expense to the GLA" Defendants. To the contrary, Plaintiffs' motions & pleadings are for a good and proper purpose:

1. Plaintiffs (with the request for extension of time to answer Summary Judgment Motion citing more discovery needed), Plaintiffs just recently also submitted Discovery Requests for Admissions & Interrogatories.
2. Plaintiffs' pre-discovery notices cited numerous legal authorities in support of all complaint claims against Defendants, so that there is no need for delay tactics, but and Defendants are the ones delaying this case discovery requests.
3. Defendants have wasted the courts time and cause all parties unnecessary time and expense when Defendants submitted their "scandalous" Summary Judgement Brief that is AN INAPPROPRIATE, SCURRILOUS, AND UNFAIRLY PREJUDICIAL COMPARISON, INSULT, AND SLUR AGAINST THE PLAINTIFFS CALCULATED TO SEEK, CREATE, ENGENDER, AROUSE, AND ENCOURAGE UNDUE HOSTILITY and PREJUDICE TOWARD O'CONNELLS; which warrants Plaintiffs' Motion(s) to Strike Defendants Summary Motion Brief.
4. Defendant's scandalous Summary Judgement Brief also wastes the courts time and causes all parties unnecessary time and expense, because that Defendants' 27 page Summary Judgment Brief does not conform to and far exceeds Local Rule 10.H. limit of 20 pages for all briefs; which warrants this new motion to strike per Rule 10 & warrants extension of time to answer that Brief since Defendants likely have to amend and re-file their Summary Judgment Motion & Brief.

Factual Brief in Support of Motions

For examples 3 & 4 above, Defendant's Summary Judgement Brief is defective; which warrants Plaintiffs new motion to strike it (per Local Court Rule 10.H & E.), & the pending motion to strike it (per M.R.Civ. P. Rule 12(7)(f)), & this new Motion for

Extension of Time (per M.R.Civ. P. Rule 20) to answer that Summary Judgement Brief pending adjudication of the motion(s) to strike:

New Motion to Strike:

The Sixth Judicial District Court Local Rules were added less than a year ago. Plaintiffs upon preparing an answer to Defendants Summary Judgement Brief, just noticed that the new Local District Court Rule 10(H) above requires that ALL briefs shall not exceed 20 pages. Defendants have been a stickler for Plaintiffs to follow these same new rules, yet Defendants have themselves twice violated Local Court Rule 15 for not submitting attorney fees with pleading for sanctions, and now again when Defendants submitted their 27 page Summary Judgement Brief that does not conform to and far exceeds MT. Sixth Judicial District Court Rule 10. H. 20 page limit for briefs:

MT. Sixth Judicial District Court Rule 10. H. says, "Length of Briefs. No brief shall exceed 20 pages in length, exclusive of indices and appendices, without prior leave of the Court."

Defendants' 27 page brief obviously does not conform and far exceeds this Local Rule 10.H. limit of 20 pages. Therefore this motion for the Court to strike the "Defendant's Brief In Support Of Its Motion For Summary Judgment" is warranted for not conforming with Local Court Rule 10(H), and as authorized pursuant to Local Court Rule 10.E., as follows:

MT. Sixth Judicial District Court Rule 10. E. "Striking Pleadings. Any papers filed which do not conform to Rule 10 or 11, MRCP, may be stricken by the Court, on its own initiative and upon such terms as to the Court may appear just."

Motion For Rule 11 Sanctions:

Since Defendants are represented by council and have read and often cited from these Local Court Rules such as in their "Brief In Support Of Its Motion For Summary

Judgment,” then they should have known this rule 10 requirement for briefs not to exceed 20 pages. It is likely that Defendants were hoping the substitute judge (using different court rules) and (Pro Se) Plaintiffs would not notice that Defendant’s brief violated this Local Court Rule 10(H) above. They extended the length of their brief, but by doing so caused Plaintiffs to file this motion to strike Defendants brief & extension for time to answer that brief (pending adjudication of the motion(s) to strike).

Defendants by not complying with this Local Court Rule 10(H), means that Defendants likely have to amend and re-file their motion brief, after Plaintiffs filed this motion to strike & sanctions for such defects, & all have to file subsequent pleadings, & this court having to review these pleadings. In fact for Plaintiffs presumably violating these same Local Court Rules (Rule 6 for pre-discovery), Defendants asked for & were granted sanctions by the Court. So it is only fair that this Court grant sanctions against the Defendants who should know these rules yet twice violating these Local Court Rules, because:

1. Defendants by not complying with this Local Court Rule 10(H), needlessly increased the cost of litigation for all parties concerned.
2. Sixth Judicial District Court Local Rules 15 requires, “in all civil cases in which attorney’s fees are requested in the pleading, the party seeking an award of attorney fees shall file and serve upon opposing counsel an affidavit itemizing the claim...”
“Defendants Motion to Quash and Sanctions of attorney fees failed to give any affidavit itemizing this attorney fee claim, in violation of Local Rule 15.

Therefore this Motion for Rule 11(b)(1) sanctions is warranted against Defendants; sanctions being that Defendants Summary Judgment Motion & Brief is

stricken, and that Defendant attorney fees and costs be born by Defendants or their council for all pleadings & motions involving Defendant's defective Summary Judgement Motion & Brief.

Motion for Extension of Time to Answer Defendants Summary Judgement Motion:

For all these reasons above and because Defendants likely have to amend and re-file their Summary Judgment Motion & Brief, it would be a waste of time and expense to all parties for Plaintiffs to now answer Defendant's defective and scandalous Summary Judgement Motion & Brief. Therefore this motion is warranted for extension of time to answer that Brief, pending adjudication of the motion(s) to strike Defendant's Summary Judgement Motion Brief.

Furthermore, it would be impossible under these circumstances for Plaintiffs to comply with this same Local District Court Rule 10(H) in answering Defendants 27 page Brief. Nor would it be fair, but would be prejudicial for Plaintiffs to have to limit their Brief Reply to 20 pages when Defendants were allowed a 27 page Brief. Much less the prejudice and waste of time and extended pages needed to answer Defendant's "scandalous" matters* that have no place within their Summary Judgement Motion Brief (see such "scandalous" matters cited within Plaintiffs' September Motion to Strike Defendants Summary Motion Brief).

CONCLUSION

For all the reasons above, both Plaintiffs Motion(s) are all warranted and authorized, to Strike the Defendants Brief In Support Of Its Motion For Summary Judgment; Motion For Rule 11 Sanctions; & Motion For Extension Of Time To Answer Defendant's Summary Judgement Brief.

Respectfully submitted this 5th day of November, 2014,

By: Daniel K. O'Connell
Daniel O'Connell

By: Valery O'Connell
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

Alannah Griffith
26 E. Mendenhall
Bozeman, Mt. 59715

Hon. Judge David Cybulski
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Plentywood, Mt. 59254

Brown Law Firm, P.C.
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By: Valery O'Connell
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