

1 Michael P. Heringer
2 Seth M. Cunningham
3 BROWN LAW FIRM, P.C.
4 315 North 24th Street
5 P.O. Drawer 849
6 Billings, MT 59103-0849
7 Tel (406) 248-2611
8 Fax (406) 248-3128
9 mheringer@brownfirm.com
10 scunningham@brownfirm.com
11 *Attorneys for Respondents Glastonbury
Landowners Association, Inc.*

7 Alanah Griffith
8 Pape & Griffith, PLLC
9 26 E. Mendenhall
10 Bozeman, MT 59715
11 Tel (406) 522-0014
12 Fax (406) 585-2633
13 Alanah@papegriffithlaw.com
14 *Attorneys for Respondents Glastonbury
Landowners Association, Inc.*

13 **MONTANA SIXTH JUDICIAL DISTRICT COURT, PARK COUNTY**

14 DANIEL and VALERY O'CONNELL,

15 Plaintiffs,

16 v.

17 GLASTONBURY LANDOWNERS
18 ASSOCIATION, INC. Board of Directors,

19 Defendants.

Cause No.: DV-2011-114
Judge David Cybulski

**DEFENDANTS' MOTION TO PROCEED ON
DEFENDANTS' SUMMARY JUDGMENT
MOTION BRIEF, ORDER PLAINTIFFS TO
RESPOND, AND SETTING A HEARING**

20 COMES NOW the above named Defendants Glastonbury Landowners Association, Inc. (GLA)
21 and move this Court for an Order accepting the GLA's brief in support of its Motion for Summary
22 Judgment, allowing the Motion to proceed as filed, Ordering Plaintiffs to file a response to the brief in
23 support of the Motion, and setting oral arguments.

24 Local Rule 10 of the Montana Sixth Judicial District governs filings in with the Court. In regards
25 to briefs, Rule 10.H states:

27 H. Length of Briefs. No brief shall exceed 20 pages in length, exclusive of indices and
28 appendices, without prior leave of the Court.

1 As Plaintiffs pointed in their most recent Motion to Strike, the GLA's brief is over 20 pages. It was an
2 oversight to file the brief without seeking leave of the Court. The brief is 26 pages long—27 including
3 the certificate of service.

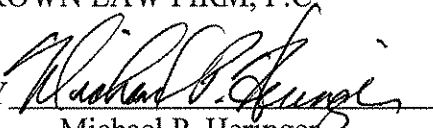
4 The length of the brief was due to the numerous claims it addressed. Plaintiffs have 11 claims for
5 relief in their Amended Complaint, and the GLA is seeking summary judgment on ten of them (one
6 claim has already been decided on a Motion for Partial Summary Judgment as noted in the brief). The
7 GLA addressed each claim demonstrating there are no undisputed issues of material fact and the
8 Amended Complaint may be dismissed on summary judgment.

9 Plaintiffs have not filed a substantive response to the GLA's brief. Instead, they have filed
10 Plaintiffs' Motion to Strike, Plaintiffs' Motion for Extension of Time, Plaintiffs' Rule 60 Motion for
11 Relief from Orders, Plaintiffs' Motion for Delay of Orders Pending Rule 60 Motion Outcome &
12 Response Against Attorney Fees & Costs, and their most recent Plaintiffs' Local Rule 10 Motion to
13 Strike Defendants' Summary Judgment Motion & Motion for Rule 11 Sanctions & Motion for
14 Extension of Time to Answer the Summary Judgment Brief.

15 Plaintiffs' avalanche of motions is simply delaying a resolution of this case. The GLA requests
16 an Order from this Court setting a deadline for Plaintiffs' to respond the GLA's Motion for Summary
17 Judgment so that the Motion can be heard and decided. Plaintiffs have pending discovery requests to the
18 GLA which it will respond to by December 1, 2014. In recognition of the pending discovery and
19 upcoming holidays, the GLA respectfully requests Plaintiffs be Ordered to respond to the GLA's
20 Motion for Summary Judgment on or before January 9, 2015. With this due date, Plaintiffs will have
21 had over five months to respond. Finally, the GLA requests oral arguments on its Motion for Summary
22 Judgment and all other pending motions be set within 30 days after Plaintiffs file their response. A
23 Proposed Order is attached to this brief.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DATED this 13th day of November, 2014.

BROWN LAW FIRM, P.C.
BY 
Michael P. Heringer
Seth M. Cunningham
The Brown Law Firm, PC
*Attorneys for Glastonbury
Landowners Association, Inc.*

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was duly served by U.S. mail, postage prepaid, and addressed as follows this 8th day of November, 2014:

Daniel and Valery O'Connell
PO Box 77
Emigrant, MT 59027
Plaintiffs pro se

Daniel and Valery O'Connell
PO Box 774
Cayucos, CA 93430
Plaintiffs pro se

Alanah Griffith
Pape & Griffith, PLLC
26 E. Mendenhall
Bozeman, MT 59715
*Attorneys for Respondents Glastonbury
Landowners Association, Inc.*

Honorable Judge David Cybulski
573 Shippe Canyon Road
Plentywood, MT 59254

By: 

Michael P. Heringer
Seth M. Cunningham
The Brown Law Firm, PC